

**FRACTURED SOLIDARITIES:
LABOUR REGULATION, WORKPLACE
RESTRUCTURING, AND EMPLOYMENT
'FLEXIBILITY' IN NAMIBIA**

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ABSTRACT

A central concern of this thesis is the expansion, distribution and control of 'non-standard' employment in Namibia since independence. The employment relationship has assumed various historical forms under capitalism, each of which corresponds to a specific mode of regulation with distinct structural dynamics. An attempt is made to extend the *régulation* approach 'downwards' to account for the problem of order in the workplace and to place the employment relationship within its own regulatory framework. The point of departure in this study of the dynamics of labour regulation is the contradictory nature of labour's incorporation, allocation, control and reproduction within the labour market. The employment relationship is never only an economic exchange, but is also mediated through an institutional framework that connects the processes of production and social reproduction, and regulates conflicting interests inside and outside the workplace. This relationship, as critical realists have pointed out, is a product of the indeterminate intersection of several generative structures. The roots of these generative structures can be traced to three sets of social processes: the processes of production and the structuring of labour demand; the processes of social reproduction and the structuring of labour supply; and the forces of regulation. Non-standard employment is viewed as a particular social and spatio-temporal 'fix' for the various regulatory dilemmas generated by the standard employment relationship. This conception underscores the fact that a national system of labour regulation decisively shapes the conditions under which employers are able to casualise a part of their workforce. The differential experience across national boundaries suggests that analytical space needs to be provided for systems of labour market regulation which may either accentuate or moderate pressures for casualisation. Segmentation on the demand side of the labour market is explored through an analysis of the types of non-standard jobs created in different economic sectors. The various forms of employment 'flexibility' tend to vary in importance according to the specific manner in which a firm chooses to compete. Consequently, non-standard employees are distributed in a complex and uneven manner across industrial sectors and the occupational hierarchy, and face a diverse range of possibilities and liabilities that shape their levels and forms of participation in the labour market. By counteracting the homogenisation effects of labour law and collective bargaining, the mobilisation of cheap and disposable labour through non-standard employment contracts allows employers much greater discretion in constructing the wage-effort bargain. With non-standard employment, social and statutory regulation is weak or underdeveloped and hence managerial control is autocratic, with a significant contractual component. Although the changing social composition of the workforce associated with employment 'flexibility' poses serious challenges to the modes of organisation that have long served the labour movement, trade unions in Namibia and elsewhere have been slow to respond to the threats of casualisation. Of concern here, is the extent to which attempts to promote the security of existing union members is compatible with attempts to organise non-standard employees. This thesis shows that the unions have developed a complex amalgam of strategies in their efforts to regulate non-standard employment relationships.

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LIST OF ABBREVIATIONS

AIDS	Acquired Immune Deficiency Syndrome
CDM	Consolidated Diamond Mines
CIF	Construction Industries Federation
COSATU	Congress of South African Trade Unions
DTA	Democratic Turnhalle Alliance
EPZ	Export Processing Zone
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GFCF	Gross Fixed Capital Formation
HIV	Human Immunodeficiency Virus
HR	Human Resource
IT	Information Technology
ILO	International Labour Organisation
IMF	International Monetary Fund
LAC	Labour Advisory Council
MANWU	Metal and Allied Namibian Workers' Union
MoL	Ministry of Labour
MTI	Ministry of Trade and Industry
MUN	Mineworkers' Union of Namibia
NAFAU	Namibian Food and Allied Union
NAPWU	Namibia Public Workers' Union
NATAU	Namibian Transport and Allied Union
NCCI	Namibian Chamber of Commerce and Industry
NEF	Namibian Employers' Federation
NER	Non-Standard Employment Relationship
NPC	National Planning Commission
NPSM	Namibian People's Social Movement
NUNW	National Union of Namibian Workers
PLAN	People's Liberation Army of Namibia
SACU	Southern Africa Customs Union
SADC	Southern African Development Community
SADF	South African Defence Force
SER	Standard Employment Relationship
SWANLA	South West Africa Native Labour Association
SWAPO	South West African People's Organisation
YCW	Young Christian Workers

INTRODUCTION

Namibia is perhaps the most under-researched country in southern Africa. In particular, there is a dearth of published research on changes in the labour market and labour process since independence. Despite the rapid rise in so-called 'flexible' employment in Namibia after 1990, very little is known about the various dimensions of this type of work. Since independence, industrial restructuring and the transformation of the regulatory regime were driven largely by the deracialisation of labour market institutions and the state's efforts at attracting foreign investment. The form that workplace restructuring and employment 'flexibility' has assumed is a product of the ways in which international economic pressures are transmitted to and embedded in Namibian institutions and practices. The processes of labour market reform and the exposure of domestic markets to more intense competition have made the survival of most firms dependent on drastic cost-cutting. In a 'peripheral' country such as Namibia, the dominant industries are mainly mature, non-science-based sectors, benefitting from either local natural resources or from cheap labour. The capacity to innovate and lead technological development is severely limited; design and production methods are standardised; productivity growth is slow; and the major form of competition is price competition, depending predominantly on labour costs. Since employers have more direct control over labour costs - as compared to capital or intermediate costs - workers have become the prime target for 'rationalisation'. These initiatives add up to an emergent labour market strategy that places low-waged, poorly-regulated labour at the forefront of attempts to improve competitiveness and reduce costs.

The unbridled role of market forces was stressed by the proponents of the 'new world order' at precisely the time that Namibia required extensive state intervention to transform its apartheid-based mode of regulation and colonial regime of accumulation. In addition to these international pressures, attempts to eradicate the vestiges of institutionalised racism in post-independence Namibia are severely constrained by vast social inequalities and extensive economic dependence on South Africa. The institutional and normative framework of apartheid-colonialism also provided fertile soil for division, mistrust and adversarialism in Namibia's industrial relations regime, thereby limiting the types workplace restructuring that are possible or feasible. The pre-independence expectations among black people of significantly improved earnings and standards of living remain largely unfulfilled as the Namibian government pursues conservative fiscal policies and the economy fails to sustain adequate levels of growth. The legacy of colonialism, combined with the pressures of economic competition and the dictates of neo-liberalism, seriously hampered the government's capacity to sustain a durable and redistributive trade-off

between the imperatives of economic efficiency and the demands for greater social equality. In practice, this meant that efforts to overcome discrimination, poverty and unemployment, while ensuring that the economy diversifies and becomes internationally competitive, generated distinct sets of winners and losers. Namibia's hard-won political emancipation and national liberation are bound to be a hollow victory for the bulk of the poor in the absence of a radical transformation of the inherited structures of economic ownership and control.

Making sense of these developments raises the problem of the relative balance between change and continuity, generality and specificity. With the realisation that segmented labour market can sustain diverse pools of labour, came a gradual process of illuminating various forms of employment that had long been 'invisible'. Unfortunately, this process of illumination was often confused with one of discovery. As a result, many 'flexible' or 'atypical' forms of employment were presented as recent departures from a previously unfettered commitment to the standardisation of employment relations. The claim that the current period of heterogeneity was preceded by a period of labour homogenisation is contradicted by the deeply segmented labour markets described by labour historians. In a comprehensive study, Cohen (1987:2) shows how "capitalism has *always* survived and even thrived, by deploying substantial numbers of unfree and semi-free labourers" (emphasis added).¹ A preoccupation with what is ostensibly novel, detracts from a consideration of the historical continuity of sectorally-specific employment practices. Broad generalisations also obscure the complex and contingent links between particular production technologies, product markets and the like on the one hand, and labour market conditions, available labour supplies and so forth, on the other. Each form of employment, as Gonos (1998:172) points out, has "a distinctive structure and function and its own social history". What needs to be explained is the specific set of conditions that leads to effective resistance and advancement by some workers and to forced compliance and regression by others.

PRODUCTION, REGULATION, AND SEGMENTATION

To compete effectively in the 'new' global economy, according to a rampant neo-liberal orthodoxy, requires an unwavering commitment to employment 'flexibility', an extensive 'deregulation' of the labour market, and a corresponding reduction in the capacity of the state and labour to regulate employment and wages. Protective employment and social policies, it is argued, curb competition in the labour market and create numerous 'rigidities' that stifle market imperatives. As a result, employers find it increasingly difficult to adjust the quantity and the

¹ Throughout this text, emphasis is in the original unless otherwise indicated.

quality of labour supply to rapid and unpredictable changes in demand. In essence, these prescriptions amount to a call for an increase in the power of employers over the acquisition, deployment and disposal of labour. This is perhaps most evident in the increasing *casualisation* of employment - understood in the broad sense of a spread of casual conditions of employment within the labour market. The employment contracts associated with casualisation (part-time, temporary, self-employed, subcontracted, seasonal, homework) deviate from the contract of permanent, full-time employment in one or more of its defining features. This implies changes in some or all the attributes of the 'typical' or 'normal' employment relationship involving regular (usually male) full-time, organised workers in key sectors of the economy, working standard hours and for an indefinite duration in a large, vertically-integrated workplace situated in an urban environment. The dimensions of change are therefore extremely varied and include racial and gender divisions; the occupational and sectoral distribution of labour; size of employment unit; trade union density and influence; collective and individual labour regulation; the location of work; duration of employment; working conditions and non-wage benefits; and working time and patterns.

Research on workplace restructuring is increasingly driven by an employers' agenda, most notably in the studies of labour market 'flexibility'. The point of departure and the objectives of social inquiry are increasingly tied to the problems of management. There is a dire need to change the orientation of research and to expose the detrimental social consequences of employment 'flexibility': growing levels of risk, anxiety, marginalisation and powerlessness. A focus on the casualisation of employment shifts attention away from the needs of employers and towards a deeper understanding of the interests of employees. Revealing the ambivalence of recent changes when viewed from the perspective of the employee is a central contribution of this approach. In contrast to the veneration of 'flexibility' in the best-practice literature, the approach adopted here is deeply critical of the uncertainty and instability associated with current changes in the labour market and labour process. From the perspective of the part-time or temporary employee, it is vulnerability and precariousness rather than 'flexibility' that usually characterise his/her experiences of work. In fact, Heery and Salmon (2000b:1) identify an 'insecurity thesis' - i.e. a coherent set of statements about the nature, causes and effects of recent changes to work and employment relations - in the literature on industrial restructuring. The key propositions of this thesis include the following:

that economic risk is being transferred increasingly from employers to employees, through shortened job tenure and contingent employment and remuneration; that insecurity is damaging to long-term economic performance, through its promotion of an employment relationship founded on opportunism, mistrust and low commitment; and that the emergence of an insecure workforce imposes severe costs on both individuals and the wider society.

Although precarious and poorly regulated forms of employment are on the increase worldwide, the patterns vary significantly over time and space.² This heterogeneity has magnified the confusion and difficulty that surrounds the definition of these forms of employment. There is a need to disaggregate the various types of employment in order to reveal contrasting patterns. The categories that are most commonly deployed in the literature tend to combine very different types of work and employment relationship. They are also inclined to focus on one aspect of casualisation to the exclusion of others. *Contingent* work emphasises the unpredictable need for and unplanned duration of certain jobs. *Casual* employment highlights the fact that the services of some employees can be readily terminated with little or no costs to the employer. *Peripheral* work signifies the jobs that are not central to the core business of an enterprise. *Flexible* labour accentuates the need of employers to make rapid short-term adjustments to the supply of labour in response to changes in demand. Common to many of these approaches is a tendency to view the different types of ‘atypical’ employment as “effectively interchangeable in terms of their function for employers and the labour market disadvantages they involve” (Gallie *et al* 1998:12). The proliferation of concepts to refer to a variety of different types of work indicates a lack of both theoretical precision and conceptual clarity, which has profound implications for data gathering and the interpretations of trends (Felstead and Jewson 1999b). Vastly different numerical estimates can be derived from different operationalisations of the concepts and highly misleading results can flow from the lumping together of incommensurate categories of work and relations of employment.

Reductionism is a common feature of the distinctions made between the various types of employment that do not conform to all aspects of the ‘normal’ or ‘typical’ employment relationship. A less deterministic approach is centred on the distinction between ‘standard’ (full-time, permanent) and ‘non-standard’ (part-time, temporary) employment relationships in terms of the extent to which employment conditions are regulated by labour law and collective bargaining (Mückenberger 1989). This allows for the organisational, political, historical and other dimensions of non-standard employment to be explored in a non-reductionist manner. Not all non-standard employees are ‘peripheral’ workers, not all ‘atypical’ workers are employed in ‘contingent’ employment arrangements, and not all ‘flexible’ form of employment are similar in terms of levels of skill, career prospects, job security and so on (Gallie and White 1994; Rubery and Wilkinson 1994; Gallie *et al* 1998; Felstead and Jewson 1999b). All patterns of non-

² See: Córdova (1986); Benería and Roldan (1987); Tarling (1987); Abraham (1988); Casey *et al* (1989); Chalmers (1989); Hakim (1990a); Brown and Scase (1991); Allen and Henry (1996); Dex and McCulloch (1997); Barker and Christensen (1998); Horwitz *et al* (1998); Mhone (1998); Felstead and Jewson (1999a); Kenny and Webster (1999); Standing (1999); Heery and Salmon (2000a); and Campbell and Burgess (2001).

standard employment share, albeit to differing degrees and in varying forms, a departure from one or more of the central features of the standard employment relationship (SER).³ This suggests that the casualisation of employment can assume many different forms that serve a myriad of different functions. Hence, it is best understood as a spatio-temporally specific and always imperfect regulatory 'fix' for (some of) the dilemmas inherent in the construction and maintenance of the SER.

The establishment and growth of the SER represented a significant historical victory for organised labour over spot contracting and market-mediated employment relationships. However, the SER has both a protective and exclusionary or restrictive character (Scott 1998). Workers falling outside the statutory definition of an 'employee' are deprived of the protections associated with standard employment and exposed to the rigours of common law. This provides employers with an incentive to construct employment contracts in a manner that excludes the legal indicators of a SER. The increasing fragmentation of the workforce associated with the policies of employment 'flexibility' have led to the weakening of the SER and to the erosion of its universality as a labour policy model. Paradoxically, attention was only really focused on the SER when it could no longer be taken for granted. That is, when it began to show "a tendency towards disintegration and de-standardisation, making us conscious of formerly implied assumptions of a standard" (Mückenberger 1989:381). With the proliferation of non-standard employment, lines of authority in the workplace are redrawn, new sources of tension are generated, the segmentation of the labour market is intensified, and access to the training and other rewards necessary to secure a high-skill, high-commitment workforce are increasingly restricted.

The standard versus non-standard employment classification is based on a regulatory and entitlement norm. As such, 'non-standard' is a less ideologically-loaded and a more precise term than 'flexible' or 'peripheral' labour. The primary concern is not the nature or length of service, but rather the broader issue of lack of entitlement. Non-standard employment, according to Córdova (1986:656), is characterised by "a total or partial absence of regulation". That is, workers on non-standard employment contracts exist in "a relatively 'lawless' situation" (Chalmers 1989:213). Although all forms of non-standard employment suffer a deficit in protection, "the extent and nature of this shortfall varies according to the specific configuration of protective regulation ... and the specific form of temporary employment" (Campbell and

³ These deviations include the duration of the contract, the duration of the work, the place of the work, the replacement of a bilateral by a triangular relationship, and the content of the worker's obligation in terms of the availability to work (Veneziani 1993).

Burgess 2001:171). The historically- and spatially-specific origins of non-standard forms of employment suggests that they are “social constructions generated during particular periods and within specific sets of institutional structures” (Felstead and Jewson 1999b:3). The spread of non-standard employment has highlighted the variegated impact of different regulatory regimes and accentuated the extent to which employment relationships lie along a broad spectrum of dependency or subordination.

An arbitrary and simplistic dichotomy is all too often imposed on what is, in reality, a graded continuum. An attempt to understand labour market segmentation in terms of generalised concepts such as ‘core’ and ‘periphery’ obscures as much as it reveals. The concepts of ‘core’ and ‘peripheral’ employment “conflate the legal and organisational dimensions of analysis, collapsing them into both a dual labour market and strategic management approach to ‘core’ employment and business” (Pollert 1988:297). The notion of a polarisation in employment conditions is a more useful analytical device than a simple dualism. It draws attention to variations in both the form and content of non-standard employment and the diverse levels on which differentiation operates. There is also greater appreciation of the contingency in employment outcomes of industrial restructuring on the more concrete levels of analysis. Jones (1996), for instance, suggests that far from a general shift towards multi-skilling, current trends in the workplace can best be conceptualised in terms of a polarisation between “skill dispersal” and “skill intensification”. An important assumption in the current debate on ‘flexibility’ is not simply that of a selective return to competitive markets, but the development of “specific non-regulated zones on the margin of the traditional market activities, or the strengthening of the advantages of sectors which are already favoured, and in either case leading to a widening of inequality” (Michon 1987:172). An increasing polarisation of the workforce, with its attendant growth in social inequality and job insecurity, has generated a complex set of opportunities and constraints for trade unions, managers and the state.

Although there is now a general acceptance that the employment relationship is subject to considerable variation, there remains a dispute about the extent and causes of the changes that have occurred. What is certain, however, is that the growth of non-standard employment poses significant challenges to conventional models of industrial relations insofar as it breaks the mould of standard full-time employment of indefinite duration,

that meeting-ground for collective interaction which has until now been the traditional basis and natural environment of labour relations. Beyond this normal or traditional environment has evolved a no man’s land, untouched by many of the most basic conquests of labour law of the past 150 years, that does not lend itself to the rules of collective bargaining (Córdova 1986:653).

The establishment and consolidation of industrial relations as an academic discipline reflected and reinforced a broader public policy orientation towards the employment relationship. There is an implicit assumption of a SER. This model of employment permeates virtually the entire theoretical edifice of industrial relations. As a result, the view of the employment relationship which underpins conventional models of industrial relations has at least three fundamental weaknesses. First, non-standard employment has received scant attention. Its expanding presence in contemporary workplaces contradicts many of the cosy assumptions about job security, forms of managerial control, models of trade union action, and so on found in the mainstream approaches. Second, the selective functioning of labour market institutions is not a recent phenomenon, and is one reason why the SER was “always a normative, partly fictitious, reference model rather than an empirical pattern of employment” (Mückenberger 1989:390). Third, due to its assumptions of systems integration and stability, the orthodox approach fails to fully appreciate the intractability of what has to be regulated (i.e. the employment relationship). If conflict and cooperation, stability and instability are given equal weight and priority, these assumptions become problematic. Explanations of institutional change as an automatic response to the demands for new forms of ‘job regulation’ are functionalist and deterministic.

Non-standard employment attracted very little attention from social scientists and policy makers until the 1980s. Most forms of non-standard employment were commonly dismissed as relics of the past that were bound to decline as the SER expands. Since the first tentative explorations of the subject in the mid-1980s, the differentiation of the employment relationship has subsequently received considerable attention in the literature on employment ‘flexibility’. A common assumption underlying much of this literature, however, is that of a simple and direct relationship between the restructuring of work and changes in the labour market. By contrast, a broad aim of this research is to highlight the complex, contradictory and contingent relationship between restructuring in the workplace and regulatory changes in the labour market.⁴ This will be accomplished through an emphasis on the “contextual interdependence of work organization and control patterns” (Whitley 1997:255) and an explicit focus on the employment outcomes of industrial restructuring. In particular, the research will explore the conditions that enable and/or constrain the demand for and supply of non-standard employment. Although changes in production regimes are shaped by shifts in the composition of the workforce, there is not a simple, functional relationship between the structures of production or accumulation and those of the labour market.

⁴ Peck (1996:134), among others, explicitly highlights the need for more research on the mechanisms of local labour market adjustment and their relationship with the processes of industrial restructuring.

Conventional approaches to industrial relations rarely consider the complex articulation between (a) the various levels of control and autonomy in the workplace, and (b) the processes of incorporation and marginalisation in the labour market. Braverman (1974) effectively discredits the notion of a distinct sphere of industrial relations in which an elaborate procedural and institutional structure of 'job regulation' can be studied without any reference to its foundation in the sphere of production. The links between labour market segmentation and industrial structure are seldom made explicit. These two bodies of theory have by and large developed in isolation. To explain the intricate and contradictory relationship between employment and industrial restructuring, we need to recognise that much of the interaction between the demands of the labour process and the social context occurs through the local labour market. The latter conditions the way in which the abstract imperatives of labour demand are translated into actual employment outcomes. As such, the labour market constitutes "a kind of filter between tendencies within the labor process and their realisation in particular (local) contexts" (Peck 1996:160). The two broad determinants of low pay and low status - i.e. the nature of the production process and the structures of the labour market - shape the specific forms that casualisation will assume at a particular time and place. A common failure to consider the role of the labour market encourages an incorrect view of workplace restructuring as solely the outcome of changing labour process imperatives. One reason why non-standard employment exists is the prior existence of a group of workers whose labour power can be deployed in a flexible or precarious manner.

Social relations in the workplace are increasingly structured in a manner whereby advantage and disadvantage, control and autonomy are patterned by the regulatory distinction between standard and non-standard employment. The use of non-standard employees constitutes, in part, an attempt by employers to construct new zones of 'flexibility' by evading the statutory and collective protective measures designed to stabilise the SER. These developments are widely associated with the decline of the Fordist system of production and the rise of some form of 'post-Fordist' production regime. While there is considerable debate regarding the extent to which the Fordist pattern of production has been abandoned and the nature of its successor; we need to reject both the notion of a complete break with the past and the idea of an overriding continuity in which no changes of significance are recognised. Moreover, far from leading to a greater convergence between countries as postulated by the proponents of 'flexibility', changes in production and regulation are characterised by persistent national variation. The enduring diversity of national and regional spaces is a product of "the intricate intertwining of the effects of disparate regulatory regimes and production regimes" (Waddington 1999:14). While managers and trade unions in different countries may face similar challenges, the variation in regulatory

and production regimes compels them to develop strategies appropriate to particular national conditions. Employers and employees have to act in “social formations which have already developed distinctive ways of governing work and firms” (Kristensen 1997:6). In other words, economic transactions are embedded in different social relations between (as well as within) countries so that they find distinct trade-offs between competition and cooperation, efficiency and equity, coercion and consent.⁵

The mechanisms of labour regulation tend to endure insofar as they find a sustainable compromise between two conflicting demands: transforming industrial relations to enhance competitiveness (considerations of efficiency) and avoiding the excesses that stem from unconstrained competition (considerations of equity). Orthodox approaches generally regard employment as a largely self-contained sphere of social activity that leads to a clearly bounded set of industrial relations problems (Hyman 1994b:121). In reality, however, the expanded reproduction of the employment relationship is dependent on a whole ensemble of social structures and practices (such as the law, government policy, collective bargaining, social security, behavioural norms, education and training systems) to mitigate the contradictions inherent in capitalist accumulation and valorisation. That is, the employment relationship is a product of not just one overarching causal logic, but of the indeterminate intersection of several generative structures. The roots of these generative structures can be traced to three sets of social processes: the processes of production and the structuring of labour demand; the processes of social reproduction and the structuring of labour supply; and the forces of regulation (Peck 1996). A deeper understanding of the different ways in which the employment relationship is socially constructed and institutionally mediated requires a non-reductionist articulation of the micro processes of workplace regulation and the macro processes of economic regulation.

THE MACRO-FOUNDATIONS OF LABOUR REGULATION

For Marx, it is not choice but force, that is the key to understanding the processes through which wage labour was created. He highlights a litany of horrors associated with early industrial development. Capital’s “vampire thirst” for the “living blood of labour” (1967:256) had to be “bound by the chains of legal regulation” (1967:243). The English Factory Act of 1850, for example, was intended to curb “the passion of capital for a limitless draining of labour-power” (1967:239). Left to his/her own devices, each individual capitalist is “reckless of the health or length of life of the labourer, unless under compulsion from society” (1967:270). Shortening the

⁵ The notion of ‘embeddedness’ includes the ways in which economic actions are set within social relations, presupposes trust and inter-subjective understanding of rules among actors, and so on (Granovetter 1985).

lifespan of the labourer, however, increases the overall costs of reproducing labour power. The more rapidly a worker is worn out by over-work, the greater is the value to be reproduced every day. Treating labour as a simple commodity poses a serious threat to the human and material substance of society since its commodity status is partially fictitious.⁶ Marx overstates the self-destructive tendencies of capitalism and underestimates its potential to secure both the expansion of profits and real wage growth as a result of the emphasis that he places on the ‘immersation’ of labour and the inevitability of a proletarian revolution. In short, he misjudges the regulatory functions of social institutions. As Aglietta (1998:50) argues:

[s]ince it is spurred on by the limitless desire to accumulate money, capitalist management of the production process can degenerate into a power capable of destroying the labour force it has subjugated, as the tragic history of proletarianization demonstrates. To manage an ordered productive force, namely one that is capable of preserving the working potential at its disposal, capitalism must be hemmed in by constraining structures.

Underlying most conceptions of capitalist economic development is a “postulate of homogeneity” - i.e. a uniform system of coordination in which individual actions are guided by some transcending planner such as the ‘invisible hand’ of the market (Aglietta 1998:42). Evolutionary neo-classical economics represents the capitalist system as a ‘pure’ economy in a ‘natural’ state of equilibrium created by ‘perfect’ competition. For Aglietta (1979) the market is not the anonymous mechanism of the ‘hidden hand’, but rather a social institution whose regulatory function cannot be presupposed.⁷ The proponents of regulation theory reject all conceptions of development which posit a single, objective logic to the evolution of capitalism that transcends all particularities (Lipietz 1987; Boyer 1990; Jessop 2001a). They adopt a view which stresses that the development of capitalism has always been mediated through historically- and spatially-specific institutional forms, regulatory institutions, and norms of behaviour.⁸ Their research focuses on concrete institutional forms, societal norms, values and the patterns of strategic human action, which both express and regulate the conflicts unleashed by capital accumulation until the inevitable tensions and divergencies among these various regulatory forms reach a crisis point (Lipietz 1987:3-5). A point of departure for this research is the paradox within capitalism between its inherent tendency towards instability, crisis and change; and its ability to coalesce and stabilise around a set of institutions, rules and norms that serve to sustain periods of relative

⁶ In the words of Marx: “[l]abour itself, in its immediate being, in its living existence, cannot be directly conceived as a commodity, but only labour-power, of which labour itself is the temporary manifestation” (cited in Rikowski 2002:186).

⁷ The assumption of a ‘perfectly competitive’ product and labour market informs much of the orthodox approaches to industrial relations (Kochan *et al* 2002:74).

⁸ This brief summary inevitably distorts some complex and detailed arguments.

economic stability. The essential idea behind the *régulation* approach, in the words of Aglietta (1998:49), is that

the dynamism of capital represents an enormous productive potential but that it is also a blind force. It does not contain a self-limiting mechanism of its own, nor is it guided in a direction that would enable it to fulfil the capitalists' dream of perpetual accumulation. To put it another way, capitalism has the inherent ability to mobilize human energy and transform it into growth, but it does not have the capacity to convert the clash of individual interests into a coherent global system.

A phase of relatively stable economic growth is the outcome of embedded social practices rather than the inevitable result of immutable economic laws. As Aglietta (1979:19) puts it: the regulation of capitalism “must be interpreted as a social creation”. While neo-classical orthodoxy imposes a universal form on historically and spatially constituted social relations, the Parisian *régulation* theorists favour a view of the economic process as dependent on the structural forms and institutional mechanisms endemic to a specific time and place. Far from simply providing a context, institutional factors play a key role in shaping economic processes, especially in the sphere of work and employment (Michon 1992:223). Regulationists therefore reject the notion of an equilibrium position for a society or economy: periods of sustained or balanced growth are seen as “always relative, always partial and always provisional” (Jessop 1988:151). Capitalism generates forces opposed to its drive to accumulate, forces which find a way to channel this opposition into social regulation or mediation.⁹ As a society inevitably introduces measures to ameliorate the consequences of a purely competitive regulation, the market mechanism is supplemented by collective action, expressed in institutional forms as social mediation. Such mediation can ensure that capital accumulation does not only enrich the capitalist but also improves the living conditions of workers. This conversion of technical progress into social progress is always merely a possibility - everything depends on the creation and maintenance of mediatory mechanisms that are effective regulators. According to Jessop (2001b:10-1),

reproducing and regularising capitalism involves a ‘social fix’ that partially compensates for the incompleteness of the pure capital relation and gives it a specific dynamic through the articulation of its economic and extra-economic elements. This helps to secure a relatively durable pattern of structural coherence in the handling of the contradictions and dilemmas inherent in the capital relation.

In contrast to the narrow and functionalist use of this concept in much of the literature on industrial relations, here *regulation* is understood as a complex, multi-lateral and provisional process mediated through distinct social institutions and carried out by particular social forces

⁹ ‘Regulation’ refers to “the partially conscious, ‘strategic’ use of political power, economic resources, and cultural authority to shape collective practices”; whereas the ‘social’ designates a “realm of specifically trans-individual structures, identities, culture, and social needs and risks” (Steinmetz, cited in Gottfried 2000:237).

under specific spatio-temporal conditions.¹⁰ Underlying the concept of ‘regulation’ in orthodox industrial relations theories is the notion of equilibrium: regulatory mechanisms tend to be in perfect harmony with their environment and the process of regulation itself is predictable, stable and seemingly trouble-free (Dabscheck 1993). Periods of disequilibrium are simply a temporary deviation from the usual or normal state of equilibrium. For regulationists, by contrast, the processes of social regulation dampen and spread over time, rather than eliminate, the imbalances which permanently arise from the processes of capital accumulation (Aglietta 1979; Boyer 1990; Jessop 1991). In short, it specifies the particular forms assumed in time and space by the institutionalisation of class conflict. The idea that changing systems of capital accumulation engender complementary institutional arrangements is of great value in making sense of the relative stabilisation of industrial relations in the mid-1900s and its subsequent instability and change (Hyman 1994c:7-10). The tendencies towards the stabilisation of industrial relations through the institutionalisation of conflict are thus neither unilinear nor irreversible, but rather historically-conditioned and contingent concomitants of a distinct phase of economic evolution. During the ‘golden age’ of Fordism, for example, economic stability was the foundation for stable industrial relations.

The inherently volatile and crisis-ridden nature of capitalist accumulation has long engendered an academic and political interest in the concept of ‘regulation’. More recently, a progressive move away from abstract, ahistorical concepts of regulation towards the study of more concrete, contextual regulatory mechanisms can be discerned (Peck 1996; Whitley and Kristensen 1997; Picciotto and Mayne 1999; Clarke 2000; Picciotto and Campbell 2002). Despite a long and rich history, the concept of regulation remains stubbornly elusive of an all-encompassing definition and is used as a metaphor to encapsulate a wide range of social practices. Leyshon (1992:250) argues that two uses of the term predominate over all others. First, regulation is used to describe the maintenance of a systemic equilibrium, analogous to processes of regulation found in many physical systems which are maintained at, or tend towards, some state of equilibrium. In this sense, regulation describes an independent dynamic (such as an economic or social system) that is controlled by a ‘governing mechanism’ which seeks to ensure the system reproduces itself. Second, regulation can be used to describe a framework of legal and administrative rules. These two interpretations of regulation are frequently constituent of one another: the form of systemic equilibrium in operation at any time will influence the drafting and administration of a system

¹⁰ Dabscheck (1993) outlines a number of distinct theories of regulation. Common to many of these approaches is the reduction of regulation to a purely technical activity divorced from wider political and social determinations. These conceptions of regulation are singularly unhelpful in making sense of the inherently complex, contradictory and contested nature of the exchange relations that constitute the employment relationship. Labour regulation is also not a simple command-obey relationship between an active subject and a passive object.

of legal rules and guidelines, which are used to define the range of permissible practices open to economic agents.

Boyer (1990:20) differentiates these two definitions of regulation from a third interpretation developed in the *régulation* approach: “the conjunction of the mechanisms working together for social reproduction, with attention to the prevalent economic structures and social forms”. Regulation in this sense refers to a set of institutional mechanisms and patterns of behaviour through which the economic and social system is reproduced while at the same time maintaining its coherence and identity (Michon 1992:223-4). This conception of regulation will inform the analyses below. Most regulatory impulses have historically tended towards the imposition of order on what is interpreted to be an otherwise anarchic and ultimately self-destructive process of capitalist accumulation.¹¹ In other words, given the pursuit of individual self-interest in economic exchange, “normativity must be imposed by the public on the private” (Picciotto 2002:2). Despite the regular imposition of the restraining influence of regulation, however, crises remain a persistent feature of capitalist economies. The reason for the perpetual occurrence of crisis is the inherently fragile and temporary nature of all systems of regulation within a highly dynamic and spatially-variegated capitalist system. “If to regulate is to intervene, establish authority and seek to achieve order, the potential for conflict with freedom of action is evident” (Clarke 2000:4-5). Even determining the most appropriate level of regulation is highly problematic, given that a fundamental dilemma exists within all forms of capitalist regulation. As Giddens argues,

to claim that capitalist markets must be ‘regulated’ in order to remove their erratic qualities leads us to a dilemma. Subjecting markets to the centralised control of an all-encompassing agency is not economically efficient and leads to political authoritarianism. Leaving markets free to operate more or less without any restriction, on the other hand, produces major disparities between different groups and regions (cited in Leyshon 1992:250).

This dilemma defines the polarities of the regulatory drive: the imposition of high levels of control and constraint on the one hand, and a permissive freedom on the other. These contradictory impulses reveal the dialectic at the heart of capitalist regulation which ensures that the durability of all regulatory forms, however restrictive or permissive, is strictly limited. Leyshon (1992:251) identifies two reasons that help to explain why a regulatory ‘fix’ for any regulatory ‘dilemma’ is necessarily temporary. First, regulatory systems can be undermined by a process of “systemic dislocation” - i.e. the nature of activities being regulated may change in

¹¹ For example: Fox and Flanders (1969:158) argue that “an accepted normative system provides a framework of comparisons and constraints within which otherwise unlimited aspirations can be shaped with some concern for social proportion”.

such a way as to make existing governing mechanisms redundant, as the former equilibrium of the system becomes disrupted by some unforeseen development. The accepted order of the regulatory system is undermined and a search begins for a new governing mechanism(s). Such systemic dislocation is a product of the inherently competitive structure of capitalist accumulation, and of the permanent search by economic agents for ways to surmount barriers to the creation of profits and value.¹²

Second, the spatially-bounded nature of regulation further facilitates the process of regulatory dislocation. Most regulatory systems are tied to specific geo-political formations, typically in the form of the nation-state. Hence, it is possible for economic agents to move between different regulatory spaces in order to elude any perceived constraints associated with a particular regulatory regime (Leyshon 1992; Peck 1996; Gray 2002). Instances of such 'regulatory arbitrage' or 'regime shopping' have increased significantly in the era of globalisation as improvements in information technology enabled firms to successfully co-ordinate their activities over large expanses of international space. The globalisation of markets and firms has served to undermine the restraining consequences of regulatory systems which are embedded within particular geo-political jurisdictions. However, in contrast to arguments that suggest global economic forces are leading to increasingly homogenous national regulatory regimes, regulationists continue to insist on the path-dependent trajectories of institutional and normative changes (Boyer and Durand 1997; Whitley 1997; Elger and Edwards 2002). Since the notion of a single, universal dynamic in capitalist development is rejected and causal powers are allocated to specific cultural and political forms, the peculiarities of different national forms of capitalism take on a new significance. As such, interest is stimulated in

the unequal capacities of different capitalist nations to generate and assimilate new techno-economic systems and a major concern becomes the qualitatively different impact of the same techno-economic forces in time and space. Although major structural crises are seen as inevitably taking on international dimensions, it becomes of importance to track down the historically specific conditions under which the determinants of crisis have collided - the *conjuncture* of general and particular determinants of crisis and transformation (Elam 1994:57-8).

The neo-classical conception of the market with its emphasis on equilibrium, assumes that it is market forces that ensure the proportionality of the various branches of production, and of production and consumption. This idealist conception of the market is flawed primarily because it abstracts from the historical dynamics of accumulation in and through which proportionality

¹² Regulatory boundaries are frequently constituted as barriers to accumulation, and their successful circumnavigation can confer significant competitive advantage. This can account for, among others, the emphasis on the successful development of new markets through innovation and the use of part-time and temporary employment.

is constantly disrupted. The problem of proportionality, for Aglietta (1979), focuses on the regulation of the employment relationship in its dual aspect, as a cost to capital and as a source of purchasing power. The competitive determination of wages and prices must reconcile these two aspects and so permit sustained accumulation. For the latter to occur, appropriate modes of regulation and norms of production and consumption must be in place. The possibility of a disproportionality or realisation crisis is inherent in the distribution of total income between wages and profits. While markets provide signals to which producers and consumers can respond, “there is no mechanism to reconcile the responses of people in their role as producers, where wages appear as a cost, and their role as consumers, where their wages appear as a source of revenue” (Sayer 1995:137). The focus is on the form that the necessary trade-off between keeping the costs of production down and keeping consumption up assumes within market economies, and the inadequacy of market mechanisms for resolving this tension.

The division of the economy into two departments of production - non-wage investment commodities and wage commodities - underscores the fact that commodities from the two departments both reproduce different portions of capital as they enter production and are exchanged against different portions of money income. The employment relationship is regarded as critical: it influences levels of productivity, shapes the overall level of employment, and directs the distribution of capital between profits and wages. The manner in which the employment relationship connects the spheres of production and reproduction gives a regime of accumulation its distinctive shape and character. The mode of regulation that sustained the Fordist system, through which the constraints imposed of capital corresponded to the degree of integration of the labour force, was “the fruit of the institutionalisation of economic relations” (Aglietta 1998:55). The rights of employees at work, the collective negotiation of wage rates, social welfare, and the like are therefore institutionalised compromises. A mode of social regulation, then, serves to accommodate, mediate and diffuse the crisis tendencies inherent in capitalist accumulation which threaten to undermine the institutional linking of production (profits) and consumption (wages).

The concept of regulation must be complemented by its twin: that of crisis. The symptoms of exhaustion of a mode of growth - heralding a period of uncertainty, crisis and change - must be sought in “malfunctions of the interaction between mediation mechanisms” (Aglietta 1998:56). Crises can be either cyclical or structural - i.e. not all economic crises are of the same magnitude (De Vroey 1984:53-5; Lipietz 1988:29-33; Boyer 1990:48-53; Tickell and Peck 1992:193-4). Diverse forms of crisis follow from the disparate nature of national modes of social regulation. That is, the form of crisis corresponds to the structures of the society. One of the most persuasive features of the *régulation* approach is its argument that the recurrent crises of capitalism are not

mere residual aberrations that can be eliminated by an appropriate mix of reforms, but are endemic to the very structure of capitalism. When the regulation of contradictions and struggles are no longer possible or manageable, regulation theorists refer to a crisis *of* (instead of *in*) a regime of accumulation or mode of regulation. In this regard, general references to ‘class struggle’ are not particularly useful. Jessop (1991:165) draws a distinction between marginal struggles which can acquire class-relevance, struggles that are confined to and implicated in the reproduction of an accumulation regime, and struggles whose effect is to disrupt and transform such a regime. Far from being functionally determined, the transition towards a new stage of accumulation and regulation is characterised by struggle, *ad hoc* state strategies, and chance discoveries (Lipietz 1987; Jessop 1991; Boyer and Durand 1997; Grahl and Teague 2000). This theory of crisis is neither economistic nor a mechanistic account of capitalist collapse - “crisis is only the other side of regulation: the one expresses and the other contains the original conflictual nature of social relations” (Lipietz 1988:15). There can be no objective ‘developmental logic’ or ‘mission of capital’ that necessarily and inevitably propels capitalism from one mode of regulation to the next, predetermined stage.

A mode of regulation merely finds a partial and unstable resolution - in the shape of a particular constellation of organisational and institutional forms - of the contradictions inherent in capitalist accumulation. By the same token, the objects of regulation cannot be defined outside of specific social practices and only acquire their determinate character in conjunction with other objects (Jessop 1990). Different forms or sites of regulation follow different logics, draw on different resources, cover differing aspects of capitalist economic development, and mobilise and rely upon different tools of legitimation. In other words, the coherence of a mode of regulation does not occur automatically. This is why such coherence, when it occurs, does not conform to any pre-established general law - it is a historically unique entity (Aglietta 1998:56). The concept of regulation is thus an important mediation between the theoretical insights of an abstract analysis based on the law of value and a concrete empirical reality as revealed using the methods of historical analysis (Hirsch 1991:18). While the context of the law of value, as formulated by Marx, remains the basic cause of expansion and crisis, the conditions that trigger them off and their forms of appearance must be sought in the historically-specific structural features of the Fordist social formation.

While the *régulation* approach is most clearly associated with wide-ranging historical analyses of archetypal patterns of regulation such as Fordism, in principle it is sensitive to institutional variability at more concrete levels. There is a recognition of a wide variety of institutional forms existing within the shadow cast by the archetypal form (Jessop 1990; Michon 1992; Boyer and

Durand 1997). The complex dialectic between accumulation and regulation unfolds in a variety of different ways and is formed through indeterminate political and social struggles. Since social structures of accumulation and regulation are relatively autonomous, yet bound together dialectically in an essential or necessary relation, the causal liabilities with which they are endowed will be realised in different ways at different times and places, depending on contingent circumstances (Peck 1996).

The *régulation* approach posits a strong relationship between the employment relationship (*rapport salarial*) and the overall pattern of social regulation (Boyer 1988a; Lipietz 1988; Grahl and Teague 2000). As Littler (1993:323) also notes, while there is no simple matching process, “there is a functional concordance between the accumulation system, the mode of social regulation, and the mode of labour regulation”. In the analyses below, the concern is to extend the *régulation* approach ‘downwards’ to account for the problem of order in the workplace. In fact, Michon (1992:227-8) asks whether “the tools proposed by regulation theory would be more useful in analysis of the firm than in that of national economies?” The employment relationship is never a purely economic exchange (i.e. wages for labour), but is mediated through an institutional framework that is more or less stable and grounded in a more or less sustainable compromise between social equality and economic efficiency. That is, production cannot be reduced to a purely economic dimension since it is “a ‘base’ with its own ‘superstructure’” (Burawoy 1985:256). The ensemble of institutions that regulate the employment relationship produce and reproduce social relations, connect the processes of production and social reproduction, and mediate conflicting interests inside and outside the workplace.¹³ The preoccupation with managerial control and deskilling in the labour process debates has deflected attention away from the contested and contingent reproduction of the employment relationship (Thompson 1989). As the analysis of Burawoy (1985) convincingly demonstrates, once a notion of the labour process as the unity or separation of conception and execution is replaced with a relational notion, the emphasis shifts from a question of domination to one of reproducing social relations.

While many of the central concepts in the *régulation* approach were initially constructed to explain the crisis of the Keynesian-welfare state, they have subsequently been extended to account for both the processes of accumulation preceding this crisis and the various attempts at transcending the current disjuncture between capital accumulation and social regulation. This is

¹³ In the words of Poulantzas (1978:173): “[t]he class struggle is from the beginning lodged in the very heart of the labour process ... [That is,] economic functions are always invested in the class struggle and therefore have a political character and content”.

what makes the *régulation* approach such an ambitious and forceful project: it is nothing less than “a recasting of the entire history of capitalist development in terms of the concepts of accumulation and regulation” (Ruccio 1989:36). We must, however, speak of an approach rather than a theory. What has gained acceptance, Aglietta (1998:42) argues, “is not a body of fully refined concepts but a research programme”. Its diffusion as an approach has resulted in both considerable internal differentiation and a broadening of the base of theories it draws on. What unifies the seemingly disparate accounts that constitute the *régulation* approach are the following four characteristics:

[f]irst, this programme typically works with a scientific realist ontology and epistemology; second, in line with this basic scientific realism, it adopts ... the method of ‘articulation’ in building theories of regulation ... Third, turning to the broad substantive concerns of the regulation research programme, they derive from the general Marxist traditions of historical materialism ... with its interest in the political economy of capitalism and the anatomy of bourgeois society. And fourth, ... it is particularly concerned with the changing forms and mechanisms (institutions, networks, procedures, modes of calculation, and norms) in and through which the expanded reproduction of capital as a social relation is secured (Jessop 1990:154).

Given its widespread influence, it is not surprising that the *régulation* approach has attracted considerable criticism.¹⁴ To be sure, many of these critics call for an extension or refinement rather than the abandonment of the central concepts of this approach. Considerable diversity within the *régulation* approach, moreover, raises significant problems for a critical evaluation. Few of the critics specify whether the criticisms they raise hold for some regulation theorists or is intrinsic to the *régulation* approach itself. For example, critics have labelled it as both too deterministic and too indeterminate. To criticise the *régulation* approach for inevitably being ‘structuralist’ (the unstoppable march of objective laws) or ‘voluntarist’ (the unstoppable march of wilful social agents) is to misapprehend its emphasis on the ‘double dialectic’ in the interaction between structure and strategy. As Jessop (1991:163) explains:

[s]tructures condition strategies both as explicit reference points for strategic calculation and as a partly and partially unacknowledged set of structural constraints and conjunctural opportunities on those strategies. Conversely strategies transform structures both through deliberate, if often unsuccessful, attempts to modify them and through the unanticipated consequences of interaction among patterns of strategic conduct with other objectives.

The Parisian regulation theorists adopted the realist ontology implicit in *Capital* and developed the many epistemological insights in Marx’s work more generally (Jessop 1990, 2001b). A realist ontology conceptualises society as an ensemble of structures, practices and relations that necessarily pre-exist human beings (Bhaskar 1986, 1989). An attachment to realism, therefore, implies a rejection of conceptions of society as either (a) the product of conscious human

¹⁴ See: Williams *et al* (1987); Clarke (1988); Sayer (1989); Brenner and Glick (1991); Hirst and Zeitlin (1991); Tickell and Peck (1992); Bonefeld (1993); Wood (1993); and Elger and Edwards (2002).

activities - the error of voluntarism; or (b) as existing independently of conscious human activities - the error of structuralism. Furthermore, the notion of the social world as a complex combination of many determinations implies the stratification of reality into various levels or regions with *sui generis* properties. Each region, in turn, is constituted by an 'appearance' level (phenomenal forms) and an 'underlying' level (generative mechanisms) which necessitate different planes of analysis on each level. As Marx points out: "all science would be superfluous if the outward appearances and essences of things directly coincided" (cited in Jessop 2001b:3). In other words, reality is made up of deep structures which condition and make possible the events we observe in everyday experience.

The *régulation* approach has also been widely criticised for focusing on the question of how capitalism is reproduced, at the expense of a consideration of how capital secures its domination as a class in the face of unrelenting class struggle (Holloway 1988). Regulation is presented as being geared towards capitalist structures rather than towards the changing balance of forces in a struggle for class domination (Clarke 1988). These critics would be hard pressed to sustain these charges: the Parisian regulationists in particular insist that modes of regulation and regimes of accumulation are the product of past struggles and are always bound up with present struggles. There are, as Aglietta (1998:77) notes, "coherent sets of mediation mechanisms, not a standard universal tuning system for all markets". Since the *régulation* approach proceeds from the premise that regulatory practices take place on a specific terrain of class struggle, it follows that the objects of regulation are constituted in and through that struggle. Nowhere is it asserted that regulation suspends or eliminates class conflict, or even displaces the contradictions of capitalism. The regulationists assume that

the forms of the capital relation are deeply problematic for accumulation ... [Thereby providing] ample theoretical scope for exploring how the very reproduction of these forms can contribute to crisis (Jessop 1990:190).

Once it is accepted that there are no institutional guarantees that class struggles will be confined within the boundaries of a given form, it becomes possible to explore how these struggles can both reproduce and undermine the dominance of specific forms (Jessop 1988:151). There can be no 'pure' class struggle with no mediation through social forms, apparatuses, asymmetrically distributed resources, specific techniques and strategies (Jessop 1991:147). It is difficult to deny that the various sites and forms of struggle, the complex dynamics and cycles of capital accumulation, the modes of calculation and strategic orientation, and the organisational forms assumed by different social forces make a difference to the course and outcome of class struggle. If these make a difference, and class struggle is not formless, then capital accumulation is "a form-determined outcome of class struggle" (Jessop 1991:155). This implies a rejection of the

idea that there are pre-given, objective laws which are mediated in and through a secondary, subjective class struggle. Class conflict is a driving force of capitalist development only because it is structured by, and embedded in, the social forms of the commodity and capital. As Jessop (1991:152) puts it: “the class struggle in capitalist society plays the role it does because that society is organised as it is”. The real significance of class struggles lie in their impact on the expanded reproduction of capital, on the whole set of conditions necessary for continued accumulation. This view creates theoretical space for a study of the material preconditions for the reproduction of the circuits of capital (i.e. production-distribution-consumption).

The expanded social reproduction of a regime of accumulation is always presented as temporary, partial and unstable. The comparative regularity of capitalist reproduction depends on a set of social norms which are institutionalised within civil society by the state. Such regularity is always relative and its precise form and content are constantly being remoulded by class struggle. To be sure, a given regime of accumulation does not have only one corresponding mode of social regulation. These regulatory forms are always historically- and spatially-specific in relation to specific national territories. The character of the institutionalised social norms is linked to the history of the nation-state and to the specifically national nature of the social development of capitalist reproduction. There are always a range of potential solutions to a crisis depending on historical, spatial and social conditions. The mode of regulation is crucial for the contingent ‘success’ of a given model of development. That is, capitalist development should not be viewed as a self-contained process. Aglietta (1979:383) insists that no structural form of regulation

can play its role in the mitigation of social contradictions without the simultaneous operation of all others. But this simultaneous operation is in no way inherent in the logic of accumulation.

Empirical evidence alone cannot settle the criticisms raised against the *régulation* approach. To simply list the nature or extent of empirical changes would not settle the issue since the significance of these trends is essentially a theoretical question. Economic development is a highly complex, institutionally mediated, uneven and inherently unstable process that defies simple explanations. We must therefore select a ‘metaphor of progress’ that can best account for this reality. Regulation theorists are concerned with specifying the inherently limited range of institutional patterns that can sustain relatively balanced capitalist economic growth (Jessop 1991:159-64). They attempt to periodise capitalism in terms of the serial interchange of more integrated phases of capital accumulation with more disorganised transitional phases. This involves specifying the institutional forms and modes of struggle within a given stage of capitalist development. To this end, regulationists have attempted to give a determinate social content to the general tendencies of capital accumulation that can explain its overall dynamic and

directionality. In opposition to a crude functionalism, they recognise that regulated outcomes may be consensual as well as conflictual, supportive as well as destructive of the reproduction of the regulatory system itself. As such, the conceptual framework of the *régulation* approach can make a significant contribution to theory in industrial relations.

THEORY IN INDUSTRIAL RELATIONS

Theory construction in industrial relations has historically been dominated by inductive and deductive approaches. Neither offers an entirely satisfactory account of the diverse factors that shape the employment relationship. The latter is typically analysed as an empirical manifestation, thereby ignoring its underlying causal mechanisms. That is, the focus is on the management of the employment relationship rather than its reproduction. Under the sway of an empiricist methodology, the logic of both research and argument is the search for generalisations in the form of regular relationships that are said to exist between observable phenomena. Social and economic laws are conceived as deductive-nomological in nature - i.e. universal laws from which predictions of instances can be deduced. This search for measurable probabilities and regularities presupposes closure or the absence of extrinsic factors. Restricting one's analysis to the observable aspects of casualisation, for instance, will provide few insights into the conjuncture of processes and circumstances which generated the various non-standard employment relationships (NERs). Critical realists such as Sayer (1984) and Bhaskar (1989) argue that Popperian falsificationism is impossible in the open systems of the social world. If critical realism is correct in its claim that open systems are conjuncturally determined, then an adequate explanation of any social phenomenon must be constructed in terms of many determinations and cannot lay claim to any predictive powers. In other words, given the simultaneous operation of numerous generative mechanisms, the empirical manifestation of a particular causal power is always contingent.

As social scientists were searching for alternatives to positivism, they often sided with some post-modernist or subjectivist view, which erroneously attempts to dissolve the intransitivity of social life altogether. This subjectivist turn is mirrored, in part, by the shift in industrial relations from the empiricism and determinism of 'systems' approaches to the rationalism and indeterminacy associated with models of 'strategic choice'. The approach that is adopted here avoids both a voluntaristic idealism whereby individuals create the social structure and a mechanical determinism whereby people are essentially the product of their situation. Bhaskar's (1989) model of transformative social activity sustains the insight that structure and agency are distinct, yet highly inter-dependent, things. This model is capable of

accommodating the usual individualist stipulation that agency be given a non-trivial role without reducing social structure to some inadequate notion of context. Additionally the transformational conception of the mode of existence of social structures should, in principle, be acceptable to new institutionalists in that social structure is not viewed as existing 'apart from' individuals ... [We] are not presented with a stark choice between viewing the individual as prime-mover or as passive rule-follower. Society is the skilled accomplishment of agents. But the social world may be opaque to social agents in several respects, in that [their] activities may depend upon or involve: unacknowledged conditions; unintended consequences; the exercise of tacit skills; unconscious motivations (Lawson *et al* 1996:148).

In terms of the systems approach, the structures of industrial relations reflect the systemic needs of industrial societies (context determines strategies); while strategic choice models view the norms of industrial relations as established in a bargaining process that is determined by the strategies deployed by the parties (strategies determine context). The former reifies the social structures of accumulation, whereas the latter grants economic agents (usually employers) an inordinate capacity for strategic action. In an effort to ensure that neither structure nor agency is made redundant, a focus on labour regulation seeks to do justice to the structural features of employment as well as the intentional dimensions of work. That is, the reproduction of the employment relationship is seen as neither a fateful necessity nor a willful contingency. Social structures both constrain and enable human action; human agency both transforms and reproduces social structures.

The perspective outlined in the chapters below deviates from that found in mainstream approaches: the focus is not so much on the sub-system of industrial relations in relation to other sub-systems, but rather on the direct relationship between employer and employee within the enterprise. This entails a redrawing of the boundaries of industrial relations to include the various forms that the employment relationship can assume and all aspects of that relationship. Employers and employees develop their respective industrial relations objectives in the context of the wider society within which they operate. Since the employment relationship under capitalism is structured and inherently antagonistic, it is necessary for the parties to exercise control over it. This control is problematic and involves a contradictory fusion of cooperation and conflict. The latter finds expression in a complex network of regulatory processes through which the parties to the employment relationship seek to exercise their strategic choices and achieve their goals. This network is not restricted to the industrial relations system, but also includes the relations governing the production process itself. The mainstream view of industrial relations as a 'system of rules' or 'institutions of job regulation' tends to ignore the structures underlying these rules and regulations in the sphere of production. Here Burawoy (1985) provides a useful corrective. His approach rests on a distinction between "the labor process conceived as a particular organization of tasks, and the political apparatuses of production conceived as its mode of regulation" (1985:125). The process of production is therefore not confined to the labour

process since it also includes the mechanisms that regulate capitalist accumulation.

The employment relationship is not an unmediated outcome of transhistorical processes operating across an undifferentiated social and geographical space. It is a historically-contingent exchange relationship that is socially embedded and dependent on institutional regulation for its reproduction. Unlike other factors of production, the quantity and quality of tasks performed by an employee can never be specified precisely in advance by the employer. For efficient and continuous production to be possible, therefore, the employment relationship has to be socially regulated and institutionally mediated in the sense of mitigating the various regulatory dilemmas generated by the conversion of labour power into labour. Regulating the employment relationship involves not only the physical reproduction of the worker, but also the reproduction of the mechanisms that govern the deployment and use of his/her labour. In the 'hidden abode' of production, "labor and capital come together in a way that is at once a market transaction, a labor process, and a scene of daily life: that is the employment relation" (Storper and Walker 1989:168). As a set of laws, institutions, practices and customs that control the use of labour, the employment relationship forms an integral part of the wider mode of social regulation. The particular forms assumed by the underlying force for change in the workplace - i.e. the drive for accumulation - are conjointly determined by mediating institutions such as occupational groups, trade unions, employers' associations, governmental agencies and so on. As such, labour regulation involves the (always partial and unstable) mediation of the intractable problems of incorporation and marginalisation, control and autonomy, resistance and accommodation, efficiency and equity. Any form of stability that does arise in labour regulation is thus actively created and sustained. The labour exchange must in effect be renewed and re-negotiated in an ongoing and continuous manner.

A necessary aspect of the social mediation that articulates the economic and extra-economic elements of the capital relation is the imposition of a social and spatio-temporal 'fix' on these elements. It achieves this, as Jessop (2001b:11) explains,

by establishing spatial and temporal boundaries within which the relative structural coherence [in the handling of regulatory dilemmas] is secured and by externalising certain costs of securing this coherence beyond these boundaries. Even within these boundaries we typically find that some classes, class fractions, social categories, or other social forces located within these spatio-temporal boundaries are marginalised, excluded, or subject to coercion.

Chapter 1 outlines an emerging approach to the study of industrial relations as *labour regulation* (Edwards 1986; Bélanger *et al* 1994; Van Ruysseveldt *et al* 1995; Peck 1996). This approach allows for a more detailed exploration of the different regulatory regimes that apply to standard

and non-standard employment. Viewing casualisation as a particular social and spatio-temporal 'fix' for the regulatory dilemmas generated by the SER, highlights the fact that a national system of labour regulation decisively shapes the conditions under which employers are able to casualise a part of their workforce. The overriding objective of this chapter is to place the employment relationship within its own regulatory framework. Since it is inherently unstable and contradictory, the employment relationship is dependent on regulatory mechanisms that generate the social rules and conventions necessary for its cohesion and durability. At the heart of the employment relationship is a trade-off between effort and wages, control and autonomy, efficiency and equality. Grounding our analysis of industrial relations in the ways in which the employment relationship is regulated can accommodate both sides of the 'labour problem': the combined achievement of social welfare and social control (Hyman 1989). This trade-off is crystallised in the social institutions that have evolved to regulate the employment relationship.

Theoretically, the study of industrial relations grew out of attempts to explain the supply and sale of labour power. The theoretical roots of industrial relations can be traced back to the clash between radical political economy and the emergent neo-classical economics at the end of the nineteenth century (Blyton and Turnbull 1998:16-7). In the neo-classical conception of the economy and labour market, the employment relationship is rendered context-independent as a by-product of immutable economic laws. Neo-classical economic theory "separates out economy from society and purges economic relations of any specific social or institutional content" (Spencer 2000:544). An inevitable corollary is the neglect of history: the economy assumes an entirely determinate essence whereby economic phenomena appear to be given in time and space in an inevitable and universal manner. This approach takes as a given for analysis precisely what must be an outcome of analysis. The neo-classical theory of the firm, for example,

abstracts from basic problems in industrial relations and work organisation by reducing the labour process to a set of technical relations, as summarised by the production function ... Since workers' co-operation is assured through the act of exchange, technical efficiency can simply be assumed. The problem of how to get work out of the worker does not even arise (Nolan, cited in Nolan and Walsh 1995:53).

Underlying the various economic models are different conceptions of production. A guiding thread in much of the criticisms of neo-classical economics is that its arguments are based, not on an examination of how economies *actually* work and develop in time and space, but on abstract, *a priori* reasoning about how they *should* operate. As Granovetter (1985:495) points out, "the anonymous market of neoclassical models is virtually nonexistent in economic life and ... transactions of all kinds are rife with ... social connections". In the face of the acute and protracted economic adversities confronting the bulk of the world's population, the main advice of orthodox economists is for "government inaction in all things, other than to make the market

work more ‘perfectly’” (Wilkinson 1983:413). Traditional versions of neo-classical economics are grounded in the assumption that the employment relationship is a simple exchange of commodities like any other form of economic exchange and that production can be taken as a given datum (or ‘black box’) since the determination of prices and of market allocation are the only valid areas of economic analysis (Sayer 1995; Lawson 1997). Existing hierarchical work institutions are assumed to be ‘efficient’ in the sense that they always provide appropriate regulation of “the implied universal conflict between ‘natural’ individual self-interest and a collective rationality based on lower transaction costs” (Spencer 2000:546). No general statement can be made as to what forms of work organisation will be efficient, as the issue is contingent on prevailing social relations. The quantity of labour power purchased cannot be simply reckoned into the amount of labour input obtained - it reflects the effectiveness of management, as well as a host of industrial relations factors, which are likely to vary within and between firms.

No employment contract can specify precisely the amount of effort to be expended and initiative to be displayed by the employee. The employer’s requirements are rarely predictable in great detail and benefit from retaining a wide margin of discretion. The incompleteness of the employment contract is a product of the distinction between labour (a process) and labour power (a capacity). The detail of the wage-effort bargain that underlies the employment relationship is subject to on-going and usually tacit negotiation. This implies a model of the employment relationship as essentially a power relationship, qualitatively different from a ‘pure’ exchange relationship. Capitalist production and distribution were always closely regulated by traditional norms, institutions and statutory controls: “regulation and markets, in effect, grew up together” (Polanyi 1957:68). This symbiotic relationship between regulation and markets varies according to national and local context with considerable variation in the institutional embeddedness of markets (Edwards 1994a; Crompton *et al* 1996; Rubery 1996; Whitley and Kristensen 1997). Paradoxically, the more a market logic (i.e. a short-term calculus of costs and benefits) pervades the employment relationship, “the less does this relationship accord with the conventional ideas of commodity transactions as precise exchanges and the less likely is it to result in productive efficiency” (Hyman 2001:11). Labour is, as Polanyi (1957) argues, a ‘fictitious commodity’. The point of departure in a study of the dynamics of labour regulation is the contradictory nature of labour’s incorporation, allocation, control and reproduction within the labour market (Peck 1996). These represent the four facets of labour’s fictive commodity status.

The technical and social divisions of labour that constitute an economy presuppose, as a condition of their existence, modes of coordination and integration that can link up the various specialised activities in time and space. The effects of division of labour are always strongly

mediated by the social relations of production, modes of coordination, types of surplus appropriation, and so on. Divisions of labour may be coordinated by markets, central planning and various combinations of custom and tradition, authority and coercion, negotiation or democratic process. However, no mode of coordination is perfect or ever a neutral medium for the transmission of power: they can disperse or concentrate power, and amplify or reduce inequalities (Sayer 1995:48). At an abstract level, all capitalist labour markets have certain essential features. In concrete cases, they can develop in a myriad different ways and combine numerous modes of regulation so that behaviour and outcomes can vary significantly, depending on the pressures of competition, industrial structures, and the like.

Changes in regulation play a vital role in the processes of industrial and employment restructuring. Of particular significance is the increase in the power of employers to use and dispose of the labour power of employees, as well as the decrease in their obligations to workers, associated with the contemporary expansion in market regulation. Contrary to the canons of neo-classical economics, however, there are implacable limits to these reforms that stem from the fact that the market is not an inherently self-sufficient mode of regulation. The dilemmas of labour market regulation are grossly underestimated in orthodox approaches as the result of a tendency to give markets the credit for effects generated or co-generated by other mechanisms. The different material and informational coordination problems thrown up by concrete economies are inevitably too diverse for a purely market regulation and invariably require hybrid solutions (Sayer 1995:105-6). By the same token, labour regulation is not an all-or-nothing matter based on an immutable distinction between hierarchies and markets. Extra-economic forms of labour regulation merely limit or suppress market forces in various ways without abolishing them altogether. A failure to recognise that social regulation supplements, rather than simply eliminates or obstructs, market regulation encourages either an over-socialised or under-socialised account of the labour market and, by extension, of the employment relationship.

Contrary to the functionalism inherent in the systems approach to industrial relations, a focus on the institutional mediation of the employment relationship allows for a greater appreciation of the contested, contingent and incomplete processes of labour regulation. According to Fox and Flanders (1969), democratic societies seek a balance in labour regulation that is notoriously difficult to sustain: maintaining social order (centralisation and integration) and upholding democratic social values (decentralisation and autonomy) without descending into social disorder. To the extent that the 'necessary' normative regulation is absent or weakened, they argue, disorder becomes manifest in unpatterned behaviour leading to a decline in integration and predictability in social action and events. Regulatory regimes are thus closely bound up with the

concept of social order, with the focus on the resolution of conflict rather than its generation, on issues of social control rather than those of social welfare. What is conventionally studied as industrial relations, Hyman (1989:125) argues, may be conceived as “a fetishised presentation of the class struggle and the various forms in which it is (at least temporarily) contained, fragmented and routinised”. The ‘order’ that exists in the workplace is in a very real sense a *negotiated order* that problematises the maintenance of managerial control. No regulatory ‘fix’ can ever suspend or eliminate class conflict, dissolve or displace the contradictions of capitalism. Moreover, there are no guarantees that economic development will be progressive, let alone optimal. Structural dislocation and spontaneous disorder are as likely an outcome as integration and spontaneous order.

A significant source of tension in labour regulation is the uneven development of regulatory mechanisms within and between firms in the same industry and within and between different industries. For Fox and Flanders (1969:156), the social conditions which Durkheim characterised as a state of ‘anomie’ are the product of an excessive proliferation of different normative systems which are unrelated and divergent. While they tend to regard this state of affairs as an aberration from rather than an intrinsic characteristic of labour regulation under capitalism, Fox and Flanders (1969:174) recognise the difference between a crisis *in* regulation and a crisis *of* regulation. What is at stake here is “whether the whole normative framework governing the production and distribution of wealth becomes fully fragmented and splintered in a manner which threatens cumulative disorder, or whether we are still capable of reconstructing larger areas of agreement upon which larger units of regulation can rest”. The workplace is also rightly regarded as the primary site of regulation for the ‘necessary’ integration of the diverse and often conflicting normative aspirations of the various economic agents. Fox and Flanders (1969:175) insist that no external authority can create order within the enterprise and that order at this level is necessary (albeit not sufficient) for order at any other level. Absent from this analysis, however, is an adequate explanation of the processes that constrain or facilitate a diversification in regulatory forms. In other words, it is not clear how micro contingency and particularity is translated into macro regularity and uniformity.

Regulationists consistently stress the interwoven nature of economic and extra-economic relations in the institutionally embedded and socially regulated processes of capitalist accumulation. For capitalist development to be sustainable, a network of regulatory forms must be established to find a durable balance, firstly, between the various forms or levels of regulation and, secondly, between social order and social welfare. While it is conceded that these imperatives are not necessarily or always in conflict; establishing some form of complementarity

between capital accumulation and social regulation always involves a complex and contradictory blend of opportunities and constraints. Relative stability in the expanded reproduction of a capitalist economy is rooted in a more or less integrated system of labour regulation in the workplace and beyond. As a complex and contingently realised 'fit' between social mediation and capital accumulation, labour regulation is inherently unstable and manifested in a myriad of mediation mechanisms. A failure to account for the various modes and levels of labour regulation (and their inter-connections) invariably results in an inability to fully appreciate the differences between the various institutional forms that the employment relationship can assume. A central argument in the chapters below is that the different types of employment can best be understood in terms of distinct regulatory regimes with different structural dynamics.

While it is vital to acknowledge the multiple forms and sites of labour regulation, it should not be done in a voluntaristic fashion in which anyone can do anything in any context. If the material character of what is being controlled had no effect, labour regulation would be entirely random and arbitrary. While labour regulation can take many forms, it is never indifferent to the material properties of the activities that have to be controlled and coordinated. Each mode of labour regulation has its own structural dynamics, powers and liabilities, and within each mode there are distinct forms of regulation. The operation of the various regulatory forms is uneven, partial and contested, while their relative significance is contingent and non-zero-sum. Many contemporary industrial relations scholars tend to place an undue emphasis on the collective regulation of employment conditions by employers and trade unions. In underestimating the multitude of possible combinations of modes of regulation, they also underestimate the range of organisational types and behaviours that are possible in a capitalist economy. Collective bargaining, as a rule-making process, is not the only or necessarily the primary means of establishing "an adequate code of written and unwritten norms for regulating employment relations" (Fox and Flanders 1969:157). The state, for example, imposes a whole array of normative prescriptions on most employment situations, either directly or through some administrative agency. Likewise, employers and trade unions impose norms on the organisation of work and the distribution of rewards through unilateral regulation. Work groups are also able, through the regulating force of custom and practice, to partly control their own work behaviour by imposing their norms on management. The latter, in turn, organise the experience of work so as to generate the desired beliefs, attitudes, values and aspirations among employees and to make their authority appear as just, or at least inevitable, and hence as legitimate.

The distinctive nature of a regional or national regime of labour regulation is in part a product of the specific relationship it establishes between the three generic forms of regulation: statutory,

social and market.¹⁵ *Statutory* regulation is often regarded as the prime source of rules in the employment relationship. Standing (1999:41) lists a number of potential advantages of statutory regulation. First, it is in principle predictable, transparent and equitable. Transparency assists in the structuring of the wage-effort bargain since those entering an employment relationship have reasonable information on the basis of the bargain. Second, it provides clear monitoring mechanisms that are justified as a corrective for market failure, especially due to a lack of information among workers. Third, it may discourage short-term profit maximisation, but encourages longer-term dynamic efficiency. Such trade-offs in forms of efficiency can often be secured only by statutory means. Fourth, it may prevent forms of discrimination that would not otherwise disappear. The potential disadvantages of statutory regulation, according to Standing (1999:41), include the following: (a) an inherent tendency towards rigidity, in that no law or regulation can cover every contingency; (b) a tendency to excessive legalism that may intensify the disadvantages of those incapable of operating in that sphere; (c) a tendency to increasing complexity because of the numerous situations that have to be covered in any regulatory framework; (d) the bureaucracy which comes from having to operate any such system - i.e. the efficacy of legal regulation presupposes an administrative apparatus with the capacity to manage and enforce it efficiently and equitably; and (e) it may encourage an instrumental compliance. A system of labour regulation that relies mainly on statutory regulation will tend to generate opportunism, particularly if the labour market is highly segmented, thereby undermining its legitimacy and encouraging avoidance, evasion or tacit compliance.

Social regulation refers primarily to the management of the employment relationship through a process of (explicit or implicit) bargaining between the representatives of business and labour. Such collective forms of regulation are favoured as a means of legitimising and institutionalising the conflicting interests of the parties to the employment relationship. To be effective, collective regulation requires some modicum of parity in the bargaining power of the parties that is sustainable over the longer-term and produces shared gains and losses. Collective regulation reduces the extent of unilateral managerial control; encourages dynamic efficiency; achieves some measure of distributive justice by limiting the scope for cost competitiveness; encourages investment in skills development; makes it harder for management to ignore or sideline the grievances of employees; introduces an element of reciprocity into the employment relationship;

¹⁵ Various taxonomies of regulatory forms have been developed by industrial relations scholars. For example, Salamon (1998:12) differentiates employment rules according to their authorship (unilateral or collective); their content (substantive or procedural); their source (within the organisation or externally); and their degree of formality (ranging from informal custom and practice to formal written agreements). These classifications involve considerations such as the types of rule-making (e.g. formal, customary, adjudicative); the forms each type takes at different levels of industrial relations systems; the types covering different topics; and how the different types of rule-making at different levels articulate.

and generates a more legitimate and hence sustainable balance between efficiency and equity. Significantly, collective regulation has the potential to reduce both the excesses of market regulation and the rigidities of statutory regulation. The disadvantages of collective regulation include: (a) it is time-consuming and prone to power plays; (b) it has a tendency for coordination failure such as an unequal distribution of information leading to a breakdown in negotiations; and (c) it intensifies labour market inequalities and insecurity when the institutions of collective regulation exclude, as they inevitably do, the interests of more vulnerable and disadvantaged groups. In the current climate of increased levels of global competition, collective regulation is increasingly hard pressed to balance representativeness with responsiveness.

Market regulation occurs where legislation and other regulatory mechanisms are geared towards maximum reliance on market forces. Market regulation increases market dependency, while statutory regulation decreases market dependency by reducing the insecurity associated with participation in the labour market. Market regulation encourages and rewards risk-taking, involves less costly administration than statutory regulation, and lowers the transaction costs of most economic activities. However, it also encourages short-termism since there is no compulsion to be locked into a stable employment relationship; allows decision-makers to absolve themselves from responsibility for environmental degradation, the oppression of women, rising unemployment and so on; encourages opportunism as a result of the modest monitoring capacity; and increases social inequalities. Crucially, the socially corrosive effects of marketisation involve, not the disappearance of social relations, but a shift to a different kind of social relationship which is selective and transient. The notion of ‘the market’ in the singular, “fits better with the perspective of the buyer or investor, having money and able to spend it on anything, than the seller who is stuck in a particular market with the particular commodities he or she has to sell” (Sayer 1995:105). The neo-liberal tendency to see markets everywhere encourages the view that individual ‘choice’, rather than production or social regulation, is the organising principle of economic behaviour. This rationalist methodology of neo-liberalism contrasts strongly with the view, associated above all with Polanyi (1957), that markets are social constructions whose creation and evolution are problematic and require considerable regulation by the state and other institutions. Far from being an unnecessary ‘intervention’ or ‘distortion’, the latter are a normal feature of real markets and a precondition of their existence.

THE HISTORICAL EVOLUTION OF LABOUR REGULATION IN NAMIBIA

As a newly industrialising and recently democratised country, Namibia provides an instructive context for the study of changes in employment practices. The first decade of independence in

Namibia was characterised by both a strengthening of the legal and social safety net covering standard employment and a proliferation of non-standard labour at the margins of this regulatory framework. These changes in the regulation of the labour market have created opportunities for advances by groups of skilled and permanent employees, while weaker groups have experienced a deterioration of wages and conditions of employment. On the one hand, a high rate of unemployment and low levels of economic growth mean that many workers have lost the prospect of ever finding secure employment in the formal sector. The increased uncertainty and volatility associated with globalisation has, to a greater or lesser extent, reduced the incentives to invest and innovate, and reinforced the reliance on low pay and casualised employment as a vital means of survival. On the other hand, unionised workers have often gained substantially from the restructuring of employment in key sectors of the economy. Many of these workers have had their skills upgraded, are more secure in their jobs, have a say in decision-making processes, and have earned rising real wages.

In chapter 2, the historical changes in Namibian industrial relations are linked to shifts in the mechanisms that regulate the incorporation, allocation, control and reproduction of labour. An adequate understanding of these changes requires a theoretical approach that is sensitive to the concrete, multi-layered and multiply-determined character of the employment relationship. The *régulation* approach provides some of the key conceptual foundations for this analysis. This approach, as we noted above, seeks to combine “an appreciation of the generic features of capitalism (such as its appropriation of nature and human labour, its surplus-generating dynamics, its crisis-proneness) with an understanding of its specific (institutional) forms in time and space” (Peck 2000:63). In other words, the social regulation of capitalism cannot be properly understood without considering how modes of regulation modify and yet remain subject to the generic laws of capitalist accumulation. The general dynamics of capitalism define the “basic tendencies and counter-tendencies, structural contradictions, strategic dilemmas, and overall constraints which inevitably shape modes of regulation, which find a provisional, partial and unstable resolution in the latter, and whose continued presence and even development eventually undermine any given institutional and organizational solutions” (Jessop 1992:50). Capital accumulation is thus never a self-sustaining process but rather depends on a specific compromise between contending classes and a contingent unity of the circuits of capital. Likewise, stability within a particular mode of labour regulation depends in large measure on the coherence between the various forms of mediation and on their efficacy in legitimising the prevailing trade-offs between the imperatives of capital accumulation and social reproduction. The balance between economic efficiency (profits) and social equality (wages) that becomes hegemonic at a particular time and place is therefore always grounded in specific institutions of labour regulation.

To uncover the essential features of labour regulation, we need to go beneath the surface appearances of collective bargaining, managerial decision-making, labour legislation, workplace custom and practice, and the like. The institutions that are designed to regulate the employment relationship must be linked to the context in which work is performed and to the underlying factors that shape this context. The processes of proletarianisation, and the attendant formation of a capitalist employment relationship, are the product of complex interactions between a variety of social practices, institutions, norms and so forth. If we are to proceed beyond a simple, regularity view of causation, it must be recognised that every historical event is multiply determined as a conjuncture of many processes. History is not simply a succession of isolated events. As Bhaskar (1986:221) convincingly demonstrates, if we are to have a science of history on which truly general, though not necessarily spatio-temporally universal, knowledge can be brought to bear,

generality cannot possibly be sited at the level of events, but must instead be pitched at the level of what is general in the human-historical world. These are not events, but the generative structures co-producing them - although always complexly and mediated through intentional agency, such structures are causally efficacious and (relatively) enduring.

The historical evolution of labour regulation in Namibia is analytically separated into distinct phases. Although there were significant continuities between these historical phases, each was characterised by the dominance of a particular set of regulatory mechanisms. German colonial rule reflected the reactionary nature of the settler community and the expansionist interests of colonial-nationalist factions within the German Empire (Melber 2000a:35). Bley (1967) shows that the seeds of fascism can be found in the brutal military methods of the German colonial authority in Namibia. The settlers and the military favoured a 'final solution' towards the indigenous people who resisted German rule. This proclivity is clearly reflected in the extermination order issued by General von Trotha against the Herero when they were already decisively beaten militarily:

[t]he Herero people will have to leave the country. Otherwise I shall force them to do so by means of guns. Within the German boundaries, ... [all Hereros] whether found armed or unarmed, with or without cattle, will be shot ... These are my words to the Herero people (cited in Hishongwa 1992:7).

The brutality of German colonial rule was ended soon after the commencement of hostilities during World War I, only to be replaced by an equally invidious and more systematic regime of racial oppression and exploitation. Acting on British orders, South African troops under General Louis Botha invaded the territory in 1915, forcing the surrender of the German administration and its *Schutztruppe*. During the initial period of South African military occupation, legislation was liberalised and black people were again allowed to possess cattle and preliminary grazing

reserves were set aside for this purpose. At the conclusion of hostilities in 1918, the South African Prime Minister, General Jan Smuts, was keen to annex the former German colony as a fifth province of the Union of South Africa. A compromise mandate system was ratified in 1920 whereby Namibia was placed under the administration of South Africa. Under the terms of the mandate, South Africa was not to profit from its rights of administration and had to “promote to the utmost the material and moral well-being and the social progress” of Namibia’s inhabitants (cited in Cronje and Cronje 1979:7). Significantly, Article 2 of the mandate agreement expressly prohibited the use of forced labour. The interpretation and implementation of the articles in this ‘sacred trust’ became a source of tension and conflict between South Africa and the international community almost right from its inception. The failure of the South African administration to abide by all the provisions of the mandate eventually led to its formal revocation by the United Nations several decades later.

After the defeat of the United Party government in South Africa in 1948, the National Party took over the reigns of power in Namibia with apartheid explicitly becoming the cornerstone of official policy. The history of labour regulation in Namibia after 1950 is inextricably bound up with the rise of institutionalised racism in South Africa. With the consolidation of National Party rule, the balance of state power shifted decisively against black people, “hastening their political disenfranchisement and economic decay” (Fuller 1998:196). The various forms of discrimination developed by the apartheid regime in South Africa were implemented in Namibia in an accentuated form. For example, while the cost of living was generally higher in Namibia than in South Africa, the wage rates of black Namibians were considerably lower than their South African counterparts (Winter 1977:95; Gottschalk 1978:98). The rural areas were particularly hard hit: food and other costs in the northern bantustans were estimated to be about 50% higher than in Windhoek (IDAFSA 1980:29). Available evidence also shows that there was an even wider gap between the employment and living conditions of black and white workers in Namibia than in South Africa (Rogaly 1967; Dekker *et al* 1975; Cronje and Cronje 1979; Herbstein and Evenson 1989).

The *Commission of Inquiry into South West Africa Affairs* (known as the Odendaal Report after its chairperson) published its recommendations in 1963. The Report provided the political and ideological blueprint for apartheid in Namibia and described its economy in the following terms.

The exchange sector is represented by [a] few mines with their high level of technical development and well-planned towns, the rapidly expanding fishing industry with its service industries, the commercial community in the larger cities and the big and efficient farms which owe their prosperity entirely to scientific animal husbandry under precarious climatic and other conditions. The members of this developed sector are White ... They were responsible for the creation, maintenance and development of the modern institutions and the organised trade sector which is founded on individual initiative. As farmers, traders and

industrialists they filled the important role of entrepreneurs and employers with whom the non-White population could find employment and earn a living ... The other sector of the economy is still rooted in the traditional subsistence economy, in both the physical and the psychological sense of the word ... [The] various non-White ethnic groups ... still lead a simple rural life in their own areas ... Their needs are modest, old traditions are strong, and they have little or no knowledge of modern science or technology. On the whole, they have not sufficient skill and enterprise, either, to triumph over local conditions and the limitations imposed by nature in their own areas (cited in Mbuende 1986:101-2).

This crude, racist and dualistic conception of the economy mirrors the view of modernisation theories and was subsequently incorporated into a number of studies. The 'modern' and 'traditional' sectors, it was argued, evolved separately with distinctive laws of motion and internal dynamics. Black people are poor because of their 'backward' traditions and lack of knowledge and initiative; while white people are rich because of their skills, entrepreneurship and knowledge. Far from being two separate dynamics, however, wealth and poverty were created by the same processes of primitive accumulation and subsequent socio-economic developments. Labour from the so-called traditional sector fuelled the growth of the supposed modern sector. As such, political control of the black areas served the needs of the white areas. This *duality* has continued into the post-independence period.¹⁶ As the 'formal' sector continues to shrink and shed jobs under the sway of liberalisation policies, 'informal' forms of employment have experienced a significant increase. The casualisation of employment and the associated degradation of wages and working conditions is an integral part of economic restructuring and feeds off the more vulnerable and marginalised sectors of society.

Central to South Africa's colonial domination of Namibia was its attempts at reviving tribalism and bolstering the authority of tribal leaders, while at the same time ruthlessly suppressing the national liberation movement (Simons 1967). Under the apartheid system, the power of traditional leaders was considerably expanded. As salaried officials, they were expected to maintain control over the rural population, in effect acting as functionaries of the colonial state (Von Kotze 1974; Moorsom 1977; Gordon 1978a). The Ovambo chiefs, in particular, become deeply involved in the migrant labour system and acquired a significant stake (through taxes imposed on contract labourers) in its continued survival.¹⁷ The resulting conflicts and tensions between the chiefs and the communities they were supposed to serve proved to be politically expedient for the apartheid regime: it deflected discontent from the regime and generated internal conflicts within the communal areas. This system of apartheid rule, according to Mamdani

¹⁶ The notion of 'duality' must be contrasted with that of 'dualism' with its usual connotations of complete separation and insulation.

¹⁷ For example, in a letter written by chief Kathikua to Ovambo workers in 1938 in an effort to quell labour unrest on the diamond mines, he stated that he was "tired of all this nonsense of all you people" and ordered the workers "to do your work and listen to what you are told" (cited in Cooper 1999:133).

(1996:27), reflects an attempt at “refracting the impact of racial domination through a range of Native Authorities”. Apartheid, as a form of state, involved a structure of governance that “fractured the ranks of the ruled along a double divide: ethnic on the one hand, rural-urban on the other” (Mamdani 1996:27). As a system of ‘indirect rule’, it tapped into local forms of social control and perverted their inherent checks and balances.

There was not, however, a purely functional alliance between traditional leaders and the colonial authorities. As Pankhurst (1997:415) and Hayes (1998:124) note, this relationship was fraught with contradictions and chiefs had to perform a difficult balancing act between the demands of the colonialists and those of their constituents. The result was a combined strategy of resistance and cooperation. An explicitly anti-colonial struggle soon gathered momentum as the discrimination and repression associated with the implementation of apartheid policies, combined with the radical ideas brought into the country by students and workers who had spent time in South Africa, heightened the political consciousness of black Namibians. In 1959, the first black nationalist political party, the South West African National Union was formed, shortly followed by the Ovamboland People’s Organisation, which later became the South West Africa People’s Organisation (SWAPO).

Following the South African government’s rejection of a ruling by the International Court of Justice and United Nations Security Council Resolution 435 in the early-1970s, a protracted war between the People’s Liberation Army of Namibia (PLAN) and the South African Defence Force (SADF) ensued. This war, in which the guerilla tactics of the mid-1960s became increasingly supplemented by more conventional warfare encounters during the 1980s, culminated in the decisive battle of Cuito Cuanevalle in 1987. The shift in the military balance of power occasioned by this battle; the collapse of the command economies of the soviet bloc; the failure of numerous attempts by the South African government to construct an ‘internal settlement’ that excluded SWAPO; and growing internal and external pressure on the apartheid regime paved the way for a cease-fire agreement between Angola, Cuba, South Africa and the United States of America in 1989. In terms of this agreement, Cuban and South African soldiers were withdrawn from Angolan and Namibian territories. At the same time, a United Nations Transitional Assistance Group for Namibia under the Special Representative of the Secretary General was deployed to prepare for independence. The elections for a Constituent Assembly that were held towards the end of 1989, returned 57.3% of the vote for SWAPO and 28.5% for the Democratic Turnhalle Alliance (DTA), with the remainder going to five smaller parties. After the drafting and adoption of a new Constitution, political sovereignty was bestowed on the Republic of Namibia on 21 March 1990. The people of Namibia thus have the distinction of being among the

first to resist two of the greatest abominations of the twentieth century:

the aura of 'Gothic megalomania' surrounding the infamous 'extermination order' issued by the German Chief of Staff, Von Trotha, against the Herero in 1904, and the systematic barbarity with which it was carried out, displayed a mindset which ultimately would lead to Nazism and the carnage of the Second World War. Apartheid, and the carnage it has induced both within South Africa and throughout the southern cone of the continent, is a product of the same fundamental perversion (Leys and Saul 1995b:1).

The history of colonialism in southern Africa shows that, despite the prominence of despotic managerial practices and authoritarian state policies, the control of labour depended in important ways on the wider social context in which the employment relationship was embedded. According to Burawoy (1985), it is not the labour process that distinguishes industrial production under colonialism, but rather the particular mechanisms through which production relations are regulated. He refers to this production regime as *colonial despotism*: "despotic, because force prevails over consent; colonial, because one racial group dominates through political, legal and economic rights denied to the other" (1985:226). Racism and physical violence were the organising principles on which this regime was founded. White supervisors had enormous power over the pay, bonuses, fines, employment conditions, job security and discipline of black workers. The colonial state only played an indirect role in the regulation of expanded reproduction, which was primarily the responsibility of the "company state" that closely controlled the daily lives of migrant workers. The colonial government maintained a largely non-interventionist role in processes of labour regulation in the workplace and relied on the employers to ensure the regular repatriation of migrants to the 'native reserves'. Highly individualistic and contractually-based labour laws also allowed little scope for extensive government intervention in workplace industrial relations. The claim that the colonial state was not primarily concerned with the expanded reproduction of capital, according to Burawoy (1985:220), should not be interpreted as implying that such reproduction did not take place. Rather, it highlights the alternative institutions (such as the company state) that took over its regulation.

Given the absence of legitimate mechanisms of labour regulation such as trade unions, migrant workers invariably developed clandestine organisations, independent of the compound system and its network of functionaries, that were often much more difficult for managers to control (Van Onselen 1980:242; Burawoy 1985:230; Cohen 1991:102). That is, the success of colonial despotism in suppressing the development of collective mediation by black workers precipitated a crisis of regulation. Despite significant differences in the pace, dynamics, and timing of its decline, the supremacy of the company state was eroded by rising levels of discontent and conflict in the workplace; a decline in the arbitrary power of white supervisors; and a relaxation in the regulations governing the flow of workers into the urban centres. These developments

clearly exposed the limitations of a reliance on the company state as a mechanism of industrial conciliation and social control. The decline of the company state and the subsequent rise of trade unions “reshaped the mechanisms through which production relations were reproduced and struggles were regulated” (Burawoy 1985:231). In the post-colonial period, overt physical violence against black workers was largely eliminated; personnel departments were established to control black labour; the job colour-bar was shifted up the occupational hierarchy; and the power of white supervisors was drastically curtailed. While racial discrimination was still evident, the increasing bureaucratisation of labour regulation introduced a greater measure of administration by rules into the employment relationship and shifted managerial decision-making into the higher reaches of the enterprise. Burawoy (1985:214-5) summarises his argument as follows:

[t]he colonial state was ... concerned with primitive accumulation in two senses: the separation of direct producers from the means of production in generating labour supplies for industrial capital, and the extraction of surplus from pre-capitalist modes of production by merchant capital. The relative importance and precise articulation of these two forms of primitive accumulation varied from colony to colony and, over time, within each colony ... Once the dominance of the capitalist mode of production has been established ... [a post-colonial] state emerges, concerned with the expanded rather than the primitive accumulation of capital, with the extraction of relative surplus value from production rather than of specific surplus labour through exchange, and with the production of specific types of labour power rather than the generation of labour supplies.

Post-colonial production politics increasingly divided racial groups along class lines and insulated the real centres of power in the workplace from direct challenge by the workers. The dissolution of the production regime associated with colonial despotism facilitated a growing intervention of the state apparatuses in the processes of labour regulation. In particular, the post-colonial state endeavours to make the ex-colony attractive to foreign investment by investing in its physical and human infrastructure, and actively managing its labour market. As a result, trade unions and personnel officers intervened less and less in the direct regulation of the labour process, although their very presence acted as a deterrent to the restoration of colonial production relations (Burawoy 1985:234). With political independence and majority rule, surplus was “transferred back to the metropolis via economic mechanisms, while external political constraints became internalized as class forces” (1985:245). The rise of the post-colonial state was therefore accompanied by a greater interpenetration of production and state apparatuses. That is, since “the company state was fragmented and the new production apparatuses were weaker, less extensive, and more autonomous from management, the state itself intervened to narrow the scope of purely industrial struggle ... [by introducing mechanisms] for the regulation and absorption of class struggle at the level of the firm” (1985:245).

Although he acknowledges the existence of significant geographic variations in both despotic and

hegemonic labour regimes, for Burawoy it is the relationship between social reproduction and economic production (unified under despotism, separated under hegemonism) that is decisive in this shift in the mechanisms of labour control. This concern with an archetypal periodisation need not obscure the fact that the shift from despotic to hegemonic control (where consent prevails over coercion) at more concrete levels of abstraction is seldom if ever an all-encompassing, undifferentiated, or linear process. In developing countries such as Namibia, colonial and post-colonial systems of labour regulation are characterised by distinct combinations of economic and extra-economic forms of compulsion. Since no ideal type is ever found in a 'pure' form, it is necessary to move down a level of abstraction in order to consider the evolution of labour regulation at a particular time and place. Descending from the abstract level of analysis means coming to grips with the complexity and indeterminacy of policy change and institutional restructuring (Peck 1996). With the dramatic increase in involuntary forms of non-standard employment in post-independence Namibia, for example, the perpetuation of a despotic labour regime coincides with an expanding hegemonic regime for standard employees. The processes that structure the supply of and demand for non-standard employees are central to the uneven and contradictory evolution of a concrete mode of labour regulation.

LABOUR MARKET REGULATION, WORKPLACE RESTRUCTURING, AND NON-STANDARD EMPLOYMENT

Chapter 3 outlines the role of labour market institutions in regulating the *supply* of non-standard employees. The modalities of labour market regulation have a profound influence on the nature and extent of non-standard employment across time and space. Regulatory structures in the labour market are either fixed by autonomous collective bargaining, processes of political exchange or by state intervention through legislative action and administrative mechanisms. An important assumption in the current debate on 'flexibility', as we noted above, is the development of specific poorly-regulated zones on the margin of traditional regulatory frameworks. There is a clear trend in many countries towards allowing employers greater latitude in constructing the *form* in which labour is contracted. The rise of a 'flexible' workforce in countries such as England, Australia, New Zealand and the USA, it is commonly argued, is a product of the policies of labour market deregulation pursued by their respective governments. These policies are premised on the idea that rolling back the protective elements of institutional mediation would set market forces 'free' and eliminate the 'rigidities' of prevailing modes of labour regulation. Labour market 'flexibility' is therefore equated with a liberalisation of the statutory and collective regulation of employment. In other words, measures which were initially designed to protect workers are now viewed as the primary obstacles to economic growth. Labour

regulation no longer functions as a mechanism for generalising advances in collective bargaining to the majority of employees, but rather as a tattered and contracting 'safety net'. These policies are generally associated with a shift away from centralised regulation towards greater decentralisation; a reduction in the degree of state intervention in the labour market; a relaxation in the regulations governing the right of employers to hire and fire; and a decline in collective employee representation at the levels of the workplace and national policy-making forums.

It is widely accepted that there has been a shift from a dominant pattern in which internal labour markets shielded workers from market forces, to a 'new' employment relationship where pressures from product and labour markets are internalised within the enterprise as a means to mediate industrial relations (Córdova 1986; Lane 1989; Hakim 1990a; Cappelli 1995; Abraham and Taylor 1996; Campbell and Burgess 2001). By reducing the protective elements of labour regulation and/or the likelihood of compliance with regulatory conditions, as well as expanding the sphere of poorly-regulated employment governed primarily by common law, these policies have widened the gaps in protective regulation within which NERs can expand. In short, they open up more opportunities for the designation of an employment relationship as 'non-standard' and hence ineligible for the protections associated with the SER. On this view, there exists a simple, inverse relationship between degrees of labour market regulation and the incidence of 'market-mediated' forms of non-standard employment.

Labour markets exist only as a set of social practices characterised by social networks, collective norms, socially-constructed identities and accepted forms of social interaction. The normative framework which gives particular markets their coherence and their functionality, and tempers the outright exercise of economic power, is best viewed as "a form of micro-political regulation, as a social constitution" (Jones 1996:127). This approach views all labour markets as arenas of political action. Recruitment on purely market criteria is infused with considerations of social eligibility, obligations of fair treatment, trust relations, the legal framework, normative codes and standards, occupational qualifications, standards of 'fair' wages and 'equal' treatment, and the power of collectives such as trade unions. In other words, the market is a social and not exclusively economic institution. As a social institution, the labour market is dependent on state intervention; is differentially organised, regulated, embedded and influenced by contextual factors; is characterised by an uneven distribution of information and power; and it can disempower as well as empower people. The key question for labour market analysis is not how far it departs from price-competitive rules, but rather which social processes make different kinds of markets possible. The central concern is not the extension or limitation of markets (due to their inherent efficiency or inequity respectively), but rather the identification of the underlying

mechanisms which give rise to varying degrees of cooperation and resistance, incorporation and marginalisation, standardisation and differentiation.

'Deregulation' is a misnomer since the current changes in regulatory frameworks do not result in a 'free' market unconstrained by social rules. Exposing the labour supply to the naked discipline of the market would precipitate social destruction. Some form(s) of social regulation is therefore necessary to ensure the social reproduction of labour. Hence, the pervasive importance of notions such as 'fairness' and 'equity' in the employment relationship can only be adequately accounted for in a conception of the labour market as a socially-constructed, institutionally-governed and politically-mediated structure of conflict and accommodation. Wages, for instances, are complex composites of output and time rates, custom, conventions, national standards and incentives. Understanding the expansion of casualised employment in an increasingly regulated labour market (as in Namibia) calls for a much clearer articulation of changes in the form or level of labour regulation. Changes in the regulatory regime of the labour market can very rarely be understood as simply a restriction or extension of the role of statutory and collective regulation to the benefit or detriment of market mechanisms (Esping-Anderson and Regini 2000b). In practice, *deregulation* usually denotes a change in the regulatory mechanisms (i.e. *reregulation*) rather than simply an attempt to achieve a 'pure' market regulation.

The conjunction of an expanded regulation of the SER and an increase in the use of poorly-regulated forms of non-standard employment in Namibia presupposes a segmented labour market and the selective coverage of labour market institutions. Institutions in the labour market protect workers from destructive cost-cutting competition by providing a coordinating role that establishes labour standards, checks trends towards heterogeneity, introduces uniform rules and prices, and guarantees the social reproduction of labour. Institutional regulation may, however, be facilitative and/or restrictive in nature: the social institutions that create shelters and enclaves for some workers almost invariably expose others to poorly-regulated conditions (Rubery 1996). Variations from the SER can be explained by the fact that NERs tend to flourish within the gaps left by the limits in regulatory coverage. Certain disadvantaged groups have become in effect structurally excluded from the labour market. However, it is only on the basis of the delineation of a specific ensemble of institutional structures that we can explain why particular types of NERs flourish in some places rather than others. Employment practices and industrial relations fostered by firms are often highly internally-related to the local environment, and in particular to the opportunities, skills and perceptions of the local labour supply. The differential experience across national boundaries suggests that analytical space needs to be provided for systems of

labour market regulation which may either accentuate or moderate pressures for casualisation.

The lack of convergence in the evolution of national labour market structures underscores the micro-foundations of social diversity, accentuates the importance of the choices that are made as to how employment is regulated, and refutes the idea that current restructuring is inexorably driven by immutable market forces. A growing body of empirical evidence also suggests that the correlation between employment costs, labour market regulation and economic competitiveness is far less clear than implied by the proponents of labour market flexibility. There is thus considerable doubt as to whether the notion of 'flexibility' adequately captures the direction and dynamics of current changes in the labour market.

A study of the (often maligned and secretive) temporary employment industry sheds light on some of the central dynamics of labour market 'flexibility'. Labour brokers produce a secure labour supply for insecure work. By mobilising workers for low-waged work, labour subcontracting maximises participation in non-standard employment at the bottom of the labour market. However, labour brokers do not only exploit conditions found in secondary job markets (i.e. market-following), but also contribute to the reproduction and transformation of these job markets (i.e. market-changing). With the former, the focus is on channelling subcontracted workers into *available* jobs usually at or near minimum wage. The latter is most apparent in the extent to which subcontracted workers constitute a continuously job-ready, pre-processed and 'voluntary' labour supply for the lower end of the job market (Peck and Theodore 1998, 2002). The casualisation of unskilled work draws on the labour of people with little or no prospects of gaining full-time employment. As such, it represents the mobilisation of cheap sources of labour that would otherwise not have been readily available for employment. With skilled workers, by contrast, casualisation involves the exploitation of skill shortages rather than the exploitation of surplus labour supplies. These interventions in the labour market constitute an emergent strategy for the social reproduction of a non-standard labour supply (Peck 1996). By absorbing some of the social reproduction costs of NERs - costs that employers of non-standard labour seek to avoid - labour brokers guarantee and even subsidise non-standard work.

Chapter 4 outlines the ways in which the restructuring of production shapes the *demand* for non-standard employment. Attention is focused on the development of the 'flexible' firm and its role in the segmentation of labour demand. The latter is situated in the context of the limits to and possibilities of restructuring in the Namibian economy since independence. The wider economic context in which the workplace is embedded is increasingly confining the search for competitiveness to considerations of price rather than quality. The use of non-standard labour

must also be seen in the light of the fact that a continuous introduction of new technology is very costly to sustain. Many firms in developing countries cannot afford to expand output through a continuous re-tooling and increased productivity has to be achieved with existing technologies. This reduces the scope for the restructuring and compels management to seek for solutions to the growing pressures of competition in the recomposition of the workforce. In fact, many of the factors that contribute to the growing stratification of the workforce have less to do with productive efficiency and more with the prevailing costs and methods of control over the workforce. Segmentation on the demand side of the labour market is explored through an analysis of the types of non-standard jobs created in different economic sectors. The largely distinct regulatory dilemmas that are identified with the various industries explain the search for different regulatory 'fixes'. The concentration of non-standard workers in specific industries and occupations is highlighted as a major cause of labour market segmentation.

Some form of 'flexible' employment as a desired and/or inevitable trend in industrial restructuring has been put forward from a number of different theoretical perspectives. The current debates on employment 'flexibility' are partly about the different ways in which the employment relationship may be organised and regulated. A very real consequence of flexibility strategies is the increasing fragmentation of labour both within and between industries. An expanded and more strategic use of non-standard employment contracts is a central assumption in the arguments of the proponents of labour market 'flexibility'. The growth of a 'numerically flexible' labour force plays a key role in the postulated decline of the vertically-integrated production methods associated with Fordism. An inherent, if sometimes unintended, consequence of the 'flexibility' debate has been the reduction of complex socio-economic problems to technical and/or organisational obstacles. Current industrial restructuring is far more problematic for both capital and labour than these purely technical-organisation discourses suggest. The central concepts of 'core' and 'periphery' in the debates surrounding employment flexibility need to be re-examined and more closely linked to the dynamics of distinct forms of mechanisation and local labour market conditions. The internal labour market and the regulation of employment conditions within the firm has a major bearing on the extent of and motivations behind the casualisation of labour.

A neglected dimension of non-standard employment in 'flexibility' theories is the sectoral dynamics of restructuring. The proponents of employment 'flexibility' have been quick to generalise their findings across a number of industries, thereby ignoring the constraints and opportunities created by particular forms of mechanisation. In practice, the form and distribution of NERs reflect considerable inter-sectoral variation. The largely abstract debate on labour

market 'rigidities' generally fails to shed light on the reasons why particular types of non-standard employment flourish in some industries rather than others. Since certain industries may be more susceptible or receptive to casualisation, it is important to unravel the different motivations and benefits behind such decisions. The use of non-standard employment is often more a response to the dictates of a particular production process than the product of an overriding managerial commitment to employment 'flexibility'. Determining the relative costs of internal (qualitative adjustment of labour within the internal labour market) and external (quantitative adjustment of labour affected on external labour markets) solutions to the dilemmas of profitability and labour control raises problems of contingency and particularity. That is, the choice between these two methods of procuring and deploying labour power is contingent and depends upon the specific configuration of costs for particular industries.

The concept of a 'mechanisation regime' is intended to place the issue of sectoral variations in employment restructuring at the centre of industrial relations research. Since technological and organisational changes affect industries with varying degrees and at different times, it is reasonable to expect that the demand for non-standard labour would be uneven and sectorally-determined. In contrast to the emphasis of flexibility theories on broad managerial strategies, the focus on a specific mechanisation regime proceeds from the limits and possibilities created by the material structure of specific productive technologies and prevailing product market conditions. In other words, different capitals need different types of flexibility at different points in time. The various types of employment flexibility will therefore tend to vary in importance according to product market strategy, i.e. according to the specific manner in which a firm chooses to compete.

Insights into the composition and distribution of NERs accentuate the need for a greater appreciation of the open-ended and complex nature of changes in the workplace. In particular, a more adequate understanding of the employment policies of firms demands the consideration of a wider range of strategic options than has typically been the case. Boyer (1988b) draws a broad distinction between *defensive* and *offensive* forms of flexibility. While the former is associated with selective deregulation of the labour market, the establishment of more individualised employment relations and rising inequality; the latter represents a more organised, regulated and collectivised labour market. At a more concrete level, Standing *et al* (1996:6-7) identify various forms and levels of flexibility: (a) *employment flexibility* - the ability to change employment levels quickly and easily; (b) *wage flexibility* - rapidly changing absolute and relative wage levels with the possibility of wide wage gaps between sectors and occupations; and (c) *work process flexibility* - the easy and low-cost alteration of work tasks, times and practices.

Each form of flexibility has its advantages, but each also has inherent costs if taken too far. For example, if hiring and firing are too easily accomplished - a case of excessive employment flexibility - it may discourage firms and workers from investing in firm-specific, productivity-enhancing skills, and may lead to short-sighted physical investment decisions by firms. There are also qualitative differences among the various types of 'rigidity' (Crouch 1998:143). Different countries display different balances between internal and external rigidities. Different regions and industries focus on some aspects more than others depending on the nature of existing regulatory systems and production structures.

Standing *et al* (1996:8-9) also detail different forms of security: (a) *labour market security* - widespread opportunities for employment; (b) *employment security* - protection from arbitrary loss of employment; (c) *job security* - protection against arbitrary transfer between sets of work tasks and loss of job-based rights; (d) *work security* - health and safety protection in employment; (e) *income security* - protection against arbitrary reduction in incomes; and (f) *representation security* - secure capacity to bargain and influence the character and terms of employment. The complex interaction between the various types of flexibility and security means that the labour market does not have a single institutional dynamic but is a composite of several such dynamics. At best, therefore, flexibility is merely "one dimension of adjustment" (Meulders and Wilkin 1987:16). It is necessary to examine the particular socio-economic and political context in which flexibility policies are implemented to understand their specific functions and limitations. The effects generated by regulatory mechanisms in the labour market depend on the contingent local conditions in which they are embedded. This might be best understood as "rooted regulation" (Peck 1996:147), generating security for some workers and insecurity for others, leading to the incorporation of some workers and the marginalisation of others.

The path dependency of changes in regulatory systems means that regulatory solutions that are effective in one context may not be readily supplanted into others (Storper and Scott 1990; Rogowski and Schömann 1996; Deakin 2001; Cook 2002). Establishing a durable form of labour regulation is a contingent process dependent on experimentation and chance discoveries. The relative importance of the different forms of regulation varies with the object of regulation in question and the degree of resistance encountered by particular interventions. Although a basic distinction can be made between cost-competitive and quality-competitive approaches to restructuring, there is no 'one best' response to increased competition. Labour market actors always transform *existing* structures and there are significant differences in employment relations and practices between and within countries and economic sectors. The different forms of non-standard employment, for example, are subject to greater or lesser degrees of institutional

regulation and yield variable patterns of flexibility. The strategies of management and trade unions are decisive determinants of the pace, form and direction of changes in work and employment at a particular time and place.

MANAGEMENT, TRADE UNIONS, AND THE NON-STANDARD WORKFORCE

Managers and trade unionists are key actors in the institutional practices that shape the supply of and demand for non-standard employment. In chapter 5, we consider the ways in which employers structure and regulate the wage-effort bargain of non-standard employees. Common to much of the literature on 'flexibility' is the idea that employers are pursuing a 'core-periphery' model of employment practices in a highly strategic manner. Managers are said to distinguish between 'core' and 'peripheral' workers in terms of how crucial their skills are to securing high, long-term profits. This division between core and peripheral workers, it is argued, gives employers a measure of 'flexibility' in that they can apply different strategies to different sectors of the workforce. Core workers are incorporated into semi-autonomous work groups, total quality management and so on; while the expendability of peripheral workers makes them vulnerable to control through market and contractual means. The goal is to reduce or eliminate some of the guarantees and protections governing specific aspects of the SER. By counteracting the homogenisation effects of labour law and collective bargaining, the mobilisation of cheap and disposable labour through NERs allows employers much greater discretion in constructing individual employment relationships. These strategies have struck a sympathetic chord with employers given the context of an economic recession. Such are the times when cost-cutting is prioritised, the scope for compromise is reduced, and the unions are generally on the defensive.

Whether or not employers act strategically in their deployment of non-standard labour is perhaps best judged in terms of the extent to which they pursue a 'core-periphery' strategy, as suggested by the flexible-firm model. Research shows that workforce restructuring is generally understood and justified by employers in terms of conventional staffing policies and not in grand terms of new 'flexible' strategies. The bulk of employers lack a coherent and long-term employment strategy, hiring workers on an *ad hoc* basis and in response to particular problems and circumstances as they arise (Hakim 1990:184; Rubery and Wilkinson 1994:18; Barker and Christensen 1998:312). There is a perpetual tension under capitalism between treating workers as commodities to be hired and fired, and harnessing their ingenuity and cooperativeness (i.e. the control-autonomy dialectic). For the employment relationship to provide a stable framework for collaboration in the workplace, it must protect against opportunism and satisfy both the employer's need for flexibility/efficiency and the employee's need for security/equity. Achieving

a sustainable trade-off between the needs of employers and employees involves a complex process of social and political mediation. In the flexible-firm model, by contrast, explanations of management's behaviour are constructed largely in terms of the demands imposed by market forces. In other words, employers essentially act as cyphers of market imperatives. Such functionalist, overly-rational assumptions serve to obscure "the truly *political* choices involved in management control" (Storey 1985:285). Moreover, the 'market' does not provide an unambiguous message - its meanings are socially constructed and interpreted. There is thus a need to identify the actual processes through which market exigencies are translated into labour control.

Managers face the general problem of converting the purchase of labour power as a commodity into actual work performance. The spread of 'flexible' labour has greatly increased employers' freedom over the financial costs of employment and, insofar as it supplants union regulation, over the disposition of labour in the workplace. The competing claims of management's interest in preserving the flexibility to hire and fire and the trade unions's interest in preserving the jobs of the existing permanent workforce are all too often resolved at the expense of workers in the secondary labour market. A secondary labour market of casual, temporary and part-time workers reflects a response by employers to the prevailing incentives to reduce labour costs by degrading wages, diluting worker rights and differentiating employment conditions. That is, market-mediated forms of non-standard employment presuppose alternative means of managing labour. A useful way of distinguishing between the management of standard and non-standard employment is to consider the balance between *ex ante* and *ex post* regulation of employers' and employees' mutual obligations (Marsden 1999). Non-standard labour (especially the unskilled) have little traditional standards for levels of work-effort and it is instituted almost unilaterally by management. In other words, employers specify the work to be carried out and the time allotted for its completion prior to the commencement of work, thereby subverting any existing effort-norms. Insofar as the wages of non-standard workers are linked to a definite expenditure of effort, the generation of consent is less necessary than in the case of the day-to-day dealings with employees, who can shape their effort-levels through struggle.

The various systems of labour regulation are differentiated in terms of the different ways in which the limits to management's authority are established. Besides the spatial barriers to increased flexibility in employment, there are several other factors which impinge (to varying degrees) on capital's ability to employ labour strictly in accordance with demand and to pay market-determined wages. The institutional constraints on the elasticity of unit labour costs, for instance, are associated with the variegated processes of labour regulation which set minimum

conditions, staffing levels, number of working hours, demarcation between skills, and so on. The impact of these processes amounts to a restriction on capital's ability to reduce labour costs and extend the flexibility of labour beyond certain limits. These restrictions do not, however, apply in an undifferentiated manner to all sectors of the labour market. With non-standard employment, social constitution is weak or underdeveloped and hence power is exercised autocratically. Consequently, non-standard work corresponds more closely to neo-classical conceptions of the labour market (Jones 1996:119) and its regulation has a significant contractual component. The use of non-standard labourers allows employers to take them out of the statutory and social protection of employee status and collective agreements with trade unions. The more 'casualised' an industry becomes, in terms of variation in job opportunities and payments, the greater the relevance of neo-classical, competitive labour market. Poorly regulated labour markets 'freed' from social constraints and governed primarily by cost and price criteria presuppose the erosion of restrictions on buying and selling labour. Even here, however, commodity processes are structured by social norms and a power imbalance in favour of the employer. A truly casual labour market simply represents a kind of "autocratic social constitution" (Jones 1996:119). Many temporary and part-time workers in Namibia obtain work in the context of unspecified terms and conditions of employment. This regulatory 'vacuum' grants employers an almost unbridled capacity to construct the detail of NERs.

'Free market' solutions to the restructuring of the labour market are premised on the idea that market and contractual relations between individuals are the most efficient mechanisms for the allocation of the rational preferences of utility-seeking individuals. The proper object of public policy in this schema is the protection and enhancement of market imperatives. In practice, however, employers cannot and do not pursue market-based strategies in equal measure for all categories of employees. Managerial strategies must therefore be distinguished in terms of the relative balance between market-mediated and bureaucratically-governed modes of labour regulation. While the latter are central to the management of the SER, the law of contract plays a pivotal role in the management of non-standard employment. The balance between social and market regulation of the employment relationship is thus in part a reflection of the differential power resources at the disposal of employees. Being essentially 'outsiders' means that the control enforced over less skilled part-time and temporary workers differs greatly from the hegemonic systems incorporating the permanent employees of the firms in which they are employed. The control of non-standard labour is facilitated by (a) the contractual regime governing the supply and utilisation of their labour power; and (b) their exclusion from the organisational structures of the firm, which translates into an inability to directly shape wage relations in the workplace.

Workplace rules are applied in different ways to different workers. Shifts in the forms of employment have not only been uneven *between* industries, but have also been assimilated into pre-existing patterns of occupational segregation *within* industries. The occupational dimensions of casualisation is a sorely neglected aspect in the literature on employment 'flexibility'. Non-standard employees are distributed in a complex and uneven manner across the various positions in the occupational hierarchy and face a diverse range of possibilities and liabilities that shape their levels and forms of participation in the labour market. The literature on the 'flexible' workforce tends to treat the various forms of non-standard employment as largely homogenous and interchangeable, thereby failing to account for the significant difference between them. The various types of non-standard employment generate distinct types of flexibility, involve different implications for job security, and experience a differentiated degree and type of disadvantage. The concentration of non-standard labour within a narrow range of occupations also means that under certain conditions these workers neither supplement nor displace permanent employees. The different experiences of advantaged versus disadvantaged, short-term versus long-term, skilled versus unskilled temporary and part-time workers highlight the heterogeneity of the 'peripheral' workforce. In particular, non-standard employment should not be associated exclusively with work that is low in pay, skill, discretion, job satisfaction and security; transparent and readily monitored; easy to replace or peripheral to the establishment's long-term success.

Chapter 6 outlines the trade union responses to the proliferation of non-standard employment. The growing proportion of workers falling outside the structures of collective representation in the workplace represents a significant threat to the influence of organised labour. Together with labour law, trade unions are the principal mechanisms for regulating the unfettered exercise of employer power in both market and authority relations. Union-negotiated employment conditions act as a system of protection against the untrammelled operation of the market, supplementing the more partial protections offered by labour legislation. For example, collective agreements concern (among others) the distribution of income, and the more effective the organisation of a particular segment of the labour market, the greater is the fixity of its labour costs and vice versa. Hence, the collective regulation of work rules operates like high wages to raise labour costs, giving unionised employers a stronger incentive to outsource than otherwise similar non-union employers. While collective bargaining has certainly improved the lot of organised workers in Namibia's manufacturing and mining sectors, these gains were made largely at the expense of other (especially non-standard) workers rather than profits. The concessions extracted from capital by the labour movement have exacerbated the social distance between unionised workers and those trapped in precarious and poorly-regulated jobs. In other words, the increasing

polarisation between 'insiders' and 'outsiders' reflects, in part, the extent to which the risks of rising level of economic uncertainty are borne by the weakest sectors at the bottom end of the labour market. With the proliferation of non-standard employment, Namibia's integration into the global economy will most likely involve the increasing dislocation and exclusion from the formal economy of the least skilled and most economically vulnerable workers.

The spread of non-standard employment and the increasing differentiation in employee interests raise numerous difficulties for trade union representation. The multiplicity of interest groups in the labour market will inevitably be neglected if attention is focused solely on the 'vertical' relations in the workplace between capital and labour. The distribution of power in capitalist societies is characterised not only by the 'vertical' relationships of class, but also by the 'horizontal' relationships across the division of labour (Sayer 1995). The regulatory systems governing employment relationships have never determined only the distribution of rewards and privileges as between capital and labour. The distribution of power and resources necessarily impacts on the comparative fortunes of different groups of employees. Advantages secured by powerful groups may be at the absolute or relative expense of weaker groups. The changing social composition of the workforce associated with employment 'flexibility' poses serious challenges to the modes of organisation that have long served the labour movement. Few trade unions have managed to sustain a systematic and coherent response to the plight of non-standard employees. These problems of representation are, of course, not new. Historically, trade unions have pursued solidaristic goals as often as sectionalist ones. As Hyman (2001:36) argues,

[t]he 'one big union' rallying workers of every kind within its ranks was never more than a dream; actually existing unions divide at the same time as they unite. And while unions may engage in struggle, they also regulate and normalize the employment relationship.

If they are to succeed, the strategies developed by trade unions to overcome the crisis in representation must be informed by an understanding of the factors that reinforce employers' reliance on non-standard employment as well as those that undermine it. That is, the labour movement needs to tackle the causes and not merely the symptoms of casualisation. The unions need to address the conditions that encourage employers to resort to casualisation and outsourcing, bolster those that limit the use of such strategies of labour utilisation, and minimise the benefits to employers that stem from employing non-standard workers. The use of non-standard employees allows employers to, among others, respond to volatility and uncertainty in product markets; reduce the need for managing labour; externalise the risks of fluctuating demand; and concentrate areas of competitive advantage. The social costs of these benefits to employers can be seen in the extent to which instability, insecurity and vulnerability have become permanent features of employment for the 'working poor' at the bottom end of the occupational

hierarchy.

In the analysis of the strategies developed by trade unions to deal with the growing presence of non-standard employees in the workplace, a basic distinction is drawn between strategies that aim to incorporate these workers and those that exclude them. Available evidence suggests considerable variation in the nature and efficacy of trade union responses to the casualisation of employment. This heterogeneity highlights the extent to which choices are structurally determined and underscores the tensions that can arise between different union strategies. The 'identity' of a trade union is determined in large measure by the strategies and tactics it deploys to regulate the employment relationship. The prevailing 'job-control' model of union organisation in the Namibian workplace is grounded in a narrow and decentralised bargaining structure centred around wage determination. There are strong links between the various trade union 'identities' and the strategies of representation that they can and do pursue. By linking the various responses to specific trade union identities and highlighting the limiting factors which serve to constrain choice, we are able to proceed beyond mere taxonomies of trade unionism and to explore their conditions of possibility, reproduction, and propensity for transformation.

RESEARCH METHODS

A key tenet of critical realism is the integration of abstract and concrete explanations. This involves sustained empirical *and* theoretical work. There is, however, an urgent need to operationalise critical realism by bringing together its critique of science and its critique of social ontology in a specific research programme. In this regard, Pratt (1994:63-70) makes the following observations. First, considerable emphasis is placed on the abstraction and conceptualisation of the subject under investigation. Secondly, the importance of both *extensive* or quantitative and *intensive* or qualitative information-gathering techniques is stressed. Thirdly, there is an iterative approach to analysis, a deeper understanding being developed on each reconceptualisation. In other words, explanations of causal mechanisms are continuously refined in an on-going process. Fourthly, stress is placed on the need to consider the causal efficacy of common-sense categorisations and to link concepts between the micro- and macro-scale. The significance of an adequate conception of the mediating concepts is crucial if determinism and voluntarism are to be avoided. Finally, a crucial distinction is made between *internalist* (interview data expresses either interpretative procedures or conversational practices in a positivist sense) and *externalist* (interview data is simply a presentation of facts about the world in an ethnomethodological sense) positions. Critical realists admit both the internalist concern with form and universality and the externalist commitment to content and variability.

The exact set of techniques applied should vary less with the theoretical approach adopted than with the nature of the particular research topic under investigation. While there is some quantitative data available on non-standard employment in Namibia, there is an almost complete lack of qualitative information on the motivations, opinions and beliefs of employers and employees involved in these arrangements. The quantitative methodologies on which most 'flexibility' studies are based is prone towards broad generalisations and seldom canvasses the opinions of employees. As such, they provide very little insight into the actual dynamics of the employment relationship as it is conducted in a particular workplace. Intensive research, by contrast, explores the causal mechanisms at work in a particular industry and can therefore construct *explanations* for industrial change. Survey research can only establish certain correlations between variables, thereby providing at best a *description* of these changes. A less formal or structured and more interactive kind of interview facilitates "a meaningful type of communication which maximises the information flow by making use of communicative and social skills, by being willing to adapt preconceived questions and ideas in the course of the interview" (Sayer 1984:223). Such intensive research techniques emphasise rather suppress the differences between subjects. The rationale for sampling follows on from this: "the individuals need not be typical and they may be selected one by one as the research proceeds and as an understanding of the membership of a *causal* group is built up" (Sayer 1984:221-2). While extensive research techniques elicit the views of a large number of respondents (quantity), intensive research methods generate a more nuanced account of the views of key players (quality). In other words, these techniques produce different kinds of knowledge: extensive research prioritises information about patterns and intensive research prioritises information about processes.

The large amount of detailed information collected via intensive research methods raises the problem of how to link categorisation and conceptualisation. The aim of bridging the gap between empirically-uninformed theory and theoretically-uninformed research is achieved by grounding theory in data. Categories are informed by the abstract theoretical analysis of causal mechanisms. Open-ended research techniques allow the data from intensive research to be fed back into the theoretical understanding, facilitating a more adequate choice of categories, and hence a more adequate conceptualisation of the object of interest. The insights gained from qualitative methodologies allow for a more in-depth study of the patterns of use and change in non-standard employment as well as the reasons underlying these changes.

The generalisations produced by quantitative research provide insufficient detail of the generative structures or causal powers for explaining any concrete form of human activity they govern.



These generalisations are so devoid of substantive content that they need to be supplemented by a range of assumptions (often in the form of *ceteris paribus* clauses) in order to have any analytical value. The clauses aimed at ‘strengthening’ empirical generalisations, Lawson (1997:233) argues, are usually designed to “achieve mathematical tractability, system closure and completeness, or some such thing, rather than an understanding of the real causal mechanisms at work”. Surveys may identify correlations,

but to establish causation, it is necessary to understand exactly why the correlation exists. Surveys indicate general tendencies, but in the social world these are not iron laws. [Intensive research techniques] indicate the conditions under which a tendency operates ... [as well as] the conditions that counteract the general tendency, and thereby enrich understanding of the causal mechanisms involved (Edwards *et al* 1994:9).

In addition to a documentary study of publications emanating from government, trade unions and employers’ associations as well as direct observations of the labour process; a total of 82 managers, trade union officials and employees were interviewed. Guaranteeing the anonymity of managerial respondents proved to be an essential precondition for candid responses to what was viewed by many as a ‘controversial’ topic. In the interest of uniformity, it was decided to refer to all respondents by their status or designation. Interviews were conducted during the following periods: October-November 1998, July 2000 and June-July 2002. Some of the key respondents were interviewed more than once during the period of research. Where more than one respondent of the same designation was interviewed, the number is indicated in brackets. Recorded, semi-structured interviews were conducted with the following respondents.

- President, Namibian Employers’ Federation.
- President, Construction Industries Federation.
- Permanent secretary, Ministry of Labour.
- General secretary, National Union of Namibian Workers.
- General secretary, Metal and Allied Namibian Workers’ Union.
- General secretary, Mineworkers’ Union of Namibia.
- General secretary, Namibian Food and Allied Union.
- General secretary, Namibian Transport and Allied Workers’ Union.
- General secretary, Namibian Public Workers’ Union.
- Education officers, Metal and Allied Namibian Workers’ Union and Namibian Food and Allied Union (2).
- National organiser, Namibian People’s Social Movement.
- Regional organisers, Metal and Allied Namibian Workers’ Union (5).
- Regional organisers, Mineworkers’ Union of Namibia (4).
- Regional organisers, Namibian Food and Allied Union (6).

- General manager, chocolate manufacturer.
- General manager, paint manufacturer.
- General manager, automotive component manufacturer.
- General manager, information technology consultancy.
- General manager, pasta and biscuit manufacturer.
- General managers, furniture manufacturer (3).
- Group human resource managers, retail (2).
- Human resource manager, construction.
- Human resource manager, clothing manufacturer.
- Human resource manager, mining.
- Human resource manager, medical supplies manufacturer.
- Human resource managers, fish processing (2).
- Human resource managers, brewery and beverage manufacturer (2).
- Human resource managers, meat processing (3).
- Human resource managers, mechanical and electrical engineering (4).
- Store managers, retail (2).
- Management consultants (2).
- Researchers, labour and economic research services (3).
- Labour brokers and temporary employment agency managers (5).
- Part-time and temporary workers (18).

1

REGULATING THE EMPLOYMENT RELATIONSHIP: A CONCEPTUAL AND ANALYTICAL FRAMEWORK

1.1 INTRODUCTION

A great deal of research in industrial relations is devoid of an integrated and coherent theoretical framework. This research typically takes the form of a regression analysis that neither seeks to test an existing theory nor endeavours to develop hypotheses for a new theory, but instead simply reports statistical correlations between (often remote) variables. Cox, among others, argues that the dominant strands of industrial relations research are “problem-solving in intent, positivist in epistemology, and functionalist in method” (cited in Shalev 1980:26). This orientation has encouraged an aversion to theoretical discussion and a concomitant affinity for dealing merely with ‘facts’ and ‘practical concerns’. The analytical debate that has taken place centres largely around the need to establish a conceptual framework for the predominantly pragmatic and empirical concerns of industrial relations, to clarify the boundaries of teaching and research, and to establish some degree of intellectual respectability vis-à-vis other applied fields of study and social science disciplines. However, as Hyman (1989:120-1) points out, “the theoretical sterility of much academic work in other disciplines ensured that a new and unashamedly atheoretical subject [i.e. industrial relations] would not appear out of place”. An inadequate or poorly developed theoretical framework has, ironically, contributed significantly towards the intractability of many problems in industrial relations research. A theoretical framework informs the questions we pose, the structure of our analysis, the inferences we draw, and the conclusions we reach. While descriptive measures such as aggregate patterns and trends of trade union membership, number of strikes, and so forth are important, they cannot *explain* the social relations between individuals and groups of individuals that generate these phenomena.

Historically, the bulk of industrial relations research concentrated on the form of institutions and ignored the processes through which they are reproduced. The focus was on the status of institutions rather than the maintenance of relations. An inevitable result was the failure to penetrate beneath the day-to-day activities and conflicts that are the practice of industrial

relations. The notion of industrial relations as a system of 'job regulation' is grounded in a number of problematic assumptions: "that processes are naturally at work to maintain stability and equilibrium; that the various institutions and procedures are compatible and well integrated; and that conflict is therefore largely self-correcting" (Hyman 1975:11). Research in industrial relations needs to go beyond a largely functionalist description of the institutions and processes of 'job regulation' to a theoretically-informed analysis of the expanded reproduction of the inherently unstable and conflict-ridden relationship between capital and labour. What is needed is a central focus around which to organise ideas, present data, and construct explanations. The fundamental object of inquiry that defines the field of industrial relations is not trade unions, management or industrial conflict, but the relationship that generates these phenomena - i.e. the *employment relationship* (Littler 1993; Cappelli 1995; Edwards 1995; Huiskamp 1995; Kelly 2002). It is the conflict of interests at the heart of the employment relationship which generates the phenomena that comprise industrial relations, such as collective bargaining, employee participation and dispute-resolution procedures.

In its most basic form, every employment relationship is an economic exchange (an agreement to exchange wages for work) and a power relation (the employee 'agrees' to submit to the authority of the employer). The employment relationship can be defined as "the set of conditions determining the exchange, use and reproduction of the labour force" (Michon 1992:224). In other words, it contains far more than a simple agreement to buy and sell labour. This focus on the employment relationship clearly goes beyond the traditional concerns of industrial relations research such as trade unions and collective bargaining. It is possible to discern, Blyton and Turnbull (1998:28) argue, a growing tendency

to focus on and define the distinctive characteristics of the *employment relationship*; to locate that relationship within the broader *nature of economic activity*; to analyse the *structural bases* of conflict and accommodation between employer and employee; to consider the influence of the *wider society*; and to develop an *interdisciplinary approach* using concepts and ideas derived from sociology, economics, psychology, history and political science.

The employment relationship increasingly serves as the central concept and as the prime focus of analysis in industrial relations research. This relationship is one in which the employee sells his/her capacity to work in exchange for a wage and other benefits. The employer hires workers in order to have them produce goods or services that can be sold at a profit. As such, the employment relationship is not an abstract notion, but one of "practical significance, being the basis of the parties' own interactions and the relationship upon which all other aspects of employee relations develop" (Blyton and Turnbull 1998:5). It encapsulates the processes through which employees are recruited, rewarded, motivated and disciplined, together with the influence

over these processes wielded by key actors in the labour market (e.g. management, trade unions, the state). This implies not only that the employment relationship is multi-dimensional, but also that it is socially embedded. On the one hand, developments in the employment relationship can only be adequately understood when viewed in the context of the organisation in which labour is deployed, the markets in which the enterprise competes, the institutions that mediate and represent the interests of the parties, and so on. On the other hand, the employment relationship is a product of economic, social, political and technological developments, as well as the way in which the various actors respond to these developments. That is, it is a *composite* of the interactions between changes in markets, organisations and institutions.

The overriding objective of this chapter is to place the employment relationship within its own regulatory framework. Since it is inherently open-ended, contested and contradictory, the employment relationship is dependent on regulatory mechanisms capable of generating the social rules and conventions necessary for its cohesion and durability. At the heart of the employment relationship is a trade-off between effort and wages, control and autonomy, efficiency and equity. This trade-off is, however, realised and reproduced in a differentiated manner across time, space and the occupational hierarchy. The various historical and institutional forms of the employment relationship presuppose distinct, corresponding modes of social regulation. The competitive capitalism of the nineteenth century was associated with an employment relationship characterised by the primacy of price and market mechanisms. The subsequent development of a monopolistic regulation, based on mass production and consumption, is associated with the stabilisation of earnings, state intervention and close ties between production and consumption norms (Michon 1992:224-5). The regulatory functions of the institutions associated with permanent, full-time employment have come under considerable strain with the deepening of the crisis of Fordism and the proliferation of employment forms that depart from the standard employment relationship. The changes in regulatory mechanisms associated with these developments are not simply the outcome of *deregulation* - i.e. the substitution of social regulation with market regulation and the replacement of employment contracts by commercial contracts - as implied by the debates on labour market 'flexibility'. The regulatory regimes associated with standard and non-standard employment relationships are a complex amalgam of distinct forms and levels of mediation, and reflect different ways of mobilising and deploying a workforce. For example, as Rubery and Wilkinson (1994:15-6) note, far from being subject to mutually reinforcing advantage *or* disadvantage, different types of employment reveal different types of advantages *and* disadvantages. An explanation of standard and non-standard employment relationships in terms of distinct mechanisms and layers of labour regulation highlights the varying degrees of institutional regulation and the variable patterns of social

integration.

1.2 THE EMPLOYMENT RELATIONSHIP: AN ASYMMETRICAL RECIPROCITY

Industrial relations is concerned with the relationship between employer and employee in paid employment. The focus is not so much on the system or sub-system of industrial relations in relation to other sub-systems, but rather on the maintenance of the social relations between employer and employee within the workplace and beyond. The subject is therefore focused on the ways in which the employment relationship is regulated. In its most general sense, 'regulation' refers to the means by which "any activity, person, organism or institution is guided to behave in a regular fashion, or according to rule" (Picciotto 2002:1). Similarly, Clarke (2000:3) notes that regulation is a continuous and dynamic political process involving "the constitution of a form of authority, whether internal or external, to achieve ordering in an area of life ... showing tendencies to disorder, perversity or excess". In principle, reference may be made to the regulation of any kind of social behaviour, giving the term an extensive reach and an inherent ambiguity. The sites and patterns of regulation are also characterised by considerable diversity and contingency. In the *régulation* approach, as Peck (2000:68) notes, there is "nothing theoretically pre-ordained or fixed ... about the scale at which regulatory functions are sited". Labour regulation can take place at more or less mutually coordinated levels (national, sectoral, workplace and occupational group) and is comprised of more or less mutually integrated forms (market, social and statutory).

Contrasting national regimes of industrial relations can be grasped in large measure as the outcome of differences in the processes and institutions of labour regulation. The social and other means of channelling, containing and absorbing the affects of class struggles and sustaining the processes of capital accumulation vary not only over time but also across space. Trade union and managerial strategies and practices, for example, are decisively shaped by the prevailing national and local institutions of labour regulation. The latter engender distinct opportunities and constraints for employers, employees and their representatives.

Given the interdependence between firms' choices and the support and stability provided by intra- and inter-firm institutions, the employment relationship must be treated as part of a more widely embracing 'employment system' (Michon 1992; Rubery 1994; Cappelli 1995; Whitley and Kristensen 1997; Marsden 1999). Such regulatory systems - involving both the basic rules limiting management's authority and the supporting institutions that assist in their enforcement -

are differentiated in terms of the manner in which the limits of managerial authority are established.¹ The type of employment relationship that is adopted and its supporting institutional framework shape a whole range of human resource policies within the firm (e.g. job classification systems, performance management, pay and incentive systems, skills development and labour-deployment policies). While a particular type of employment relationship may not be the ideal form of contracting for a particular type of firm or service, the more widely it is adopted, the more effective it becomes both to constrain and to enable, and so the more likely it is to be chosen by others (Marsden 1999:5). It is adopted because everyone knows how it works, and is confident it will provide a stable framework for collaboration in the workplace. This level of institutionalisation is often used to account for the relative uniformity of organisations within particular societies. A second level is provided by the integration of the employment relationship into national employment systems that vary with regard to the extent and reach of institutionalisation. These institutional patterns or degrees of embeddedness provide the key to explaining the significant international variations in the way the employment relationship is organised. Streeck (1992:37) draws a basic distinction between

institutionally 'thinner' societies allowing a comparatively large space for free contract and individual choice in relatively unregulated markets and hierarchies, and institutionally 'thicker' societies subjecting the actions of rational individuals to a richer set of regulations and constraints.

The approach to labour regulation adopted here underscores the material basis of the interaction between employer and employee from which all other aspects of industrial relations flow. A focus on "systems of rules" (Dunlop 1958) or "institutions of job regulation" (Flanders 1965), by contrast, tends to disregard the multi-layered generative mechanisms underlying such rules and regulations. The institutional and normative framework or 'context' of the employment relationship is taken as a given and not exogenously explained. As a result, the emphasis on 'job regulation' contains implicit ontological assumptions about the nature of society and the workplace which are rarely formulated in a consistent and coherent manner (Hill 1974; Hill and Thurley 1974). This failure to ground the employment relationship in the antagonistic social relations of capitalist societies encourages the likes of Dunlop and Flanders to view conflict and instability as aberrations from, rather than central attributes of, the employment relationship. In practice, however, labour regulation is a dialectical and continuous process of challenge and response, cooperation and conflict, control and autonomy (Edwards 1986). In other words, labour regulation plays the role that it does because the employment relationship is structured in the way

¹ It bears repeating that these institutional forms can never comprise a stable, unified, functionally-integrated totality but must always reflect the provisional, antagonistic and contradictory logic of the capital-labour relation (Jessop 1991:157).

that it is. Moreover, what is conventionally accepted as 'industrial relations' is only one of the areas in which capital is in conflict with labour. Although conflict between capital and labour

explains the generic existence of industrial relations, it is more plausible to consider industrial relations as an expression of conflict than a location: that is, the conflict is expressed *as* and not *within* industrial relations. Unions, employers and state agencies have myriad ways of affecting the conduct of industrial relations, but they are not confined to 'industrial relations' in their efforts to affect material standards (Guille 1984:491).

The starting point in discussing variations and changes in labour regulation is a conception of such regulation in terms of "the rules and expectations governing employment which develop from the interaction between states, employers, unions and workers" (Edwards *et al* 1994:3). Underlying this conception of regulation, according to Elger and Edwards (2002:185), are a series of analytical arguments which can be summarised as follows. First, the capitalist employment relationship is structured as an antagonistic relationship with a perennial potential to generate conflict. The *structured antagonism* between employer and employee is built into their relationship and goes beyond a simple conflict of interests. Second, capitalist development is premised on the more or less successful management of this antagonism through a variegated combination of domination and accommodation, control and autonomy, freedom and compulsion. Third, labour regulation most directly involves the institutional structuring of the labour process, the labour market, collective representation within and beyond the workplace, and the political representation of labour. In this view, 'market relations' are only a single dimension of such regulative forms. Fourth, the state is implicated in most forms of regulation, not as a neutral agency or the successful agent of the 'needs' of capitalists, but as a more or less adequate manager of the processes of capitalist accumulation. The state retains an essentially capitalist character by virtue of its active development in relation to the capitalist system of production. Finally, labour regulation remains persistently incomplete and recurrently contested, and emphasises the complex, varied and contingent character of labour utilisation and managerial control.

This conception draws on the *régulation* approach which, according to Elger and Edwards (2002:185), represents the "most sophisticated contemporary research programme for investigating the evolving relationship between national regulatory regimes and the development of capitalism on a global scale, involving an extensive and systematic analysis of the interlocking character of the social forms of organization of production, consumption, investment and credit in recent phases of capitalist development". Hyman (1994a:170) similarly notes that the *régulation* approach has become "a particularly influential source of innovation in industrial relations analysis in recent years". The central insight of this approach - that a discernable

coherence in capitalist economic development is not simply the outcome of self-equilibrating market mechanisms but the product of a specific mode of social regulation - highlights the recurring instabilities in the processes of valorisation, rooted in antagonistic features of the employment relationship and expressed in imbalances between investment, production and consumption. Orthodox approaches, by contrast, tend to conceptualise industrial relations as a largely separate, autonomous area of social and economic life with its own internal laws of motion (Hyman 1975). The *relative* stability of specific cycles of capitalist accumulation is only secured through the interplay of a whole series of regulatory mechanisms (such as government policies, management strategies, bargaining processes and consumption norms) that yields a variety of different propensities and casual liabilities.

Within industrial relations we can discern a basic contrast between (a) *systems* approaches (e.g. Dunlop 1958) that give precedence to information about patterns and entail an almost exclusive concern with form and universality; and (b) *behavioural* approaches (e.g. Walton and McKersie 1965) that prioritise information about processes and embody an overriding commitment to content and variability (Hameed 1967; Margerison 1969; Blain and Gennard 1970; Bain and Clegg 1974). The conception of industrial relations as a study of the ways in which the employment relationship is regulated is both a welcome departure from the structural-functionalism of 'systems' approaches and a useful corrective to the voluntaristic overtones in behavioural approaches. A consistent explanation of the co-existence of the individual or strategic and collective or structural aspects of the employment relationship demands a rejection of the determinism of systems approaches that does not succumb to the indeterminism of behavioural and more recent 'strategic choice' models (Larouche and Audet 1993). A focus on the regulation of the employment relationship, which can do justice to both the systemic nature of employment and the strategic dimensions of work, is most compatible with the stratified ontology of critical realism. In terms of the latter, as we noted above, human agents never create society *ex nihilo* and therefore always reproduce and/or transform already existing social structures. Moreover, in its transcendental moment, the process of retrodution facilitates a greater appreciation of the necessary preconditions for specific forms of industrial restructuring and organisational change.²

² In contrast to induction and deduction, retrodution proceeds through a process of rational inference from some aspect of the empirical or actual, back to one or more generative mechanisms which must exist for the latter to be possible. Since these mechanisms are only tendential, in the sense that their causal powers may not always be manifested or in the same manner and events, it is necessary to specify the circumstances (such as counter-tendencies or facilitating conditions) under which they produce their contingently necessary effects (Ackroyd and Fleetwood 2000; Jessop 2001b).

While we cannot accept structural and behavioural approaches equally without contradiction, there is room for combining some of their insights.³ A coherent theoretical synthesis involves not the simple ‘joining’ of conflicting approaches, but rather their transcendence into a new approach in which the whole is greater than the sum of its parts. On the one hand, an empiricist conception of the employment relationship that is derived through deductive methods would reduce it to a descriptive construct rather than an analytical device. In these accounts, the (usually implicit) social landscape is marked by “determinism instead of transformative intentional agency, stasis rather than change, extensionalism ... rather than internal relationality, actualism rather than openness, depth and emergence, and monovalence to the exclusion negativity” (Lawson 1997:65). On the other hand, action theories cannot adequately explain how the strategic choices that shape the employment relationship are constrained and enabled by the social structures of the workplace.⁴ Human agency almost always has a material or external dimension irreducible to its intentional or subjective dimension. The task at hand, therefore, is a dialectical synthesis which confronts these opposing conceptions and transcends their shortcomings while retaining their major insights.

Bhaskar’s (1989) transformative model of social activity constitutes such a synthesis. Grounding an analysis of labour regulation in this model yields a more convincing conception of the relationship between human agency (regulatory practices) and social institutions (regulatory structures). By drawing on this model, we can conceive the drive for accumulation as the underlying force for change in the workplace while recognising that it may assume particular forms depending on the impact of mediating institutions such as occupational groups, trade unions, employers’ associations, regulatory agencies and so on. In other words, actors in the labour market regulate the employment relationship in ways constrained but not determined by the fundamental features of a capitalist society. The critical realist underpinnings of the *régulation* approach, alluded to above, allow us to avoid the errors of determinism and voluntarism by situating the processes of labour regulation in the context of the constraining and enabling capacities of social structures as well as the transformative and reproductive powers of

³ The dominant view that structural and behavioural approaches are simply different or incommensurable discourses implies a relativist view of social theories. Where the proponents of different discourses contradict one another they must have something in common, over which they contradict, otherwise they are merely at cross purposes (Bhaskar 1989).

⁴ Here we are referring to the fact that the “work context involves an economic dimension (production of things), a political dimension (production of social relations), and an ideological dimension (production of an experience of those relations). These three dimensions are inseparable ... [and] ‘objective’ in as much as they are independent of the *particular* people who come to work” (Burawoy 1978:274).

human agency.⁵ This approach also encourages a greater sensitivity to the intractability of what has to be regulated. Durable regulation, in the form of an inherently stable employment relationship, is unattainable since industrial conflict can never be 'resolved' in any final or absolute sense.

The employment relationship is one of the great innovations that lie behind the rise of the modern business enterprise. It revolutionised the organisation of work, providing managers and workers with a very flexible method of coordination and a basis for investing in skills (Marsden 1999). The employment relationship has assumed various historical forms under capitalism, each of which corresponds to a specific mode of regulation. That is, the observable variability of the employment relationship over time and space is mediated by distinct institutional forms. The employment relationship is linked, on the one hand, to the position of employers and employees in the product and labour market, and on the other hand, to the division of labour within the workplace and to the control systems which govern their behaviour. In other words, it is situated between the market and the organisation. In some instances the market-determined aspects of the employment relationship may dominate - for example, where an employee is taken on temporarily to perform a specified task. In the most extreme case, the employment relationship is played out entirely outside the company, as is the case when the employer contracts out work to small independent businesses or subcontractors. Conversely, the organisation-determined side of the exchange may be predominant. This is the case when the employment relationship involves a permanent, full-time job. Here the employment relationship is enveloped by the company and institutionalised in the internal labour market.

The distinctive subject-matter of industrial relations is the employment relationship, not the institutions of trade unions, employers' associations or government agencies (Fells 1989:471; Larouche and Audet 1993:268; Blyton and Turnbull 1998:32). The activities of institutions such as collective bargaining and other rule-making processes are generated by an underlying social relationship and cannot be understood in isolation from it. For example, trade union activity is ultimately the organised expression of the grievances, deprivations and wider interests of employees that arise from their subordinate position within the employment relationship. Rather than attempt the impossible task of showing *all* possible influences on the employment relationship, it is more appropriate to distinguish this wide range of factors in terms of essential

⁵ At an abstract level, the transformative model of social activity bears some resemblance to Giddens' 'structuration' model. However, Bhaskar is critical of Giddens for failing to give structures a firm ontological grounding and for under-emphasising the pre-existence of social forms. "It is because social structure is always a given that I prefer to talk of reproduction and transformation, rather than structuration, which, I think, still retains voluntaristic connotations. For me, structuration is always, so to speak, restructuring" (1986:213).

and non-essential relations. This involves separating out different levels of analysis by “excavating the necessary inter-connections between dual relations of consent and conflict at work and the essential underlying forces of alienation and exploitation specific to capitalism” (Spence 2000:559). The extraction of surplus value, the coexistence of conflict and cooperation, the indeterminate nature of the exchange relationship, and an asymmetry of power underpin the fundamental rules of the employment relationship under capitalism.

The employment relationship under capitalism is an unequal power relationship, qualitatively different from a ‘pure’ exchange relationship.⁶ Neo-classical economic theory views responsiveness to price signals as the sole mechanism governing economic behaviour and assumes that legal and statutory regulation can enforce complete contracts costlessly (Sayer 1995; Peck 1996; Lawson 1997). The assumption that labour contracts are ‘complete’ means that in the competitive model, as Samuelson so memorably put it, “it makes no difference whether capital hires labour or the other way round” (cited in Standing 1999:44). While ‘complete’ contracts may not be in need of any social regulation, real employment contracts are intrinsically open-ended and, to varying degrees, subject to continuous renegotiation. The contract of employment is thus a *social* contract, endowed with tacit expectations and embedded in relations of trust and reciprocity (Fox 1974; Wedderburn 1986; Betten 1995). In contrast to a contract of sale, an employment contract cannot stipulate the *totality* of relations that arise between the parties (Turnbull 1988). That is, the employment contract is necessarily ‘incomplete’ because it does not and cannot stipulate all the conditions of the exchange or modalities of its implementation. This indeterminacy provides the formal conditions under which employers hire and utilise labour power and, as we shall see below, is crucial for an adequate understanding of both the dynamics and the limits of labour regulation.

The employee’s claim to wages and the employer’s claim to performance involves an asymmetrical reciprocity. Unlike other factors of production, the quantity and quality of tasks performed by the worker can seldom be specified precisely in advance by the employer. While wages may be agreed in advance, effort is not and cannot be specified exactly. In fact, we can distinguish between an ‘explicit’ and an ‘implicit’ employment contract (Watson 1995). While the former only covers certain rights and obligations on matters such as wages and working hours, the latter is less subject to formal negotiations and concerns levels of autonomy in the workplace, deference to the employer’s decision-making authority, job security and status, and

⁶ Marx described the originality of his work in terms of discovering the “specific economic form, in which unpaid surplus labour is pumped out of the direct producers” (cited in Jessop 1991:148). This discovery provides the real secret of capitalist production, the hidden basis of the social structure, and the key to understanding the anatomy of civil society and the form of the state.

career advancement. Many of these aims and expectations are not laid down in a formal employment contract.

A key issue here is the indeterminate or open-ended nature of employment contracts. The latter permit the employer to utilise a worker's capacity for a specified period of time and typically also in a specified range of tasks, but the precise content and pace of work cannot be predetermined contractually (Wedderburn 1986; Erbes-Seguin 1989; Edwards 1995). Baldamus (1961) views the relationship between compensation and performance as the core of the employment relationship, expressed as the 'wage-effort bargain'. The employment relationship is shaped by a permanent system of (often tacit) negotiation necessitated by the inability of a formal employment contract to define the relationship between wages and performance in detail and by the fact that cost control must be continuously emphasised and achieved (Barbash 1984; Storper and Walker 1989; Ram 1991). These regulatory gaps in the employment contract must be filled by managerial, collective and others forms of labour regulation. The employment contract is therefore dependent on "a fund of extra-contractual 'goodwill' and diffuse mutual loyalty" (Streeck 1992:46). As such, the procurement and productive use of labour involve much more than the simple 'exchange of equivalents' as dictated by the law of contract. Perfectly efficient employment contracts are not achievable, as Deakin and Reed (2000:11) argue,

because of the costs and complexity of bargaining under conditions of radical uncertainty. Regulation compensates for, or offsets, the inadequacies of private bargaining.

The "definitive problem" of the capitalist labour process is "the translation of labour power into labour" (Burawoy 1978:248). The distinction between *labour* and *labour power* goes to the heart of the social nature of the employment relationship and the corresponding need for labour regulation.⁷ To make sense of Marx's claim that the exchange of labour power at its value is exploitation of the worker, we must accept that there is an underlying structure to capitalist economic relations which explains the surface-structure of the labour market within which the

⁷ The claim that the labour theory of value can be disproved by showing that it is contradicted by empirically observable events is grounded in an actualism that collapses the ontological distinction between the empirical and the real (Bhaskar 1989). In the open systems of an economy, generative mechanisms do not operate unimpeded or in isolation. Marx analysed capitalism's 'laws of motion' as "tendential causal mechanisms whose outcome depends on specific initial conditions as well as on the contingent interaction among tendencies and counter-tendencies" (Jessop 2001b:5). A statement of a tendency is not a conditional statement about something empirical, but an unconditional statement about something real. A statement such as 'bodies tend to persist in a state of rest or uniform motion in a straight line' has strict universality, even if no body has ever so persisted. That is, the power of things can be exercised but unrealised. Nobody with any sense would infer from the peculiar movements of a falling leaf that the law of gravity does not exist or is suspended. The latter is still operative, but it does not always manifest itself directly because of other countervailing mechanisms such as aerodynamic or thermal forces. What is at stake is merely a lack of synchrony between the empirical level of experiences and the underlying level of generative mechanisms.

labour contract appears 'fair' (i.e. an exchange of equivalents). In effect, labour bears no market price because it is labour time (the capacity to work) and not work itself (the performance of work) that is purchased. This distinction depends on the identification of a *potential* even where it is not exercised (Sayer 1995:220). Wages are therefore a payment for workers' labour power rather than for their labour. In other words, paid working time is not necessarily equivalent to time worked. This discrepancy arises, Turnbull (1988:110) suggests, because

although workers surrender legal control over their labour power, this cannot be physically separated from them ... [The worker is both] object and subject of the exchange relation.

In order to realise the capacity or potential of labour power, the employer must erect structures of control to harness the cooperation, initiative and effort of the workforce (Thompson 1989; Boyer 1994; Brown 2002; Rikowski 2002). The contradictory imperative of labour control lies at the heart of the employment relationship. Since the employment relationship is structured and inherently antagonistic, this control is problematic and involves a combination of cooperation and conflict, resistance and accommodation, and a commitment to the goals of equity and fairness as well as the virtues of industrial stability and efficiency. To be sure, management cannot directly control the labour process as such since "the organisation of production inevitably leaves the quality and efficiency of its performance dependent on the exercise of constructive initiative on the part of the workforce" (Cressey *et al* 1985:154). This applies even to the most deskilled assembly jobs (Salaman 1989:87). Ethnographic research clearly demonstrates that employee commitment and cooperation need to be actively 'manufactured' rather than passively assumed (Burawoy 1979; Ram 1991; Moule 1998). The exercise of managerial power and its conversion into legitimate authority is thus always partial, unstable and never given once-and-for-all.

The employment relationship is a classic example of a conjunctural causal structure: it is the product of not just one overarching causal logic, but of the indeterminate intersection of several generative structures. The outcome of this interaction is the many and varied employment relationships that we observe in the real world. The roots of these generative structures are traced to three sets of social processes: (a) production imperatives and the associated design of jobs and structuring of labour demand which follows from them; (b) the processes of social reproduction and the structuring of labour supply; and (c) the forces of regulation (Peck 1996). Each of these generative structures exerts a particular and relatively autonomous influence on the ways in which employment relationships are structured. That is, although they are complexly and dialectically inter-related, each has distinct laws of motion in the sense of possessing independent propensities and causal liabilities. In line with the commitment to critical realism, the processes

of labour regulation are viewed as tendencies that may be realised in a variety of ways in different concrete situations, adding another layer of determination to the idea of the employment relationship as a 'synthesis of multiple determinations'.⁸

In most industrialised and industrialising countries, as recently as the late nineteenth and early twentieth century, other ways of organising the sale of labour services predominated, the most common being some variant of the labour contract system. For example, Pollard (1965) describes in detail the gradual emergence of employees and professional managers out of the complex system of subcontracting. Historically, managers have consistently evaded the responsibilities for the control and direction of labour through strategies of insulation that involve the use of intermediaries such as labour brokers (Clawson 1980). Research by Littler (1982:46) demonstrates that early capitalist industrialisation was

based on the *avoidance* of direct employer/employee relationships and the reliance on existing patterns of subordination ... In many ways the difference between direct and indirect employment and control is more fundamental than the bureaucratic/non-bureaucratic division in organisational sociology.

Streeck (1992), Marsden (1999) and Deakin (2001) show how many of the key advantages of the employment relationship contributed to its gradual displacement of alternative forms of transaction.⁹ At one extreme was the use of 'inside contracting' whereby the entrepreneur provided tools, materials and money, and the contractor dealt with labour and arranged to deliver the product or service at a specified time and cost. Here the firm exists primarily as a business rather than an organisation. With the transition from competitive to monopoly capitalism, however, the market became increasingly ineffective as the primary mechanism for "regulating relations among capitalists, between capital and labour, and among different segments of the labour force" (Burawoy 1978:280). At the other extreme was a collective contract whereby the skilled workers contracted directly with the entrepreneur. In a diluted form of the labour contract system - the so-called 'drive system' - the foremen retained many of the powers of contractors, notably hiring, firing, pay fixing and organisation of specific areas of work, but their income derived from a salary rather than the surplus of the contract price over the money paid to their helpers (Marsden 1999:24).

⁸ It is axiomatic for critical realists that the temporal and spatial context affects the ways in which causal powers are realised in concrete circumstances (Bhaskar 1989; Collier 1994; Rubery 1994; Sayer 1995; Peck 1996; Lawson 1997; Ackroyd and Fleetwood 2000; Jessop 2001a). This is especially true of conjunctural structures like the employment relationship.

⁹ Although subcontracting continued to play a critical role in certain sectors and has seen a resurgence in recent years, as we shall see, this does not fundamentally affect the argument.

Although the labour contract system gradually declined in significance relative to the employment relationship, it was efficient in its context. The advantages of subcontracting include the fact that the system was flexible in that it enabled rapid labour force adjustments to cope with fluctuating markets and alleviated skill shortages. It was efficient in providing the contractor with incentives for effective supervision, thereby externalising the managerial problem of control. It was also a mechanism for distributing commercial risk between the entrepreneur (financial risk) and the subcontractor (production risks). In an age of rudimentary cost control, it provided an element of certainty and fixity in costings (Marsden 1999:25). Developments in the size, scale and complexity of production eroded many of these advantages and generated new disadvantages. In other words, greater attention must be focussed on the conditions presupposed by the domination of capital over labour (Burawoy 1978:252).

The reasons for the decline of the contract system reflect some of the advantages of the employment contract over the contract of sale. In particular, problems of predictability and quality of labour supply assumed increasing importance with the changing nature of industrialisation in the twentieth century. Marsden (1999:25-7) identifies four major disadvantages or failings of the subcontracting system. First, the labour contract proved incapable of ensuring the availability of labour when employers needed it. Problems of labour turn-over, absenteeism and general instability were common, especially during periods of strong labour demand. A second major flaw in the subcontracting system was the lack of incentives to develop skills in response to the needs of individual employers. There were powerful incentives for the subcontractor to withhold information about production methods and the extent of improvements from the firm. A third problem was the difficulty of controlling certain kinds of opportunism, notably among contractors in relation to the firm and to workers. Contractors would typically spend little on maintenance and undermine quality standards in an effort to maximise short-term output. This became a greater obstacle as the level of capital intensity and demands for quality increased. A fourth problem was that of social order. Haphazard earnings differentials among workers, hard bargaining by contractors or foremen, unstable and short-term employment, and frequent interruptions in earnings meant that resentment and conflict were endemic.

Marsden (1999) argues that firms and workers face a restricted range of options as far as viable rules, capable of limiting managerial authority to the satisfaction of both parties, are concerned. In other words, not everything is possible, not every innovation is viable, and not every configuration of social relations is stable. This becomes clear when we contrast the employment relationship with alternative ways of organising workplace relations. Under what conditions would freely choosing agents opt for one form of employment over another? The most common

alternatives are (a) the contract of service to provide a specified service or contract of sale to provide a specified product, and (b) some kind of contingency contract in which terms may be adjusted under certain circumstances. Drawing on the arguments of Coase, Marsden (1999:8) suggests that each type of transaction involves different kinds of costs. The contract of sale involves, among others, costs of discovering the relevant market prices and the difficulty of knowing in advance exactly what services will be required and when. Uncertainty is the deciding factor: it is advantageous for the employer to offer an employment contract if, at the time of agreement, it is not known precisely which tasks will be required. Here the employment relationship has an inherent flexibility: a single contract is substituted for a series of contracts related to each operation. Consequently, entrepreneurs will assume the function of employer for those tasks where the transaction is more cheaply organised by an employment contract than by a contract of sale or service.¹⁰

The key to the adaptability of the employment relationship, as we noted above, is that it enables management to decide detailed work assignments *after* workers have been hired. Given the enormous difficulty in anticipating all the problems that may arise in providing customers with the goods and services they desire, the flexibility of the employment relationship which builds on workers' agreement to be available to undertake certain types of work as and when their employer directs, is a great advantage. However, few workers would agree to giving their employers unlimited powers over work assignments. The rise of the employment relationship owes much to "the development of job rules that square the apparent circle of providing employers with flexible job allocations and employees with limited liability to follow their employer's instructions" (Marsden 1999:3-4). For the employment relationship to provide a stable framework for collaboration in the workplace, it must protect against opportunism and satisfy both the employer's need for flexibility and the employee's need for protection. The employment relationship is thus a composite structure reflecting the struggles over forms and degrees of control and the nature and extent of autonomy under which people work.

Defining the limits within which management may determine the tasks to be assigned is problematic. If we assume that the parties are pursuing their own (partially divergent) goals, that information is asymmetrically distributed, and that for both firms and workers it is costly to find alternative labour and jobs respectively, then we must accept that the conditions for opportunism are ripe (Marsden 1999:12). Managerial authority is thus likely to be problematic both in its application by managers and in its subsequent acceptance by workers. Opportunism can be

¹⁰ As we shall see below, costs are not the only consideration.

restrained by factors such as loyalty and commitment, but they are inherently unstable and never given once-and-for-all. Given high replacement costs, individual workers or firms may have to tolerate quite wide margins in cooperation before quitting or firing becomes a viable option, especially for workers with extensive experience and company-specific skills (Ram 1991; Moule 1998; Grimshaw *et al* 2001). The problems of opportunism are intensified by a lack of clear definition of the range of tasks over which the employer's authority extends, and over the tasks on which the employee will agree to work. Such problems can potentially undermine the advantages of the employment relationship. Faced with a restrictive attitude from employees, the employer would lose the inherent flexibility of the employment relationship; faced with demands for flexibility beyond the bounds of agreement, workers may prefer the additional bargaining power that they would acquire when they can quit easily (Marsden 1999:13). The resulting conflict is likely to reduce the gains to either party from combining work tasks into a single transaction, i.e. the employment relationship. Unless a solution can be found to the problem of regulating the bounds of the employment transaction, it is much less likely to be preferred to the sales transaction.

The increasing use of non-standard employment is in part a response to the regulatory dilemmas surrounding the establishment of parameters within which management may determine the tasks to be assigned to specific employees. The standard versus non-standard employment classification, as we noted above, is based on a regulatory and entitlement norm. The primary concern is not the nature or length of service, but rather the broader issue of a lack of institutional mediation. A central feature of the standard employment relationship (SER) is the growing collectivisation and institutionalisation of the employment relationship, as reflected in the increasing homogenisation of employment terms (Mückenberger 1989; Collins 1990; Van Ruysseveldt 1995). In general, variation in terms of employment based on company size, occupational category and so on was tolerated only within narrow sectoral or nationally agreed limits. The SER came to dominate the labour market in the advanced capitalist economies under relatively favourable economic conditions of continuous growth and full employment during the post-war era. The SER is characterised by (among others) a permanent, full-time job; wage increases based on experience and training; regular working hours and a negotiated working week; paid holidays and sick leave; comprehensive protections against dismissal; rights to collective representation; and varying degrees of indirect participation in specified areas of managerial decision-making.

From the mid-1970s, the SER came under increasing pressure as institutionalised industrial relations faced unprecedented challenges and drastic changes unfolded in the regulatory

framework of the labour market. The employment relationship in the 1990s increasingly manifested the signs of the growing internationalisation and volatility of economic activity. Changes in the way that production is organised ruptured existing arrangements in labour regulation by shifting the competitive position of the firm, altering the types of skills and aptitudes required, changing the bargaining power of the parties, and so on. These changes can in large measure be explained as involving a shift in the extent to which the market mediates employment relationships. As Streeck (1992:66-7) argues:

[t]he decomposition of the pluralist-corporatist regulation of industrial relations can be interpreted as a decay of the specific balance between status and contract that had underlain the Fordist-Keynesian mode of regulation ... [This entails] a polarization in two opposite directions ... within national societies between industries, within industries between enterprises, and within enterprises between groups of employees, with the emergence of 'good', that is, status-secured, jobs coinciding with growing disparities with a secondary labour market for 'poor', marginal and uncertain employment relationships ... [T]he status-type safeguarding of 'core workforces' not only does not rule out the marginalization of a fringe workforce kept disposable through short-term contracts, but indeed economically presupposes it.

The employment relationship can no longer be studied as if it is largely insulated from changes in the market. Increasing competition between firms, the relative shift from macro-economic demand management to supply-side economic policies, and from institutionalised practices to management strategies have had a profound impact on the employment relationship. This is evident in the mass redundancies associated with industrial restructuring; a generalised decline in job security, stable jobs and career prospects; the polarisation of the workforce into 'insiders' and 'outsiders' associated with the outsourcing of 'non-core' activities; increasing pressure on core employees to intensify effort levels; attacks on traditional job demarcations and skill boundaries; the growing variability of earnings as wages are linked more closely to individual performance; and the consolidation of 'flexible' wage systems tied to the decentralisation of collective bargaining and the dilution of minimum wage standards (Crompton *et al* 1996; Gallie *et al* 1998; Felstead and Jewson 1999a; Standing 1999; Heery and Salmon 2000a). The rise of non-standard employment relationships (NERs) is thus part of a wider process of de-collectivisation and fragmentation in industrial relations. In part, therefore, NERs 'externalise' the costs that the SER had sought to 'internalise'.

1.3 RESTRUCTURING THE EMPLOYMENT RELATIONSHIP: REGULATORY CHANGE AND LABOUR MARKET SEGMENTATION

There is an emerging trend in many countries towards allowing employers greater latitude in constructing the *form* of the employment relationship. As Hakim (1990a:167) notes in her extensive review of workforce restructuring, strategies varied from one country to the next and

followed different paths, “but all pointed in the same general direction of increasing ... segmentation of the labour market and exploring new forms of differentiating wage/labour relations”. The latter, according to flexibility theories, is the product of a search for more ‘flexible’ employment systems aimed at overcoming the ‘rigidities’ associated with vertically-integrated production (Piore and Sable 1984; Atkinson 1985; Cave 1994). The rise of a so-called ‘flexible’ workforce - i.e. part-time, temporary and a variety of self-employed workers - is viewed as the outcome of attempts by employers to establish a ‘periphery’ of numerically flexible workers to complement a ‘core’ of functionally flexible employees (see chapter 5). ‘Flexible’ employment policies are premised on a reduction in the protective elements of labour regulation and/or the likelihood of compliance with regulatory conditions and usually have the implicit aim of diluting employment stability, undermining minimum conditions, reducing the collective regulation of employment, and differentiating access to social security (Erbes-Seguin 1989; Salaman 1989; Rubery and Wilkinson 1994; Betten 1995; Peck and Theodore 2000; Gray 2002). Far from simply being a rational response to changing economic imperatives, the decisions concerning the restructuring of the employment relationship are political in origin and in outcome.

While changes in the form of the employment relationship are widely noted, there is considerable disagreement about their relative significance, their extent, and the nature of their impact. For some, these developments constitute a fundamental departure from the employment practices associated with Taylorism and Fordism (Piore and Sabel 1984; Womack *et al* 1990; Cave 1994). According to these authors, the employment relationship is increasingly based on high levels of discretion and participation by employees, polyvalent skills, and functional adaptability. For others, these changes are the product of attempts by employers to reassert their control and to intensify the work process in the context of trade union weakness, rising unemployment, and the rapid spread of micro-electronic technology. According to Williams *et al* (1987), Pollert (1988) and Hyman (1991) these changes merely consolidate or extend the core principles of the traditional patterns of industrial relations. What is certain, however, is that “speculation far outran the availability of rigorous empirical evidence” (Gallie *et al* 1998:2). For example, despite the rapid growth in NERs, there is no convincing evidence that the SER is about to lose its preeminence. As Rubery (1994) argues, most firms still benefit from continuous, open-ended and stable employment relationships with ‘committed’ workers.

It is more plausible to look at the different constraints and opportunities that firms face in developing policies which suit their needs than to seek to divide the industrial structure into a ‘core’ sector where continuity and commitment matter and a ‘peripheral’ sector where

employment is casualised and unskilled. The 'core-periphery' model - central to much of the literature on labour market 'flexibility' - is based on a flawed assumption that (a) the diversity of capitalist production, and (b) the complex interaction between the labour market and the labour process can be encapsulated in a single dichotomy (Lever-Tracy 1984). In this model, there is little consideration of the necessary preconditions for different types of change. Here a key factor is the nature of existing employment relationships. The historical configuration of the capital-labour relationship, according to Boyer, is structured by "the means of production and the form taken by the social and technical division of labour; the ways in which wage earners are mobilised and attached to firms; the determinants of direct or indirect wage income; and lastly, the wage-earner's way of life, which is more or less linked to the acquisition of goods and the use of non-market collective services" (cited in Michon 1992:224). A more thorough investigation of the constraints on new employment strategies, imposed by existing structural configurations, is therefore essential (Pollert 1988; Hyman 1994c; Whitley 1997). In practice, the rise of 'flexible' employment patterns is decisively shaped by the distinct institutional and normative framework associated with the various types of Fordist coupling of accumulation and regulation.

While 'flexible' labour market policies open up more opportunities for the designation of employment relationships as non-standard and hence ineligible for the protections associated with standard employment, this process is not without contradiction or uniform across time and space (Rubery 1996; Felstead and Jewson 1999a; Esping-Andersen and Regini 2000a). Contemporary changes in the regulation of the employment relationship have created opportunities for advance by groups of skilled and permanent employees, while weaker groups are more likely to experience a (differentiated) deterioration of wages and conditions of employment. In his review of industrial restructuring, Sengenberger (1992:139) notes that there are "new opportunities for participation and a social dialogue, but there is also the spectre of new forms of dependency, hierarchization and unilateral decision-making". This implies the existence of varying contractual and regulatory forms of the employment relationship that are likely to yield variegated patterns of opportunities and constraints. Segmentation in the labour market is therefore both the outcome of and a basis for the differentiation in the sites and forms of labour regulation. Moreover, within the unstable institutional compromise that represents a mode of social regulation "there are typically many irrelevant, residual, marginal, secondary, and even potentially contradictory elements; and even the unity of more central elements typically involves gaps, redundancies, tensions, and contradictions" (Jessop 2001b:10). This creates opportunities for a variety of different trajectories in labour market development and for multiple strategies of labour regulation.

Orthodox approaches to industrial relations are tied to the regulation of the SER. The latter was consolidated at a time when industry commanded the greatest share of overall employment; industry-wide bargaining was sustained by a strong labour movement; governments were committed to a corporatist governance of macro-economic policies; industrial organisation was based on more or less stable, predictable and protected domestic markets; and the nation-state enjoyed considerable autonomy in national economic and fiscal policies. The SER is not only rooted in the industrial relations regimes of post-war Europe and North America, but is also linked to the Taylorist-Fordist organisation of production that prevailed in this period (Storper and Walker 1989; Michon 1992; Cappelli 1995). The mass production of standardised, price-competitive goods for protected domestic markets was characterised by high degrees of capital intensity; the detailed demarcation of jobs and competencies; the vertical integration of production; the centralisation of management; and the bureaucratisation of the organisation. Employees were bound to the enterprise through the development of internal labour markets which led to greater job security, favourable career prospects, and increasing rewards for seniority. The utility, efficiency and adaptability of this employment pattern are increasingly questioned.

Measures that were designed to protect domestic markets are gradually being dismantled by the progressive liberalisation of the global economy. The restructuring of work and employment must therefore be situated within the broader impact of globalisation on the national regime of labour regulation. Increasing levels of competition and uncertainty make it both necessary and possible for management to restructure production and employment. We need to understand the local specificities and regulation of national markets as well as the increasing prominence of international institutions associated with globalisation. As Hyman (1994c:3-4) notes:

industrial relations analysts have become fluent in the discourse of strategic choice; but the choices appear increasingly bounded by the constraints of global competitive forces. The Weberian nightmare seems realized as options narrow; freedom consists in adapting to external coercive laws ... Weber was wrong only in failing to emphasize the national variability of the iron cage.

The persisting divergence in national experiences of and responses to globalisation suggest that global trends are reinforced, modified, obstructed and diffused differently according to established institutional and normative practices (Edwards 1994a; Crompton *et al* 1996; Peck 1996; Whitley and Kristensen 1997). Distinct national systems of regulation refute the idea of a standard set of solutions that can be applied independently of local contexts. The market does not provide unambiguous signals to aid management in the attainment of higher levels of profitability. The latter can only be sought in the context of prevailing socio-economic and political relations. Low levels of job and employment security, for example, means that

employers face relatively few constraints on their ability to exploit the flexibility associated with hiring and firing strictly in accordance with demand. That is, the way in which companies respond to changes in product markets and the effects of such responses are conditioned by the regime of labour regulation specific to a country. The institutional framework of the employment relationship is an important determinant of the way in which companies respond to competitive pressures (Salaman 1989; Gallie *et al* 1998; Peck and Theodore 2000). Indeed, current attempts at reducing 'rigidity' in employment by fostering greater labour market 'flexibility' are concerned precisely with the reconstitution and/or circumvention of this institutional framework. This may take the form of a specific social and spatio-temporal 'fix' such as the mobilisation and deployment of precarious and poorly regulated pools of labour. In establishing a regulatory 'fix', according to Jessop (2001b:11),

accumulation strategies and hegemonic projects typically displace and defer their material and social costs beyond the social, spatial, and temporal boundaries of [an institutionalised class] compromise. This can involve super-exploitation of internal or external spaces outside the compromise, super-exploitation of nature or inherited social resources, deferral of problems into an indefinite future, and, of course, the exploitation and/or oppression of specific classes or other social categories.

Employers are adopting an expanding (albeit finite) range of employment options. Several complex processes underlie this growing diversity, which is giving rise to an increasing degree of heterogeneity in labour markets on both the supply- and demand-side (Harrison 1994; Van Ruysseveldt 1995; Peck 1996; Callaghan 1997). Governments and trade unions are often guilty of paying insufficient attention to the crucial role of supply-side factors in shaping the increasingly diverse nature of the labour force. Labour movements that were historically organised around the SER are ill-equipped to deal with the increasingly differentiated nature of labour supply, resulting from both the changing employment policies of firms and growing levels of social disadvantage. Trade union focus was traditionally on representing the collective interests of a large, relatively homogenous segment of the workforce. The mass collective worker is, however, a historically contingent development embedded in a particular balance of class forces. The proliferation of different forms of employment raises formidable challenges for established systems of interest aggregation and articulation within the labour movement (see chapter 6). Labour legislation and labour market policies geared towards the regulation of SERs have also proved to be largely ineffective in governing the supply of non-standard employment (see chapter 3). The demand side of the labour market has likewise experienced considerable heterogeneity as a result of the different ways in which companies have responded to changes in the market and utilised the potential of new technologies (see chapter 4). Product markets have not only become less stable, but also less predictable.

The growing uncertainty in the managerial function cannot be remedied by 'one-best-way' solutions: current industrial and employment restructuring proceed from radically different patterns of work organisation and governance. We are witnessing neither the ubiquitous expansion of hegemonic rule nor a simple return to market despotism, but rather the establishment of a more selective balance between social welfare and social control (see chapter 5). Differences in the regulation of standard versus non-standard employment are all too often presented in terms of a binary contrast between social regulation and unregulated market forces. While the relative influence of market imperatives in regulating different forms of employment is an important criteria of classification, emphasis must be placed on the varying impact and differential coverage of multiple (economic and extra-economic) regulatory mechanisms. This involves, among others, exploring the different conditions under which these mechanisms may be activated to regulate struggles in the workplace. Here the work of Burawoy (1979, 1985) is particularly useful. He highlights labour control in its broadest, integral sense in an attempt to link power relations in the workplace to those outside it, and to connect the spheres of production and reproduction. On this view, the state is always present in the constitution of capitalist relations of production and social norms are essential to the institutionalisation of a regulatory regime.

As we noted above, Burawoy (1985:125) draws a crucial distinction between the labour process (a particular organisation of tasks) and the political apparatuses of production (a mode of regulation). The process of production is therefore not confined to the labour process; it also includes "the mechanisms that stabilize, contain, control, absorb, [and] cushion" the crisis tendencies and contradictions of capitalist accumulation (Burawoy 1978:305). These mechanisms are analytically distinct and causally independent of the labour process. They also provide a basis for the periodisation of capitalist production, constituting one of the central dynamics of restructuring. As Burawoy (1985:126) explains:

[t]he *generic* character of the factory regime is therefore determined independently of the form of the labour process and competitive pressures among firms. It is determined by the dependence of the workers' livelihood on wage employment and the tying of the latter to performance in the workplace. State social insurance reduces the first dependence, while labour legislation reduces the second.

The problems of labour control are thus not only generated within the narrow parameters of the labour process, but also relate to the broader processes of social reproduction. By focussing on production-reproduction relationship and the wider politics of production in which it is embedded, Burawoy (1985) charts an uneven transition in labour regulation from despotic regimes (patriarchal, paternalistic and market despotism) to hegemonic regimes, the dominant pattern in the post-war period now giving way to a new "hegemonic despotism". Despite

significant variations among these regimes, the decisive basis for periodisation remains the unity or separation of the reproduction of labour power and capitalist production. The consolidation of social insurance and legal protection against arbitrary managerial domination, according to Burawoy (1985:261), compelled employers to seek “the regulation of the labour market through its internalization and of class conflict through its institutionalization”. The proliferation of non-standard employment has, in some respects, reversed these processes: labour market regulation is largely externalised and the boundaries of institutional compromises are more narrowly circumscribed.

1.4 REGULATING THE EMPLOYMENT RELATIONSHIP: SOCIAL EMBEDDEDNESS AND INSTITUTIONAL MEDIATION

The absence of trade unions, collective bargaining, standard employment contracts and statutory protections leave mainstream industrial relations scholars with very few conceptual tools to explain the control of unorganised and poorly regulated forms of employment. The contemporary restructuring of the employment relationship highlights the need to liberate the concept of ‘regulation’ from its deterministic origins in systems approaches and from its subsequent appropriation by the voluntaristic model of strategic choice. According to Fox and Flanders (1969:180), the goal of industrial relations is “orderly regulation” through “agreed procedural norms”. This reified conception of formal or official institutions engenders a one-sided focus on industrial relations “solely in terms of relationships between agencies and organisations, rather than between people” (Hyman 1975:13). Custom and practice, for example, is seen as providing no grounds for constructive resistance and as effectively subordinate to more formal forms of regulation (Fox and Flanders 1969:169). Following Durkheim, these authors (1969:161-3) postulate the “absence of regulation” and hence the lack of “any restraint on normative aspirations” with regard to certain issues. This only follows where regulation is too closely associated with formal rules. That is, the breakdown of institutional regulation is equated with the lack of regulation. In the broader sense of the term, no employment relationship can be *unregulated* or *deregulated*. For example, the significance of the contemporary decline in collective bargaining as the principal means of regulating the employment relationship “lies not so much in the reduction of regulatory influence on employment, but rather in a shift in the mode of regulation from the collective towards the individual level” (Brown *et al* 2000:20). The fact that wages and working hours were not collectively regulated in the nineteenth century does not mean the absence of regulation *per se* as Fox and Flanders (1969:198) suggest; it merely highlights sources of regulation other than trade unions such as statutory and market regulation

or unilateral regulation by employers and occupational groups.

Like the systems approach, action theories place the collective regulation of industrial labour at the centre of analysis. The principal determining factors in this process are the value systems and behavioural patterns of the contending parties (Kochan *et al* 2002). That is, wage regulation is ultimately explicable by way of an analysis of the behaviour of the various actors. On this view, the structures of industrial relations are essentially malleable and hence the focus should be on the objectives pursued by the parties. This emphasis on the behavioural or process aspect is incapable of sustaining the “causal relationships between contextual conditions, regulation processes and regulation itself” (Schienstock 1981:172). An important insight from the research on the institutions of ‘job regulation’ is the idea that rules are “the only generic description that can be given to [the] various instruments of regulation” (Flanders 1965:10). To ensure a measure of stability in the employment relationship, the parties develop objective rules and regulations to govern the workplace (Fox and Flanders 1969; Goodman *et al* 1975; Wood *et al* 1975). The employment relationship is a regulated relationship in the sense that rules govern how the exchange should take place and what the substance of the exchange should be. However, although these rules provide structure and continuity to the employment relationship, they are themselves subject to a contextualised process of dynamic change. Action theorists stress the fact that interpretation of the expectations, conventions and rules governing the employment relationship is a permanent and interactive process. Their view of organisations as ‘negotiated orders’ is a reaction to the reified conception of systems theories, which neglects the role of human action and interpretation:

[a] recurring theme was that controls exercised through rules in formal organisations were inevitably incomplete and unsuccessful. Any degree of effective co-ordination and co-operation is dependent on constant reworking of rules and goals, and formal and informal negotiation processes involving all participants. The subsequent customs and practices in any workplace act as a constraint on management (Thompson and McHugh 1990:35-6).

The predominant role ascribed to individual values and beliefs invariably means that the strategic dimensions of industrial relations are granted more autonomy. This emphasis on ‘behavioural regulation’ as the driving force of industrial conflict marginalises the underlying structural determinations of conflict. The assumption is that management simply chooses between clearly marked solutions to the problems of labour regulation. Social structures tend to be viewed “at best as temporary patterns created by interpersonal action and based on available stocks of knowledge” (Thompson and McHugh 1990:36). By neglecting the material basis of labour regulation and adopting a voluntaristic model of social action, strategic choice models cannot account for wider structural determinations and hence fail to reveal the complexities, tensions

and uncertainties of choice. The focus of analysis is the institutionalisation of industrial conflict rather than the conditions that generate this conflict in the first place. The strategic choice model, in short, amounts to “industrial relations with much of the politics removed” (Edwards 1995:20). What is needed is a broader, materially-grounded conception of regulation that is consistent with both the emphasis on rule-guided behaviour in systems theories and the stress placed on the role of human agency in strategic choice approaches.¹¹

The notion of labour regulation that is defended here presupposes that an industrial relations regime capable of maintaining a relatively enduring balance between social equity and economic efficiency is rooted in a particular constellation of institutional and organisational forms. In other words, regulation is viewed as “a method for embedding the economy in society” (Standing 1999:40). While employers face the general problem of managing labour, their responses are shaped by the specific circumstances in which they find themselves. Human agency is, in effect, embedded intentional causality: “strategic choice exists, not because of the absence or weakness of structural determinations, but because these determinations are themselves contradictory” (Hyman 1987:30). In line with the *régulation* approach, the focus is on the dialectical relationship between structures and strategies.¹² On this view, society is not the creation of unconditional human agency, nor does it exist independently of it; and human action neither completely determines, nor is it completely determined by, social structures. In the immortal words of Marx, people make their own history but not in the conditions of their choosing. If we are to avoid both reified and voluntaristic accounts of labour regulation, it must be recognised that

[b]oth the structural and strategic moments are complex and changeable: the boundaries and articulation of structural ensembles are unstable, the world of strategies is pluralistic and conjunctural. Their dialectic is nothing more (and nothing less) ... than the structural conditioning of strategies ... and the strategic transformation of structural ensembles (Jessop 1988:157-8).

Attempts at deriving structural concepts from strategic categories or extrapolating a single strategy from a given structure must be rejected (Jessop 1990:194-6). The relative success or failure of the diverse strategies and structures that sustain a particular regime of labour regulation usually depends on the unacknowledged structural consequences and conditions of human actions, the shifting balance of class forces, and so on. The ‘disorder’ identified by systems

¹¹ In their attempt to “complete the systems framework”, Kochan *et al* (2002:74) tend to reify the economic structures of society and to endow management with an inordinate capacity for strategic action. As such, they end up combining, rather than transcending, the errors of determinism and voluntarism.

¹² This finds expression in the *structural* and *strategic* concepts of regulation theory: regimes of accumulation and accumulation strategies; hegemonic blocs and hegemonic projects; and modes of regulation and regulatory strategies.

theories is therefore the product of deeper, underlying structures and not simply the outcome of weaknesses in prevailing institutions. While the network of institutional forms that regulates the employment relationship is reproduced through human agency, it is also beyond the control of human agents: “at any given moment, the capital relation pre-exists these actions as their unacknowledged or fetishistically perceived condition of existence and action” (Jessop 1991:149). Structures are thus viewed as both the result of past struggles and as always susceptible to change by present struggles. What is important here is that, while a regulatory regime is the product of class struggle, the latter can never be fully confined within a given mode of regulation.¹³ In his analysis of the relationship between power and social institutions, Poulantzas (1978:45) stresses the fact that “[s]truggles always have primacy over, and constantly go beyond, the apparatuses and institutions” of society. Hence the variety of structures and processes implicated in the regulation of the wage-effort bargain that underpins the employment relationship.

There are numerous institutional and normative mechanisms that govern the employment relationship, ranging from social custom and moral codes to labour legislation and collective bargaining. Labour regulation therefore involves both ‘formal’ and ‘informal’ mechanisms of coordination. While modes of labour regulation are often closely associated with the former, the latter are frequently viewed in static and undifferentiated terms. Important aspects of labour regulation are shaped through informal work group relations, unofficial custom and practice, and tacit negotiations. As such, informal employment relations are dynamic and highly context-dependent. The distinction between the so-called formal and informal aspects of work is best understood in terms of different sites and forms or methods of labour regulation that will, by virtue of their respective structures and objects, vary in the extent to which they are based on coercion or consent, are resisted or accepted, and so on. Far from demonstrating the unmediated power of market forces, informal practices such as individualised pay bargaining “underline the pervasiveness of custom and indeterminacy within the employment relationship” (Ram *et al* 2001:847). The research conducted by these authors shows that all firms combine formality and informality just as they combine control and consent, with the balance varying as conditions differ (2001:859). In other words, labour regulation is characterised by a complex amalgam of regulatory mechanisms geared towards the mediation of conflicting objectives and the management of antagonistic social forces.

Some of the key features of labour regulation include the following. First, it involves the creation

¹³ As Aglietta (1979:67) puts it: “if the class struggle produces norms and laws which form the object of a theory of social regulation, it is itself beyond any ‘law’”.

and maintenance of mechanisms or institutional processes that limit the power of some groups (by mediating unequal power relations) in the interests of enhancing the autonomy of others. The regulation of the employment relationship both extends and restricts freedom: some forms of regulation enhance control while others secure greater autonomy. Just like regulation cannot simply be juxtaposed to 'freedom', so too can it not be reduced to 'control'. Second, neo-liberalism incorrectly equates regulation with protective and redistributive interventions (Dabscheck 1993; Deakin and Reed 2000). Labour regulation is not, however, simply protective in nature. It may assist one vulnerable group at the expense of others, but it may also sanction or reinforce forms of discrimination and disadvantage. We should also not assume that regulation always has a redistributive effect, even if that is the stated aim. Labour regulation serves a number of functions that include protection against oppression and discrimination; attributing responsibility; enhancing productive efficiency; expanding social security and welfare; consolidating a sustainable distribution of the costs and benefits flowing from capitalist economic development; legitimating the production and distribution of economic and other resources; decreasing transaction costs through a reduction in employer and employee opportunism; and encouraging specific behavioural patterns through the imposition of costs and rewards.

Third, each mode of regulation has its own structural dynamics, powers and liabilities and within each mode there are distinct forms of regulation. The dominant regulatory forms do, however, place limits on the patterns of the employment relationship (Peck 1996; Whitley and Kristensen 1997). As Edwards (1994a:24) argues, "there *are* certain national characteristics that limit the degree of variation possible: there are national systems of regulation". The notion of regulation implies the setting of boundaries or limits and the exercise of pressure, "inducing a constrained range of reactions rather than a prefigured pattern of behaviour" (Standing 1999:35). Fourth, the coverage or reach of specific regulatory forms is uneven and partial, while the relative balance between the various forms of regulation is contingent and non-zero-sum. A decline in the significance of one form of regulation may occasion an opposing increase or a corresponding decline in other forms. Fifth, the different forms of regulation can have a significant effect on the behaviour of the parties, the scope for long-term planning, the prevailing levels of trust and reciprocity, and the degrees of efficiency and equity in the workplace. As a result, regulatory forms can themselves become a lever in the power struggles within and between enterprises. Sixth, labour regulation is mediated, in large measure, by the technical and social divisions of labour. Given different levels of technical skill and varying occupational dynamics, not all employment relationships are amenable to similar types or degrees of regulation. Likewise, given different product market conditions and margins for strategic action, firms possess differential capacities to construct redistributive forms of regulation.

Finally, the possibility of establishing regulatory mechanisms depends partly on the material properties of the objects or activities to be regulated. A regulatory framework that is appropriate for the production and distribution of jewellery may be highly destructive and socially divisive for the delivery of health services. As Sayer (1995:145-6) argues, since economic activities are not infinitely malleable, and differ considerably in their material and informational properties, the various forms of regulation yield different degrees and kinds of power according to the types of objects or services concerned. In other words, economic operations vary in their scale, divisibility, reproducibility and cost, and hence in their amenability to different forms and degrees of social regulation. For example, regulations that are effective in combatting tardiness among less skilled workers may be unsuitable for monitoring the working hours of professional employees. The relative efficacy of different forms of labour regulation is shaped by the spatio-temporal context in which they are embedded as well as the nature of the object of regulation.

The interaction between employer and employee is aimed largely at regulating the employment relationship. In this sense, labour regulation hinges on what can be called the *control-autonomy dialectic* (Storey 1983; Edwards 1986; Thompson 1989). The managerial control necessary to regulate the employment relationship and to establish order in the workplace creates a force over and against the employees.¹⁴ However, there are practical limits to how far the employer can subordinate the employee, as well as definite disadvantages in the form of potentially reduced levels of worker creativity and cooperation. A system of labour regulation reflects the specific compromise made between control and autonomy and highlights the need to maintain an institutional framework capable of sustaining that compromise. While it is possible to diminish economic externalities and free-rider problems through regulation, what happens in practice depends on the effectiveness of systems of social values and norms in influencing individual behaviour (Sayer 1995:163). Such is the intractability of the diverse interests and practices associated with labour regulation, that no matter how many managers are appointed, how many rules are formulated, and how many organisational changes are made, the problems of productive labour deployment and utilisation will remain.

1.4.1 Micro- and Macro-Regulation

How do we reconcile local, regional and national modes of labour regulation? Many of the

¹⁴ Control may compel a subject to carry out a specific task, raise the costs of doing or not doing something, preventing an agent from doing something that he/she might prefer to do, or penalise an agent for doing or failing to do something. Control is not always or necessarily coterminous with subordination. Social agents may see control as an inevitability, as 'natural', and it may induce accommodation, deference, fear, resistance, flight, acquiescence and/or resignation (Standing 1999:35).

problems that beset the development of theory in industrial relations are, at least in part, “problems of integrating different levels of generality” (Hyman 1989:135). A mode of regulation is typically reduced to various national configurations. This has encouraged a tendency to reduce intra-national variability (i.e. the socio-economic dynamics and forms of regulation associated with particular industries or regions) to a contingent variability around dominant historical-national models. There is a need to bring sub-national regulation out of the shadows, “not in ritual celebration of diversity and difference but in order to understand *of what* national systems are constituted” (Peck 1996:99). To strike a balance between micro- or meso-institutional analysis and the macro-economic focus of the *régulation* approach, labour regulation at regional or industrial level should be understood not only on its own terms, but also in terms of its articulation with broader national and global regulatory structures. Regional and local systems of regulation cannot be understood simply as derivations from a dominant national model: the latter is itself constituted of a series of regional systems. The overall coherence of a social and economic system, as we noted above, takes on a variety of different institutional forms and spatial modalities. As Michon (1992:227) puts it: “[t]he societal variability of the forms taken by the wage-employment relationship follows the multiple levels that play a significant role in the structuring of the system and that reflect the heterogeneity of economic and social space”. Hence, to avoid an eclectic combination of analyses, we must recognise the complementarities as well as the tensions and conflicts between micro and macro approaches.

There are essentially two answers within the *régulation* approach to the question: how is micro diversity and contingency translated into macro uniformity and regularity? First, Aglietta (1982:6) and Lipietz (1987:19-20) argue that we should privilege the micro level and proceed from the diversity of local and regional formations to account for how macro order emerges. Second, one could deny the existence of a simple macro-micro divide and argue that they are just so many different sites of regulation which can be articulated in a variety of different ways. This approach is preferred since it recognises the contingent interaction between different forms and sites of regulation without attaching a necessary determinant role to any one form or site. The issue is therefore not simply which levels of regulation are becoming more or less significant, but changing *relations* within and between levels. Despite his prioritisation of the micro sphere, Lipietz (1986b:22) is compelled to concede that, as in “the wave-particle duality, they [macro-micro] are two aspects of the same thing depending on the perspective we take”. The distinction between macro and micro levels does not, in fact, involve an absolute ontological difference embodied in social relations (Jessop 1990:191). Instead it is a theoretical construct whose reference to scale is always relative. To be sure, there is no macro necessity in social regulation. As Jessop (1990:193-4) explains:

[a]t most there are attempts to constitute contingently necessary regulatory systems on different sites and in relation to different sets of smaller, more partial regulatory practices ... [This implies] a plurality of possible regulatory strategies even within the framework of one nation-state, whose precise character, social boundaries, cohesive capacities, and dynamics will differ according to which global strategy (if any) becomes dominant.

Some regulationists tend to regard sub-national levels of institutional mediation as simply reinforcing the integrity of the archetypal model and its national variants. Conversely, both convention theory and socio-institutionalist theories are adept at plant-, industry- and even regional-level analysis, but remain critical about what they view as over-generalised national models (Michon 1992; Peck 1996). Most regulationists readily concede that Fordism in different national contexts is not a clone of the American ideal-type, but “different combinations of Fordist and non-Fordist features” (Nielsen 1991:23) leading to distinct national growth paths. There is thus considerable scope for discongruence between the structural forms of Fordism as well as for significant regional and national variations (Jessop 1994:254). Local institutional variability should not be dismissed as mere derivations of a basic national model, nor used as evidence of the redundancy of national models. Rather, it should be understood as “part and parcel of a wider process of *spatially uneven development*” (Peck 1996:102). Given the complex relationship between regulation and uneven development, there can be no universal functions and effects of labour regulation. The latter inevitably vary from place to place. This is not to argue that all regulatory institutions are locally based. Rather, it highlights the need to study the ways in which the processes and institutions of labour regulation are locally articulated. The local configuration of opportunities and constraints for regulatory functions, according to Peck (1996:109), should be conceived not so much as a locally organised regime or system, but more as a set of local “regulatory dialectics”.

By combining a critical realist interpretation of the relationship between labour market processes and space with a regulationist interpretation of the distinctive ways in which labour markets and their regulatory institutions interrelate at the local level, Peck (1996) demonstrates how local labour markets are both constructed (in terms of the concrete working out of generative mechanisms underpinning them) and socially regulated (in terms of the distinctive ‘regulatory milieux’ formed in and around them) in locally-specific ways. This is also implied in the distinction drawn by French regulation theorists between: (a) the *rapport salarial* - the general configuration of the employment relationship in relation to the exchange, utilisation and reproduction of the labour force; and (b) the *fait salarial* - the specific institutional form exhibited by the employment relationship in particular industries, regions and countries. Concrete research on local forms of labour regulation must therefore consider the intersection of a localised *fait salarial* with the broader processes of uneven development in the *rapport salarial*.

If each local labour market represents a unique geographic conjuncture of regulatory processes, it follows that the institutional form of the employment relationship (the *fait salarial*) will also take on a locally-distinctive character. A meso-level theorisation of the local labour market - the lived experience of most actors - is an indispensable component of any explanation of the disjuncture between general processes of labour regulation and the variety of local outcomes.

Labour regulation, as the mediation of power relations, takes place at multiple levels and each dimension of the employment relationship can be regulated at one or more of these levels or scales. As Bowles and Gintis argue: "power is heterogeneous, wielding a variety of weapons, yielding to a host of counterpressures, and obeying no single logic" (cited in Spencer 2000:556). By paraphrasing Marx's analysis of the relationship between production-in-general and capitalist production, we could assert that there is neither regulation-in-general nor general regulation, only conjuncture-specific forms of regulation and the totality of regulation (Jessop 1990). While we could legitimately speculate on the problems of regulation in general, in the real world there are only definite objects of regulation constituted in and through definite modes of regulation. This implies that

there is no single and unambiguous 'logic of capital' but, rather, a number of such logics. Each of these logics will be determined through the dynamic interaction of the value form (as the invariant element) and specific modes of regulation and accumulation strategies (as the invariant element) (Jessop 1990:187).

At the most basic level, we can distinguish between two different planes: the internal and external regulation of the employment relationship.¹⁵ The former takes place within the workplace, involving a single employer, and establishes rules that shape the conduct and conditions of employees in specific occupational groups or production units of the enterprise. The latter takes place beyond the workplace at levels such as the region or industrial sector. Here the rules are derived from centralised bargaining, corporatist structures and labour legislation, and apply to more than one employer. That is, the parties follow rules other than those directly involved in the wage-labour exchange. There is a persistent tension between the institutionalisation of the employment relationship through collective regulation and the continuous process of negotiating order within the workplace. Many of the contemporary changes

¹⁵ Rainnie (1989) emphasises the significance of exogenous factors such as product market competition and views labour regulation as a function of external pressures as opposed to internal managerial choice. Ram (1991) and Harris (2002), by contrast, stress the role of endogenous factors and present the approach to labour regulation adopted by management as largely firm-specific and grounded in the individual organisational context. The reductionism in these opposing conceptions can be avoided once it is recognised that there can be no *a priori* prioritisation of one level at the expense of the other. Whether exogenous or endogenous factors predominate is contingent on a whole host of factors that include the varying degrees to which different regulatory regimes are socially embedded and institutionally mediated.

in the workplace can be understood as a shift in the balance between external and internal regulation of the employment relationship. The lack of collective regulation by non-standard employees, for example, means that local labour market conditions become more important in regulating their terms and conditions of employment.

The dividing line between internal and external regulation is often blurred. For example, wages may be determined by an industry-level collective agreement, a performance pay system may be part of a firm's internal regulations or may be part of an informal arrangement in the workplace. Moreover, firms may rely on a mix of regulatory models consisting of varying degrees of internal and external regulation. Some decisions may be made unilaterally by management within the confines of minimum statutory rules, others may be subject to legislative rules and industry-wide agreements, yet others may be decided through a balance of internal and external forms of regulation, in a broad range of combinations. Trade unions, employers and the state therefore have distinct limitations to their regulatory power.

In concrete research, it is often difficult to distinguish the *object* of regulation (a labour market problem or regulatory dilemma) from the *means* of regulation (particular institutional and other responses). Regulationists differ in their interpretation of the key sites of regulation and the nature of the mechanisms involved in the process of regulation. For some regulationists it is the wage relation, for some it is the articulation between the law of accumulation and the law of competition, for others it is the relations between different national or regional economies within an international regime of accumulation that require regulation. This disagreement does not necessarily vitiate the claims of the *régulation* approach once it is accepted that all these processes are potential levels/objects of regulation. The objects of regulation can only ever be said to exist in a fragile, conflictual, provisional and unstable sense (Lipietz 1988:16). The point is that not only must specific social relations be regulated, but there also needs to be some degree of cohesion between the different forms of regulation concerned with the various objects of regulation. In this sense, regulation is "a process and a result - it is not a specific site or object of regulation" (Jessop 1990:178).

If we are to move away from a simplistic or functionalist notion of 'context', it is crucial to account for the interconnections between macro levels of social regulation and the firm's internal regulatory systems. Following Bhaskar (1989), the different levels of regulation are conceived in terms of relations of *emergence* - i.e. as a relationship between two aspects such that one arises out of the other and yet, while being capable of reacting back on it, remains causally irreducible

to it.¹⁶ In a similar vein, Hyman (1994a:172) argues that the relationship between abstract and concrete explanations is “interactive and dialectical, not linear and hierarchical”. In general, a regulatory mechanism at one level presupposes other, more foundational levels. The regulation of the employment relationship would be impossible in the absence of wider processes and structures of societal regulation such as the state, the family, schools and the courts. As a site of regulation, however, the workplace is ontologically constituted by sets of relations that cannot simply be reduced to these wider processes of regulation.

1.4.2 The Micro-Foundations of Labour Regulation

As we noted above, labour’s fictive commodity status and the inherently open-ended nature of the employment contract provide the basic impulse for labour regulation. That is, the indeterminacy of labour potential compels management to construct appropriate regulatory mechanisms for the translation of labour power into actual labour. An important consequence of this open-ended character of the employment contract is that the shaping of the labour market is itself a part of the process of cultivating labour productivity (Brown and Nolan 1988; Boyer 1994). The terms of an employment contract cannot be reduced simply to the dictates of supply and demand. Even in circumstances in which market forces might appear to reign supreme, employment contracts are inherently social and institutionally mediated. Human beings do not enter the employment and other economic relationships as random, atomised individuals, but rather act in accordance with a series of tacit understandings and cultural assumptions, linkages to other social networks, and so on (Granovetter 1985). The notion of an ‘incomplete contract’ presupposes the need for a process of regulation grounded in the transfactual efficacy of the social structures that shape economic institutions. Since labour power is not a true commodity, the self-regulating mechanisms associated with conventional commodity markets cannot be expected to regulate its deployment and utilisation. According to Polanyi (1957:73),

the alleged commodity ‘labour power’ cannot be shoved about, used indiscriminately, or even left unused, without affecting also the human individual who happens to be the bearer of this peculiar commodity ... Robbed of the protective covering of cultural institutions, human beings would die as the victims of acute social dislocation through vice, perversion, crime, and starvation.

This ‘protective covering’ of social institutions that mediates the impact and operation of market

¹⁶ At the level of ontological analysis there are no *a priori* reasons to follow either the Humean path of assuming *all* relations are external (atomism) or the Hegelian route of insisting that *all* are internal (holism). Both these approaches are reductive, denying the autonomy of one or the other level. As against atomism and holism, Bhaskar’s (1989) theory of emergence allows us to conceive of real, irreducible totalities which are both composed of parts that are themselves real irreducible totalities, and are in turn parts of larger totalities, with each level of this hierarchy of composition having its own peculiar mechanisms and emergent powers.

forces is what defines a specific regime of labour regulation. It shapes the blend of collective and individual regulation, voluntarism and compulsion, and the trade-off between social equality and economic efficiency, wages and profits. Labour regulation is both a condition of possibility for and a necessary outcome of the structural characteristics of the employment relationship. The nature of labour power is such that the market for labour is shot through with contradictions, conflict and dilemmas of regulation. Self-regulating labour markets are a myth because labour is a fictitious commodity: it is not produced for sale, it cannot be stored, and it cannot be separated from its owner. To treat labour as a commodity and the labour market as a commodity market is to “desocialise” labour (Peck 1996:40). In capitalist societies, labour regulation and labour markets have historically tended to develop in unison since the latter “cannot rely on any automatic or endogenous mechanisms of adjustment” (Picchio 1992:72). In other words, the labour market is incapable of achieving self-closure in the sense of securing its expanded reproduction wholly through market relations or commodity forms.

The need for labour regulation is established retroductively: what must be the case for the regularities of behaviour involved in the employment relationship to be possible? The intelligibility of the situation presupposes, among others, the existence of widely shared social rules. These rules, Lawson (1997:160-3) argues, must be conceived of as something different not only from human beings, but also from the actions in which they engage. That is, although rules are a condition of routinised behaviour they are not the same (sort of) thing. Rules, as an aspect of social regulation more generally, cannot be adequately conceived of as merely the structured aspects of routines or generalised forms of behaviour.¹⁷ Knowledge of a particular rule is just as pertinent to (intentional) rebellion as it is to (intentional) conformity. Rules as resources are also not equally available, or do not apply equally, to each member of the population at large. Society is constituted in part by a set of positions - each associated with numerous obligations, rights and duties - into which social agents as it were ‘slot’ (Bhaskar 1989). Employers, for example, are allowed and expected to follow different practices from employees. Equally, these obligations and prerogatives exist independently of the particular individuals who happen, currently, to be employers or employees. The social rules associated with specific positions are thus not only differentiated in terms of variation in the opportunities, power, rights, and the like attached to different positions; but are also not merely reproduced or transformed by the immediate occupants of the positions in question but by the actions, interactions and inactions of all those

¹⁷ This follows, in part, from the fact that the laws of human behaviour and of social processes are distinct, and it is impossible to reduce one to, or to predict one from, the other. Each level is autonomous in the sense of having its own irreducible set of generative mechanisms. According to Bhaskar (1989), society is both the ever-present condition and the continually reproduced outcome of human agency, and praxis is both conscious production and (usually unconscious) reproduction of society.

in a position to influence them. Furthermore, the content of many formal rules are more readily susceptible to transformation by collective actors than are the conventions by which they are generated.

Orthodox approaches to industrial relations tend to focus on procedures and not on the substantive rules that the procedures are intended to enforce. These approaches tend to emphasise “the relatively defined, stable and regular aspects of employer-worker and management-union relationships; ... [and] to play down the significance of conflicts of control in the labour market and over the labour process as manifestations of a fundamental and continuous antagonism of interest” (Hyman 1989:85). The workplace is a contested terrain: employers attempt to extract the maximum effort from employees, while employees necessarily resist such impositions.¹⁸ As a result, the construction of discipline in the workplace depends on a day-to-day negotiation of order. The meaning of control on the shopfloor turns on “the wider form of order which is negotiated, not the rule-book” (Edwards 1994b:582). That is, the manner in which people behave depends as much on day-to-day understandings as on formal rules. When management grants concessions to workers in an effort to gain their co-operation in meeting production demands, these can rapidly evolve into precedents and then into relatively well-established custom and practice rules. In this way, informal rules may interpret the silences and smooth over any inconsistencies of the formal rules or even supplant them. The former will more accurately reflect the reality of bargaining power in the workplace, and attempts to codify and formalise procedures may have little impact on concrete worker behaviour.

Even firms with sophisticated personnel policies rely on negotiation to establish what the rules actually mean and managers depend on workers to interpret their instructions intelligently (Cressey *et al* 1985; Edwards 1994b; Marsden 1999). The negotiability of order in the workplace depends, therefore, on the willingness of workers to interpret the intent of managerial instructions. Work-to-rule as the withdrawal of a willingness to bend and interpret the rules can and does lead to disorder. Consequently, the maintenance of discipline in the workplace is part of a continual negotiation of order and not merely a technical activity. Given the indeterminacy of the employment contract and the lack of precision in collective agreements, dispute procedures are not simply a matter of contract or rule interpretation but rather form an integral part of rule-making. An analysis of the structuring of the mechanisms of rule-application and enforcement,

¹⁸ Orthodox approaches to industrial relations may recognise the existence of an inherent conflict of interest between capital and labour, but they do so without locating the source of such conflict at a level beyond workers' subjective preferences. Conflict appears to reside with the assumed subjective aversion of workers to hard work. The assumption is that, if only workers co-operated, production would be an unproblematic process.

according to Wood *et al* (1975:304), involves considerations such as the types of rule-making (e.g. formal, customary, adjudicative); the forms each type takes at different levels of the industrial relations system; the types of rules covering different issues; and how the different types of rule-making at different levels articulate. Rules, as well as the sanctions that accompany their breach, are thus part of wider relations of conflict and accommodation, control and autonomy within the workplace (i.e. a specific regime of labour regulation). The successful application of rules will reflect organisational imperatives and the demands and interests of different groups within management, as well as the reactions of workers on the shopfloor (Hyman 1987). A regulatory policy which attempts to ride roughshod over these realities is likely to fail due to resistance or will simply be ignored.

1.4.3 The Anatomy of Labour Regulation

The point of departure in outlining the anatomy or architecture of labour regulation is the contradictory nature of labour's incorporation, allocation, control and reproduction within the labour market (Peck 1996). These represent the four facets of labour's fictive commodity status.¹⁹ The first set of contradictions follows from the problem of *incorporating* labour into the labour market (Peck 1996:26-9). Unlike true commodities, the supply of labour is significantly, though not entirely, autonomous from demand conditions on the labour market. In other words, labour is not produced for the market: its supply is relatively autonomous from the level and composition of labour demand as expressed in the market. Contrary to the canons of neo-classical economics, the supply of labour is not simply regulated by the market, rather it is shaped by relatively autonomous social forces such as demographic conditions, state policies, ideological norms, family structures and other social and institutional rules governing labour market participation for different groups (Picchio 1992; Sayer 1995; Peck 1996). This lack of effective control over the conditions and volume of its own supply places labour at a distinct disadvantage in the labour market in relation to capital. Since labour is dependent on waged employment as a means of subsistence, it is effectively thrown onto the labour market and must adjust its expectations to the prevailing local conditions. As Clark *et al* point out, the geographical division of labour into distinct local labour markets is designed to "organize and exploit discrete sets of localized expectations" (cited in Storper and Walker 1989:177). Insofar as it cannot be left to the

¹⁹ Storper and Walker (1989:155) also note that labour is "a pseudo-commodity with four distinct dimensions: conditions of purchase; performance capacity; actual performance; and reproduction in place". Likewise, Huiskamp (1995) argues that the employment relationship refers to the conditions under which the employer decides to hire labour and the employee decides to sell his/her labour. These conditions are related to the specific characteristics which distinguish exchange on the labour market from that which occurs on other markets in terms of the following: the nature of the exchange; the position of the parties to the exchange; and the regulation of the exchange.

market, the problem of governing the flow of workers onto the market presents itself as an intractable regulatory dilemma.

Secondly, the social or non-commodity status of labour is also reflected in the patterns of job *allocation* (Peck 1996:30-2). The social distribution of unemployment and socially undesirable or physically hazardous jobs reveals: (a) whatever the measure chosen, the same social groups tend to bear the brunt of labour market disadvantage; and (b) labour market disadvantage tends to be distributed in accordance with ascribed rather than achieved characteristics of workers, varying more closely with ethnicity, gender, age, and so on than with education, training, skill, and the like. As a result, disadvantage in the labour market is more strongly related to social characteristics such as gender than to investments in human capital (Storper and Walker 1989:169-72; Rubery and Wilkinson 1994:7-8). For example, it is seen as both normal and legitimate for disadvantaged social groups to participate in the labour market on a discontinuous basis. Irrespective of their individual situation, members of these groups are treated by employers, unions, and state agencies as if they have a weak attachment to the labour market. Their access to stable, primary sector jobs is effectively denied:

[e]xpectations of irregular work behaviour among supposedly marginal groups, which affect hiring decisions and welfare entitlements, reinforce those selfsame behaviour patterns, with the result that certain groups are socially constructed as contingent workers. While social divisions within the work force are not *created* by capital or the state, they are nevertheless exploited in the allocation of labor and regulation of the labor supply (Peck 1996:31).

Non-standard or contingent employees tend to be defined by ascribed status and by their relationship to “institutions located on the outer limits of the labour market” dominated by “relations of force and control which deprive people of the resources for collective action and thus prevent them from realizing their economic interests” (Offe and Hinrichs, cited in Peck 1996:31). The functioning of these institutions (e.g. the family, schools, social security) is underpinned by state action and cultural norms, and has an important influence on the structure and dynamics of the labour market, despite being located on its ‘outer limits’. They play an important part “in defining the social limits of wage-labor: not only do they define and regulate the contingent work force, but also help to maintain a social balance between the crosscutting processes of inclusion and exclusion in the labor market” (Peck 1996:31). The institutional formation of a non-standard workforce helps to resolve the problems surrounding the social distribution of primary and secondary jobs as well as those relating to the adjustment of the labour supply to fluctuations in aggregate employment levels (see chapter 3). Institutions like the family and the educational system perform a pivotal role in stratifying the labour supply and structuring the labour market. The latter, in turn, play a significant part in regulating the labour

market as a whole.

Thirdly, moving beyond the regulatory dilemmas surrounding the point of entry to the labour market, brings us to the problem of *controlling* labour (Peck 1996:32-6). Once a worker enters the 'hidden abode' of production, Marx (1967) argues, the social nature of work is revealed in different ways. The maintenance of labour control represents perhaps the most intractable regulatory dilemma in the labour market. Employers are confronted with, among others, the difficult and on-going task of managing the porosity of the working day (see chapter 5). Contracts and markets alone cannot perform this complex and essentially social task, and there can be no stable solution when the interests of capital and labour are fundamentally at odds. The extra-economic factors that are necessary to 'resolve' this regulatory dilemma contribute to the irreducibly politicised nature of labour market structures and strategies (Jones 1996). Capitalist production contains a basic tension between the need for labour control and the need for creative participation (Cressey *et al* 1985:154; Salaman 1989:87; Storper and Walker 1989:156). 'Solving' problems of control aggravate problems of consent and vice versa. Salaman (1989:89) argues that, far from representing a radical break with earlier patterns of compromise and concession at work, the current process of industrial restructuring "simply articulates the historic pattern of oscillation from coercion to consent, with all the inherent problems of each form, or combination of forms, of control". Like other social relations, attempts to regulate and control the employment relationship have unintended consequences, which may conflict with employers' original intentions. These are derived from an essential feature of the employment relationship: the employer can only purchase the employee's capacity to work and has to ensure that this capacity is realised. Hence, there can be no fully-determinate *ex ante* model of labour regulation. For individual capitalists as for capital in general, according to Hyman (1987:30), there is no 'one best way' of managing the contradictions of capitalist production, only "different routes to partial failure".

The fourth way in which the social character of labour is revealed is in the *reproduction* of labour power (Peck 1996:36-40). When it enters production, as Wilkinson (1983:420) points out, labour power is itself the end product of a process of social (re)production which shapes its quantity, quality and the ease with which it can be used in production. The availability of alternative forms of subsistence and social organisation influence the number of individuals from a given population that may be available for employment. In the newly industrialising countries, the potential labour force maintained a substantial agrarian interest until very recently. That is, labour was not completely separated from forms of subsistence other than wage labour and this was fundamental in affecting the pattern of proletarianisation and labour organisation (Sandbrook and

Cohen 1975; Munck 1988; Brandell 1991; Kuruvilla and Mundell 1999). The supply of labour and its availability for waged employment are determined by, among others, the extent of social security systems, family organisation and income, social values, and levels of access to non-wage subsistence. Terms and conditions of employment are shaped by the customary standards of living of a particular working class which, in turn, are based on complex social and historical forces and power relations.

In contrast to the slave owner (who buys labour), the capitalist employer (who buys labour power) need not carry the full costs of the reproduction of labour. The family structure and unpaid domestic labour absorb some of the costs of reproducing labour power and decisively shape the supply-side of the labour market (Picchio del Mercato 1981:194-8; Picchio 1992:96-8). The organisation of domestic labour (i.e. the production of labour) both conditions and is conditioned by the organisation of wage-labour (i.e. the exchange of labour). As Massey notes, the way in which the jobs done by men are constructed “requires that the people who fill them have someone *else* to look after them” (cited in Peck 1996:37). Consequently, the social nature of reproduction sets up divisions between workers based on their position within the household and gendered divisions of labour. This forms the basis for a hierarchy of exploitation and subordination within the labour market.

Social reproduction and the processes of capital accumulation are not only analytically distinct but also contradictory (Picchio 1992:108). The processes of social reproduction are responsible for a variety of (social) functions which may not always and everywhere produce results functional for the increased accumulation of capital. Reproducing labour involves a vast array of processes - from biological procreation to education, from food to clothing - which tend to be anchored not only in the labour market but in the family, the community, the state, and so forth. These sites of social reproduction “are neither organized exclusively in the interests of the labor market nor are they insulated from it” (Peck 1996:38). This means that the boundaries between the spheres of production and reproduction are not impermeable. Women’s subordinate position within the family and the spheres of reproduction, for example, is both cause and effect of their constitution as a cheap, contingent labour supply. The extra-market processes rooted in the sphere of social reproduction, both structure and are structured by the wage-labour sphere. The spheres of production and social reproduction are therefore both separate and connected: they are separate “in the sense that they each have their own structures of dominance, along with their own distinctive rhythms and tendencies, but they are also related in the sense that each conditions and interacts with the other” (Peck 1996:39).

A recognition of the relative autonomy of the sphere of social reproduction contradicts the neo-classical assumption of a wage-coordinated labour market. Equilibrium is constantly undermined because the supply of labour is not regulated solely by the wage mechanism. The weakness of wage labour derives not only from its lack of ownership of means of production, but also from the fact that people do not produce children with the future sale of their labour power in mind (Sayer 1995:91). Labour is socially rather than capitalistically produced. The relationship between the supply (social reproduction) and demand sides (production) of the labour market is not one functional alignment. The intersection of social structures of production (demand) and reproduction (supply) - i.e. the "production-reproduction dialectic" (Peck 1996:96) - occurs in different ways in different places, shaping the operation of the labour markets in different ways in different places. Moreover, labour's relative immobility gives an irreducible role to the place-bound processes of social reproduction. As Storper and Walker (1989:157) note:

[b]ecause industries offer very different conditions of employment, workforces build up diverse historical standards of living, skills, norms, and work experience. This differentiation has a powerful impact on social reproduction in local communities ... The result is a fabric of distinctive, lasting local communities and cultures woven into the landscape of labour ... As such, communities form a landscape of varied possibility for capitalists seeking labour.

Here the regulatory dilemma relates to the manner in which social reproduction is effectively coordinated, given that market forces are incapable of carrying out this function. This is not simply a problem of ensuring that the correct number of workers is 'thrown' onto the labour market; it also raises the wider question of how the 'social bases of obedience' are constructed and maintained. As Poulantzas (1978:186) points out, the actions of the state with respect to "the reproduction of labour power and the field of collective consumption are at the same time geared to police-political management and control of labour power". Social reproduction is an area of concerted and tendentially expanding state intervention. There is, however, "nothing inevitable or inexorable about these state interventions; nothing guarantees the success or even the activation of the appropriate mechanisms" (Burawoy 1985:128). Since there is no definitive policy solution to the regulatory dilemmas of the labour market, state intervention may solve certain problems while creating others. Moreover, a reduction in state intervention does not automatically and inexorably lead to a corresponding expansion in market regulation (Sayer 1995:102). Where neo-liberal states have rolled back the social regulation of employment by, for example, reducing the scope of welfare entitlements, they are not so much exposing the process of reproduction to market forces as forcing it back into the domestic sphere by enlarging the scope of women's domestic responsibilities.

1.5 CONCLUSION

Like the processes of accumulation and valorisation, the employment relationship stands in need of social regulation by virtue of its structural characteristics. The means through which this social regulation is realised, or partially realised, include a whole range of institutional forms and regulatory mediations. The variety of ways in which the state alone exerts an influence on the labour market - ranging from employment legislation to the structure of welfare and education systems and skills development - represent just one (albeit crucial) way in which the actions, structures and capabilities of social institutions shape the dynamics of labour regulation. The approach advanced here highlights the contradictory impact of socio-political structures and processes on economic activities. In contrast to the functionalist implications of systems approaches, regulated outcomes are conceived as being supportive as well as destructive of the reproduction of the regulatory system itself. In contrast to the voluntaristic undertones of strategic choice theories, the emphasis on the structural determination of choice accentuates the need to explore the conditions of possibility for different types of change. The intention is not, however, to substitute Weber's 'iron cage' of bureaucracy with a 'prison' of regulation. Not only are there inconsistencies and contradictions in the processes of regulation, but tensions between different forms and sites of regulation also provide scope for strategic choice and purposive human agency. There are clear limits to what regulation can achieve that inhere in the means, forms and objects of regulation. There are also no *a priori* rules dictating how diverse regulatory mechanisms will be coordinated in a specific empirical context because the causal processes associated with production, reproduction and social regulation interact in different ways at different times and in different places. In short, regulation is not viewed as self-contained or all-encompassing.

Jessop (1990) argues that it is possible to expose regulatory dilemmas through a process of abstraction, establishing at an abstract level the links between the underlying social nature of labour and the regulatory imperatives of the labour market. This does not imply that the institutional underpinnings of the employment relationship are functionally determined. Identifying an object of regulation is not a precursor to postulating its corresponding mode of regulation since "the genesis of specific modes of regulation [are] historically contingent rather than capitalistically pre-ordained ... [and] the objects of regulation do not, and cannot, pre-date regulation in their full historically constituted identity" (Jessop 1990:186). Functionalism is thus avoided by acknowledging, first, that there are a host of potential institutional responses to the same regulatory dilemma. Some may involve state action, others may not. Some may be the result of purposive action on the part of labour market actors, others may not. Second, the form

that regulation assumes and the dynamics that it displays are determined in large measure by the structures and propensities of the object that is to be regulated.²⁰ The contradictions of the employment relationship under capitalism are systemic and ultimately 'resolvable' only in terms of temporary institutional containment. That is, the institutional framework of the employment relationship, while necessary for its continued reproduction, does not fully resolve its underlying contradictions, which are logically (though not temporally) prior to institutional responses. As Peck (1996:26) explains:

[i]nstitutional response are just that: responses. Rarely if ever do they provide absolute solutions to regulatory dilemmas. Rather, the process of labor regulation is continuous and imperfect ... [The] 'free' labor market was not an historical predecessor to the regulated labor market: instead labor market problems and their putative regulatory solutions evolved together through a process of iterative and dynamic development.

The claim that the capitalist labour market's inherent and systematic capacity for self-destruction necessitates state or more broadly social regulation - so crucial to the arguments above - should not be confused with a crude functionalism in which effective institutional responses are somehow always materialised. Nor are the dilemmas of labour regulation somehow soluble in an absolute sense once an 'appropriate' institutional and policy framework is established. The regulatory dilemmas of the labour market are intractable. Pressures for regulation do not necessarily result in effective regulation: the effects of institutional interventions simply cannot be guaranteed. As the history of Keynesian-Fordist regulation shows, the very success of a regime of labour regulation may play a part its crisis.

While the systematic failure of labour markets implies the necessity for social regulation, the condition of necessity does not establish a particular institutional response. This approach - which Peck (1996:42) aptly describes as "regulatory necessity but institutional indeterminacy" - is not rooted in a naive faith in the efficacy and rationality of state intervention, but rather in the strength of the case for systemic labour market failure. The regulatory dilemmas arising from the incorporation, allocation, control and reproduction of labour cannot be resolved by the market or the state. State intervention, for example, invariably produces unanticipated and unintended consequences as the behaviour of labour market actors is adjusted in complex, dynamic and contradictory ways to the changing regulatory framework. Moreover, the precise form of state intervention is itself subject to struggle between capital and labour, between fractions of capital and sections of labour. The condition of institutional indeterminacy applies to the chosen means of intervention as well as to their unpredictable effects. Once established, labour market

²⁰ For example, the employer-employee relationship cannot be regulated in exactly the same way as teacher-pupil, parent-child or customer-supplier relationships.

institutions acquire their own bureaucratic and political momentum, which will only fortuitously happen to coincide with the shifting regulatory requirements of the labour market. That is, the “labor market cannot survive without regulation, but neither, apparently, does it unproblematically thrive with it” (Peck 1996:43). Although the labour market requires *some kind* of social regulation for its reproduction, any regulatory ‘fix’ is always inherently unstable, partial and contingent on the simultaneous operation of a range of other mediation mechanisms.

A labour regulation approach, in contrast to the determinism of orthodox approaches to industrial relations, places a great deal of emphasis on the contingent, partial and unstable nature of socio-economic reproduction. It provides a methodological footing for industrial relations that avoids the twin errors of voluntarism versus reification and an abstract determinism versus an ever-contingent empiricism. This conception of regulation yields many advantages. Among others, it enables us to: (a) appreciate more fully the complex and cyclical nature of accumulation by combining the openness and contingency of capitalist development with a continuing stress on the systemic nature of capitalism as a mode of production; (b) uncover the multiple social relations that sustain different regimes of accumulation while retaining the centrality of class struggle in their development; (c) examine the reproduction of the capital-labour relation from the standpoint of production, consumption and exchange; and (d) formulate a non-deterministic account of phases of capitalist development which leaves considerable scope for historical variation and geographical diversity. The *régulation* approach is therefore able to explore the conjunctural determination of capitalist development without capitulating to the vehement anti-essentialism of post-modernism.²¹ Regulation theorists are concerned with specifying the inherently limited range of institutional patterns which can sustain relatively balanced capitalist economic growth (Jessop 1991:159-64). Viable regulatory mechanisms are those that weave together economic efficiency and social equity in a cohesive social fabric (Aglietta 1998:53).

Many of the regularities, patterns and relationships currently emerging are consistent with the neo- and/or post-Fordist elements catalogued in the literature. Their prevalence stems not from their functionality, but from the fact that they represent typical responses to an enduring crisis. After all, which country does not have some programme of ‘employment flexibility’? These developments are, however, best viewed as tendencies rather than achievements, occurring within a context of change *and* continuity. The same, largely indisputable evidence of their spread could just as plausibly be deployed in support of an argument for a deepening crisis, as for the claim

²¹ As Burawoy argues, by “exploring changes in the labour process either over time or between places, we are simply trying to approach the limits of variation of the capitalist labour process, that is, its capitalist essence” (cited in Edwards 1994a:24).

that a new regulatory solution is unfolding (Lever-Tracy 1984). The realignment of the local and the global, the shifting balance between incorporation and marginalisation in the labour market, and the changing links between capital accumulation and social regulation are all beset with contradictions. In the sphere of labour regulation, despite considerable policy innovation and institutional restructuring, there seems to be some way to go before a relatively durable resolution of the demands for social equity and the imperatives of economic efficiency can be found.

2

THE RISE AND FALL OF *COLONIAL DESPOTISM*: LABOUR REGULATION IN NAMIBIA BEFORE INDEPENDENCE

2.1 INTRODUCTION

The manner in which colonial despotism was consolidated and subsequently dismantled has had a profound impact on labour regulation in contemporary Namibia. By virtue of the fact that labour regulation is always embedded in a particular socio-economic and political environment, it is constrained and enabled by this wider context. A central characteristic of colonial Namibia was the deep interpenetration of state and markets. The evolution of settler-colonialism in Namibia was premised on the exclusion of its black population from the rights and privileges accorded to the white community. With its monopoly on the legitimate use of violence, the colonial state played a pivotal role in social control by safeguarding the privileges of white people and securing the oppression of black people. As in many other countries on the sub-continent, apartheid policies created highly adversarial industrial relations and a labour market deeply segmented on race, gender and occupational lines. Industrial relations in colonial Namibia have been described as “primitive in the extreme” (SALB 1978:31). At the risk of oversimplification, passive white trade unions were incorporated into an institutionalised system of labour regulation at a relatively early period of industrialisation. Black workers, by contrast, were denied collective bargaining rights and subjected to despotic forms of labour regulation until a relatively late stage in the process of industrialisation. This resulted in different types of trade unionism and collective action among white and black workers, and involved extensive variation in the degrees of state and market regulation of the labour market. The various fractions of capital also had different employment requirements and the dominance of a particular fraction was revealed by the extent to which it could secure the forms of labour regulation best suited to its requirements.

This chapter traces the historical evolution of labour regulation in Namibia.¹ Although there were

¹ It must be noted, at the outset, that the historical record is simply not comprehensive enough to provide definitive answers to all the questions raised by an analysis of changes in labour regulation over time.

significant continuities between the different historical phases demarcated below, each was characterised by the dominance of a particular set of regulatory mechanisms. These include the unmediated control and arbitrary violence of employers under German colonial rule, the growing prominence of contractual regulation and racial segregation during the first period of South African colonial occupation, and the processes of repression and resistance, reform and accommodation that moulded the institutionalisation and subsequent decline of the migrant labour system under apartheid-colonialism. The relations of production associated with a system of oscillating migration served to sustain the grip of migrant workers on the land as a means of subsistence, thereby delaying the full-blown commodification of labour power on a large scale. Extra-economic mechanisms were initially introduced by the colonial governments to subordinate the peasantry to the requirements of capital accumulation. Market mechanisms became increasingly important in accelerating the demise of the peasantry as taxes, overcrowding, soil erosion, over-grazing, and the like in the rural reserves made it increasingly difficult to produce a surplus and compelled black people to enter the labour market. Crucially, black Namibians experienced colonialism most directly through the efforts of the state and employers at regulating the conditions in which their labour was incorporated, allocated, controlled and reproduced in the labour market.

2.2 NAMIBIA UNDER GERMAN RULE: 1884 - 1915

Despite its brevity, the German colonial era wrought major changes to the pastoral and nomadic way of life that had endured for centuries among the people of Namibia. The political institutions and socio-economic fabric of the pre-colonial societies in the central and southern part of Namibia were systematically uprooted and virtually decimated in just over three decades. While the structures of these pre-colonial societies will not be considered here, it must be noted that they were far more complex and differentiated than is generally assumed and decisively influenced the pace and dynamics of the subsequent processes of colonisation.² At first, the imperial authorities left Namibia entirely in the hands of a monopoly company, the *Deutsche Kolonialgesellschaft für Südwestafrika*. The inactivity of this company and the host of speculative concession companies led to the German administration itself taking the leading role in creating a colonial economy (SWAPO 1981:16; Melber 2000a:29). The geographical mobility associated with black pastoralism, in particular, “became the threatening antithesis of attempts to stabilise and regulate farm labour” (Silvester 1998:100). In a series of military campaigns

² See: Goldblatt (1971); Clarence-Smith and Moorsom (1977); SWAPO (1980); Mbuende (1986); Katjavivi (1988); Williams (1994); Peltola (1995); Van Rooyen (1996); Bollig (1998); and Melber (2000a).

between 1890 and 1896 the colonial authority established a network of military posts throughout the south and centre of the country; expropriated vast tracts of land for settler farmers; enforced land and trade agreements that were often fraudulently obtained; prohibited all forms of traditional self-rule; and developed a transport and communication infrastructure (Bley 1967; Goldblatt 1971; Mbuende 1986; Hishongwa 1992; Peltola 1995; Van Rooyen 1996).

During the 1890s economic activity had expanded to such an extent that the colonial authorities were compelled to proclaim legislation aimed specifically at regulating the employment relationship. The *Regional Police Enactment Regarding the Relationship of Employers with Employees in South West Africa*, promulgated in 1894, provided the foundation for subsequent legislative enactments aimed at mobilising, allocating and controlling the black labour force. The central stipulations of this enactment included: (a) employment contracts were not to exceed a period of one year and the local police authority was granted the power to resolve any differences that may arise between the parties; (b) the police had a duty to punish any breaches of contract and to return absconded employees to their employers; (c) employers had the right to exercise paternal chastisement in respect of workers under the age of nineteen years; and (d) indigenes apprehended by the police who were unable to prove self-support or gainful employment could be detained and compelled to work for rations, clothing and a cash wage (Van Rooyen 1996:117; Melber 2000a:38; Winterfeldt 2002:50).

Subsequent legal enactments provided for the punishment of employees for transgressions such as the dereliction of duty, indolence, insubordination, desertion and any other breach of contract. In terms of the *Züchtigungsrecht*, a white employer could at any time send a black employee to a police station to be flogged with a sjambok for laziness or disobedience (Peltola 1995:63). Municipal authorities were empowered to impose a curfew on all black people, and to supervise and control the inhabitants of the urban 'locations'. All black people over the age of seven years were compelled to carry a pass that had to be presented on demand, and required a travel permit from their employer before leaving a particular district. Penalties for any infringement of these regulations included corporal punishment and imprisonment.

These laws set the tone for labour regulation in colonial Namibia for decades to come and corresponded in large measure with the provisions of the Master and Servant laws enacted in the Cape Colony from 1841 onwards.³ Under these laws, the employee was almost totally

³ Proclamations dating back to 1872 and 1895, designed in part to establish the conditions necessary for governing the recruitment and retention of labour in South Africa's diamond mines, already contained many of the principal features of the infamous system of influx control (Miles 1987:128-32).

defenceless while the power of the employer was largely unconstrained (Deakin 2001). This authoritarian use of the law was designed to “artificially stabilise situations of dependency, inequality and injustice” (Melber 2000a:41). Initially, these legal stipulations and the system of forced labour they created only applied to indigenes in the central and southern regions of Namibia, the so-called *Police Zone*. They did not apply to white employees nor to the inhabitants of the northern regions - principally, the Ovambo and Kavango - that were largely beyond the reach of the colonial administration’s oppressive labour regulations. Even after 1907, when the colonial economy became heavily dependent on Ovambo migrant labour for its mines and construction work, the colonial authority limited its contacts with the Ovambo kings strictly to ‘protection’ treaties and diplomatic ‘persuasion’ (SWAPO 1981:14-5). As Mamdani notes, there was a distinct difference between settler and non-settler colonies:

[in] the territories that capitalism *populated*, the settler colonies, ... the primary process was that of the destruction of existing modes of production and the prevalence of the capitalist mode ... [In] the territories that capitalism *dominated*; here it neither simply or primarily destroyed the pre-capitalist modes by appropriating the producers and making wage labourers of them, but rather restructured and conserved them in dependent relation (cited in Mbuende 1986:56).

The burgeoning labour requirements of the colonial economy forced the authorities to initiate various measures, rather than simply relying on market forces, in order to mobilise an adequate supply of temporary contract workers. The nature and impact of these provisions were significantly dependent on the destruction of the autonomous, pre-colonial economies of Namibia - i.e. the process of ‘primitive accumulation’ described by Marx and Engels. The three key elements of German colonial rule in Namibia - the expropriation of land, the destruction of traditional social structures, and the system of forced labour - unfolded in a highly differentiated manner. The strategy of military invasion and subjugation pursued in the Police Zone contrasted sharply with the policies of ‘indirect rule’ pursued by the colonial authority in the northern regions of Namibia (where more than two-thirds of the national population resided). Here peasants were forced into the emerging colonial-capitalist structures by integrating individual chiefs into the system and offering them rewards for facilitating and controlling the supply of Ovambo labourers.⁴

Sporadic resistance to German occupation by the indigenous people of Namibia and its ruthless containment run like a constant thread throughout this period (Prein 1994). At the heart of this seething discontent lay the expropriation of land and livestock; the destruction of traditional authority structures and their replacement by colonial rule; the appalling terms and conditions

⁴ See: Mbuende (1986:50); Katjavivi (1988:11); Hishongwa (1992:52-3); Peltola (1995:55); Pankhurst (1996:406); and Melber (2000a:38).

of employment; the widespread use of corporal punishment; and a host of other injustices perpetrated against black people. The desperate effort to defend themselves and regain the autonomy of self-rule is clearly reflected in the rallying call of chief Samuel Maharero: “[l]et us die fighting rather than die as a result of maltreatment, imprisonment or some other calamity” (cited in Drechsler 1980:143). The ensuing rebellion by the Herero and Nama against German occupation in 1904 resulted in brutal suppression of genocidal proportions. This rebellion was of such character and intensity that it has been described as one of the five great revolts against early colonial rule in Africa (Mbuende 1986:60). The Herero, in particular, had virtually ceased to exist as a tribal entity after the war and their numbers had decreased from an estimated 80 000 to approximately 20 000.

After the war, virtually all tribal lands were confiscated, strict pass regulations were enforced, tribal chieftainships were prohibited, the ownership of large stock and firearms was outlawed, the indigenous people in the southern and central regions were interned in concentration camps and subjected to a system of forced labour akin to slavery (Mbuende 1986:62; van Rooyen 1996:4; Melber 2000a:37). By 1912, only about 200 Herero and Nama men were reported not to be in employment (IDAFSA 1980:9). This brutal transformation of the pastoral economies in the Police Zone operated on the levels of production (peasants are drawn into wage labour); distribution (peasants produce commodities for capitalist markets); and exchange and consumption (peasants become reliant upon credit, money capital, commodities, and so on from the capitalist sector).⁵

The serious shortage of labour that followed the wars of extermination against the Herero and Nama were exacerbated by the economic expansion experienced during this period. At the outset, the German colony experienced sluggish economic growth, with economic activity concentrated around trade, small-scale mining and agriculture. With the development of mining and the introduction of Karakul breeding to augment cattle ranching as the dominant farming activity, the economy expanded rapidly, stimulating the influx of white settlers and improvements in infrastructure. The discovery of diamonds in 1908 near Lüderitz, and subsequently also further south at Elizabethbucht, Pomona, Bogenfels and Oranjemund, drastically increased the demand for labour. Impoverished by their kings' cattle taxation to meet trading debts and the devastating impact of the rinderpest epidemic in 1896, Ovambo men had already taken up short-term labour contracts on the farms and construction sites in the Police Zone. By 1910, some 10 000 Ovambo workers were travelling south each year to the mines and railways on contracts lasting six months

⁵ Although there was some scholarly resistance to the use of concepts such as 'peasant' and 'worker' in the African context, this is “now largely a dead issue” (Cohen 1991:73).

or more (SWAPO 1981:19). This slow and largely voluntary trickle of Ovambo work-seekers into the southern regions provided a woefully inadequate supply of labour. Moreover, these workers travelled long distances on foot and often fell prey to the unscrupulous actions of private labour recruiters (Cooper 1999). The colonial authority was compelled to address this dilemma by playing an increasing active role in regulating the recruitment and allocation of migrant labour from the northern regions.

The *Decree by the Imperial Governor of German South West Africa Pertaining to the Recruitment and Conditions of Employment of Native Workers*, which came into operation in 1912, consolidated earlier legislation and expanded the ambit of their application and enforcement (van Rooyen 1996:121-3). This decree replaced the informal migratory system, whereby workers travelled south to seek work of their own accord or were recruited by private agents, with a formal state-controlled mechanism underpinned by statutory regulations. All recruiting activities of Ovambo workers were dealt with exclusively by a recruiting agency operating under government supervision. A recruitment fee was payable to the recruitment agency for each employee that it supplied to an employer. The recruiting agency was empowered to enter into an employment contract with the prospective employee on behalf of the employer. Hence, there was no direct contractual relationship between employer and employee. This means that “politico-legal relations directly determine the distribution of labour-power”, with the consequence that the state plays “an unmediated role” in establishing and maintaining the labour market (Miles 1987:33-4).

Despite the general increase in the recruitment of Ovambo migrant workers occasioned by the new regulatory regime, the demand for such labour consistently outstripped the available supply. The flow of migrant workers was erratic and highly sensitive to factors such as the cycle of planting and harvesting and recurring droughts. That is, the extent to which the subsistence economies remained viable and productive entities decisively influenced the flow of migrant workers onto the labour market. A fluctuating supply of migrant workers, as well as a steady source of prison labourers derived from frequent military expeditions, did not alleviate the labour shortages and compelled the German colonial authority to explore foreign sources of indentured labour (Hishongwa 1992:52). Given its notorious reputation for brutality and the inhuman treatment of workers, even fellow German colonies refused to oblige. The mortality rate on the diamond fields, for example, rose to an incredible 149.6 per 1 000 in 1911 (Peltola 1995:64). Only the South African authorities came to its assistance by sanctioning, in the face of considerable opposition from local mining companies, the deployment of large numbers of African and Coloured workers from the Cape Colony on construction sites (such as the harbour

in Swakopmund and a railway line into the interior).

Although they received higher wages and were afforded greater autonomy at work, the South African migrant workers, like their Namibian counterparts, found employment and living conditions oppressive and barbaric (Moorsom 1978:110; Hishongwa 1992:55; van Rooyen 1996:128). However, as Beinart (1987:172) observes, "the greatest threat to [these] workers was undoubtedly from their own employers". The German military officers who were in ultimate control of the workers, as well as the immediate supervisors (usually Afrikaners), used a considerable degree of violence to maintain control. Not only did the military prevent any forms of collective labour regulation by the South African migrant workers, there was also little opportunity to abscond or switch jobs in the barren, sparsely-populated expanses of the interior of Namibia. The complaints of the Xhosa migrant workers

touched on almost every aspect of life and work: food was inadequate and sometimes bad; not even tents were provided, nor time given for workers to build their own shelters; supervisors were armed - 'the *schachtmeister* threatens to shoot us if we do not do what he tells us'; dynamite was exploded close to groups of workers; hospitals were [grossly inadequate] ... [and] there were serious disputes over wages, methods of payment and deductions (Beinart 1987:180).

Widespread use of physical violence by employers and the absence of a legal structure through which they could claim redress were repeatedly raised in letters written by the workers (Beinart 1987:183). Labour regulation throughout the period of German rule was based almost exclusively on the individual employment contract which, in turn, was grounded in a rigid, hierarchical and highly coercive master-and-servant relationship. As Van Rooyen (1996:128) notes:

[n]either the law, official policy or institutions, nor any workplace customs or practices countenanced, or even remotely tolerated, anything resembling collective relations. The only labour related occurrences bearing a collective character were confined to sporadic outbursts of spontaneous industrial action in a few isolated instances.

In spite of the highly individualistic and authoritarian nature of this system of labour regulation, rudimentary forms of collective action inevitably began to take hold. New forms of leadership and solidarity emerged: each gang of workers had their own interpreter and go-between who was known to the authorities, but who was controlled by the workers (Moorsom 1978:111; Beinart 1987:185; Peltola 1995:70). Although there were no conscious attempts to form trade unions, the form of worker organisation that did emerge seems to have been related to rural networks and the groups which solidified in batches of recruits. Individual action and passive resistance nevertheless remained the dominant forms of worker opposition to labour regulation in the workplace. These limited forms of organisation, resistance and consciousness among migrant workers were a product of the repressive forms of control associated with their status as

indentured labourers. The few instances of organised, collective industrial action by black migrant workers - notably the strike by mine workers at Gross Otavi in 1893 over poor wages and the go-slow by migrant Xhosa railway workers at Wilhelmsthal over unspecified wage deductions in 1910 - were quickly put down by employers. Typically, striking workers were deprived of food and water, their leaders were evicted from accommodation provided by the employer, and the intervention of German soldiers invariably resulted in the killing and wounding of striking workers (Gordon 1975:8; Cronje and Cronje 1979:77; Beinart 1987:181).

The proletarianisation of Namibia's indigenous population in the Police Zone was largely accomplished in little over a decade. The early colonial state relied almost exclusively on physical violence and extermination to enforce compliance with its rule - it did not offer "any ways or means for negotiation, mitigation or compromise between the coloniser and the colonised" (Melber 2000a:37). Since the social controls of the German authority were never totally effective, local officials compensated for this bureaucratic incapacity with arbitrary violence.⁶ German colonial rule was premised on the narrow defence of the minority's interests and the denial of citizen rights to the majority, without even a pretence of representivity or legitimacy. Racial differences formed the basis for colonial class antagonisms and the criteria for strict social segregation and political disempowerment. Black workers were denied freedom of movement, freedom of contract, and freedom of association. In particular, the denial of freedom of choice in employment and the absence of any institutionalised influence on terms and conditions of employment were central components of this regime of labour regulation. Moreover, contract migrant labour could be expended almost at will in production. One reason for the proneness to crisis of despotic regimes is the tendency to undercut labour's ability to reproduce itself to the point of destruction.

The first attempt at a more institutionalised form of labour regulation was the introduction, in 1913, of a separate administrative structure for black people based on the British system of Native Commissioners as deployed in the Union of South Africa. The extensive administrative and judicial powers of the Commissioners included the supervision of conditions of employment, regulating the conclusion of service contracts, and investigating complaints by employers and employees. Van Rooyen (1996:126) concludes that, despite the persistence of many injustices, the system of Native Commissioners definitely improved the wages, conditions of employment, food rations, and accommodation of migrant workers. Given the patchy historical record and the ubiquitous rhetoric of employers and the state, one would be hard pressed to find reliable

⁶ As Marx (1967:751) notes: "[f]orce is the midwife of every old society pregnant with a new one. It is itself an economic power".

evidence of any meaningful improvement in terms and conditions of employment. A study of conditions at the Rössing mine in the 1970s - then regarded as 'one of the best' employers in Namibia - found an enormous gulf between the public pronouncements of Rio Tinto Zinc and the daily realities of low wages, long working hours, overcrowded workers' quarters, poor diets, and discriminatory health care (Rogers 1978). Adequate compensation, collective bargaining and economic incentives - some of the basic preconditions for the integration of the black majority into the structures of the new colonial society - were incompatible with the consolidation and reproduction of colonial despotism.

Over time, the creation of a despotic labour regime characterised by harsh forms of extra-economic coercion delivered generous rewards. In 1913, the mining companies exported one and a half million carats of diamonds, with one company selling its diamonds at fifteen times what it cost to recover them. Some investors were paid dividends as high as 2 500% (SWAPO 1981:18). In the same year, the wage-bill of Ovambo contract workers, earning as little as R2.50 per month, amounted to about R110 000, a mere 2% of the value of diamond sales. The combination of rich mineral resources, authoritarian control and low labour costs continued to provide spectacular returns on investment under South African colonial rule. Total dividends paid to its shareholders from 1952 to 1970 by one of the American corporations (Newmont) with a stake in the Tsumeb mine amounted to \$85 737 676. With an original investment of \$1 151 400, this yielded an average annual return of 372% (Winter 1977:200). The Tsumeb Corporation returned an average profit on total investment of 31% annually in the 1960s, while paying an incredibly low \$28 monthly average wage for Africans (Minter 1986:200). The black wage bill on the Tsumeb mine, described as one of the richest base-metal mines in the world, amounted to only three percent of revenues. During the early periods of colonial rule, in particular, very little of their paltry wages ever reached the families of contract workers in Ovamboland. As Governor Seitz noted in a report to the Imperial Colonial Office in Berlin in 1911:

Ovambos who set out from Lüderitzbucht on homeward journey ... die on the way from shortage of provisions and most of them are exploited by traders on the way from Swakopmund to Okaukuejo in such a way they merely bring home scurvy and other diseases with them as a result of their work on the diamond fields (cited in Melber 2000a:39).

The regime of labour regulation associated with the hegemonic position of mining capital within the German colonial state was rooted in the processes that transformed pre-colonial social relations from 'formal' to 'real' subsumption to the capitalist mode of production. In his study of the impact of migrant labour on social relations in Ovamboland, Moorsom (1989) observes a general transition from rural production supplementing wages to wages subsidising rural production. Although the period from about 1884 to 1915 was characterised primarily by the

transition from self-sufficient, pastoral economies to subsistence production crucially dependent upon the inputs from the 'white' capitalist sector; it was marked by an uneven degree of adaptation by the peasantry to commodity production, and patterned by the stratification of the rural population and the contingent processes of conservation and dissolution in the pre-capitalist modes of production. Dreschler (1980:231) notes that the period from 1907 to 1914 - which he describes as the "peace of the graveyard" - was one of difficult yet determined pastoral recovery. The thin spread of German occupation left significant pastoral opportunities for black stock-owners and local variation in the enforcement of pass laws allowed for considerable internal migration by black people (Hayes *et al* 1998). Hence, there was more opportunity for black pastoral mobility and bargaining than the martial nature of the German regime might have implied.

Soon after the commencement of World War I, German rule in the territory was abruptly ended. Its institutional and normative legacy, however, was to endure for much of the colonial era. The major statutes aimed at labour regulation that were decreed during the latter stages of German colonial rule "constituted a matrix of rules aimed at securing maximal utilisation of available human resources with a minimum of reciprocity upon the part of either the state or employers" (Van Rooyen 1996:123). These statutory provisions provided the template for subsequent labour market policies and practices. While the South African administration passed several amendments to these provisions, their salient features remained in place until the early-1970s. The emerging settler economy was fundamentally driven by an externally imposed demand for cheap black labour. By 1915, as Melber (2000a:40) points out, "an 'apartheid' society had already been firmly established under a German flag". In particular, the historical roots of what was to become the infamous contract labour system are firmly embedded in the era of German colonial rule.

2.3 NAMIBIA UNDER SOUTH AFRICAN RULE

South Africa's colonial rule in Namibia revolved fundamentally around the consolidation of its economic dominance and the expansion of its political philosophy of racial segregation. The South African state acted swiftly to transfer control of the diamond industry to the Anglo American Corporation and to facilitate the expansion of settler farming and white ownership of the fishing industry (Innes 1981). As early as 1923, Gijsbert Hofmeyer, the first South African civilian Administrator, noted that "native policy in South West Africa ... is part and parcel of the native policy of ... South Africa" (cited in Gottschalk 1983:71). This policy, Hofmeyer explained

in 1925, means that

[t]he Natives ... will in future have centres where they can develop on their own lines, from where they can go freely in search of work in European centres, and to which they can return to their families. At the same time the foundation has been laid for the building of self-contained Native communities developing on their own lines under the supervision of selected Native Affairs officials (cited in Gottschalk 1983:71).

The South African administration in Namibia drastically intensified and institutionalised the recruitment of migrant workers from the bantustans. At the end of 1963, the South African government published the controversial findings of the Odendaal Report on the 'native question'. This Report explicitly excluded all alternatives other than 'separate development' from consideration; formed the blueprint of subsequent political, economic and social developments in Namibia; and reinforced white privilege and dominance (Gordon 1963; Rogaly 1967; IDAFSA 1980:15-7; Du Pisani 2000:64-6). In line with developments in South Africa, it proposed the establishment of separate 'homelands' or bantustans for the main ethnic groups of Namibia to be governed by separate legislative councils and executive committees. This system of apartheid-capitalism exacerbated the uneven patterns of development between 'white' and 'black' areas; consolidated discriminatory policies and legislation; reinforced the low levels of labour market mobility for black employees; and formalised the occupational 'colour bar' that reserved all skilled jobs for white people (First 1963; Segal and First 1967; Vigne 1975; Green *et al* 1981; SWAPO 1981).

A system of contract migrant labour was established through stringent influx control measures, which restricted access to the 'white' urban areas to black people who were born there or had lived or worked continuously in the area for ten or more years. This system of labour regulation was dependent on the reproduction of a complex set of relationships between the tribal authorities, migrant workers, the colonial government and its agencies, and employers. Migrant workers were treated as casual labourers and had to return to the bantustans at the end of their term of service. The majority of the black labour force lived involuntarily in single-sex compounds while their wives and children remained in the bantustans, ostensibly subsisting on small-scale agriculture.⁷ That is, black migrant workers were merely temporary sojourners in the 'white' urban areas. If these workers attempted to bring their families with them on contract, they not only risked imprisonment for contravening the provisions of the pass laws, but also faced a lack of accommodation and jeopardised their rights to cultivate land and livestock in the

⁷ Studies by Moorsom (1979), Voipio (1981) and Cleaver and Wallace (1990) show that women bore the brunt of the burdens imposed by influx control: increased workload in the fields, primary responsibility for feeding the family, almost total dependence on their husbands, and tighter social controls imposed on women alone at home.

bantustans.⁸ On the one hand, these controls effectively prevented large-scale black urbanisation by limiting the expansion of an urban population with an economic base independent of subsistence agriculture. On the other hand, the spatial confinement of the black population removed the mobility so necessary for the survival of livestock in the erratic and random rainfall patterns of Namibia.

2.3.1 Masters, Servants, and the Contract of Employment: 1915 - 1950

The first period of South African colonial rule in Namibia covers the period from its military conquest of German South West Africa to the assumption of power by the National Party. Barely six months after assuming office as Administrator, E.H. Gorges proclaimed the first of a series of Master and Servant statutes designed to rigorously enforce the canons of Roman-Dutch law of contract. The employment relationship was reduced to a rigid paternalistic relationship of command and obedience with virtually no provision for collective regulation and minimal mediation of market forces in the interests of social equity and justice.⁹ As South African confidence in their possession of the territory grew, “policy soon hardened beyond keeping the peace and maintenance of essential services to backing white employers against black workers in a South Africanised version of the *status ante bellum*”(Gottschalk 1978:76). However, South Africa’s colonial authority over Namibia required a moral justification that would satisfy the League of Nations. As Hartmann (1998:271) observes: “[w]hereas Germany’s policy in the territory had been aimed at the complete destruction of indigenous economic, social and political structures ... South Africa had to be more careful”. Drawing on the Protestant ethic of ‘hard work’, the administration repeatedly contrasted the ‘idle and disorderly’ lifestyle of the ‘native’ with the development and progress inherent in the ‘law and order’ imposed by the settlers. In its Annual Report of 1926, for example, the colonial administration noted:

[c]ivilisation will never be developed on idleness ... Left to himself [the ‘native’] will simply sit in the sun and dream about women and cattle. A good harvest results in liberal brewing of beer, heavy drinking and tribal disorders. Work brings him in contact with civilisation and therefore necessarily assists the process of civilising him (cited in Gordon 1998:70).

In an official memorandum promulgated by the Office of the Administrator in 1916, it was noted

⁸ As we shall see below, a major demand of striking workers during the national strike of 1971-72 was the worker’s right to have his family with him, and to visit and be visited by his family. Despite the scale and intensity of this strike, however, workers failed to achieve these rights.

⁹ According to Van Rooyen (1996:139), “[t]he German colonial government’s preoccupation seems to have centred on obtaining and retaining as much labour as possible ... whereas evidently the South African colonial authorities’ priorities lay first and foremost in the domain of segregationist objectives”.

that, while German laws were “largely satisfactory”, they had led to a situation where “[t]he master regards the servant as a slave, without rights, amenable only to the lash and various other cruelties ... [and the] servant regards his master as his inveterate enemy from whom there is no escape” (cited in Van Rooyen 1996:141). Despite the new regime’s stated intentions to improve industrial relations, the same memorandum insisted that “[t]he two main principles of the German law - (a) that every native must carry a pass and (b) that every native must be in employment unless he has visible means of support - remain in force” (cited in Van Rooyen 1996:141). Likewise, while the introduction of Roman-Dutch law enhanced the significance of common law contractual principles in labour regulation, observance of these principles was, as in the past, secured through criminal liability enforced by the criminal courts and the police. As Wedderburn (1986:141) points out, it is “impossible to over-emphasize [the] criminal origins of the law attaching to the employment relationship”. It was to take several decades before labour regulation was finally divorced from the criminal process and brought firmly into the domain of civil administration.

A central concern of the South African colonial regime between 1915 and 1930 was to bolster the weak mechanisms of labour supply in Ovamboland in an effort to increase the rate of migration. Initially, the regime relied on statutory measures to achieve these ends. This “legislative obliteration of the black pastoral economy”, according to Silvester (1998:98), was aimed at “removing the threat of competition for white settlers and creating a malleable labour force”. The statutory and bureaucratic methods used to pressurise peasant-workers into the labour market were soon reinforced by economic pressures such as the prohibition on hunting, the imposition of taxes, extensive restrictions on trade, and the stimulation of consumer demand through the establishment of shops in the bantustans. The sheer scale of land appropriation and the corresponding rise in poverty and population density were, however, soon to be sufficient to compel many individuals to leave their homes and seek employment in the ‘white’ areas. The primary motivation for the majority of Ovambos to engage in migrant labour was to acquire capital to purchase cattle, escape poverty, and obtain European goods.¹⁰ By the 1980s, white people (a mere five percent of the population) owned almost two-thirds of the land in the fertile south and centre of the country.

After 1930, the emphasis shifted towards a greater systematisation of the migrant labour system in an effort to regulate the flow of workers onto the labour market. Through the imposition of a standard one-year employment contract for migrants, the colonial authorities managed to

¹⁰ See: Cronje and Cronje (1979:20-1); SWAPO (1981:57); Herbstein and Evenson (1989:183-4); Krüger and Henrichsen (1998:155); McKittrick (1998:247); and Silvester *et al* (1998:32).

“dampen down the often extreme clashes between the cycles of peasant and capitalist production ... thereby robbing the labour migrant of the opportunity to articulate wage-labour with subsistence production” (Moorsom 1978:114). The majority of laws applicable to black people were designed to regulate their terms and conditions of employment and the central institutional presence of the colonial regime in the northern bantustans was the administration concerned with the recruitment and allocation of migrant workers. In other words, the experience of colonialism was largely mediated through the employment relationship. Indeed, the Administrator’s report in 1920 declared unequivocally that “the native question ... is synonymous with the labour question” (cited in Cronje and Cronje 1979:7). Black people therefore experienced the colonial state most directly in its efforts at regulating the labour market conditions under which they sold their labour power.

The *Master and Servant Proclamations* of 1916, 1918 and 1920 attempted to ameliorate some of the more extreme excesses of German colonial legislation, while ensuring the continued submission of black employees to the authority of their white employers (IDAFSA 1980:10; Van Rooyen 1996:133-7; Gordon 1998:55). These proclamations reduced workplace industrial relations to a ‘contractual’ regime of specified rights and obligations. Beneath this veneer of reciprocity, however, lurked a military-style authority by the employer. The Oshivambo word for ‘contract’ - *odalate* - means ‘wire’ and reflects the indentured nature of migrant labour that literally bound the worker to his employer. Master and Servant laws made it a criminal offence for a worker to change employers, to leave a job without his employer’s permission, to be absent from work or arrive at work drunk, and to be negligent or insolent. To all intents and purposes, collective regulation by black workers was outlawed. Hence, the South African administration perceived its role as being “not merely the gendarmerie state, but also the foreman’s regime” (Gottschalk 1978:81). The proclamation of 1920 re-introduced corporal punishment as the penalty for certain repeated ‘offences’ committed by employees. This allowed the weak colonial state to survive by “franchising the legal use of violence by its settlers” (Gordon 1998:75). Infringements by employers, in contrast, were dealt with through normal contractual remedies. An employer convicted of assaulting an employee, for example, was simply compelled to cancel the contract of service at the request of the employee concerned.

The *Vagrancy Proclamation* of 1920 was aimed at, among others, securing black labour for the settler economy by creating a mechanism of forced labour in the Police Zone. A primary objective of the proclamation was to compel black workers to place their labour at the disposal of white employers or public enterprises. In terms of provisions in this proclamation, any person apprehended for trespassing on private agricultural land or within an urban area without a visible,

lawful 'means of support', would be deemed to be guilty of an offence (Kane-Berman 1972:11; Cronje and Cronje 1979:31; Mbuende 1986:82; Bauer 1997:59). The courts were empowered to sentence a convicted person to a compulsory term of service in lieu of prison. The vagrancy proclamation was widely enforced to protect 'white' property rights and to supplement the pass laws (SWAPO 1981:71-2). This proclamation was thus aimed at suppressing both trespass and idleness. Mizruchi argues that the key to regulating society is the "abeyance process" that arises out of the mismatch between labour supply and demand (cited in Gordon 1998:53). Vagrancy laws therefore constituted an important social safety valve by confining and mobilising surplus labour. In reality, however, workers who were allocated work under the vagrancy laws often deserted again. The colonial administration simply lacked the capacity to secure the optimum benefits from a law so clearly loaded against black people.

The *Native Administration Proclamation* of 1922 provided that 'all male natives over fourteen years' were required to carry passes when travelling beyond the location or reserve where they resided. Black women were thus explicitly excluded from the provisions of this proclamation. The pass laws regarded black males as those whose labour was required and whose movements had to be regulated. Far from implying greater female autonomy, the exclusion of women from the ambit of these regulatory forces generally increased men's rights over them and made them more vulnerable to exploitation. "Even slaves have legal rights but to be defined as non-existent legally meant that one had no recourse to (potential) legal remedy" (Gordon 1998:56). Being beyond the realm of the law is thus the ultimate legal punishment and allows for the imposition of more arbitrary and invidious forms of control largely unconstrained by social norms and bureaucratic regulations. In practice, black females in the inter-war years were largely subject to the personal discretion of Native Affairs officials who had considerable informal power (Gottschalk 1978:78; Gordon 1998:60).

Separate legal provisions - such as those related to the compensation for occupational injuries and access to training through apprenticeships - were promulgated to incorporate and protect white workers. In fact, 'civilised' labour standards with a modicum of concern for social equity and human rights applied exclusively to the white settler community. Using Standing's (1999:41) classification of the five distinct forms of statutory regulation, we can appreciate more fully the discriminatory impact of the laws promulgated during this period. First, protective regulations comprise rules and procedures to protect workers and/or to prevent the more powerful from abusing the less powerful. Second, fiscal regulations include taxes and subsidies to encourage certain forms of activity and/or discourage other forms. Third, repressive regulations consist of rules and mechanisms to prevent something that the state or a dominant interest does not wish

to occur. Fourth, promotional regulations comprise those rules and mechanisms (other than taxes) designed to promote certain developments. Finally, facilitating regulations are the rules and procedures that permit certain activities to take place, if there is a desire to do so. The laws that regulated the employment of black workers were largely devoid of protective, promotional and facilitating regulations; while the predominance of fiscal and repressive regulations reinforced an extensive managerial prerogative. Legal prescriptions on the content, rather than the form, of their employment relationship amounted to a voluntaristic minimum. Legislative provisions therefore had a negligible impact on the important regulatory sphere of substantive conditions of employment such as wage levels and other benefits.

Statutory regulation, as extensive and austere as it was, could not secure the desired levels of incorporation and allocation of black labour - it had to be augmented by institutional and administrative mechanisms. In an attempt to ensure that the scarce labour supply within the Police Zone was allocated in an optimal fashion, the colonial government attempted to segment the labour sources into four distinct categories: (a) rural workers residing on settler farms and immobilised by the pass laws were to meet the labour demands of commercial agriculture; (b) urban workers residing in locations and prohibited from owning fixed property were to serve the needs of settler towns; (c) migrant workers from the northern regions were reserved for the larger employers such as the mines and the administration; and (d) strategically located reserves were to replenish the supply of labour to the surrounding areas and to absorb surplus workers who had become redundant through old age, ill health, or any other disability (Moorsom 1979:207). Buoyant economic conditions by the end of the 1940s, however, forced the colonial authority to revise this policy of labour market segmentation. In an effort to address persistent labour shortages, Ovambo workers were increasingly allocated to virtually all sectors of the economy.

To take advantage of the increasingly competitive market for labour, black workers established networks of communication to distribute comparative details about the terms and conditions of employment in different sectors and regions. The continuing shortages of labour, especially on the farms, demonstrate the fact that migrant workers were always able to exert some degree of control over the allocation of their labour. The appalling conditions on the farms - extremely low wages, long working hours, regular assaults by farmers, and living conditions barely suitable for animals - led migrant workers to effectively boycott agricultural work right from outset of colonial rule (Moorsom 1978:109). It was mainly adolescent males, who were too young to work on the mines, that were sent to work on the farms (Gebhardt 1978:151). Farmers also employed casual and seasonal workers on piece-rates to meet fluctuations in labour demand. During the late-1930s and early-1940s, however, a fundamental shift in the flow of migrant labour was

achieved as a growing number of workers were directed from the mines to the farms (Bauer 1997:58; Silvester 1998:115-6; Silvester *et al* 1998:28). Given the long-standing reluctance by migrants to work on the settler farms, this shift highlights the essentially coercive nature of labour allocation.

Continued dissatisfaction by employers with the insufficient quantities of migrant workers procured through existing channels led, in the mid-1920s, to the establishment of two labour recruiting organisations along similar lines to that which existed in South Africa.¹¹ The Northern Labour Organisation recruited migrants in the Okavango region to cater for the needs of mines and farms in the central and northern parts of Namibia, while the Southern Labour Organisation recruited in Ovamboland to supply the diamond mines in the south. These two agencies continued to function separately until 1943, when they were amalgamated to rationalise and expand their services to all sectors of the economy (Mbuende 1986:83-4; Cooper 1999:137). The new amalgamated labour recruitment agency, the South West Africa Native Labour Association (SWANLA), tended to exclusively serve the interests of employers and showed callous disregard for the needs of the employees (First 1963; Bradford 1967; Vigne 1975). Its primary objective was to maximise the number of recruits at the lowest possible cost to itself and its industry clients. Since real wages remained fairly constant from 1914 to the 1950s, the figures for average consumption in the late-1920s are likely to be applicable to the whole period:

[a]n average yearly wage was 30 pounds. Out of it £5 was consumed at work; £4 went to 'gifts' or taxes to the king; £4 to clothes; £10 was used for purchases and the rest £4-5 was expended in Ovamboland (Moorsom 1989:91).

As an monopsonistic wage-fixing mechanism, premised on the prohibition on employers to recruit labour for themselves, SWANLA not only abolished free choice in the labour market, but also effectively eliminated wage competition for migrant labour. Migrant workers recruited by SWANLA generally did not know for whom or where they would be working until they reached their destination. By regulating the incorporation and allocation of labour, the colonial state prevented a bidding up of wages despite recurring labour shortages. The result, as Rex notes, is that the "great irrationality with which capitalist enterprises have to cope, namely the labour market, is excluded" (cited in Gordon 1978:117). By maintaining control over the supply and

¹¹ In South Africa, recruitment agencies constantly tried to undercut each other to secure increased orders from the mining industry, thereby contributing to the unreliable and fluctuating nature of labour flows, wage levels and transport costs. To overcome these problems, the Chamber of Mines created the Witwatersrand Native Labour Association. The latter gave the Chamber some institutional control of the labour market by establishing a monopsony over the recruitment of labour in the sub-continent, in the process undermining both the operations of private labour recruiters and the supply of labour to smaller industries (Jeeves 1985).

cost of black labour, SWANLA constituted a central component of South Africa's colonial domination of Namibia. The formation of SWANLA was, therefore, partly a result of successful resistance by black people against attempts by the state to mobilise and allocate their labour largely on its own terms. Widespread complaints by workers, centred on the abuses they had to endure and the inhumane treatment they suffered as a result of the migrant labour system, led ultimately to the formation of SWAPO and a mass strike in the early-1970s.

In 1945, the Administrator appointed a commission of inquiry to investigate the activities of SWANLA and the employment conditions of migrant workers. Some of the more pertinent findings of the *South West Africa Native Labourers Commission* include the following (Van Rooyen 1996:144-5). First, commercial farmers preferred Ovambo migrant workers because they purportedly did not object to monotonous duties, could be remunerated at significantly lower rates than local employees, and were indentured for longer periods. The idea that Ovambos were 'superior' workers, and hence more highly valued, has a long history. In his report to the League of Nations in 1922, the Administrator of the territory described non-Ovambos as "poor workers and stupid ... [who] prefer to be idle" (cited in Cooper 1999:130). Second, of the 52 103 workers in employment in 1946, approximately 20 000 originated from the northern areas, the vast majority of whom were contract workers. Third, while mine workers were allegedly satisfied with the wages, food and housing they received, other employees (especially those on the farms) expressed considerable dissatisfaction about physical abuse, low wages, meagre rations, and unsatisfactory accommodation. Fourth, migrant labourers displayed a high degree of solidarity as workers regularly absconded when an individual suffered ill-treatment at the hands of his employer.

Finally, the Commission noted that "northern natives in general have no confidence that justice will be meted out to them" when lodging complaints in respect of offences committed against them by their employers (cited in Van Rooyen 1996:145). Black workers were largely defenceless against the mutually-reinforcing policies and practices of employers and the colonial state. The findings of the Commission did not result in any meaningful changes to the prevailing system of labour regulation. Since labour laws only applied to a small group of white workers, the Commission found it prudent to task the police and magistrates, rather than a separate system of labour administration, with the responsibility of regulating the recruitment, distribution and repatriation of migrant workers. In carrying out these tasks, the law enforcement agencies were amply assisted by employers, the officials of SWANLA, and the Department of Bantu Administration and Development.

Although “a spirit of defiance, resistance and revolt” (Hartmann 1998:273) prevailed in both the urban areas and the countryside, there is very little evidence of organised, collective opposition by workers in this period of Namibia’s history. Besides the fact that existing legislation did not provide for collective industrial relations, the socio-economic and political conditions were not conducive to such forms of labour regulation. The transitory nature of migrant labour and the low rate of return to the same employer precluded the development of long-term worker leadership and institutionalised opposition in the workplace. Collective resistance was highly vulnerable to repression and intimidation from the state and employers. There were also no officially-recognised institutions for collective interest representation, such as employers’ associations or trade unions, during this period. The Bantu Administration Department claimed that its commissioners and labour officers protected the interests of black workers to an extent that made trade unions redundant. Trade unionism was always an improbable strategy under these conditions of totalitarian labour control in Namibia.

In the event of ‘trouble’ at the workplace, employers and the colonial authority sought to reinforce the idea of the ‘happy native’ by seeking to remove the ‘contamination’ by ‘outside agitators’ (Gordon 1998:71). Since the identification of ‘agitators’ was largely arbitrary and ‘repatriation’ often spelled the end of formal employment opportunities, this strategy proved to be an effective means of intimidation. The absence of formal dispute-resolution mechanisms meant that industrial action was usually followed by suspensions, fines and the arrest of ‘ringleaders’. In short, industrial conflicts were never actually ‘resolved’. Furthermore, few employers took their contractual obligations towards their employees seriously and most continued to pursue the *ante bellum* methods of maintaining discipline in the workplace by meting out harsh punishment to their employees (Van Rooyen 1996:142). Not surprisingly, therefore, only nine strikes explicitly related to employment conditions have been identified in the period from 1916 to 1948 (Gottschalk 1978:90). These strikes revolved around wages and the issue of working clothes, the assault and murder of fellow employees, and protests against the compulsory X-raying of departing migrant workers to detect pilfered diamonds.

More common and viable forms of worker opposition included individual defiance, go-slows, desertion, and the deliberate sabotage of production. Not only were these informal and unorganised responses by workers more effective and more difficult to suppress, they also shed light on the day-to-day functioning of labour regulation in the workplace and beyond (Cohen 1991). ‘Hidden’ or ‘covert’ forms of struggle expose “the complex mediations of the dichotomy accommodation/resistance accomplished by workers in the workplace and the myriad tactics of survival that refuse assimilation, incorporation or inculcation” (Gottfried 1994:106). These

strategies, in addition to “the well-founded tradition of gold-bricking and quota restriction, require considerable organization ... [and] transcend the narrow realm of the workplace” (Gordon 1982:141). Although the “totalitarian regime of labour regulation” seemed complete, migrant workers exploited its weaknesses and manipulated its apparent inflexibilities to the full (Moorsom 1977:75-6). For example, workers reached the urban centres in Namibia by using false or borrowed passes, by deserting, by obtaining illegal employment, and by evading the worst employers (Katjavivi 1988:19-21).

Gordon (1977) argues that the totalitarian nature of authority in the workplace generated an occupationally-based code of “brotherhood” as the key mechanism of solidarity among contract mine workers. The code of brotherhood developed solidarity among individual workers, facing similar employment and living conditions, by using loopholes and gaps in the oppressive system for mainly individual gain (i.e. ‘beating the system’). This code carried intrinsic rewards for compliance with its rules of behaviour as well as penalties for any contravention of these rules. The ethos of brotherhood provided the primary organisational framework for the ‘underground’ or informal resistance network developed by migrant workers. As Gordon (1982:141) explains:

[b]rotherhood serves to delineate a distinct moral universe which specifically excludes all whites. It provides a screen behind which the workers have developed a ‘private culture’ in which they can be ‘themselves’ and a point from which they can exploit the white imposed system ... Brotherhood stresses helping one’s fellow brother particularly in the face of white oppression and above all never informing on one’s brothers.

Expectations about acceptable standards of performance, given the indeterminacy of the employment contract, can only be constructed during the process of production. The actual operation of rules in the workplace depends on the power, knowledge, organisation and resources of the parties, their beliefs and ideologies, as well as the formal provision of rights and obligations through legislation. Different types of rules may apply to any given situation and rules have to be interpreted in action for them to have any practical significance and meaning. All forms of labour regulation rely (to varying degrees) on wider processes and relationships such as formal and tacit rules, social conventions and norms as a condition of their possibility. A focus on the ‘informal’ aspects of labour regulation is vital to an understanding of the social organisation of work.¹² A range of plant studies has revealed that the real order concerning how

¹² ‘Formal’ rules are generally understood as being contained in written form, while ‘informal’ rules are not. Dunlop (1958:16) lists several forms in which rules may be expressed: agreements, statutes, orders, decrees, regulations, awards, policies, custom and traditions of the workplace. Flanders (1965:10) also states that rules “appear in different guises” which include social conventions, managerial decisions and workplace custom and practice. He recognises that these regulatory types “easily shade into each other at the margins” (1965:22). For both Dunlop and Flanders, however, the different forms in which rules appear do not detract from the fact that they all serve to regulate the employment relationship.

and at what pace work is to be performed usually arises from informal agreements and practices. There is also considerable evidence to show that piece rates are generally set according to informal understandings and not managerial whim. Consequently, informal practices contribute significantly towards the path-dependent nature of regulatory change.

Informal rules in the workplace are multiple and differentiated; lack the intention, planning and rational calculation associated with other rules; are often a product of unintended consequences rather than conscious decisions; are a form of collective regulation in the sense that they will normally depend on acceptability, not only by workers, but also by managers; do not emerge from any formal negotiation, but rather through a process in which workers utilise the gaps or inconsistencies in regulation to their advantage; are not part of, or are relatively autonomous from, the formal institutions of labour regulation; and are transactional in the sense of arising out of interactions between the rule-making activities of work groups and management (Goodman *et al* 1975:27). Informal and loosely structured relationships in the workplace tend to qualify, supplement and even subvert the decisions taken within the official institutions. Although there are limits to the practices that management can or will tolerate, the status of an informal rule may evolve from a loose understanding with little force to custom and practice rules that carry considerable weight in the negotiation of order in the workplace. In other words, rules are variable and negotiable. However, while rules may change over time, the processes of rule-making (such as a particular form of collective bargaining or tacit negotiation) tend to remain relatively unchanged. To understand the dynamics of change *and* continuity in industrial relations, a distinction must be made between the relatively enduring rules that regulate the rule-making process and the relatively transitory rules that result from this process.

Informal practices in the workplace, according to Burawoy (1979:171-6), may assist in the achievement of management's substantive goals and contribute to the maintenance of order in the workplace even when formal rules are breached. There are inherent limits to the extent of capitalist control and the image of managerial autocracy is constrained in a number of ways. First, rules are applied in very different ways to different workers. More skilled, experienced or strategically placed workers are less amenable to a coercive discipline and invariably have considerable leverage over their supervisors. Second, a breach of the rules that does not impose direct costs on employers is less likely to be punished. Tolerating fiddles may mean that more costly and unpredictable behaviour, like absenteeism and turn-over, is avoided. Third, there is usually an implicit bargain within the employment relationship, with line managers being careful to maintain some acceptable standard of 'fairness' and 'reciprocity' for fear of losing workers and then being unable to meet peaks in demand. Despite significant variation in its nature and

impact over time and space, there is considerable informality in the processes of labour regulation at the workplace.

A system of labour regulation cannot be simply read off legislative provisions, but needs to be related to the day-to-day interactions in the workplace and the activities of institutions set up to enforce compliance with the law. Labour policies during this period, especially in the northern areas, more often revealed the absence or limits of colonial control. This “colonial ineffectiveness” (Silvester *et al* 1998:32) is revealed by the largely uncontrolled movement of many black people; the consistent inability of recruiting agencies in the north to satisfy labour demand in the south; the regular challenges posed by migrant workers to the allocation and deployment of their labour through various forms of informal resistance; and the poor track-record of the police in apprehending ‘deserters’.¹³ Divisions within the settler community, a weak colonial state subservient to Pretoria, the sheer size of Namibia, and inadequate financial and human resources constituted formidable obstacles to the authorities’ stated goal of ‘complete control’ over the black population. Labour regulation, like the social order on which it is founded, is “fragile, impermanent, full of unexpected loopholes and in need of constant repair” (Gordon 1998:73). The shift from segregation to apartheid in the following period must be viewed in this context. The period between 1915 and 1950 was not simply a functional precursor to apartheid or a blank slate on which National Party policies could be inscribed.

2.3.2 Apartheid and the Migrant Labour System: 1950 - 1977

The second period of South African rule commenced with the electoral victory of the National Party in Namibia and ended with the appointment of an Administrator-General following an agreement between the South African government and members of the United Nations Security Council. The shift in political power in both the metropolitan country and its mandate meant that Namibia came to be increasingly administered as a *de facto* part of South Africa. As a result, the regulatory measures that applied to black employees in Namibia increasingly resembled the apartheid labour market and ‘native administration’ in South Africa (Bradford 1967; Kuraisa 1967; Voipio 1981; Hishongwa 1992; Hayes *et al* 1998). The balkanisation of Namibia and the associated system of labour migration assumed an increasingly pivotal role in mobilising, allocating, controlling and reproducing black labour. Two-thirds of the labour force in Namibia were migrants in the 1970s - a higher proportion than almost anywhere else in the world,

¹³ For example: despite the circulation of their names to the ‘traditional authorities’, only 33 of the 1 174 Ovambo workers who were reported for desertion in the first eight months of 1926 were apprehended by the police (Gordon 1998:63).

including South Africa itself (Cronje and Cronje 1979:6). By 1980, migrant workers dominated all three major economic sectors, comprising over 95% of black workers in mining, 65% in fishing and 50% in agriculture (SWAPO 1981:68). The migrant labour system was both a vital component of South Africa's occupation of Namibia and a source of deep resentment among black workers.¹⁴

The migrant labour system, introduced throughout the settler colonies of southern Africa, effectively subsidised colonial capital by displacing the social costs of reproduction from the commercial sector to the bantustans (Burawoy 1985; Cohen 1987; Miles 1987). Firstly, the apartheid authorities were absolved from the need to provide housing, water, electricity, roads, schools, and other infrastructural services that would be required by a permanent labour force. Secondly, the sick, injured, disabled and elderly were simply 'repatriated' to the bantustans when their labour became dispensable to the economy (Krüger and Henrichsen 1998:152). Thirdly, the wages of contract workers were conveniently conceived as being 'supplemented' by the income which they were supposedly generating from their access to land in the bantustans (Dekker *et al* 1975:227; Moorsom 1977:68). In other words, migrant workers were paid a wage barely appropriate for the reproduction of a single male. As Moorsom (1979:206) points out with regard to Namibia:

each major producing sector of capital ... [was] interested in the local population solely as producers and not as consumers, and even then, not as producers of goods but as sellers or reproducers of labour-power. This simplicity of interest ... [allowed for] a straightforward concentration on maximising profits and output, and an uncomplicated relationship with the colonial state.

Much has been written about the contract migrant labour system in Namibia.¹⁵ These studies highlight the many hardships faced by migrant workers, their formal and informal struggles in the workplace, the forms of control over their labour exercised by employers and the colonial authorities, and the impact of migrancy on class consciousness. In this system of retrogressive migration the demand for labour was decisively shaped by the structure of the colonial economy; while the supply of labour was strongly influenced by the cycles of planting and harvesting, annual rainfall and food security, degrees of dependence on wage labour, levels of cash trading

¹⁴ Sam Nujoma, in a speech to migrant workers in Walvis Bay in 1959, contrasted the "slavery" inherent in apartheid labour policies with a future in which they "will work as free men, each and every one choosing his work according to his desire and needs, without force" (cited in Peltola 1995:103).

¹⁵ See: First (1963); Kane-Berman (1972); Clarence-Smith and Moorsom (1975); Dekker *et al* (1975); Gordon (1977); Moorsom (1977); Winter (1977); Gottschalk (1978); Cronje and Cronje (1979); SWAPO (1981); Voipio (1981); Ndadi (1989); Hishongwa (1992); Peltola (1995); Van Rooyen (1996); Hayes *et al* (1998); and Cooper (1999).

in the sending areas, and established patterns of household resource distribution that consistently favoured older males (Gordon 1978a; Moorsom 1978; Hishongwa 1992; Hayes *et al* 1998). Increasing poverty and stratification in the rural areas generated a new social stratum with few options other than migrant labour: young men without cattle.

The northern territories, in particular, continued to serve primarily as reservoirs of labour for industries in the south.¹⁶ Migrants from Ovamboland were employed on contracts of up to thirty months; while those originating from reserves within the Police Zone were known as 'short-terms' and fulfilled contracts of six to twelve months on average. Migrant workers from the northern bantustans were paid lower wages and were substantially worse off than local black workers from within the Police Zone. The latter were in turn paid less than Coloured workers, who earned considerably less than white employees in terms of both cash wages and non-wage benefits. Female and child labourers and workers recruited among the San consistently received the lowest wages across all economic sectors. At the bottom of the pile were those without work or any means of subsistence. It has been estimated that 13.2% of the black labour force fell into the category 'unemployed/unspecified', while 91 000 were 'employed' in subsistence farming in 1977 (Cronje and Cronje 1979:28). Gender inequalities in the bantustans were also heightened by the intersection of colonial policies and customary rule, and the confinement of labour migration to males with a corresponding lack of mobility by females (Allison and Green 1986; Cleaver and Wallace 1990; Hishongwa 1992; Hayes 1998; Winterfeldt 2002).

The recruitment, allocation, control and repatriation of migrant workers constituted the primary functions of labour regulation during much of the colonial period. The labour recruitment agencies determined, by means of a crude and degrading medical examination, which of three broad grades of physical fitness a recruit belonged to. The strong and healthy were reserved almost exclusively for the mines, while the weak and frail usually ended up working on the farms. A key objective of the migrant labour system was to insulate farmers and small employers from wage competition with the mines and urban enterprises. The wages of migrant workers were unilaterally fixed by SWANLA at a uniformly low level for all economic sectors. This not only ensured that migrant workers earned consistently lower wages than the urbanised black labour force, but also that the labour supply to traditionally lower paying sectors such as agriculture was guaranteed. Crucially, the use of cheap, unorganised migrant labour has enabled

¹⁶ According to Clarence-Smith and Moorsom (1977), pre-colonial contact with industrial capitalism through European traders generated class divisions in the social structure of Ovambo society that rendered it more vulnerable to incorporation into the colonial system through labour migration. This internal differentiation was also crucial in the variety of responses against colonial rule and capitalism.

some sectors of industry to delay investments in more capital-intensive technologies and reduced the pressures to upgrade jobs in the more developed sectors of the economy. The presence of low-paid migrant workers without a collective voice in most sectors of the economy, therefore, served to weaken the working class as a whole.

The attempts by employers to reduce the costs of labour extended to the accommodation offered to migrant workers. Living conditions in the labour compounds were appalling: a concrete slab for a bed, overcrowded rooms crawling with lice and vermin, poor quality food served on shovels, sanitation of the most primitive kind, and regular police raids.¹⁷ Besides a reduction in the costs of labour, closed compounds also served to control desertion and facilitated the monitoring of pass laws. The company state - personified by the compound manager - increasingly tied survival outside work to subordination at work. Migrant workers automatically lost the 'right' to reside in the urban areas, and hence to earn a living, when they were fired.

Migrant workers very seldom entered into employment contracts 'willingly' - several coercive measures had to be established in order to secure this oscillation of labour power. Five types of police force controlled black workers in Namibia: (a) the 'Ovambo Police' of the Bantu Administration Department in the bantustans; (b) a private security force in SWANLA's labour-recruiting depots; (c) the South African Railway Police checked travel passes en route; (d) municipal police enforced pass laws in the townships and company police controlled the urban labour compounds; and (e) the South African Police enforced labour-repressive legislation in their own right and assisted the other police forces in containing worker resistance (Gottschalk 1978:87). The official institutions of labour regulation were underwritten and reinforced by widespread illegal floggings and assaults of workers by supervisors and members of the various police and security forces.

Perhaps the most traumatic consequence of the migrant labour system was the breakdown of the family structure and the social division of labour in the subsistence and pastoral economies. An Ovambo migrant worker typically spent as much as three-quarters of his married life away from his wife and children (Gordon 1977:219; Winter 1977:96). The dramatic changes in traditional values, the role of women, the nature of social institutions and the like brought on by influx control were compounded by the nature of colonial rule. Given their role as suppliers of labour, the bantustans were intentionally designed to be economically unviable rural slums characterised by low levels of infrastructural development and the virtual absence of social services and

¹⁷ See: Gordon (1977); Winter (1977); Rogers (1978); SWAPO (1981); Andersson and Marks (1987); Ndadi (1989); and Hishongwa (1992).

commercial trade. Confining the bulk of the population to these areas led to severe over-grazing and pressures on the land that it could not sustain.¹⁸ Large-scale labour migration, increasing poverty and expanding social differentiation in the bantustans effectively undermined the reproduction of pre-colonial socio-economic relations. Although labour migration was merely one 'survival strategy' that a household (as the central unit of production and reproduction) could adopt, its choice depended on the relative success or failure of other strategies (Siiskonen 1998:220). By the late-1970s, the production of food and shelter by black Namibians - as the basic requirements for the reproduction of a household - amounted at most to four percent of the territory's gross production as compared to an average of 15 to 25% in sub-Saharan Africa (CIIR and BCC 1981:16). The 'subsistence' household was therefore incapable of surviving on its own production alone.¹⁹ Increasingly, the only source of money entering the local economy was the earnings of migrant workers. Moorsom (1977:55) and McKittrick (1998:250-1) convincingly argue that the critical point at which the balance of objective class interests passed from peasant to proletarian status came in the 1950s when the migrant's family was absolutely dependent on his wages for daily living costs such as food.

A complex web of statutory regulations that permeated almost every aspect of the working and domestic lives of black people in Namibia was introduced in this period to consolidate an apartheid-based labour market. The *Natives (Urban Areas) Proclamation* of 1951 provided for, among others, the establishment and administration of locations in proclaimed urban areas for exclusive occupation by authorised black inhabitants; restrictions on the rights of black people to enter the urban areas; the registration of all contracts of service entered into with black male employees by employers; the prohibition of unauthorised black females entering a proclaimed area; and the removal of redundant, "idle, dissolute or disorderly" black persons from the urban areas (Van Rooyen 1996:152-3). Regulations issued in terms of section 32 of the Proclamation included the imposition of forced labour, dismissal or imprisonment of employees who were found guilty of a refusal to obey an employer's instruction or being disrespectful to an employer; being negligent in the performance of their duties; being absent from work or failing to report for work on time; being absent from work with the intent to abscond or entering the service of another employer.

¹⁸ For example: in 1952 it was noted that every family at Otjimbingwe only had access to two percent of the land recommended for an economic farming unit in that part of the Karibib District by the *Minimum Size of Farms Commission* of 1946 (Fuller 1998:202).

¹⁹ Urban black households were scarcely better off. An austere Poverty Datum Line for Windhoek estimated a minimum of R50.82 as necessary in 1967 for a family of five to live on per month. A survey in the same year revealed that only 13% of the city's black workers earned more than R50 a month, only 5% earned over R60, while 80% earned between R20-49, 63% under R40 and 7% under R20 (SWAPO 1981:74).

This network of statutory regulations allowed for the maximum utilisation of black labour without conceding any effective means of social and political mediation. A letter signed by a group of Ovambo contract workers in the early-1970s clearly reveals that, for migrant workers, “there are no means of self-protection” (cited in Cronje and Cronje 1979:33). The lack of control by migrant workers over the disposition and deployment of their labour not only deprived them of bargaining power, but also effectively undermined the acquisition of cumulative skills and experience, regular wage increases, pensions and other non-wage benefits. As Gottschalk (1978:88) points out:

[s]tatutory indenture placed African workers under an industrial discipline akin to martial law ... Namibian migrant workers were not hired, but ‘recruited’ at a ‘depot’. As ‘recruits’ they did not choose their employer, but a ‘master’ sent a ‘requisition order’ for ‘recruits’ to be ‘drafted’ to him.

As the struggle for national liberation gathered momentum, a range of draconian security laws passed by the South African government after 1948 were extended to Namibia.²⁰ In the eyes of the South African government, industrial action by black workers was an integral part of resistance to its policies and had to be suppressed along with SWAPO’s other activities. The banning of persons and publications; the harassment, detention and torture of political activists; the prohibition on public meetings; and the general suppression of oppositional activity authorised by these laws had deleterious consequences for the normal activities associated with trade unionism (Simons 1967; Gottschalk 1978; IDAFSA 1980; König 1983). Provisions in the *Regulations for the Administration of the District of Ovamboland* of 1972, for example, declared any unauthorised meeting of more than five people unlawful, and stipulated that any individual who made a statement or committed any act that could be deemed ‘subversive’, or who took part in any boycott with the objective of causing another individual loss or disadvantage, was guilty of an offence. Likewise, the *Terrorism Act* of 1967 defined ‘terrorism’ in such broad terms as to include ‘prejudicing any industry or undertaking’ or ‘causing financial loss to any person or the state’. Under the *General Law (Amendment) Act* of 1962, the definition of ‘sabotage’ included actions calculated to disrupt power supplies, communications, the distribution of food, and other public services.²¹

The *Wage and Industrial Conciliation Ordinance* of 1952 constituted the statutory framework of collective labour regulation in Namibia until the promulgation of the post-independence *Labour Act* in 1992. The Ordinance provided for a system of wage determination through the

²⁰ These laws included the *Internal Security Act* of 1950, the *Suppression of Communism Act* of 1951, the *Public Safety Act* of 1953, the *Riotous Assemblies Act* of 1956, and the *Terrorism Act* of 1967.

²¹ Both ‘sabotage’ and ‘terrorism’ as defined in these laws carried a maximum penalty of a death sentence.

investigative mechanism of a Wage Board; the registration and regulation of trade unions and employers' associations; and the prevention and settlement of industrial disputes through Conciliation Boards (IDAFSA 1980:30; Van Rooyen 1996:154-6). Until 1978, farm and domestic workers, the bulk of public sector employees, and all black workers were excluded from key provisions such as the right to register a trade union, access dispute resolution mechanisms, and engage in a lawful strike. Where the law did not explicitly discriminate against black workers, administrative action readily achieved the same effect. While trade unions organised by and for African workers were not unlawful, they were assigned to "an institutional vacuum" (Dekker *et al* 1975:211). Since wages were supposedly set in terms of investigations by the Wage Board and black workers were reliant on the police as arbiters in disputes with their employers, the capacity of workers and their unions to jointly regulate terms and conditions of employment was effectively eliminated. This meant that the employment relationship of black workers continued to be governed primarily by common law, leaving considerable scope for unilateral managerial regulation and encouraging various forms of informal or hidden resistance.

A lack of statutory protection - compounded by other racially discriminatory measures, low levels of formal education and training, the workplace practices of white employers, and the exclusionary tactics by white trade unions - confined black workers to the most menial and unskilled jobs. The black labour force showed remarkably little differentiation in terms of wages, skills and status. Employers also tended to treat their black employees as a largely uniform and undifferentiated grouping. The control of employers over migrant workers was further enhanced by the use of numerous subcontracting companies, especially on the mines (Rogers 1978:140). Renewed efforts at forming trade unions during the 1950s were quickly suppressed by the police and generally did little to improve conditions of employment for migrant workers (First 1963:197). Moreover, workers' struggles were effectively subordinated to the struggle for national liberation as SWAPO sought a political solution to problems in the workplace. Enduring trade unions for black workers would not emerge until the mid-1980s.

The occupational structure of most enterprises in Namibia reflected a systematic racial discrimination: a majority of unskilled, largely manual, jobs filled almost exclusively by black workers, and a predominantly white administrative, technical, supervisory and managerial hierarchy. By the late-1970s, whites held over 90% of senior supervisory, professional and technical jobs while 85% of black workers were employed as 'general labourers' (SWAPO 1981:66). From the 1960s onwards, a rudimentary system of centralised labour inspection and administration was developed primarily to regulate the employment conditions of white workers. The latter were the only beneficiaries of advances made in collective representation, the

conciliation of industrial disputes, social security, health and safety in the workplace, and occupational training. For example, compensation for injuries sustained by black workers was either non-existent or substantially lower than that received by white workers (Andersson and Marks 1987:277). The small white workforce (Table 2.1) enjoyed the benefits of extensive job security, comparatively high wages, trade union representation, labour market mobility, and institutionalised collective bargaining. Until 1972, the system of contract migrant labour bound black workers to jobs with wages worth about five per cent of white wages (Leys and Saul 1995b:10). The manufacturing sector was to remain relatively weak and without a decisive role in the structuring of labour supplies up to the 1970s. The labour market conditions necessary to satisfy its labour needs - a settled, semi-skilled urban proletariat - were strenuously resisted by the authorities and conflicted with the powerful interests of mining capital whose prime concern was the preservation of the migrant labour system. The latter, as we noted above, presupposes the denial of urban residence and acquired skills.

Table 2.1 Employment Structure by Economic Sector: 1977

SECTOR	WHITE Number (%)	BLACK Number (%)	TOTAL Number (%)
White-owned Agriculture	6 500 (17.8)	50 000 (20.7)	56 500 (20.3)
Fishing	500 (1.4)	7 000 (2.9)	7 500 (2.7)
Mining & Quarrying	3 500 (9.6)	19 000 (7.9)	22 500 (8.1)
Manufacturing, Electricity & Water	2 750 (7.5)	10 250 (4.2)	13 000 (4.7)
Construction	1 750 (4.8)	13 250 (5.5)	15 000 (5.4)
Transport & Communication	1 000 (2.7)	11 500 (4.8)	12 500 (4.5)
Commerce & Finance	5 000 (13.7)	20 000 (8.3)	25 000 (9.0)
Government & Other	15 500 (42.5)	18 000 (7.5)	33 500 (12.1)
Domestic Service	-----	75 000 (31.1)	75 000 (27.0)
Unemployed	-----	17 500 (7.2)	17 500 (6.3)
TOTAL	36 500	241 500	278 000

(Source: Cronje and Cronje 1979:23).

Working conditions were uniformly harsh and often dangerous, subject to crude forms of managerial control ranging from “the regimented discipline of the big mines to the arbitrary violence of many small employers in the towns and on the ranches” (SWAPO 1981:78). Many employers were a law unto themselves and workers faced automatic reprisals if they aspired to any meaningful levels of collective influence on their conditions of employment. The power of

employers rested on victimisation, harassment, fear of job loss and repatriation, discriminatory laws, and an extensive system of state repression.²² An overriding emphasis on cost-cutting meant that the provision of safety equipment, training and the like was regarded as an unwarranted expense.²³ This almost unmediated search for higher profits was reflected in a system of labour regulation in which the productivity of labour was made directly dependent on the coercive powers of the supervisor. As Gordon's (1982:138) research shows, white supervisors regarded black workers as "indolent, irresponsible, primitive, impulsive and dirty, [lacking] honesty, drive and ambition" and acted accordingly.

In order to get the work done, however, both supervisors and workers had to subvert the system to some extent. An informal system of labour regulation with its own rules, punishments, privileges, and rewards constituted the dominant social characteristic of the workplace (Gordon 1982:139). It is this informal system that determined how workers were treated on a day-to-day basis and that shaped the manner in which workers conducted a struggle over the organisation of work. This 'unofficial' system of rights and responsibilities in the workplace was, however, highly dependent on managerial acquiescence and strictly subservient to the demands of profit maximisation. As Hyman (1989:85) argues, "if such 'social regulation' erodes the control of management over the labour process it can be characterised not as workers' control but as anarchy and disorder", thereby providing a basis for the reassertion of managerial prerogatives.

Colonial despotism presupposed a ready supply of cheap black labour and mechanisms of managerial control capable of enforcing coercive production relations. The compound system, as the distinctive institution of labour regulation under colonialism, facilitated "almost totalitarian surveillance" of the workforce (Burawoy 1985:228). However, as Beinart (1987:186) notes, migrants were not atomised labour units but remained "locked into constantly reshaped groups born out of specific interactions between their life in the rural areas and at labour centres". A classic example of oral history graphically shows that, while contract labourers experienced considerable oppression and exploitation in the workplace, they also fought back against this system (Ndadi 1989). Pilfering, deliberate damage to employers' property, acting excessively 'stupid', desertion, and go-slows continued to be the most common responses to colonial

²² It is misleading, however, to talk of management having "*total* control over the labour force" (SWAPO 1981:85, emphasis added). A labour process can rarely, if ever, be designed to entirely eliminate the need for initiative and cooperation from workers.

²³ Following the belated introduction of legislation aimed at minimising work-related injuries and diseases during the 1980s, the state increasingly called for the financial burden for occupational health and safety to be carried by "the very employers who have shown such scant regard for workers' health in the past" (Andersson and Marks 1987:292).

despotism in the workplace.²⁴ The very institutionalisation of labour controls, according to Moorsom (1977:76), “induced the verbal transmission of common tactics and accepted standards of reciprocity”. Examples of this emergent solidarity include the refusal by contract workers to work in certain districts (Gottschalk 1978:89) and the regular exchange of information on labour market conditions such as wages, working conditions, and the attitudes of employers (Moorsom 1978:109-10; Gebhardt 1978:156-7; Gordon 1978b:121; Peltola 1995:76-7). The despotic nature of labour regulation was therefore decisive in eliminating forms of struggle between informal resistance and an attack on the colonial regime itself. The high costs of striking or open defiance compelled black workers to avoid organised, collective forms of struggle and to protect the identity of their leaders. In addition to being vulnerable to suppression and isolation, collective resistance in the workplace had rarely secured any meaningful victories.

The maintenance of the migrant labour system depended, therefore, on the suppression of the ability of migrants to influence the institutions that subordinate them to capital and other sectors of the working class. On the political level, it is more difficult for migrants to establish and sustain trade union structures. They are, by definition, a highly substitutable labour force. In contrast, the black workers who resided in the urban townships constituted a far more solid material basis for continuous and effective trade union control over conditions of employment. Moreover, the mediating role of labour-supplying institutions on the employment relationship provided an institutional support for the despotic forms of control exercised over migrant workers in the workplace. Labour migration should thus be analysed

in terms of specific (economic) sites of incorporation of migrant labour and specific (political) modes of control over incorporation ... [That is, in terms of] its attractiveness, at certain points in the history of capitalist development, to particular sectors of economic activity under particular conditions of political control (Gibson and Graham 1986:134).

Although black workers were explicitly prohibited from engaging in industrial action under threat of severe penalties, strikes and other forms of labour protest did occur sporadically throughout this period (Gordon 1975). In this regard, the compound system proved to be both a source of solidarity and collective consciousness for migrant workers and a basis for enhanced control and surveillance by employers. While it was susceptible to the monitoring and divisive practices by the authorities, a compound is a “breeding ground for strikes and all kinds of protests ... [through which] tribal identities were relatively easily overcome” (Peltola 1995:76-7). Gottschalk’s

²⁴ For example: a memorandum submitted to the Executive Committee of South West Africa in 1964 revealed that 4 817 workers absconded between 1961 and 1963, and cited bad food, poor accommodation, regular assaults by employers, and arbitrary job placements as the main reasons for this form of resistance (Van Rooyen 1996:175).

(1978:90-1) study of archival material reveals 24 overt public strikes from 1916 to 1972, 11 of which occurred between 1952 and 1968. This low level of organised and collective industrial action reflects “the totalitarian character of repression ... [that] compelled the workers to concentrate on informal acts of resistance and protest, often as the only possibility left for counteraction” (Melber 1983:154). Other factors that may have contributed to the low levels of strike activity include the relatively small size of the formal economy; the dispersed nature of employment and the corresponding lack of large concentrations of workers; the high labour turnover and precarious nature of employment associated with the contract labour system. As Cronje and Cronje (1979:78) point out, however, employers had no desire to publicise poor industrial relations and the colonial authorities were anxious to avoid international attention being focussed on the disputed territory. Hence, official and other records may significantly under-report the actual incidence of industrial action.

A resurgence of confidence and militancy found expression in the first national strike in Namibia - involving 15 000 to 20 000 workers - that paralysed key sectors of the economy from December 1971 to January 1972.²⁵ It took employers and the state completely by surprise. The main reasons for this unprecedented industrial action revolved primarily around the contract labour system as administered by SWANLA.²⁶ The widespread support and successful organisation of the strike, given the absence of trade unions, suggests an appeal to grievances shared by the black population as a whole. The call, *odalate naiteke* (break the wire), reverberated throughout the territory. Striking workers demanded a ‘free’ labour market - in effect, demanding the abolition of a central pillar of apartheid-colonial domination (Kooy 1971; Kane-Berman 1972; Gottschalk 1978; Moorsom 1979; Hishongwa 1992). The manifestly political objectives of the strike reflected the fact that workers regarded their employment conditions as a form of ‘slavery’ in which they were literally bought and sold (Dekker *et al* 1975:229; Kane-Berman 1972:24; Cronje and Cronje 1979:80). Given the reinforcing nature of economic and political grievances, workplace struggles were inextricably intertwined with those of national liberation and freedom from racial oppression.

As the largest and longest strike in Namibia’s history, the mass action of 1971-72 played a profound role in eroding the credibility of South Africa’s newly created tribal authorities; heightening the political consciousness and collective confidence of workers; and undermining

²⁵ More than 13 000 of those who actively participated in the strike were migrant workers.

²⁶ The number of SWANLA recruits increased from 13 424 in 1946 to 22 752 in 1955, and by 1971 this figure had reached approximately 40 000 (Van Rooyen 1996:174).

the stability of the apartheid-based mode of labour regulation. The strike was coordinated through a strike committee whose members were elected on a regional basis, thereby incorporating clear democratic governing principles into the structure of the nascent labour movement.²⁷ This widespread resistance to the migrant labour system provided the spark that re-ignited the struggle for national liberation as it broadened into a generalised opposition to South Africa's occupation of Namibia. SWAPO's national organisation and branch structures proved to be pivotal in the scale and efficacy of the general strike (Moorsom 1978:129). The links it established between economic and political issues strengthened the bonds between worker action and political action. To be sure, SWAPO was closely linked to the aspirations and grievances of migrant workers and had its historical roots "deep in the contract labour system which forms the economic core of apartheid in Namibia" (Cronje and Cronje 1979:102). Although migrant workers constituted the most oppressed part of the labour force, they proved to be the backbone of both the liberation movement and militant trade unionism (Kane-Berman 1972; Moorsom 1977; Cullinan 1982; Herbstein and Evenson 1989). Moorsom (1979:210) shows that migrant workers developed a perception of the need for collective action and political struggle that went beyond the occupational consciousness entailed by Gordon's notion of 'brotherhood'.²⁸

The response by the colonial authorities and white employers to the mass strike was as extreme as it was predictable. Negotiation with strike leaders was never an option. The strike was publicly denounced as the work of 'agitators' and 'intimidators', striking workers were dismissed, food rations were withheld from workers living in labour compounds, many of their leaders were detained, and the threat of heavy fines and prison sentences hung like a sword over the necks of all those participating in the strike. Many of the striking workers demanded to be repatriated to Ovamboland in a bid to demonstrate their rejection of the 'slavery' implicit in the migrant labour system (Von Kotze 1974:45; Dekker *et al* 1975:228; Cronje and Cronje 1979:82; Minter 1986:243). The strike committee had agreed that prior to any negotiations with the authorities, "the men should go back to the land to raise as big a crop as possible to make Ovambo independent of contract labour" (cited in Kane-Berman 1972:32). This strategy by the strikers was designed to "exploit tactically the duality of their class position" (Moorsom 1977:84). Ironically, this suited the authorities since it ensured the dispersal and removal of striking

²⁷ There has been some debate on whether the strike was organised or spontaneous, and whether the organisers of the strike operated independently of SWAPO and without a formal organisational structure (compare Moorsom 1977:82; SWAPO 1981:192; Wood 1987b:92; Peltola 1995:110-4; and Bauer 1997:62).

²⁸ It should be noted, however, that not all migrant workers supported the mass strike. Production workers at Consolidated Diamond Mines decided not to engage in an indefinite strike, fearing that it would jeopardise their high wages, good compound conditions, virtually permanent employment, and the conciliatory attitude of management (Moorsom 1977:83).

workers from the 'white' industrial and residential areas.

As the struggle broadened and spilled over into Ovamboland, the colonial regime unleashed a reign of terror: a state of emergency was declared that banned all public gatherings, concentration camps were erected to hold detainees, and people who gathered in groups were shot at and killed. Ultimately, the workers could not escape a major contradiction in their strategy: "although access to peasant resources considerably expanded their power to prolong resistance, they could no longer, as a matter of inescapable necessity, opt out of wage-labour indefinitely" (Moorsom 1977:86). The limits to mass collective action by black workers under apartheid-colonialism were starkly revealed by the subsequent consolidation of job discrimination and influx control. The mass strike did, however, signal to the colonial authority and employers that the prevailing system of labour regulation was no longer capable of containing the aspirations and militancy of black workers.

Under the combination of worker demands for employment reforms and pressure from prominent element in the business sector to have the flow of labour 'normalised', the colonial authority finally relented and agreed to dissolve SWANLA and to ameliorate the harsher aspects of the migrant labour system.²⁹ However, the proclamations of 1972 and 1973 that established tribal labour bureaux and repealed statutes such as the *Master and Servant Proclamation* of 1920, clearly highlighted the narrow parameters of the state's 'reform' process. The stipulations for the functioning of the labour bureaux were symptomatic of an unwillingness by the colonial power to depart, in any meaningful sense, from its underlying oppressive and segregationist objectives (Kane-Berman 1972:3; Cronje and Cronje 1979:38-41; Van Rooyen 1996:159-63). A vast system of labour bureaux recruited, classified and enforced the temporary employment contracts of migrant workers. These workers were rigidly classified in terms of specified categories of employment.³⁰ Such classification was not easily changed and therefore allowed the bureaux to structure the secondary labour markets according to the specific types of labour needed by the different economic sectors. As a result, annual indenture to an individual employer was replaced by lifetime indenture to a particular occupation.

²⁹ A report by the Director of Bantu Labour in 1961 observed that SWANLA had become ensconced "as a powerful, virtually autonomous body in an economically sensitive, strategic sphere" (cited in Van Rooyen 1996:174). The recruiting organisation's position was further bolstered by the fact that it operated, at a considerable profit, an extensive trading network and retail monopoly in the communal areas (Moorsom 1977:65).

³⁰ After 1972, all migrants seeking employment were confined to one of the following economic sectors: agriculture, mining, manufacturing, construction, trading, central and local government, domestic service, and other (Gottschalk 1978:96).

Although they were no longer obliged to carry passes, black workers still required permission to enter the urban areas and Native Commissioners were empowered to set aside employment contracts and have any worker removed from a proclaimed area if found guilty of misconduct, unsatisfactory service, a refusal to obey instructions, or any other action regarded as “detrimental to the employer’s interests” (cited in Van Rooyen 1996:160). The abolition in 1975 of penal sanctions for breaches of contract and other oppressive clauses in the Master and Servant laws were effectively nullified by provisions in other laws that contained similar measures. For example, administrative controls of ‘deserters’ were made much more rigorous and imposed fines on the relevant tribal authority. The attitudes of most white employers towards their black employees also remained largely unchanged and the new identity documents could potentially serve as another form of pass book. Furthermore, qualifying thresholds in social security legislation - demanding ‘continuous’ employment with one employer - effectively excluded most migrant workers from pensions and other welfare provisions. Findings by a committee of the Turnhalle Constitutional Conference in 1975 showed that only 11.6% of the labour force was eligible for pension schemes (IDAFSA 1980:21). Finally, emergency proclamations applicable to the northern areas of Namibia, covering more than half of the population, continued to render these no-go areas for anyone without an official permit. In the words of Gottschalk (1978:94):

while there was much cosmetic tinkering (‘masters’ and ‘servants’ became ‘employers’ and ‘employees’, ‘compounds’ were renamed ‘hostels’, ‘deserters’ were mitigated into merely ‘absconders’, and the ‘Ovambo native tribes’ and ‘Okovango native tribes’ were constitutionally transmigrated into the ‘Ovambo’ and ‘Kavango Bantu nations’) migrant workers were not permitted to settle permanently at their places of employment, could still not be accompanied by their wives and families, and still had to live in ‘men-only’ compounds ... In short, there was no abolition of the migrant labour system, merely an updating of it and a ‘new name for wire’.

Police raids, control gates in the compounds, the black-listing of ‘agitators’ and ‘deserters’, and other racially-based measures proved to be an effective means of perpetuating the contract labour system and confining ‘trouble-makers’ to the bantustans (Gordon 1977:20). A white personnel officer noted that a ‘black-list’ was one of the more effective informal rules at the disposal of Labour Officers - ‘listed’ people “simply find that there is no work available for them” (cited in SWAPO 1981:85). It is also virtually impossible for a worker to appeal against his listing since the Labour Officer would deny the existence of a black-list. Hence, the ‘reform’ process simply reconfigured the controls established over the incorporation, allocation, control and reproduction of the black labour force, leaving pre-1972 apartheid labour market policies fundamentally intact.

The reaction of employers to the potential threat of a relaxation in labour regulations in the wake of the general strike was to form associations aimed at minimising the competition for labour and establishing some uniformity in wage rates. White farmers, in particular, expressed deep concern

at the prospect of competing with the mines and industry for labour. The Divisional Inspector of Labour played an active part in encouraging employers to form associations, to eliminate wage competition, and to oppose a basic recruiting wage on the grounds that “the Ovambos would see the extra one or two cents as a sign of weakness and agitate for more” (cited in Kane-Berman 1972:10). The rigid segmentation of the labour market by the labour bureaux was aimed at restricting *inter*-sectoral wage competition for migrant workers; whereas the formation of oligopsonistic wage-fixing cartels by employers in each economic sector was geared towards limiting *intra*-sectoral wage competition. Although these interventions played a significant role in structuring the nature and levels of competition for migrant labour, they did not succeed in eliminating the often substantial variation in wage levels between industries and occupations.

Although the wages of black workers increased (often significantly) after the mass strike, some black workers still received a cash wage of only R4.50 per month; while skilled and semi-skilled Coloured workers, who were less restricted in their choice of occupation, earned upwards of R150 per month (Gottschalk 1978:93; Cronje and Cronje 1979:44; Minter 1986:243; Peltola 1995:269). In 1977, whites were earning on average R3 000 per annum, while the average annual wage for black Namibians was R125 (CIIR and BCC 1981:31). Despite the wages of black mine workers moving ahead of those in other sectors, they still only amounted to half of the average white miner’s salary. The appallingly low cash wages of most black workers were often justified by the provision of food, accommodation and other ‘fringe benefits’ by employers. Workers had no say in the range of deductions made from their wages, and the payments in kind that were received in lieu of cash were generally of poor quality.³¹ Wage levels also continued to vary significantly between and within the different economic sectors. In the 1976, unskilled and semi-skilled workers earned between R70-100 per month on the mines and fishing vessels; R40-60 in state employment, factories and urban commerce; R30-40 in catering and hospitality; and R10-20 in agriculture and domestic service (SWAPO 1981:76-7).

After the mass strike, some employers’ organisations issued a public acknowledgement that racial discrimination in the workplace must be eliminated, conflict between management and labour must be minimised, and black workers should be allowed to legally join trade unions (Bauer 1997:66-7). From the late-1970s onwards a number of larger employers, mostly international companies in the mining and industrial sectors, noted that the contract labour system did not actually suit their operational needs. As MacFarlane notes, a highly sophisticated, capital-intensive production process such as that found at Rössing Uranium, “did not lend itself

³¹ The abolition of this paternalistic system of ‘fringe benefits’ was one of the demands made by migrant workers during the mass strike.

to operation by an unskilled, semi-proletarianised and transient workforce” (cited in Bauer 1997:66). A fully proletarianised, settled and trained workforce was required. A general advance in technology during this period meant that more and more jobs demanded skills, experience, and the initiative that comes with more hegemonic forms of labour regulation. After 1972, an increasing number of farmers also displayed a dislike for migrant workers: they apparently lacked efficiency, come on contract for short periods only, were ‘disloyal’ and had a tendency to ‘desert’ without giving notice (Gebhardt 1978:151).

Not all employers in Namibia shared these sentiments and there were widespread calls for the reintroduction of the criminal sanctions attached to a breach of contract in the master and servant laws. Some employers also introduced ‘works’ or ‘liaison’ committees - modelled on those found in South Africa - as a means of circumventing the demands for trade union representation. These committees were a poor substitute for independent trade union action and lacked credibility among black workers. Since they were organised along ethnic lines and could only make ‘recommendations’ to employers, the committees were generally regarded as subservient and effectively powerless to influence managerial decisions. Due to the absence of formal collective representation in the workplace, workers often turned to community-based organisations and churches with problems relating to wages, accommodation, and the like.

Strike activity showed a marked rise during the early-1970s, with 36 strikes occurring in the critical period of 1970 to 1972. The strikes were concentrated in the mining, construction, fishing and manufacturing industries. The main causes of industrial action from 1969 to 1977 revolved around wages (about 50%), with more than 70% of the participants being contract migrant workers (Van Rooyen 1996:174). Given the regular recourse to summary ‘repatriation’ and the arrest of striking workers, these figures clearly highlight the deep-seated resentment of the oppressive and exploitative conditions in the workplace by the migrants. Reflecting the size of firms and the economy, 58.3% of strikes involved less than 100 workers, with only four strikes involving more than 500 employees (Van Rooyen 1996:174). The national strike of 1971-72 was therefore exceptional in terms of both its scale and scope.

2.3.3 Reform and Repression in the Transition to Independence: 1977 - 1989

The third period of South African rule commenced with the accession to office of Justice M.T. Steyn as Administrator-General of Namibia and concluded with the elections for a constituent assembly under United Nations supervision. This period witnessed the gradual loosening of Namibia’s political ties with South Africa by successive semi-autonomous administrations, and

the preparation for the passage to political sovereignty and national independence. In other words, the policy of incorporation was superseded by a policy of creating a dependent Namibian economy under neo-colonial rule. Statutory reforms were aimed at unravelling and partially amending - through a process of "controlled change" (Du Pisani 1982) - the plethora of discriminatory laws promulgated in the preceding decades. Although the bulk of these legislative changes did not target the labour market specifically, they nevertheless had a notable impact on the lives of many black workers. The abolition of some explicitly discriminatory policies and the introduction of limited political reforms were, however, accompanied by an intensification of repressive measures to counteract the challenges posed to South African hegemony by the escalating war of liberation. In Namibia during the 1980s, as in South Africa, the state pursued a policy framework with a contradictory combination of reform and repression. This was the product of both popular resistance and struggles for dominance within the power bloc (Leys and Saul 1995a).

This period of South African rule saw some significant changes on the macro level of labour regulation when compared to the previous periods. The processes of deracialisation became particularly pronounced from 1985 onwards when it became increasingly evident that Namibia's independence from South Africa was imminent. This found expression in the increasingly reformist policies of the interim Transitional Government of National Unity and the resurgent activism of the SWAPO-aligned trade union movement, the National Union of Namibian Workers (NUNW). On the micro level, by contrast, changes were less forthcoming. In general, employers retained their conservative, paternalistic orientation towards their employees and clung stubbornly to established workplace structures and practices (Van Rooyen 1996:194). In 1986, Ben Ulenga (then secretary general of the Mineworkers' Union of Namibia) described the "social and economic misery" of Namibian workers: starvation wages; 18-hour working day (in a Windhoek brickyard); lack of transport; brutal treatment; bad food and housing; if it was granted at all, leave was unpaid; workers were dismissed without notice or reason; and pregnant women were compelled to work until confinement and then dismissed (cited in ILO 1989:83).

The growing importance attached to 'normalised' industrial relations in official policy and legislation, as well as the rapidly changing socio-economic and political environment, encouraged some of the larger (mostly foreign-owned) enterprises to reassess and transform their employment practices. Coupled with the need for a more skilled and stable workforce, big business in Namibia desperately sought to secure more orderly and predictable behaviour from its employees. Moorsom (1980) highlights the tensions that arose between the multi-national corporations, which attempted to secure their long-term interests by accommodating to a post-

colonial regime, and the farmers and local business sector who would not concede or could not afford even minimal concessions. The statement issued by the Namibian Chamber of Commerce and Industry (NCCI) in 1989, in which it belatedly committed itself to fair and just employment practices, did not carry widespread support among employers. Moreover, as we shall see in the chapters below, even those employers that supported a more hegemonic form of labour regulation were eager to confine it to as small a group of employees as possible.

The *General Law Amendment Proclamation* of 1977, the *Wage and Industrial Conciliation Amendment Proclamation* of 1978, the *National Labour Council Act* of 1986, and the *Conditions of Employment Act* of 1986 seemed to herald a significant departure from previous patterns of labour regulation. Key components in this policy shift, reflecting similar trends in South Africa, were the introduction of certain fundamental human rights into the industrial relations system, the elimination of overtly discriminatory provisions in employment laws, and the establishment of a tripartite consultative forum on labour-related matters. More specifically, these legislative changes removed some restrictions on the spatial mobility of black labour; curtailed some of the more extensive powers of officials in the labour bureaux with regard to the placement of migrant workers; allowed black workers to form and join trade unions and to avail themselves of the statutory dispute-resolution mechanisms; and established minimum statutory conditions of employment with regard to matters such as working hours, annual and sick leave, meal intervals, and the termination of employment. While these statutory provisions clearly signalled a shift in the substance and direction of labour regulation, they were often superficial in nature and their impact was severely constrained by other legislative and institutional factors. Entrenched apartheid policies and an inadequate institutional framework, according to a report by the ILO (1989:77), "considerably weakened the impact of this legislation".

Some of the factors that combined to dilute or subvert the impact of these statutory provisions include the following. First, the *Conditions of Employment Act* only regulated individual employment relations and many employers blatantly circumvented its provisions. In many respects, these provisions merely reflected established practice in some of the larger firms (Bauer 1997:72). Second, the continued dominance of common law principles in the interpretation and application of employment contracts reinforced the individualistic and authoritarian employment relationship rooted in the master and servant imagery of earlier forms of labour regulation. Third, existing restrictions on the rights of employees in the agricultural, domestic service and public sectors to participate in the statutory industrial relations system remained unaltered. Fourth, trade unions and employers' organisations were still prohibited from affiliating to, and granting or receiving any financial assistance from, a political party. Fifth, racial discrimination in the access

to skilled, high-wage occupations continued largely unchecked. The sheer scale of racial differentiation in the labour market is perhaps most clearly revealed by the fact that more than 90% of the unemployed were black (Thomas 1983b:50-1). Paid employment covered less than half of the black labour force.

Sixth, the limited financial and human resources at the disposal of the Directorate of Manpower in Windhoek meant that the administration of the country's employment statutes remained woefully inadequate. Labour inspections, for example, were sporadic, limited to certain regions and sectors of the economy, and hence largely ineffective. Finally, the tripartite National Labour Council, established in an attempt to institutionalise labour regulation at a macro level, excluded the majority unions affiliated to the NUNW and suffered from a serious lack of resources and expertise. As a result, it languished at the margins of policy formulation, devoid of any meaningful credibility.

Of particular significance in constraining the pace and scope of the reform process, were the numerous statutory provisions designed to suppress the forces of national liberation and to prevent the politicisation of black trade unions. These draconian security measures, like those of the preceding period, placed severe restrictions on the freedom of movement and assembly; granted extraordinary powers of interrogation, search and detention to the security forces; and seriously undermined the credibility and efficacy of reform initiatives undertaken in other areas. The SADF was a dominant part of the machinery of repression, terrorising the general population and actively enforcing the exploitative economic structures and discriminatory racial policies (König 1983; Cawthra 1986; Herbstein and Evenson 1989; Weaver 1989). The foreign corporations that operated illegally in Namibia played an important role in the 'militarisation' of its economy through payments to state revenues, by accepting contracts for military infrastructure, and by arming and training their staff (Wood 1984).

With the abolition of influx control, the enhanced geographical mobility of work-seekers led to rapidly rising levels of unemployment, poverty and informal housing in the urban areas. Since the pass laws had kept unemployment and poverty 'hidden' in the bantustans, freedom of mobility and the subsequent rise in the rate of urbanisation converted a regional problem into a national problem. To compound matters, higher wages (especially in mining and manufacturing) led to more capital-intensive production at a time when no sector of the economy was able to absorb surplus labour (see chapter 4). By 1978, the municipal authorities were counting the costs of rapidly rising levels of unemployment, deteriorating economic conditions, a steady decline in business confidence, and large-scale retrenchments. The latter was in part a product of attempts

by employers to reduce their wage bill by replacing permanent township residents with migrant workers who were 'willing' to work for much lower wages. The drastic increase in female migration to the urban areas provided employers with a further source of cheap and disposable labour (Winterfeldt 2002). A circular sent to local employers by the Swakopmund Municipality in 1978 exhorted them to register all their workers, including casual labourers, to report all vacancies, and at all costs to reduce the temptation to "cut costs by sacking workers and employing others at lower rates" (cited in Cronje and Cronje 1979:97). For many individual capitalists, however, the advantages of such cheap labour policies consistently outweighed their disadvantages.

The colonial character of the economy meant that the bulk of production was for export. This, in turn, meant that businesses did not rely on the local market and it therefore did not matter if most Namibians could not afford to buy their products. A report by the United Nations Institute for Namibia in 1977 describes Namibia as a "classic case of an economy which, in respect of goods, produces what it does not consume, and consumes what it does not produce" (cited in Herbstein and Evenson 1989:132). So, for example, Namibia's entire supply of canned meat was imported because its own production was exported; and it re-imported from South Africa the very same canned pilchards which its factories produced for export. Moorsom estimates that 90% of foreign company profits were expatriated in 1980 and describes how the distribution of national income exposed the "devastating impact of foreign exploitation most clearly". According to Moorsom, if business taxation is added to net profits, about 70% of gross domestic profit is swallowed up by gross profits - 40% by companies, 20% by taxation, 9% by small business. Another 18% goes to the wages of white employees, "whose functions are mainly to administer, supervise and control the black workers who actually produce the goods". This, he calculated, left a mere R145 million, or 12% of Gross Domestic Product (GDP), to the bulk of Namibia's population. About two thirds of this was wages, a tenth the cash earnings of small traders and transporters, and the remaining R25 million accrued to subsistence production in the bantustans (cited in Herbstein and Evenson 1989:133).

Long-term trends in Namibia's economic growth and development can be seen in Table 2.2. GDP increased at an impressive rate, rising from R140.9 million in 1960 to R321.3 million in 1970 and R1.327 billion in 1980. The disaggregation of Namibia's GDP by sector, however, clearly reveals its relatively unbalanced economic structure, with mining accounting for almost half of the total. From the late-1970s onwards, the nominal increase in GDP was less than the rate of inflation, indicating a negative GDP growth rate. The processing of raw materials, one of the few options available for the development of manufacturing, has made few significant gains due to

a lack of skilled labour and a dependence on South African manufactured imports (see chapter 4). The secondary industrial sector is not significant in terms of contribution to GDP, but employed about 16% of the workforce in the early-1980s (Jowell 1983:96). This sector is also vital to the long-term development and autonomy of the Namibian economy. In a comprehensive study, Thomas (1978, 1983b) disputes the claim of apartheid authorities that the Namibian economy was not viable as an independent entity and had little developmental potential. However, he (1983a) sounds a warning that Namibia is not the resource-rich and promising economy widely portrayed in the 1970s.

Table 2.2 Gross Domestic Product: 1960-1980

SECTOR	1960 R1m (%)	1970 R1m (%)	1980 R1m (%)
Agriculture, Forestry & Fishing	20.5 (14.6)	49.7 (15.5)	128.1 (9.6)
Mining	47.6 (33.8)	105.1 (32.6)	632.7 (47.7)
Manufacturing	12.7 (9.0)	16.7 (5.2)	56.6 (4.2)
Electricity & Water	---- ----	3.7 (1.2)	26.3 (2.0)
Construction	5.7 (4.0)	14.3 (4.5)	38.8 (2.9)
Trade, Catering & Accommodation	17.2 (12.2)	32.8 (10.2)	99.1 (7.5)
Transport & Communication	12.0 (8.5)	24.6 (7.7)	76.7 (5.8)
Financial Services	12.3 (8.7)	27.4 (8.5)	94.1 (7.1)
Community, Social & Personal	1.5 (1.1)	5.6 (1.7)	18.6 (1.4)
General Government	8.8 (6.2)	30.7 (9.6)	120.0 (9.0)
Other Producers	2.6 (1.9)	10.5 (3.3)	37.1 (2.8)

(Source: adapted from Thomas 1983b:53).

While average living standards declined in real terms during the 1970s, the salaries of civil servants and employees in the formal sector of the economy increased during this period (Thomas 1983b:54). This suggests an even sharper drop in real living standards in the subsistence sector. The progressive deterioration of the resource base (land and water) in the bantustans, compounded by a lack of credit and development capital and the restrictions on trading, left these areas with little defences against the severe drought of the late-1970s. In 1977, income distribution in Namibia was probably the most unequal in the world (Allison and Green 1986:7). The wages of black workers still stood at a ratio of 1:25 in relation to white workers by 1988 (ILO 1989:93). Household income far below subsistence levels was a reality for black people in the rural areas - i.e. the bulk of the population. In addition to the whites, a small black urban élite

benefitted disproportionately from developmental efforts throughout the 1970s and 1980s. The 'Living Wage' campaign launched by the unions in 1986 graphically illustrated the inadequacy of minimum wage rates. Women consistently received the lowest wages, were concentrated in least skilled and most menial occupations, bore the brunt of unemployment, and were often confined to the fringes of the informal sector (Allison and Green 1986:19-22). The notional figure of R500 per month to feed a family of six in Katutura was within the reach of scarcely 20% of the black population in 1986 (ILO 1989:90). Income inequality, as the table below indicates, increased during the 1980s and is structured along both racial and urban-rural lines.

Table 2.3 Per Capita Gross Domestic Product (1980 US\$) by Sector: 1980-1988

YEAR	WHITE	BLACK	SUBSISTENCE	TOTAL
1980	12 380	900	59	1 140
1984	11 236	759	62	953
1988	12 839	585	55	921

(Source: Stone and Gaomab 1994:10).

According to the Manpower Surveys of 1984 and 1988, the total labour force in Namibia was 310 000 and 430 000 respectively (Van Rooyen 1996:212). The system of labour regulation during this period consisted of three distinct, yet partly inter-related, components (SWAPO 1981:66-8; Van Rooyen 1996:182-3). The first component consisted of the formal, mainly statutory, system established by the Wage and Industrial Conciliation Ordinance, and subsequently augmented by the Conditions of Employment Act and the National Labour Council Act. This system of labour regulation was essentially tripartite in nature and catered for the formal private sector, excluding agriculture and domestic service and only partially incorporating the public sector. The second component consisted of the informal, mainly non-statutory, system of labour regulation. The common law and security laws had a significant impact on collective relations in this system. It was bipartite in character and encompassed the agricultural and domestic service sectors, as well as the informal sector and all unregistered trade unions and employers' organisations.

The third component represented employees of the largest employer in the country, the government. Labour regulation in the public service system were governed primarily by the *Government Service Act* of 1980 and was administered by the Government Service Commission. Collective industrial relations were rudimentary and limited to isolated instances of consultations (as opposed to negotiations) between the Government Service Commission and a few public service staff associations. The manner and extent to which these three systems of labour

regulation were embedded in the society differed considerably. As a result, local and global pressures had a differential impact on their functioning and reproduction. While the formal system was largely endogenously determined, the informal system was decisively shaped by exogenous factors such as international pressure, the employment practices of multi-national corporations, and the struggle for national liberation.

During this period of South African rule, especially from the mid-1980s onwards, there was a drastic expansion in development of trade unionism (Wood 1987a). The largely similar experiences of oppression and exploitation in the workplace by *all* black workers generated a common identity,

existing and mixing with ethnic and racial identities: it may be called the Namibian working class. The first trade unions were an expression of that identity. But from the same influences grew the dominating new identity: Namibian nationalism (Peltola 1995:81).

Trade union organisation among black workers had been largely sporadic and limited to a narrow range of occupations, industries and regions. The vast distances between sites of organisation, the lack of resources, the emphasis placed on the political struggle for independence, and the absence of a national federation meant that countrywide industrial unionism was non-existent until the late-1980s. The unions that did exist catered for the needs of a relatively passive, politically incorporated and minority white membership (Streek 1984). The removal of legal prohibitions on the registration of non-racial trade unions in 1978 paved the way for a new system of collective interest representation. Although the imposition of new restrictions on financial freedom and political affiliation initially discouraged the unions aligned to the anti-colonial struggle from registering, and hence being able to conclude enforceable collective agreements; by the end of the 1980s, these unions were actively participating in the formal industrial relations regime.

At least five factors contributed to this resurgence of black trade unionism. First, the transitional government which took office in 1985 expressly encouraged workers rights, collective bargaining and the growth of trade unions. For example: the Administrator-General refused to sign into law an amendment - aimed at curtailing the influence of the Congress of South African Trade Unions (COSATU) on Namibia's fledgling labour movement - that sought to prohibit non-Namibian citizens from assisting in the establishment of trade unions or becoming an office-bearer in any trade union (Van Rooyen 1996:198). Second, several of the political prisoners released from detention on Robben Island in 1985 played a vital role in enhancing the coordinating functions of the trade unions and reactivating shop-steward structures in the workplace. Third, as the pace of the national liberation struggle intensified, workers' expectations rose dramatically in

anticipation of Namibian independence. A broad anti-colonial consensus was established among workers, with the Council of Churches in Namibia and the Namibian National Students' Organisation playing a crucial role in legitimising and broadening the liberation struggle. Fourth, the recession in the South African economy deepened into a structural or organic crisis from the mid-1980s onwards. The government of P.W. Botha embarked on a cautious programme of 'reforms' aimed at making apartheid more palatable to the international community and to extend its lease of life. This process of change opened new opportunities and terrains of struggle for worker organisations.

Finally, the political significance of COSATU cannot be underestimated. It not only provided a concrete example of social movement unionism closely aligned to a liberation movement, but also set a pattern for trade union organisation and worker control.³² For example, the focus of the NUNW shifted from general to industrial unionism and it adopted the same organising principles as COSATU - namely, 'one union, one industry, one country, one federation'. This upsurge of trade unionism from 1986 onwards built on the victories of previous workplace struggles and learnt valuable lessons from past defeats, adding to the knowledge and expertise of grass-roots leadership. In the post-independence period, the Namibian trade union movement has also drawn selectively on the strategies of 'radical reform' pursued by COSATU after 1994. These strategies, as Adler and Webster (1999:144) point out, "combined long-term radical goals of social transformation with reformist strategies and tactics to achieve meaningful victories without provoking a 'hardliner' reaction".

The majority of trade unions were either formally or informally affiliated to a federation. The most significant of these was the NUNW which was formerly established as a trade union federation in 1989. The trade unions that were affiliated to the NUNW at that stage were the Namibian Food and Allied Union (NAFAU), the Mineworkers' Union of Namibia (MUN), the Namibian Transport and Allied Union (NATAU), the Metal and Allied Namibian Workers' Union (MANWU), the Namibian Public Workers' Union (NAPWU) and the Namibian National Teachers' Union (NANTU). In its formative years, the NUNW prioritised the struggle for national liberation over the improvement of employment conditions under the colonial system (Melber 1983; Bauer 1997). As Ben Ulenga noted, it was impossible to separate the problems faced by workers from colonial oppression and therefore "the workers' movement can only function as a part and parcel of the national liberation struggle" (cited in Wood 1987b:68). As

³² Ben Ulenga, a prominent figure in the revitalisation of the NUNW during the late-1980s, noted that "in South Africa they have a longer experience ... [and] links between [COSATU] and ourselves are quite strong now in terms of supporting each other morally, even materially" (cited in Wood 1987b:67).

we shall see in chapter 6, this strategic orientation had a significant impact on the unions' role in both the workplace and the wider society. The efficacy of trade union organisation during this period was heavily circumscribed by security laws, the official encouragement of collaborationist unions, and rising levels of poverty, marginalisation and unemployment. By the late-1980s, an estimated 110 000 people were employed as migrant workers with effective trade unionism and rising wages confined to sectors with limited scope for further employment growth: the public (40 000 employees), manufacturing (28 500), and mining sectors (20 000). The bulk of the 240 000 people 'employed' in so-called subsistence farming, 148 000 as tertiary sector workers, and 56 000 in commercial agriculture remained beyond the reach of the trade unions (ILO 1989:76).

The NUNW played a major role in the consolidation of collective regulation in the workplace and continues to be the most influential trade union organisation in the country. There is very little evidence of the other trade union federations, such as the South West Africa Confederation of Labour and the Namibian Christian Social Trade Union, having had or presently having any meaningful influence on the course of collective labour regulation in Namibia. In sharp contrast to the rapid development and expansion of trade unionism in this period, the collective representation of employers remained partial and largely ineffective. With the exception of the Chamber of Mines and the Master Builders' Association, employers lacked a central, organised presence in the regulation of labour market issues. By definition, this excluded industry-wide collective bargaining and contributed towards the increasing variation in wage levels within and between the different economic sectors.

The frequency of Conciliation Board applications showed a dramatic rise in the final three years of colonial rule, reflecting the upsurge in trade union activity during this period. The disputes involved (in order of importance) conditions of employment and wages, unfair dismissals, closed-shop agreements, and trade union recognition. Workers benefitting most from the high success rate in settling disputes (64.3%) were those in sectors, typically located in the larger urban centres, that had well-established systems of employee representation (Van Rooyen 1996:205). These dispute-resolution mechanisms also contributed towards a greater institutionalisation of collective labour regulation. The second major regulatory mechanism provided for in labour legislation, namely the Wage Board, failed to progress beyond the exploratory stage with any wage determination. According to Van Rooyen (1996:207), a lack of expertise as well as significant inter-sectoral variations in terms of size, location, cost structures, hours of operation, levels of skill, and so on precluded the successful functioning of wage-fixing machinery (on a voluntary basis) in Namibia. Employer opposition to minimum wages can also not be discounted.

The low levels of industrial action in the first half of the period from 1977 to 1989 were followed by a complete cessation of strike activity from April 1983 to October 1986.³³ This extraordinary period of industrial calm was in large measure the product of the vigorous application of security measures by the Administrator-General in suppressing the liberation struggle. The sudden and dramatic increase in industrial action from 1986 onwards culminated, in 1989, in the second highest number of recorded strikes in a single year to date. A combination of factors that included the progressive liberalisation of the industrial relations regime and the growing inevitability of national liberation, contributed to this upsurge in worker militancy. The inadequacies of the formal industrial relations system to deal with the heightened levels of worker activism were clearly exposed by this wave of industrial action.³⁴ High degrees of solidarity and spontaneity among workers tended to compensate for the unions' lack of both an institutionalised workplace presence and a formal leadership structure. The demands of workers included both workplace issues such as wages, food rations and employment conditions as well as more political concerns such as the abolition of apartheid and the impact of the war (IDAFSA 1980:31; Pakleppa 1988). In fact, Peltola (1995:173) notes that an important aspect of this strike wave was "the intimate relation [between] political and trade union activities".

A common response by employers included the dismissal of striking employees, the discrediting of the trade unions, and a reliance on (often violent) intervention by the police. This reflected their fundamental opposition to collective labour regulation and underscored the absence of dispute-resolution procedures in the workplace. The latter also contributed to the large number of complaints lodged with the inspectorate of the Department of Manpower by employees in the construction (24.6%), manufacturing (20.6%) and retail (13.3%) industries, renown for their antiquated employment practices (Van Rooyen 1996:211-2). A virtual absence of complaints from the mining industry, by contrast, reflects the fact that established grievance procedures and personnel departments on the mines obviated the need to invoke and rely on external mechanisms of labour regulation. Significantly, there were only three strikes in 1990, reflecting the pacifying effect of independence and the upsurge of a patriotic fervour.

Rising international pressures coincided with intensified internal strains to place demands on the

³³ The strike frequency in this period was as follows: 1977 - 1; 1978 - 2; 1979 - 4; 1980 - 0; 1981 - 3; 1982 - 2; 1983 - 2; 1984 - 0; 1985 - 0; 1986 - 4; 1987 - 22; 1988 - 8; 1989 - 28 (Van Rooyen 1996:208).

³⁴ The *Commission of Inquiry into Labour Matters in Namibia*, appointed in 1987 and chaired by Professor N.E. Wiehahn, noted that "the present structure and system were no longer capable of handling and resolving new labour issues and disputes which were rapidly becoming part of the Namibian labour scene" (cited in Van Rooyen 1996:215).

regulation of accumulation in South Africa, which its apartheid-based mode of regulation could not absorb. This confluence of mounting national, regional and international pressures during the late-1980s compelled the apartheid regime to seek an internal negotiated settlement and to end its occupation of Namibia. When it became clear to the South African government that any political solution which excludes SWAPO will lack legitimacy; the regime shifted its energies and resources towards a neo-colonial outcome that would ensure the continued protection of South African interests under a future SWAPO government. While the prevailing international conjuncture facilitated the process of national liberation, it also constrained the strategic options of the post-independence government. Namibia attained independence at a time of global economic crisis, a rising tide of liberalisation, and the collapse of the former Soviet Union.

2.4 CONCLUSION

Changes in the supply of and demand for labour in each of the historical periods outlined above generated distinct shifts in the prevailing mode of labour regulation. The institutional mechanisms responsible for the recruitment and deployment of labour under colonial despotism shaped both the manner in which work was experienced and the nature of control and resistance in the workplace. Through a system of institutionalised violence and expropriation the German colonial state played a virtually unmediated role in the incorporation, allocation, control and reproduction of labour in the Police Zone. The salient features of the labour market in this period include the institutionalisation of forced labour and the immobilisation of black workers; the forceful expropriation of land and livestock; large-scale impoverishment and social dislocation; the strengthening of military and administrative capacity to police the indenture of black workers; and the creation of a coercive migrant labour system complemented by an oppressive work environment. The efficacy of these processes of primitive accumulation was premised on the destruction of pre-colonial modes of production and the predominance of extra-economic forms of coercion in labour regulation.

In the first period of South African rule, this oppressive system of labour regulation was consolidated, although there was now some attempt to legitimise it in terms of contractual principles and the virtues of hard work. Given the fact that a contractual regime depends largely on individual bargaining and market power, the authority of employers and the state over black workers was largely unbridled. Vagrancy and other laws were designed to mobilise surplus labour; recruitment agencies rigidly segmented the supply of labour; repressive apparatuses ensured the forceful allocation of labour; an autocratic system of control in the workplace

facilitated the productive use of labour; and the maintenance of some 'tribal land' ostensibly guaranteed the reproduction of labour. As Moorsom (1977:77) puts it: "[I]labour supervisors, as dictators of an alienating production routine; the police and labour and location officials as heavy-handed repressers of worker attempts to humanize their social environment; and the tribal bureaucracy, as slavish and self-interested collaborators, together constituted a closed circle of labour-repressive devices". The managerial autocracy and state repression in the regulation of black labour contrasted sharply with the collective and statutory regime for white workers organised around largely self-regulating and relatively autonomous work groups. This co-existence of different forms of labour regulation highlights the distinct opportunities, constraints, capacity for resistance, and susceptibility to despotic control associated with the existence of non-competing groups in the labour market.

The second period of colonial rule witnessed the consolidation of an apartheid-style system of labour regulation geared primarily towards the control of labour migration. The growing centralisation of mining capital, together with the particular nature of its labour process, generated a predominantly low-wage economy in which the scope for expansion in the production of final consumer goods, let alone intermediate and capital goods, was drastically reduced. With the enforced decline of the subsistence economies, the 'whip of economic necessity' became increasingly prominent in the regulation of black labour. Despotism in the workplace was grounded in the authoritarian command of the employer, a network of discriminatory legislation, a highly inadequate social wage, and the geographical separation of the spheres of production and social reproduction. The paternalistic character of the company state "cemented the worker's extreme dependence on the employer, and therefore his vulnerability" (Winterfeldt 2002:39). In the absence of collective and statutory regulatory mechanisms, informal resistance and occupational solidarity were the only means of defence against oppressive conditions of employment. Management's reliance on colonial sanctions and apparatuses meant that supervisors used threats and violence to elicit an 'adequate' amount of work. However, intensifying efforts norms through coercive measures increased the unpredictability of labour regulation and led to higher levels of worker resistance and mistrust.

In the third period of South African rule, the crisis in accumulation and regulation, rooted in structural contradictions which were already present in the earlier periods of economic growth, become organic. The apartheid labour market that was consolidated in the previous period impeded the mobility and reduced the value of black labour power, fostered debilitating skill shortages, and generated extensive opposition from semi- and unskilled black workers. As the need for a more settled and skilled workforce increased, this rigid racial segmentation of the

labour market became an obstacle to further economic growth and to the restructuring of the labour process. The crisis in Namibia's labour market must therefore be seen as an integral part of the broader regulatory crisis in its economy. The apartheid regime's response to this crisis incorporated moments of repression and reform. Attempts at overcoming the barriers to profitability and stability included a strengthening of the repressive apparatuses, the incorporation of some black workers into the urban labour markets on a more permanent basis, the introduction of institutionalised collective bargaining and formal dispute-resolution mechanisms, and a greater reliance on market-induced movements of the reserve army of labour from the bantustans. The growing intensity of opposition to colonialism despotism in the workplace and beyond from the early-1970s onwards led to a gradual realisation, by sectors of capital and the state, that expanded accumulation in stable conditions could only be secured through the establishment of a new regime of accumulation and regulation.

With the progressive decline in the ability of the bantustans to sustain the reproduction of a large migrant labour force, the elimination of colonial despotism in the workplace, and the changing labour needs of capital; state policies and managerial strategies have turned in a number of directions. Of concern here, is the increasing incidence of non-standard employment in the Namibian labour market. The consolidation of trade unionism among semi-skilled black workers and the resulting increase in their wages and job security coincided with an expansion in non-standard forms of employment which are insecure, unorganised and underpaid. The developments accompanying the collapse of colonial despotism shifted the incorporation-marginalisation dialectic onto a new terrain, away from the local versus migrant division towards an increase in the segmentation of the labour market and rising urban unemployment. The increasingly differentiated integration of the various segments of the labour market into the system of production and regulation has had the effect of privileging some while marginalising others. Hindson's (1988:5) observations with regard to South Africa find considerable resonance in Namibia: the "forces of economic decline and employment restructuring have cross cut and superseded the settled/migrant labour division: one group has moved up the occupational hierarchy into semi-skilled and skilled jobs and has formed the rump of the new industrial working class; the other has been thrown into the pool of unemployed" and underemployed.

The point is to relate developments in labour regulation not only to the restructuring of the labour market, but also to changes in production. As we noted in the previous chapter, the way in which the employment relationship is regulated is contingent on the non-necessary interaction between the social structures and dynamics of production (structuring of labour demand) and the social structures and dynamics of reproduction (structuring of labour supply). The lack of bargaining

power, despotic forms of control, low wages, and so forth that confront non-standard employees in the workplace reflect and reinforce their vulnerable position in the labour market and vice versa. Burawoy (1985:219) clearly links the political mechanisms that generate labour supplies to the economic forces behind the demand for labour. By recognising the decisive impact of the technical division of labour on the labour strategies of different industries, we can consistently relate the supply of labour to the requirements of capitalist accumulation. For example, Burawoy's (1985:220-1) research shows that the different regulatory strategies in open-cast and underground mines were shaped primarily by the specific technical conditions of production, not by management style, nationality of directors or corporate policies.³⁵ Likewise, the nature of the labour supply decisively determines which regulatory mechanisms are most optimal for employers. For instance, where food production was not taken over by settler farmers, employers experienced continuous shortages of labour, compelling them to improve working conditions and wages and to introduce policies to promote a stronger commitment to waged employment. The answer to the question of *how* labour is regulated is thus partly dependent on *who* is being regulated.

³⁵ For more examples of this emphasis on the recursive relations between labour market segmentation and labour process control in the post-Braverman labour process debates, see Thompson (1989). Of particular significance is the fact that these relations are viewed in conflictual rather than functional terms. The cyclical nature of accumulation and the resistance generated by the structured relations of capitalism may, in spite of any efforts by employers to the contrary, result in changes to the labour market that are not entirely functional to developments in production.

3

A PERMEABLE REGULATION: THE SEGMENTATION OF LABOUR SUPPLY, INSTITUTIONAL MEDIATION, AND EMPLOYMENT 'FLEXIBILITY'

3.1 INTRODUCTION

The first decade of independence in Namibia was characterised by both a strengthening of the legal and social safety net covering the standard employment relationship (SER) and a proliferation of non-standard employment relationships (NERs) at the margins of this regulatory framework. These changes in the regulation of the labour market have created opportunities for advancement by groups of more skilled and permanent employees, while weaker and less skilled groups have generally experienced a deterioration of wages and conditions of employment and an increase in employment insecurity. Shifts and gaps in labour regulation provide the “channels, which ... increasing numbers of employers were willing and able to use in order to realise the manifold advantages of casual employment”(Campbell and Burgess 2001:182). To unravel the connections between changes in the employment relationship and the wider socio-economic context we must start with the institutional framework which regulates the supply of and demand for labour. Much of the interaction between the requirements of the labour process and the social context occurs through the local labour market. Failing to consider the role of the labour market opens up the possibility that the employment outcomes of restructuring will be incorrectly inferred from changing labour process imperatives alone.

A growth in 'flexible' employment is all too readily implicated by its proponents in a causal relationship with 'deregulatory' practices in the labour market. This view can be expressed in a simple equation: more market-based regulation = more flexibility = more growth and employment. In reality, however, market forces can only attain equilibrium under conditions - such as complete information and costless contracting - that rarely, if ever, obtain in the labour market. Of particular significance is the extent to which there is an acceptance of the idea that regulation and flexibility are two poles on the same continuum. The increase in non-standard employment in countries such as Namibia coincided with *rising* levels of state and trade union

intervention in the employment relationship. This is clearly evident in the introduction of new statutory-based minimum standards and the establishment of labour market institutions that place a premium on the collective regulation of employment policies and practices. This implies that an expansion in non-standard employment is facilitated as much by its active promotion through 'deregulatory' policies as by a passive tolerance of silences and inconsistencies in the (expanding) protective functions of labour market institutions. Understanding the growth of non-standard employment in an increasingly regulated labour market calls for a much clearer specification of the varying impact of different forms of regulatory change on the functioning of the labour market.

The co-existence of different forms of labour regulation is reflected in the distinct opportunities and constraints associated with the division between largely non-competing groups in the labour market. That is, what distinguishes segmentation in the labour market from mere division is that each segment functions according to different rules with regard to the incorporation, allocation, control and reproduction of labour. Distinct regulatory frameworks in the labour market reflect, in part, the manner in which a particular distribution of the costs and rewards of restructuring is institutionalised. The specific combination of standard and non-standard employment is "spatially redistributed in a complex and continually changing way in response to the mix of market opportunities, comparative labour power costs, the course of struggle between capital and labour and the historically specific flows and supplies of migrant and other forms of unfree labour" (Cohen 1987:144). Since labour market actors always transform *existing* structures, changes in the balance between standard and non-standard employment are fundamentally constrained and/or enabled by institutional and normative arrangements at a particular time and place.

This chapter commences with a brief outline of the complex and contingent relationship between labour regulation and employment 'flexibility'. A central focus of this discussion is the notion that there is a simple and direct correlation between labour market 'deregulation' and the incidence of non-standard employment. The relationship between regulation and 'flexibility' is then considered in the light of shifts in the basic parameters of labour regulation and the growth of non-standard employment in post-independence Namibia. It is argued that regulatory changes involve distinct trade-offs between the various forms of flexibility and security rather than a simple process of substituting one for the other. Next, we outline some of the processes that tend to reinforce duality and division in the Namibian labour market. In contrast to 'flexibility' theories, the central concern here is not the extent to which social and political processes impinge on the operation of market forces, but rather the identification of the conditions that facilitate or

obstruct casualisation in the labour market. Finally, we discuss the nature and role of a primary purveyor of labour market 'flexibility' in Namibia - i.e. the temporary employment industry. The latter is both a product of, and an active participant in, the restructuring of the regulatory framework surrounding the SER.

3.2 EMPLOYMENT 'FLEXIBILITY' AND LABOUR REGULATION: MARKETS VERSUS INSTITUTIONS?

The proliferation of NERs is widely understood as a response to increasing levels of economic uncertainty and the concurrent demands for greater 'flexibility' in the labour market.¹ Implicated in these developments are heightening levels of international competition; growing levels of economic risk; overly 'rigid' labour markets; the 'excessive' costs and protections associated with SERs; declining growth rates and rising unemployment. In many of the industrialised economies of the North,

far-reaching programs of deunionization, casualization, and wage polarisation, typically packaged in the politically ambiguous language of flexibility, now occupy a new mainstream in labor market policy. An important element in these programs is the *localization of labor*: labor, literally, has to be put in its place (Peck 1996:239).

The notion of labour market 'flexibility' has strong neo-liberal overtones and is based on the idea that there have been, or should be, concerted efforts to reduce the 'rigidity' of employment policies. These prescriptions for the restructuring of the labour market are premised on the idea that statutory and other forms of social regulation cause unnecessary 'rigidities' and that policies of 'deregulation' would restore freedom of contract as the basis for economic relations (Deakin and Mückenberger 1992:136). In other words, the call for the deregulation of labour markets is based on the assumption that pristine, price-clearing dynamics are being stifled by these social 'distortions'. Far from establishing an impersonal economic regime, however, so-called deregulation actually "consecrates new rules: intensifying the law of value, with effects which empower some economic actors while disempowering others" (Hyman 2001:12). Numerous case studies have found that 'flexible' labour markets serve to individualise employment relations; intensify competitive pressures at the bottom of the labour market; enforce low-paid work; increase job and wage polarisation; diminish the scope of employment protection rights; weaken

¹ See: Tarling (1987); Lane (1989); Deakin and Mückenberger (1992); Standing (1992); Blank (1993); Boyer (1993); Maurau (1993); Cappelli (1995); Córdova (1996); Allen and Henry (1997); Callaghan (1997); Dex and McCulloch (1997); Horwitz *et al* (1998); Gallie *et al* (1998); Deakin and Reed (2000); Fudge and Vosko (2001); and Cook (2002).

the collective institutions of labour; and reduce the number of workers covered by collective agreements.² In particular, ‘flexible’ employment policies tend to exacerbate inequalities in the labour market by removing protection from the weakest segments of the workforce and exposing them to greater levels of competition. The lack of coverage by legislation and/or collective bargaining means that the determination of wages and conditions for non-standard workers is subject largely to unilateral managerial decision-making and outdated common law contractual principles (see chapter 5).

The concept of *deregulation* lacks precision and cannot account for the multi-faceted changes unfolding in the labour market. There is no simple or direct relationship between the nature of labour market regulation and the incidence of non-standard employment. Very rarely can changes in a regulatory regime be adequately understood as simply an extension or a restriction of the role of statutory or social regulation to the benefit or detriment of market mechanisms (Blank 1993:183; Felstead and Jewson 1999b:8; Deakin and Reed 2000:37; Regini 2000:23). Hence, it is wrong to anticipate a simple trade-off between markets (flexibility) and institutions (regulation). The different forms of non-standard employment are subject to greater or lesser levels of formal control and generate variable patterns of flexibility. A high incidence of non-standard employment is broadly indicative of an extensively regulated labour market.³ In national labour markets where the regulation of the SER is relatively modest (e.g. UK, USA) we observe a low incidence of temporary employment. Conversely, firms have every incentive to introduce employment on a temporary basis in countries (e.g. France, Germany) where such regulation is relatively extensive. Non-standard employment will therefore be more prevalent in countries such as Namibia where standard employment contracts are tightly regulated and non-standard work is loosely coordinated and controlled. Moreover, since the pricing structures of the temporary employment industry closely follow the costs of employment in the more regulated sectors of the labour market, “the industry’s business interest is best served by the *growth* of regulatory costs in the mainstream employment relation, coupled with the ongoing under-regulation of its *own* sphere of operations” (Peck and Theodore 2002:153).

Finding a sustainable balance between employment, wage and work process flexibility requires

² See: Córdova (1986); Dombois and Osterland (1987); Dickens (1988); Harrison and Bluestone (1990); Storper and Scott (1990); Deakin and Wilkinson (1991); Lawson (1992); Gallie and White (1994); Harrison (1994); Morley *et al* (1995); Peck (1996); Rubery (1996); Felstead and Jewson (1999a); Kenny and Webster (1999); Heery and Salmon (2000a); Kitson *et al* (2000); and Campbell and Burgess (2001).

³ See: Casey *et al* (1989); Deakin and Mückenberger (1992); Veneziani (1993); Allen and Henry (1996); Cousins (1999); Robinson (1999); and Regini (2000).

changes in labour regulation that involve “the mechanisms and the levels of regulation and which may require the imposition of ‘beneficial constraints’ on economic actors, thus giving rise to a different type of regulation, rather than just less of it” (Regini 2000:21). Reference to the various forms or modes of labour regulation suggest the existence of both a variety of regulatory institutions and a variety of levels at which the employment relationship may be coordinated. Current regulatory change “cannot be reduced to some unidirectional process of deregulation/marketization, nor should it be portrayed as a benign process of zero-sum redistribution across scales” (Peck 2000:71). Undermining some modes or levels of labour regulation in the name of ‘flexibility’ may simply lead to their substitution by other modes or levels. For example, Marx (1967:490) highlights “the constantly recurring experience” whereby “capital, so soon as it finds itself subject to legal control at one point, compensates itself all the more recklessly at other points”. In practice, deregulation is advocated less as a general principle than as “a means of relaxing specific aspects of traditional controls on the functioning of labor markets” (Hyman 1994c:16).

Labour market flexibility in the 1980s and 1990s was generally pursued through a process of “reregulation” (Deakin and Mückenberger 1992:144) or a “regulated deregulation” (Hyman 1994c:18) involving the replacement of direct and uniform substantive legal regulation by alternative regulatory regimes under procedures that still rest ultimately on legal sanction. That is, the real world of regulatory reform is “one overwhelmingly dominated by partial and piecemeal flexibilization” (Esping-Anderson and Regini 2000b:2). In some cases, a reform intended as a flexibility measure actually results in its opposite. MacKenzie’s (2002:599) research into subcontracting arrangements shows that, far from dismantling hierarchical employment structures and leading to greater exposure to market imperatives, the movement towards an increased reliance on external sources of labour reflect “the reconfiguration of the bureaucratic organization of production”.

Standing (1993:427-8) draws a useful distinction between “explicit” and “implicit” deregulation. The latter takes place due to (a) non-implementation of protective regulations; (b) inadequate resources and personnel devoted to the task of ensuring compliance with existing regulations; (c) the erosion of the capacity to resist among those denied their rights to protection; (d) a growing and cultivated sense of ambiguity among potential beneficiaries about the validity of such rights; and (e) an increasing loss of entitlement by virtue of employment status. A major cause of the last form of implicit deregulation is the proliferation of NERs, while major causes of the third and fourth forms are low levels of unionisation, high unemployment and the insecurities engendered by widening inequality. Low levels of compliance and enforcement, as

de facto forms of flexibilisation, are common in newly industrialised countries (Córdova 1996; Crouch 1998; Cook 2002). Namibia is no exception in this regard.⁴ While there is no explicit deregulatory agenda in the Namibian labour market, employers are actively pursuing an implicit deregulation through their use of non-standard employment contracts to avoid some of the regulatory standards associated with the SER (Klerck 2003). As the director of a labour research institute points out:

[f]lexibility comes into the public domain when employers and agencies like the Bank of Namibia moan about the over-regulated labour market. Generally, they complain that workers are over-protected, that the unions are too strong ... Employers at factory level do not often raise these issues publicly. It is so that they might avoid this debate and just start using labour-hire workers like some parastatals are doing. So there is no talk of making the labour market more 'flexible' - you leave those workers that you have under the conditions that they enjoy right now, but with new workers you increase the use of labour-hire companies. This is of course a hidden way of doing the same thing. You are not doing it for all and at once, but as people resign or retire their replacements don't come in with the same permanent benefits and job security because of casualisation (26/06/2002).

As we noted above, there is no single, universal form of labour market flexibility, but rather a variety of geographically distinct forms with different socio-economic and political effects. The search for "a system of labour regulation which enhances dynamic efficiency while also reflecting other, widely-held democratic values is one which must respond to a variety of diverse local conditions" (Deakin and Wilkinson 2000:23). In other words, the levels of precariousness and insecurity in the employment relationship vary with different regulatory regimes. The nature of the national regime of labour regulation plays a significant role in shaping the conditions under which employers may seek to casualise a part of their workforce.⁵ The use of non-standard employment contracts is facilitated or obstructed (to varying degrees) by the nature of the regulatory framework surrounding the employment relationship and by the impact of labour market institutions. This social context provides "a framework of entitlements and obligations, comprising a range of opportunities and constraints, that shape levels and forms of participation in employment" (Felstead and Jewson 1999b:9). Here we are concerned with the mediating influences of cultural norms and institutionalised expectations; welfare and training systems; family structures and gender relations; divisions of class, ethnicity and age; and the like on the employment relationship.

⁴ Low levels of compliance are greatly facilitated by a lack of awareness by workers of their legal rights. A survey of 656 workers in 1996/97 found that more than half had no knowledge of the Labour Act and that very few of those who were aware of the Act could specify any of its provisions (Klerck 1997:282-3).

⁵ For example: Cook (2002) shows how the shift to flexible labour markets in Latin American countries was shaped by the distinct impact of economic policies, political regimes and government policies, the power and orientation of the labour movement, the unity and orientation of employer groups, the actions of international agencies, and the size of the informal sector. These factors influenced not only the timing and scale of labour market reforms, but also their pace and dynamics.

Labour market institutions have establishing and exclusionary effects as well as protective and stabilising effects. Institutions in the labour market protect workers from destructive cost-cutting competition by providing a coordinating role that establishes labour standards, checking the trends towards heterogeneity, introducing uniform rules and prices, and guaranteeing the social reproduction of labour. While they were introduced to provide protection and shelter, social institutions have “almost by definition also created groups who are excluded from these areas of protection” (Rubery 1996:24). The relative balance between institutions that create shelters and enclaves for some workers, while potentially exposing the remaining workforce to unprotected wages and conditions, may change over time and between labour market segments. The current destabilisation of markets has restricted the ability of even large employers to build stable and long-term employment practices. The selective functioning of coordinating regulations and institutional forces in the structuring of the labour market provides employers with the scope for a reassertion of market-determined wages for some workers. This high degree of managerial discretion is likely to lead “not to the homogenous outcomes within market-based theories but to the diversity and heterogeneity predicted by segmentation theories where diversity on the demand side ... interacts with diversity on the supply side ... to create complex and heterogeneous employment systems” (Rubery 1996:33).

Table 3.1 Social Security Registration by Industry and Area: 2000

INDUSTRY / SECTOR	URBAN (%)	RURAL (%)	TOTAL (%)
Agriculture	46.4	10.5	11.7
Fishing	86.3	12.5	64.4
Mining and Quarrying	80.8	64.9	75.5
Manufacturing	63.5	14.3	38.8
Electricity, Gas and Water	80.4	54.3	73.5
Construction	43.1	22.9	35.1
Wholesale, Retail and Hospitality	59.8	42.6	52.1
Transport, Storage and Communication	65.8	52.7	62.2
Financial Services	86.4	72.4	85.1
Public Administration, Defence and Social Services	80.6	68.3	54.3
Other Community, Social and Personal Services	46.4	42.4	22.4

(Source: adapted from MoL 2002:61).

Differential access to social security is a good example of this institutional selectivity. The *Social*

Security Act (1994) of Namibia provides for the establishment of various funds “in order to provide an adequate safety net for the workforce of this country” (SSC 1996:7). These funds include the Maternity, Sick Leave and Death Benefit Fund, the National Medical Benefit Fund, the National Pension Fund and the Development Fund. The Social Security Commission also administers the Accident Fund and the Accident Pension Fund. These funds are aimed at compensating employees or their dependents in the case of occupational injuries and diseases or death from job-related accidents. In reality, however, the workers most in need of this ‘safety net’ are not registered with the Social Security Commission.

According to the Ministry of Labour (2002:60), of 431 849 total employed, 180 904 workers are registered with social security, yielding a registration rate of 41.9%. Of 109 598 unemployed persons, only 4 075 are registered, yielding a registration rate of only 3.7%. Table 3.1 shows the significant variation in social security registration between industries and areas. Registration is consistently and significantly lower in the rural areas and in the industries characterised by low levels of trade union density and poorly developed systems of collective labour regulation. Table 3.2 confirms the uneven distribution of social security registration by occupation. Again, the least skilled and lowest paid workers tend to constitute the highest proportion of employees without access to social security benefits. There are also some significant variations in social security registration between males and females (MoL 2002:61). While the overall registration rates are 46.7% for males and 36.6% for females, in occupations dominated by women such as services and sales the rates are 56.2% and 29.9% respectively.

Table 3.2 Social Security Registration by Occupation: 2000

OCCUPATION	TOTAL (%)
Legislators, Senior Officials and Managers	76.5
Professionals	82.0
Technicians and Associate Professionals	75.8
Clerical Workers	76.5
Services, Shops and Sales Workers	40.0
Agricultural and Fishery Workers	10.0
Craft and Trade Workers	38.8
Machine Operators and Assemblers	62.6
Elementary Occupations	39.2

(Source: adapted from MoL 2002:61).

In general, the role accorded to the law in labour regulation is a significant source of variation in national policies of labour market flexibility (Córdova 1996; Barker and Christensen 1998; Mhone 1998; Autor 2000; Cook 2000). The thresholds set by labour law distribute rights among employees in a manner that benefits the SER and discriminates against NERs (Mückenberger 1989; Veneziani 1993; Rogowski and Schömann 1996; Scott 1998). That is, the way in which labour laws define the employment relationship leads to the under-protection of workers without a 'regular' employment contract. Qualifying thresholds are set to limit the rights of those who are not in full-time and continuous employment (Casey *et al* 1989:451-2; Hakim 1989:71; Cousins 1999:112). To protect the employee, labour legislation limits the freedom of contract in areas such as job security, discipline and wage determination. The selective functioning of labour laws, however, only partially mitigates the freedom of contract (Deakin and Mückenberger 1992:138; Campbell and Burgess 2001:176-7). The law of contract, as we shall see in chapter 5, plays a fundamental role in framing the rights and obligations of NERs. Legal regulation was intended to fulfill a secondary role of plugging the gaps left by collective bargaining by establishing a floor of statutory protection. The latter was geared, in particular, at the vulnerable sectors of the labour market who fell outside the ambit of collective bargaining. A study of employment patterns in Europe since the 1980s reveals the limited protection afforded to certain segments of the labour market by both collective bargaining and legal regulation. In practice, Dickens (1988:139) argues, "legal regulation has mirrored, rather than supplemented, social regulation and, consequently, those falling through the net of collective bargaining protection tend to fall through the legal regulation safety net as well".

NERs are premised on a decoupling of employment terms from standard, collective protective measures. As such, non-standard work is a form of unprotected employment that has flourished within the interstices left by the limits in regulatory coverage. Most of the trade union respondents noted that employers in Namibia could only increase the number of casual and subcontracted workers by using the 'loopholes' in legislation and collective agreements. Non-standard workers are generally excluded from a core of employment rights: statutory notice periods, maternity rights, protection against unfair dismissal, pension schemes, redundancy payments, minimum notice, statutory sick pay, a written contract of terms and conditions of employment, itemised pay statement, and protective measures in the case of insolvency and sale of the business. As a result, according to Burgess and Strachan (1999:129), many of the new employment forms are "insecure, non-unionised, unregulated and exhibit similarities with the putting-out and piecework regime of the nineteenth century". Even where labour legislation offers some protection to non-standard workers, they are still confronted by fewer promotion and training prospects, less convenient working hours, lower wages and employment benefits, less

employment security and more menial tasks. Crucially, many non-standard employees are not free to choose the workplace in which their labour power will be deployed:

[s]ome of my people work for long periods - say, nine months - with the same client ... The longer the guy works with me and becomes used to the job, the more selective he becomes - 'I don't want to work here, I want to work there' - which he is actually not allowed to do. He must go where we send him ... They get comfortable with the work and prefer jobs where they don't have to work very hard. We battle to get workers for some clients because they know what work is waiting there for them. Unfortunately, this is usually some of our best clients: the big production people (manager, temporary employment agency - 05/07/2000).

Non-standard employment poses significant challenges to labour law and industrial relations insofar as it breaks the mould of standard full-time employment of indefinite duration. While only a small proportion of all Namibian workers are employed on non-standard contracts, there is evidence that non-standard employment exerts a pervasive influence on the employment prospects, family life and social security of workers in certain industries and occupations. That is, the quantitative aspects of non-standard work must be viewed in the light of its qualitative impact on particular categories of workers. What is important is not so much the actual number of non-standard employees, but the significant changes brought on by casualisation at the bottom end of the labour market.⁶ As one of MUN's regional organisers observed:

[o]nce the company brings in one casual worker, *all* the permanent workers are under threat. Who can tell how many casuals will be there tomorrow? These workers will also become disillusioned with the union if they think that it cannot protect them against casualisation (03/07/2002).

The question is thus how non-standard employment has grown and not just the rate of growth. Gallie and White (1994) conclude that, given the difficulties associated with explaining employment systems by reference to product-market variables, there are potential advantages to studying *changes* in employment practices rather than *levels*. In other words, the significance of NERs cannot be reduced to "an arithmetic calculation of the number of positions that have been 'temped', but instead relates to that much wider field of employment relations where temping is a viable option and where it therefore exerts an influence over the strategic choices and constraints of employers and workers" (Peck and Theodore 2002:156). The use of non-standard forms of employment is a significant factor in the development of more flexible and intensive working arrangements for permanent employees - i.e. the "levelling down" of the differences between standard and non-standard employment (Rubery 1998:150). For example, a casual worker noted that "the permanent workers who belong to the unions won't speak to the managers on our behalf because they are also scared of losing their jobs". The spread of NERs can therefore

⁶ These processes form part of what Beck refers to as the "Taylorism of employment relations" (cited in Allen and Henry 1996:67).

potentially reshape regulatory norms in the labour market as a whole.

Table 3.3 Full-Time Employment by Employment Status and Gender: 2000

EMPLOYMENT STATUS	MALE (%)	FEMALE (%)
Subsistence/Communal Farmer (with paid employees)	76.6	46.0
Subsistence/Communal Farmer (without paid employees)	63.1	52.5
Other Employer (with paid employees)	79.3	82.0
Other Own Account Worker (without paid employees)	64.5	64.6
Public Sector Employee	95.1	94.1
Private Sector Employee	85.6	85.7
Unpaid Family Worker (subsistence/communal sector)	70.6	62.2
Other Unpaid Family Worker	64.8	62.8
Others	86.1	100.0
Not Reported	77.3	66.4

(Source: adapted from MoL 2002:74).

The lack of comprehensive data on employment in Namibia means that it is exceedingly difficult to determine the precise size of the ineffectively regulated and unprotected component of the non-standard workforce. Official statistics in Namibia are not sufficiently disaggregated to distinguish between the various forms of non-standard employment (Table 3.3). Some forms of non-standard work are, for instance, characterised by full-time employment. Employers also seldom report the use of (especially) casual workers. Overall, wage employment accounts for 55% of all employment (MoL 1995:4). Almost 90% of the employed in the urban areas are wage earners as compared to 35% in the rural areas, where the self-employed and unpaid family workers dominate. While no reliable data is available on the latter, family work generally relies on the bonds of kinship to evade the requirements of labour legislation. The growth of temporary employment agencies and the spread of casualised employment suggest that the figures in the table above do not reflect the true extent of non-standard employment in Namibia.

3.3 LABOUR REGULATION IN THE FIRST DECADE OF INDEPENDENCE: A PROTECTED 'CORE' AND A VULNERABLE 'PERIPHERY'?

The passage to democracy in Namibia has attracted considerable attention among researchers

concerned with the study of transitions from authoritarian rule.⁷ In this work, Namibia's transition to democracy is situated within the distinct (yet simultaneous) processes through which the authoritarian regime is dismantled and new democratic institutions created. With a few notable exceptions, however, the bulk of this work focuses on the economic, political and international aspects of the transition.⁸ There is very little published research on the form and content of changes in labour regulation after independence. Democratisation had a profound impact on labour regulation: it introduced collective rights for workers, it enabled trade unions to establish ties with political parties, it encouraged the development of collective bargaining, and it expanded the institutional regulation of the labour market. The regime of labour regulation has likewise had a significant impact on the pace and direction of democratic transformation. Achieving a relatively stable, redistributive pattern of economic growth depends in large part on the scope for conflict and accommodation in industrial relations. Hence, the dynamics of Namibia's transition to democracy cannot be fully understood in isolation from the prevailing structures of labour regulation and levels of organisational capacity in the labour market.

During the first decade of independence, the primary focus of this study, the inherited system of labour regulation was transformed in an attempt to establish a more durable link between increased economic growth (efficiency) and greater social welfare (equity). Existing forms of labour market segmentation, techniques of managerial control, levels of technological development and so on represent a distinct, prior set of possibilities and constraints for the establishment of new forms of labour regulation. At independence, Namibia presented a contradiction common in African decolonisation: "the conditions that had allowed international capital to realize large, even vast profits, and were expected to do so again, were in contradiction with those for constructing an equitable and civilized society for its people" (Leys and Saul 1995c:196). The Namibian government had to balance the heightened expectations among workers following the transition to democracy with the need to attract foreign investment and maintain stability in industrial relations. This balancing act has led to a contradictory fusion of neo-liberal and neo-corporatist forms of labour regulation: individual market solutions in the structuring of labour supplies, skills development and occupational mobility; and tripartite strategies geared towards the collective resolution of the tensions between flexibility and

⁷ See: Balch and Scholten (1990); Wood (1991); Saunders (1992); Tapscott (1993); Cliffe (1994); Leys and Saul (1995a); Van Rooyen and Backer (1996); Kempton and Du Preez (1997); Dobell (1998); Simon (1998, 2002); Keulder (2000); Bauer (2001); Diener and Graefe (2001); Melber (2000b, 2003); and Winterfeldt *et al* (2002).

⁸ Transition theories, according to Adler and Webster (1999:134), tend to neglect the role of the labour movement and are prone to "an inappropriate narrowing of possible outcomes".

security.⁹ Some of the gains that workers have made through the expanded social regulation of the labour market are increasingly undermined by neo-liberal economic policies:

[c]reating quality jobs used to be a strong trend within the Ministry of Labour, but it is not at all reflected in the Ministry of Trade and Industry where it is 'any job, whatever conditions, is better than none' ... Marring the two meant that, on the one hand, you have fairly progressive labour laws and, on the other hand, you have extremely beneficial investment policies geared towards foreign investors ... This not a situation like you had in some African, Asian and Latin American states where the whole regime shifts towards neo-liberalism with everything that goes with it, including union repression. Here it was the economic policy going one way, and the conviction of the Labour Ministry that a regulated labour market is better than an unregulated one, going the other way ... That is why you do not have one government line. But it seems that the neo-liberal one is becoming increasingly dominant with the Trade Ministry being the stronger of the two (director, labour research institute - 26/06/2002).

Given Namibia's narrow and racially differentiated market, sustained growth and the development of economies of scale are crucially dependent on increased exports and growing foreign investments. The latter, in turn, depend on political stability, economic reforms within the parameters sanctioned by international monetary agencies, and regional economic and political relations beyond the direct control of the nation-state. In 1994, the Minister of Labour told parliament:

[d]evelopment potential will follow from increased investment - but that is something which will be encouraged through the establishment of sound labour administration and an efficient and peaceful approach to industrial relations ... Our country is in dire need of an attitude of responsibility and pride in what we do and how we perform work ... We cannot expect to attract investors unless we have a highly efficient and motivated workforce (cited in Van Rooyen 1996:239).

In post-independence Namibia, the processes of democratisation and economic reform are key determinants of the policies and practices of labour market actors. However, the constraints on change are numerous, complex and profound. A century of colonial and apartheid rule left a indelible mark on the socio-economic and political landscape of independent Namibia. The newly-independent government of Namibia inherited an unstable and discredited political system rooted in discrimination and oppression; a fractured society scarred by a prolonged war and widespread deprivation; a distorted and dependent economy highly susceptible to climatic conditions and mineral prices; and an industrial relations system in which conflict and coercion were endemic and migrant labour was a dominant form of labour regulation (Wood 1991; Leys and Saul 1995a; Winterfeldt *et al* 2002). The system of social and economic institutions inherited by the SWAPO government - aptly described by Melber (2003:267) as "the structural legacy of settler colonialism" - were designed to serve purposes very different from its own stated goal of

⁹ In fact, employment policies generally contain several distinct 'pillars' - centring around economic growth, employability, equal opportunities, reorganisation of working practices and production processes - that are in fundamental conflict as far as the levels and extent labour regulation are concerned (Deakin and Reed 2000:32-5).

combining efficiency and equality. As Wood (1991:769) argues:

[s]uccessive South African government policies ensured that, on independence, the material base, core apparatus and ideological coherence of the new Namibia state remained weak. A lack of new financial resources, a legacy of ethnic fragmentation and the preponderance of populist and clientelist political relations inhibit what little the state can do to overcome the sharp social contradictions between rich and poor.

The neo-colonial character of the Namibian economy - with its dependence on cheap black labour, the predominance of primary commodity exports, and extensive resource shortages - renders it highly vulnerable to external economic shocks (see chapter 4). Given the high costs of imported technologies and the preponderance of cost-based competitiveness, employers are resorting to the intensification of labour discipline (especially in the lower reaches of the labour market) in an attempt to reassert a despotic regime of labour regulation. These developments, as we shall see below, reflect attempts by employers to seek out new sources of labour to take over the burden - so long carried by the migrant labour system - of providing a 'flexible', socially-disadvantaged, and strictly controlled workforce. Several of the respondents noted a strong continuity between past practices and the present expansion of the temporary employment industry.

These labour-hire companies are just repeating the old system of the colonial era, the contract labour system. It is just a new person being baptised, but it is still the same person (general secretary, NATAU - 12/07/2000).

Labour hire is like a forced labour system. To me, it's nothing else than establishing a recruitment agency like SWANLA was the past. It is the same thing with a new name (general secretary, MUN - 28/06/2002).

Political changes have brought about a comprehensive 'indigenisation' of Namibia's administrative and political structure, allowing a local black élite to widen and strengthen its position. Wide-reaching socio-economic redress is constrained, however, by the nature of transformation in Namibia. As Dobell (1998:104) puts it: "the nature of the transition process itself ... served to institutionalize democratic political structures in Namibia, while simultaneously helping to construct perhaps insurmountable obstacles to the extension of political democracy to social and economic institutions". SWAPO's policy of national reconciliation - despite its political and economic expediency in the light of experiences in Angola, Mozambique and Zimbabwe - reinforced and legitimised the colonial legacy by protecting the pre-independence gains of the minority. The settler community, together with the tiny black élite, made up just five per cent of the population while it was estimated to generate 71% of the GDP in 1989. The bottom 55% of the population, by contrast, generated just three per cent of the GDP (Tapscott 1995:162). There is little to suggest that this picture of vast socio-economic inequality has changed substantially during the first decade of independence.

The institutionalised discrimination associated with apartheid-capitalism has created racial divisions that largely coincided with occupational and class boundaries. As we can see in the table below, whites are grossly over-represented in the technical, professional, administrative, and managerial occupations. Conversely, black Namibians are confined almost exclusively to unskilled and semi-skilled positions. Even in the professional occupations where black people have a comparatively large presence, they are overwhelming concentrated in the lowest-paid sectors such as teaching and nursing. The job colour-bar in the private sector has also remained largely unchanged: very few white employees are directly supervised by a black manager.

Table 3.4 Distribution of Employment by Ethnicity and Occupation: 1991

OCCUPATION	BLACK (%)	COLOURED (%)	WHITE (%)	NON-NAMIBIAN (%)
Administrators and Managers	18.3	11.5	52.1	18.1
Professionals	31.2	22.7	32.2	13.9
Technicians	33.5	18.1	39.7	8.7
Clerical Workers	28.2	35.2	32.8	3.8
Service Workers	62.2	21.6	14.2	2.0
Agricultural Workers	80.0	14.2	4.8	1.0
Craft and Related Workers	69.1	14.1	11.9	4.9
Machine Operators	78.6	11.7	7.1	2.6
Elementary Occupations	88.5	9.4	1.2	0.9
Not Stated	65.0	15.7	15.2	4.1

(Source: adapted from MoL 1995:20).

Similar patterns of discrimination exist with regard to the position of women in the occupational hierarchy (Table 3.5). Females continue to be under-represented in technical, professional, administrative and managerial occupations. Figures from the 1991 Census reveal that males constitute 78% of administrators and managers, 72% of technicians, and 93.4% of craft and related workers (MoL 1995:20). Moreover, in those occupations where black Namibians predominate - i.e. in the unskilled and semi-skilled categories - men make up almost 80% of the labour force. This means that black women are disproportionately represented among the under- and unemployed.

Table 3.5 Employment by Industry and Gender: 2000

INDUSTRY / SECTOR	FEMALE (%)	MALE (%)	TOTAL (%)
Agriculture	27.6	30.8	29.3
Fishing	1.5	2.1	1.8
Mining and Quarrying	0.3	1.4	0.9
Manufacturing	5.6	5.0	5.3
Electricity, Gas and Water	0.2	1.6	1.0
Construction	0.5	9.1	5.0
Wholesale, Retail and Hospitality	12.9	8.9	10.8
Transport, Storage and Communication	1.0	5.4	3.3
Financial Services	1.2	1.1	1.1
Public Administration, Defence and Social Services	18.5	13.3	15.8
Other Community, Social and Personal Services	19.2	12.8	15.8

(Source: adapted from MoL 2002:49).

The Constitution of the Republic of Namibia (1990), conventions of the International Labour Office (ILO), and an official declaration issued by the cabinet in 1990 entitled *National Policy on Labour and Manpower Development* constitute the principal sources of the new industrial relations regime. The establishment of the Ministry of Labour, the Office of the Labour Commissioner, the Labour Inspectorate, the Labour Court and District Labour Courts, the Labour Advisory Council and other tripartite institutions such as the Social Security Commission reflect the growing institutionalisation of labour regulation after independence. However, the government's policies of economic liberalisation have provided ample scope for employers to increase wage inequality and reduce employment. Employment levels in the formal sector have been falling mainly as a result of slow job growth and increasing retrenchments. In 1995, the ILO estimated that paid employment (192 700) as a proportion of the labour force (641 000) was only 30% in Namibia (Fashoyin 1998:12). Reflecting both the neo-liberal monetarism of the SWAPO government and the general feeling among employers that the unit costs of labour in Namibia are too high, wage increases have continually fallen below the rate of inflation. While inflation fluctuated between 10 and 18% throughout the 1980s and 1990s, wages increased at an estimated 5-8% per annum (Klerck *et al* 1997:49). In fact, per capita GDP for black workers outside the so-called subsistence sector declined from US\$900 in 1980 to US\$585 in 1988 (MoL 1994:11). Wage levels also continue to vary considerably between industrial sectors and between occupational categories within these sectors. While workers in elementary occupations earned

on average about N\$1 000 per month in 1995; technicians, professionals and managers earned an average salary of N\$6 000 - 11 000 per month (Klerck *et al* 1997:50). To some extent, these trends reflect and reproduce patterns of racial and gender discrimination, trade union membership and collective bargaining across the various sectors and occupations.

The principal piece of legislation which regulates employment conditions and labour market institutions in Namibia is the *Labour Act* of 1992. The Act is largely mandatory and allows for exemptions to very few provisions. It signalled the end of colonial-despotism in the workplace and attempted to regulate an increasing militant and assertive labour movement. The Act is universal in the sense that it applies to all economic sectors and all occupational categories. The agricultural, domestic service and public sectors were included in the statutory dispensation for the first time in Namibia's history. In contrast to the labour movements in many developed countries that have suffered major setbacks and are confronted with a hostile policy and legal framework, the role of the unions in Namibia is bolstered by the extensive legal protection of their organisational rights, the comprehensive safeguards against unfair dismissals and discrimination, and the statutory provisions on neo-corporatist forms of employee representation. As the director of a labour research institute noted, the Labour Act

was influenced to a great extent by SWAPO's promises to workers, and especially by SWAPO's historical emergence out of a workers' movement with Nujoma, Ya Toivo and other migrant workers being the driving force behind the establishment of SWAPO. Out of that historical link came the conviction at independence that things must improve for workers (09/10/1998).

Given this historical link, the Act places considerable emphasis on the principles of equity, justice and the protection of fundamental human rights. A significant aspect of this statute is the introduction of 'fairness' into industrial relations. In theory, at least, the conduct of employers can now be evaluated in terms of broader social objectives by an external agency such as the Labour Court. Other provisions in the Labour Act include the establishment of conciliation boards; provision for voluntary and compulsory arbitration; lawful strikes; a distinction between disputes of interest and disputes of right; decriminalisation of industrial relations; maternity leave; and the substitution of common law with collective and statutory regulation. A commitment to collective bargaining as the primary mechanism of wage determination, encouraged the government to refrain from introducing a minimum wage. In practice, this served to sustain employers' largely unilateral command over the terms and conditions of employment for unorganised and poorly-paid workers.

The Labour Act deals with basic conditions of employment, dismissals and unfair disciplinary actions in considerable detail. On most substantive matters, the parties are encouraged to engage

in voluntary collective regulation, albeit within the broad framework and spirit of the Act. State involvement is facilitating rather than dictating, leaving considerable room for the parties to conduct the employment relationship. While it retained the voluntarist principles of the previous dispensation, the Act provides for the creation of an institutional framework designed to regulate the individual and collective employment relationship. Within this framework there are administrative, regulatory and advisory functions designed largely to govern the employment conditions of 'permanent' workers¹⁰ and to fortify the role of trade unions in workplace industrial relations. While collective bargaining would be encouraged, basic conditions of employment were subject to statutory regulation and a labour court would adjudicate on industrial disputes.¹¹ This blend of voluntarism and compulsion was strongly influenced by the ILO conventions implemented in Namibia (Van Rooyen and Backer 1996:42). The system of labour regulation modelled on these conventions is premised on the assumption that the labour force is not fragmented, "the norm being a male full-time wage worker in regular, protected employment" (Standing 1993:429). Hence, the prevailing statutory framework militates against efforts at protecting non-standard employees:

[c]asualisation is difficult to address as a union without the Labour Act being amended. The Act makes it difficult for us to organise temporary workers because they don't have any rights. The Act only regulates the use of casual labour, but employers use these workers for years and define them as 'temporary' rather than 'casual'. These temporary contracts can be extended monthly or even annually (general secretary, NAFU - 26/10/1998).

The Labour Advisory Council (LAC) - potentially the most influential structure established under the Labour Act - is a tripartite body which advises the Minister of Labour on various issues relating to industrial relations. It also has an inquiry role in investigating issues such as the formulation and implementation of national policy, promoting collective bargaining, and collecting and publishing employment statistics. Its composition is based on a tripartite structure with four representatives each from the state, employers and trade unions. The standing committees within the LAC have made very few concrete contributions to industrial relations, thereby diluting their potential in the realm of policy formulation. The lack of centralised industrial relations structures at industry level means that the LAC operates by and large without a foundation in the workplace. Not surprisingly, the LAC has failed to sustain any movement

¹⁰ There is, of course, no real permanence in any employment relationship. 'Permanent' employment merely refers to an (often implicit) agreement between the employer and employee that their relationship is open-ended rather than fixed in duration.

¹¹ In his address at the first post-independence May Day celebrations in Windhoek in 1990, President Sam Nujoma stressed that government intervention in industrial relations would be kept to a minimum, allowing employers and employees to "handle their own affairs" (cited in Van Rooyen 1996:250).

towards a tripartite regulation of industrial relations policies. Its advisory (as opposed to negotiating) powers, the government's stringent neo-liberal economic policies, and the emphasis in industrial strategies on creating an investor-friendly climate have all significantly weakened the trend towards neo-corporatist regulation of labour market policies endorsed by the Labour Act. To be sure, the LAC has had some influence over the drafting of labour legislation, but very little impact on macro-economic policies. Labour's share of national income, however, depends as much on the broader processes of political exchange in the labour market as it does on collective bargaining in the workplace.

Other statutory measures introduced in this period include the *National Vocational Training Act* (1994), the *Social Security Act* (1994), the *Employees Compensation Amendment Act* (1995), the *Export Processing Zones Act* (1995), the *Public Service Act* (1995), and the *Affirmative Action (Employment Equity) Act* (1998). These laws were designed to address the chronic lack of skills; establish a social security system applicable to all employees; provide more comprehensive compensation for occupational injuries and diseases; attract investment and increase employment levels; regulate the employment of public servants; and eliminate discrimination and disadvantage in the workplace. Unemployment and social security, in particular, have become increasingly pressing concerns.¹² The Minister of Labour noted at the introduction of the Social Security Act that 65% of employees in the formal sector had no access to any form of pension, death benefit or unemployment support (cited in Van Rooyen 1996:234). The need for more effective policies for job creation, according to the Ministry of Labour (1998:45), should be regarded as "a national priority of the highest order". The SWAPO government has taken several initiatives to stem the tide of job losses and to increase employment levels.¹³ Together, the structures and objectives of these laws constitute an ambitious, complex and administratively-intensive system of labour regulation.

Following the widespread negotiation of recognition agreements under the new dispensation, annual wage negotiations soon became entrenched in the urban centres and in the larger enterprises. Typically, these agreements protect union officials and members from victimisation and provide for the deduction of union dues, the resolution of disputes, industrial action,

¹² For example: when the parastatal TransNamib advertised 235 vacant posts towards the end of 1990, over 4 000 applications were received within the first two days (Van Rooyen 1996:257).

¹³ These include the *National Employment Policy for Job Creation and Protection of Workers* recently approved by Cabinet, an *Employment Services Bill* drafted to consolidate the various job creation initiatives, and a white paper on *Labour-Based Works* aimed at stimulating employment and skills development through public works programmes (MoL 1997:42-8).

grievance and disciplinary procedures, and training (Klerck and Murray 1997). Workplace bargaining is the most prominent form of collective labour regulation. This narrow bargaining structure is a significant factor in the considerable variation that exists in the terms and conditions of employment within and between industries and occupations. The decentralised system of collective regulation has also been reinforced by employers' pursuit of 'flexible' employment policies. According to the president of the national employers' federation,

[w]e need to move away from the system where everybody in a department are on the same terms. We need to move to a system where our payment systems and our conditions of employment are more individualised to reward individual achievement ... There must be much greater flexibility in the sense of the employer and employee getting together to establish conditions of employment ... Flexibility, as against rigidity, also means no minimum wages (08/07/2000).

Labour regulation at the level of the workplace remains considerably varied: larger enterprises generally adhered to the provisions of the Labour Act and have established some internal systems of labour regulation. The latter generally include formal communication channels between management and staff, the recognition of shop steward committees, and separate personnel departments concerned primarily with labour administration and conflict management. In smaller firms and commercial farms, labour regulation generally lacked an institutional framework and management continued to be autocratic and paternalistic (Klerck and Sycholt 1997). Many employers (especially in smaller firms) were eager to minimise the impact of what they perceived to be a costly, burdensome and overly prescriptive regulatory framework. As a result, the institutionally and collectively regulated segment of the labour market is narrowly confined to the more skilled, better-paid and organised workers in the larger urban enterprises.¹⁴ Statutory provisions were either ignored or haphazardly applied, depending largely on the inclination of and ability to comply by the employer. Labour inspections and law enforcement in these sectors were also virtually absent. As a management consultant noted,

[t]here is quite often a complaint that the indigenous business people to a large extent ignore, for example, aspects of the Labour Act ... In fact, the Ministry of Labour and the offices of the Labour Commissioner are very thin on the ground. They've also got all sorts of schemes and new legislation coming in, whereas they are struggling to cope with the social security legislation which is not really functioning correctly ... There is a major burden placed on employers in Namibia through all these legislative provisions. Even our occupational health and safety law is a very, very bulky document with an enormous amount of requirements, a lot of red tape, and a lot of administrative aspects which have to be satisfied. It is the same with our affirmative action law. Despite this burden, employers try to comply with the Labour Act although they don't always succeed (19/07/2000).

The trade union respondents confirmed the lack of enforcement and the widespread evasion of

¹⁴ In 1989, the NUNW claimed a membership of about 75 000 out of a total workforce of 185 000 (Wood 1991:765).

statutory duties. According to MUN's general secretary, Namibia

has very good [labour] legislation in place. But this legislation is just collecting dust. It is like having an old bull-terrier in the house that cannot bite. The dog has the name, but it has no teeth to chase people away. Comrade, we all know that legislation without the proper enforcement mechanisms in place will always fail (26/10/1998).

With independence, the trade unions came under increasing pressure from various quarters to shift their focus from essentially political goals to workplace issues. The NUNW steadily moved out of the shadow of the ruling party and adopted an increasingly militant stance, clashing with the government over the provisions in labour legislation and its economic policies. The labour movement and state differed fundamentally over the pace and direction of economic restructuring (Jauch 2002). A resolution adopted at the NUNW's first National Congress in 1993 declared that "economic restructuring in favour of the working class can only be achieved when the capitalist has been replaced ... [and] only the mobilised working class can be able to smash and replace the capitalist" (cited in Van Rooyen 1996:248). This overtly political orientation has subsequently been diluted by the rising predominance of a more economic focus on workplace issues (see chapter 6). The central challenges for the trade unions after independence include the need to redefine their relationship with SWAPO, build their financial and organisational capacity, and take advantage of the opportunities presented by the new system of labour regulation (Murray and Wood 1997a; LaRRI 1999; Jauch 2002).

Employers' organisations remained fragmented and largely inactive. In 1992, the Namibian Employers' Federation (NEF) was established to deal with industrial relations issues, while the Namibian Chamber of Commerce and Industry (NCCI) focused on economic and business matters. Both are beset by a lack of financial resources, low levels of membership involvement, and insufficient staff. At the end of 1994, the NEF only had 25 paid-up members. The lack of effective national organisations for employers means that industrial relations policies are often reduced to the lowest common denominator. Agreements can be reached on the easy issues, but disintegration threatens whenever substantial compromises are needed. While some employers have embraced the processes of transformation, many remain committed to the authoritarian and discriminatory practices of the past (Klerck and Sycholt 1997:149-52). A significant proportion of Namibian employers continue to cling stubbornly to their prerogatives and regard (black) labour as a cost to be minimised and not as a resource to be nurtured and developed. As a casual worker observed: "[t]here are laws for casual workers but ... the bosses don't treat us as people who have rights" (07/07/2000). Opposition to collective labour regulation and a disdainful view of new statutory regulations reach into the upper echelons of employers' organisations:

[a]ll the state really needs to do is to ensure that the legal framework that surrounds the employment relationship is maintained. The running of the business should be purely between the worker and his employer. I think it is ridiculous to have a Labour Act which spells out all kinds of conditions that are often inapplicable ... Industrial relations needs to be subservient to the plain, common-sense business interests of the firm. Anything else just doesn't make sense. The company's vision and mission, the company's values and culture, and the policies and strategies which emerge from all these things are paramount. Industrial relations is merely a manner of ensuring that personnel issues are integrated into the whole web of the management structure (president, NEF - 08/07/2000).

The post-independence period witnessed a drastic upsurge in labour litigation, reflecting a new confidence by workers in the judicial process. The relatively low incidence of official dispute-resolution indicates a preference for settling disputes internally and the continuing inclination on the part of workers to engage in wildcat strikes and to circumvent formal dispute procedures. The low success rate of conciliation boards seem to suggest a greater unwillingness to compromise and greater willingness to embark on legal industrial action. Disputes of interest lodged with the Labour Commissioner in the first half of the 1990s involved mainly wages and to a lesser extent conditions of employment, dismissals and retrenchments. The majority of conciliation boards were established in the mining sector (60%) with the only other significant occurrence (16.6%) being in the manufacturing sector (Van Rooyen 1996:253). Disputes of right adjudicated by the labour courts involved mainly individual industrial relations and covered all sectors of the economy.

A further avenue open to aggrieved employees was to lodge complaints with the Labour Inspectorate.¹⁵ According to Van Rooyen (1996:254), the majority of these complaints came from the construction sector (20.7%), the agricultural and fishing sector (15.4%) and domestic service sector (13.2%). These sectors have historically been characterised by extremely poor employment conditions and low levels of trade union density. This shows that, in the absence of regulatory mechanisms such as trade unions, other means are soon mobilised to serve the needs of employees. The majority of complaints involved the payment of wages (22.3%), termination of employment (19%), annual leave (14.6%) and overtime (11.5%). Of all the complaints lodged, 41.8% were determined in favour of employees, 24.6% in favour of employers and 33.4% remained pending or undetermined.

The annual incidence of strikes during the first five years after independence was greater than the preceding twelve years of interim administrative rule. This was due in large measure to the high expectations of workers immediately after independence, widespread discontent with the pace of change, and continuing discrimination and inequality in the workplace (Jauch 1996; Murray

¹⁵ According to the permanent secretary in the Ministry of Labour, more than 30 600 complaints were received countrywide by labour inspectors between 1990 and 1999.

and Wood 1997b). The industrial sectors most involved in strike activity were manufacturing, the public sector, wholesale and retail, and transport and communication. Workplace issues rather than overtly political demands increasingly emerged as the primary trigger for industrial action. The bulk of disputes in the workplace revolved around wages. The majority of strikes involved less than 500 employees and 70% lasted only a day or less, with only 13.8% lasting longer than three days (Van Rooyen 1996:255). The short duration of strikes reflects the fact that wildcat strikes continued to constitute the major type of industrial action in the country. Due to lingering racial tensions in the workplace, strikes were often highly volatile with widespread accusations of intimidation, assault, and obstructive picketing levelled against the workers.¹⁶ The government has actively intervened to prevent or terminate strikes in the larger enterprises, and senior officials repeatedly called for an end to unfair labour practices and stressed the need for labour discipline and improved productivity. These attempts to strengthen labour *and* improve productivity were severely constrained by the inherent limitations of a neo-colonial economy (see chapter 4). The latter, combined with the social disadvantages spawned by apartheid, resulted in a labour market with both a critical shortage of skills and high levels of under- and unemployment among the semi- and unskilled.

There are already significant indications that the dualistic economic structure of the colonial era is being reproduced in a new form by the post-independence political order. Rising income inequalities and social divisions in the post-independence era are increasingly grounded in class, rather than racial or ethnic, considerations. According to the director of the NUNW's research institute, the Namibian government

has very much adopted this ideology of social partnership. It is, of course, a way of pushing class issues aside. It has to do with the whole process of change here which never tackled class issues. The class divisions that exist are camouflaged by putting the emphasis on racial differences (04/07/2000).

The foundations for a black élite were laid during the 1980s and consolidated through (among others) a network of clientelism and an expansion of the public sector after 1990. The hegemonic position of this new élite is dependent, however, on real concessions to the subordinate classes. In a society where capitalist and subsistence modes of production inter-penetrate, the extended family system that was preserved throughout the rural areas tended to mitigate the effects of growing class contradictions by reinforcing the legitimacy of élites. Under such circumstances,

¹⁶ An extreme example is the wage dispute at a furniture factory in Okahandja in 1992 that led to the dismissal of about 350 striking employees. After mediation by the general secretary of the NUNW, an agreement with the company led to the re-employment of the workers with a 30% decrease in wages. Deep-seated dissatisfaction with the agreement among the workers led to a drop in productivity, absenteeism and tardiness, and was finally vented through a fatal assault on the factory manager.

as Tapscott (1995:166) explains,

[k]inship obligations and clientelism ... serve to reduce tensions between the élite and subaltern classes by extending influence and, to a lesser extent, economic gains to subordinate groups. In Namibia, the reciprocities and obligations of the extended family system are such that the socio-economic standing of many rural households depends heavily on remittances from those in [high] waged employment.

The continued decline of the subsistence economies in the rural areas and the associated loss of employment opportunities contributed to a massive influx of people into the urban areas. The township of Katutura outside Windhoek, for example, was reputed to be growing in excess of 12% per annum during the early-1990. Rising levels of urban unemployment and informal economic activity not only reflect the deepening of poverty, but also significantly hamper the development of strong trade unions and delay investments in skills and new technology. A significant consequence of this growth in the numbers of the urban unemployed is likely to be “the consolidation of a new underclass” (Tapscott 1995:164). The redistributive effects associated with the consolidation of a black urban élite were simply not on the scale necessary to preclude the growth of such an ‘underclass’. The urban informality or marginality that affects a growing sector of the population is an important source of division in the labour market. On the one hand, the decline of the migrant labour system and the rise in urbanisation led to an increase in standard employment contracts and the direct recruitment of workers, and provided the trade unions with a basis for formal and permanent organisation. On the other hand, the consolidation of a more stabilised and organised sector of the workforce laid the basis for an increased differentiation between ‘insiders’ and ‘outsiders’. Employers on the mines and in the fish and meat processing industries, for instance, started in the late-1980s to employ increasing numbers of non-standard workers in less skilled and less secure jobs at considerably lower wages than permanent, male employees (Cleaver and Wallace 1990:22).

The subsequent expansion of non-standard employment in Namibia relates both to the growing number of workers in NERs and the increasing differentiation in the form of these employment relationships. There are two main types of non-standard employment in Namibia. First, *agency-mediated* or *subcontracted* workers hired indirectly through a temporary employment agency or subcontractor. These contracts vary significantly in content and duration, but are distinguished in terms of the triangular employment relationship that they give rise to. That is, these workers are regarded as the employees of an agency or contractor but render their services to and are partly controlled by the client-firm. Second, *part-time* workers employed on a temporary or permanent basis in jobs that do not require full-time staff. Temporary part-time or casual workers are hired directly by employers ‘off- the-street’ on a temporary basis. Although these employment contracts can vary in duration from a few hours to several months, they are characterised by a

lack of intention on the part of the employer to engage in a permanent or open-ended employment relationship. Permanent part-time employment is the least common form of non-standard contract and is confined largely to clerical, administration and technical occupations. In contrast to the other forms of non-standard employment, it is also largely of a voluntary nature. That is, while casual and subcontracted employment is invariably an involuntary choice, most permanent part-time workers do not wish to work in a full-time capacity. The factors that facilitate the latter form of employment must be sought in the conditions of labour supply, while those of the former reside in the conditions of labour demand.

The proponents of labour market ‘flexibility’ are adept at identifying the various forms of non-standard employment, but they rarely venture into a systematic explanation of their causes, consequences and regulatory regimes. As we shall see below, many of the deprivations suffered by migrant workers under colonialism have survived in the employment conditions of casual and subcontracted workers.¹⁷ We are in a sense confronted by a paradox: the rise of poorly regulated NERs in a context of expanding institutional and statutory regulation of the labour market. This paradox is, however, more apparent than real. There has been a consensus developing among policy-makers since the late-1980s that an overarching narrative of ‘flexibility’ can best explain changes in the regulatory framework of the employment relationship. As a result, the policy debate over labour market reform is posed “in stark ‘either/or’ terms ... opposing regulation and rigidity to deregulation and flexibility” (Fudge and Vosko 2001:329). Central to this debate is the view that “the general trend has been towards deregulation, or what might be called market regulation rather than state regulation” (Hepple 1993:257). In practice, however, regulatory changes involve distinct trade-offs between the various forms of flexibility and security rather than a simple process of substituting one for the other. In other words, the conjunction of an expanded regulation of the SER and an increase in non-standard forms of employment presupposes the existence of distinct labour market segments with different modes of regulation. The debate on labour market ‘flexibility’ is therefore partly about the different ways in which the employment relationship may be established and regulated. As Nichols (1992:135-6) notes, “there is in fact little that is *given* about who must perform what sort of labour or about how labour of any particular type must be organised”. While there is now a general acceptance that the employment relationship is subject to considerable variation, there remains a dispute about the direction, extent and causes of the changes that have occurred.

¹⁷ Kenny and Webster (1999) and Crush *et al* (2001) note a similar process unfolding in South Africa: the trends towards flexibility involve the re-emergence, in a new form, of the apartheid division between (black) urban and migrant workers.

3.4 DUALITY AND DIVISION IN THE LABOUR MARKET: THE SEGMENTATION OF LABOUR SUPPLY

A prominent characteristic of most developing countries is the division between a relatively small, advanced sector and a large underdeveloped and impoverished sector. In Namibia this duality is revealed in the stark contrast between the relative wealth of the country and the high degrees of inequality and poverty. On the one hand, Namibia has the per capita income of a middle-income country and, on the other, a high degree of poverty. Namibia's ranking according to its per capita GDP is 79 while its rank according to the Human Development Index is 116 (Hansohm *et al* 1998:1). A World Bank study in 1992 reveals that the GDP per capita for the white population was US\$12 839, for the black wage employment sector US\$585, and for the black rural ('subsistence') sector only US\$55 (cited in MoL 1994:11). The vast majority of black people in Namibia are considered poor and, with a Gini-coefficient of 0.7, inequality is among the highest in the world. About half of the Namibian population continue to live in conditions of extreme poverty in a country that possesses some of the richest and most abundant natural resources in Africa. It is primarily these resources - notably diamonds, uranium, copper and other strategic minerals - that explained the determination of German and South African colonial authorities to establish and retain control of the territory.

In contrast to 'flexibility' theories, the central concern here is not the extent to which social and political processes impinge on the operation of market forces, but rather the verification of the underlying conditions which facilitate or obstruct casualisation in the labour market. The Namibian labour market has historically displayed a dual character. First, the organised (urban) workforce with relatively high wages and considerable job security constitutes a protected primary labour market. Existing comparisons of Namibia's labour costs with its neighbours show that the wages of semi-skilled employees, for example, are more than four times as high as those in Zimbabwe (Hansohm *et al* 1998:5). Unionised workers have often gained substantially from the restructuring of employment in the formal sector. Many of these workers have had their skills upgraded, are more secure in their jobs, and earn rising real wages. Second, workers on temporary and fixed-term contracts, those in the informal and subsistence economies, and the underemployed comprise an exposed secondary labour market. The rural/informal sector includes unskilled labourers, domestic workers, communal farmers, and the lowest paid agricultural labourers, whose incomes are 7% of those of semi-skilled workers and less than 1% of those of senior managers in the private sector (Hansohm *et al* 1998:5). The rising levels of under- and unemployment and the declining rate of job creation mean that many of these workers have lost the prospect of ever working in the formal sector of the economy.

Several structural and other factors reinforce this duality in the labour market. Productivity and income distribution in Namibia is notoriously skewed. The quantity and quality of social services available to black and white, rural and urban communities parallel the sharp disparities in income (Stone and Gaomab 1994; Tlhase and Kanguuehi 1996). One percent of the top households command the same share (13%) of the private consumption expenditure as the bottom 48% of households! The wages and salaries of all workers in the formal sector make up 45% of the national household income. However, there are huge regional variations in this regard: in some regions wage and salaries account for over 80% of household income, while in others they constitute less than 10% of household income (LaRRI 1999:4). The employment structure is characterised by wide ranging inter- and intra-sectoral productivity differentials. For example, the value added per employee is highest in mining at N\$87 000, while agriculture languishes at the bottom with N\$2 415. The current wage structure also reflects substantial variations both within and across industries and occupations (see chapter 4). For instance, during the early-1990s farm workers in elementary occupations received on average N\$366 per month, while workers in the same occupations in the mining industry received on average N\$1 094. Similarly, managers in the mining industry received an average monthly salary of N\$10 728, while their counterparts in the agricultural sector only received N\$4 401 per month (MoL 1995:30). This yields an income ratio for the highest (skilled/white) and lowest (unskilled/black) wage-earners of more than 29:1.

The competing claims of management's interest in preserving the 'flexibility' to hire and fire and the trade unions's interest in preserving the jobs of the permanent workforce are all too often resolved at the expense of workers in the secondary labour market. The rising real wages of organised workers, combined with a more fastidious legal regulation of dismissals, forced employers in Namibia to seek alternative means of reducing costs and increasing productivity. A combination of work intensification at the 'core' and job insecurity at the 'periphery' of the workforce is increasingly viewed by employers as the most viable route to competitiveness:

[i]n this terribly competitive world that we are living in and where we are such weak players, the job security factor becomes so exceptionally important ... It is extremely important that employers can hire and fire workers far more easily than is currently the case ... You say to yourself: let's try and manage without employing an extra person, we will just work a little harder ... It is sensible to have a two-tier system where core employees are permanent, but below them you bring in casuals, temporary and part-time workers. It means that even in bad times you can still keep going ... Flexibility should be promoted because it enables you to react so much faster to economic conditions as they change (president, NEF - 08/07/2000).

While employers are at the forefront in promoting non-standard employment, it is the interplay of state, management and trade union policies that account for the formation of labour market segments, the perpetuation of inequalities, and the tendencies towards incorporation and

marginalisation. State policies tend to oscillate between strategies of inclusion and those of exclusion, depending largely upon business cycles and the balance of class forces. The Labour Act, for instance, is geared less towards the protection of labour *per se* and more towards institutionalising the gains made by organised workers. The strategies of employers and trade unions also tend to have contradictory effects of inclusion and exclusion on both the job structure (degrees of homogeneity and differentiation) and the labour market (barriers and openings for worker mobility). For example, during periods of economic growth and an increase in the demand for labour, management may resort to strategies of inclusion of (especially skilled) labour in order to decrease competition from other firms, while trade unions may seek to protect the pay and conditions of their members through practices of exclusion. The restructuring of the labour market has a differentiated impact on workers because it is not merely the size of the labour surplus but “the capacity and costs of substituting unemployed for employed labour that determines the relative power of capital” (Sengenberger 1981:255). In other words, new forms of labour market segmentation are premised on the reconstitution of the local labour supply.

The size and composition of the non-standard workforce are contingent on a variety of interacting local conditions and are not simply the product of variations in labour market ‘flexibility’. Prevailing labour market conditions and forms of labour regulation may either accentuate or moderate the trends towards duality and division in the labour market. In the chapters below, we will outline the role of economic competition, industrial structure and collective regulation in constraining and/or enabling the casualisation of labour in Namibia. For the moment, we will focus attention on the impact of the high levels of under- and unemployment and the legacy of institutionalised discrimination on the segmentation of the labour supply.

3.4.1 High Levels of Under- and Unemployment

The increasing segmentation of the labour market associated with the rise in non-standard employment in Namibia must be related, first and foremost, to the high levels of under- and unemployment. One reason why ‘flexible’ or ‘precarious’ employment exists is the prior existence of a group of workers whose labour power can be deployed in an erratic and precarious manner. High levels of under- and unemployment, combined with the absence of both a viable subsistence sector and a meaningful welfare system, compelled some workers to take whatever jobs are on offer and not to report abusive labour practices and non-compliance with minimum standards (Klerck 2003). The proliferation of low-skill, low-wage NERs is therefore premised on the ability of employers to exploit less skilled labour pools that are vulnerable to wage-cutting and employment insecurity due to the lack of job opportunities. “Since many of the permanent

jobs are not skilled and the labour market is flooded with unskilled employees, managers can replace any of them, at any time, with casual workers” (general secretary, NAFAU - 26/10/1998). The facilitating impact of unemployment on the casualisation of work was widely recognised by the respondents.

People are so desperate for work that they go for anything that is available. That makes it easy for labour-hire companies to source labour (permanent secretary, Ministry of Labour - 04/07/2000).

People only do this work because there is so much unemployment. Crime is your only other option. The bosses are taking advantage of this by saying: ‘if you don’t like the job, then go’ ... They say: ‘a half a loaf of bread is better than nothing’ (part-time worker - 20/10/1998).

It is not particularly useful to blame labour market ‘rigidity’ for the poor performance of a national economy in terms of job creation. The high level of unemployment in Namibia has less to do with the degrees of labour market regulation than with the impact of colonialism and the neo-liberal economic policies pursued by the SWAPO government. There is little evidence that the ‘rigidities’ of hiring and firing or of wage structures can account for high unemployment and a lack of job growth (Esping-Andersen and Regini 2000b). There is substantially more credible evidence that ‘rigidities’ of this sort influences *who* are the unemployed. The burden of unemployment is overwhelmingly concentrated on the least powerful social groups. In other words, extensive employee protection affects primarily the structure and not the levels of unemployment. The roots of rising unemployment and poverty in Namibia are to be found in the structural legacy of colonial rule and the narrow confines of socio-economic transformation after independence.

On the expanded definition, Namibia had an official unemployment rate of 33.8% in 2000 with 28.3% of all economic active males unemployed and 39% of all economic active females without work (MoL 2002:43). The corresponding figures in terms of the restricted definition (i.e. excluding those not actively looking for work) are total unemployment of 20.2% with 21.5% female and 19.0% male components. These figures suggest that a significant number of the unemployed believe that no work is available and have given up looking for a job. In fact, only 46% of the unemployed were active looking for work (MoL 1998:36).

It is not only the extent of unemployment, but also the social composition of the unemployed that has stimulated the casualisation of employment. The majority (57%) of those who are unemployed have had no previous job experience and are seeking employment for the first time (MoL 1998:24). Over 60% of the unemployed are young people aged between 15 and 24 years. In fact, Namibia has a relatively young population with more than 40% below 15 years of age and more than 50% below 20 years (MoL 1998:44). Unemployment in Namibia also tends to be of

a long-term nature: some 55% of the unemployed have been without work for more than a year and 40% for more than two years (MoL 1998:35). A further defining characteristic of the unemployed is their relatively low level of education: 23.1% has no formal education, 35.8% has primary education, 41.8% has junior secondary education, and only one percent has senior secondary education or higher (MoL 1997:3). The high population growth rate (more than 3%), combined with the limited growth of the formal sector labour force, means that the prospects of stable employment are bound to get worse for the bulk of those in the lower echelons of the labour market.

A large portion of the employed labour force in Namibia is underemployed in the sense that they work less than 35 hours a week, do so on an involuntary basis, and are seeking additional work. On this definition, almost half of the economically-active population is underemployed (MoL 1997:3). The range of thirty to forty usual number of hours worked in all jobs accounted for only 31% of all employed persons. By contrast, a quarter of the employed labour force usually works more than fifty hours a week. Quantitative adjustments in the demand for labour are thus in part achieved through an extension of overtime. Underemployment of females was slightly higher than for males, while underemployment in the rural areas (54%) was higher than in the urban areas (46%). The majority of the underemployed are found in the private sector and in 'elementary occupations' (MoL 1998:42). With a combined rate of unemployment and underemployment of about 60% (using the expanded definition), a sizeable majority of the Namibian labour force was available and/or looking for more work.

There is considerable movement at the lower rungs of the labour market as part-time and temporary jobs tend to turn over at a faster rate than full-time and permanent jobs. As a result, they are significantly over-represented among the job openings available to the unemployed. This movement is usually of a cyclical nature: from unemployment to low-paid and precarious employment to unemployment again. Research shows that it is notably easier for an unemployed person to obtain non-standard employment than to get a full-time, permanent job and that people in non-standard employment are more likely than full-time permanent employees to have experienced recent unemployment (Rogowski and Schömann 1996; Gallie *et al* 1998; Peck and Theodore 2000; Theodore 2000). According to Payne and Payne (1993:531), the strong association between recent unemployment and non-standard forms of employment "provides evidence that the labour market is segmented into secure and insecure sectors, whether or not employers consciously adopt core/periphery strategies of labour use". Increased female participation in the Namibian labour market has also generated a sizeable labour force that is often deemed to be 'suitable' for casualised employment. As we shall see in the next chapter,

female non-standard employees tend to be concentrated in particular industries and occupations.

3.4.2 Discrimination and Household Survival Strategies

A long-standing reliance on large numbers of black migrant workers, combined with a burgeoning informal sector, generated a labour market structure which is characterised by significant variation in the rules that govern employee conduct and in the terms and conditions of employment on offer. Segmented labour markets allow employers to utilise differentiated labour supplies to meet the employment demands of technologies at different levels of development. Racial divisions continue to be a significant factor in the structuring of labour supplies in Namibia. As a management consultant noted:

[r]ace plays a major role. There's no getting away from that. It is always an undertone ... When it comes to hard negotiations, employers very quickly start to think in terms of race because they are inclined to think that poverty is a black phenomenon and not for whites (12/10/1998).

While it goes without saying that *no* employee in Namibia can be lawfully discriminated against on the basis of race, gender or trade union membership; the social composition of non-standard employment reveals that it is precisely the unorganised, women and black people who are most vulnerable to such employment. This highlights one of the ways in which the segmentation of labour supply and of labour demand become mutually reinforcing. The priorities of employers' permeate the structures of non-standard employment to such an extent that they tend to entrench and amplify existing patterns of labour market inequality. It is no coincidence that women constitute the overwhelming majority of employees in subcontracting firms that offer cleaning or catering services (Leonard 1992; Lapidus 1993; Zeytinoglu 1994). That these jobs are primarily women's jobs, and that they are located in the lowest rungs of the labour market, suggest that non-standard employment is "an extension of occupational sex-segregation that continues to leave women in a severely disadvantaged position, and serves to heighten the exploitation of women as a source of cheap labour" (Smith 1987:241). The co-existence of secondary and primary labour markets allows management to partly ensure the stability and consent of the 'core' labour force, and provides it with the ability "to off-load the costs of flexibility on to the more vulnerable sections of the work force" (Garnsey *et al* 1985:54). The use of unskilled non-standard workers, in particular, reflects the attempts by employers to mobilise the cheapest and most disadvantaged segments of the labour market. As such, non-standard employment exploits non-union rates, regional differences and labour market disadvantage, and allows for the avoidance of costs associated with the implementation and maintenance of statutory duties.

Far from being a self-regulating entity, social institutions and cultural norms have a significant influence on the structure and dynamics of the labour market. They play an important part in “defining the social limits of wage-labor: not only do they define and regulate the [non-standard] workforce, but also help to maintain a social balance between the crosscutting processes of inclusion and exclusion in the labor market” (Peck 1996:31). This institutional formation of the non-standard workforce helps to resolve the questions how to distribute primary and secondary jobs socially as well as how to adjust the labour supply to fluctuations in aggregate employment levels. The family, for instance, plays a crucial role in the ideological preparation for selling different types of labour. The extent to which gender and race are implicated in structured labour markets bears testimony to the deep-rooted causes of employment differentiation. Since job demarcations and allocations tend to conform to wider social divisions, “conflict is reduced and co-operation promoted despite inequalities at work” (Garnsey *et al* 1985:69). Moreover, labour market segmentation theories have long emphasised the fact that, by “rewarding people not solely in accord with their prospective productivities, a segmented market acquires an active role in the generation of inequalities and low pay” (Ryan 1981:6). There is thus no necessary correlation between terms of employment (wages) and levels of contribution to the productive process (effort).

Table 3.6 Educational Profile of the Population by Gender: 2000

GENDER	NO EDUCATION (%)	PRIMARY SCHOOL (%)	JUNIOR SECONDARY (%)	SENIOR SECONDARY (%)	CERTIFICATE, DIPLOMA OR DEGREE (%)
Male	11.6	53.4	20.4	9.7	3.2
Female	11.5	50.1	24.0	10.1	3.0

(Source: adapted from MoL 2002:32).

Access to education and training was historically differentiated along racial lines: most white people have a senior secondary qualification and whites also constitute the vast majority of those (two percent of the population) who have attained higher education. Apartheid’s ‘bantu education’ and the near total absence of occupational training have effectively trapped black people in the lower rungs of the labour market. The fact that more than 60% of the population has little or no education means that there is a significant over-supply of labour for low-skill, menial work (Table 3.6). The majority of employers in Namibia provide their less-skilled (black) employees with very little training and regard skills development as an integral part of the managerial prerogative and hence not subject to negotiation (Klerck and Sycholt 1997:150). In their quest for short-term profitability, many employers remained locked into a low-wage and low-skill system of production. The low-skill character of Namibia’s labour force also attracts

a particular kind of foreign capital (or branch circuits thereof) and labour process which tend to reproduce industrial relations reminiscent of the pre-independence era.

The institutional determinants of prevailing standards of living are important elements in the analysis of changes in an employment system. Employers may seek to reduce or constrain the historical and moral element in wages by drawing on sources of labour whose social reproduction costs are borne partially by the state and/or family networks. Given the low inputs from the former, the latter are particularly significant in further reducing wage levels at the bottom end of the casual labour market. In the words of casual worker:

[p]eople from the rural areas are prepared to work for very low wages ... They don't have the same expenses that we have. We must pay for water and lights, while they just live in a shack ... They know there is a place waiting for them on the farms (15/07/2002).

In situations of high unemployment and discontinuous work, the division of labour in the family is key to social reproduction (Beneria and Roldan 1987; Warde 1990; Lapidus 1993; Jordan and Redley 1994; Kenny 2003). The pooling of a variety of sources of income from different labour markets, pensions, remittances and unemployment benefits increasingly becomes a necessary survival strategy for low-income families. This places the household at the centre of the social reproduction of labour. The table below graphically demonstrates the vast disparities in household income between the predominantly white (Windhoek Central), coloured (Khomasdal) and black (Katutura) residential areas.

Table 3.7 Annual Private Household Income in Windhoek by Area: 1993/94

AREA	POPULATION (%)	TOTAL INCOME NS million (%)	HOUSEHOLD INCOME (NS)	PER CAPITA INCOME (NS)
Katutura	62.5	381 (24.6)	24 553	4 288
Khomasdal	11.3	158 (10.3)	53 347	9 906
Windhoek Central	26.2	1 009 (65.1)	92 027	27 065

(Source: adapted from NPC 1996:229).

The widespread practice of recruiting new casual workers through informal networks tends to concentrate the burden of non-standard employment on some families. As NAFAU's general secretary noted, "[w]hen someone is fired, new casual workers are usually recruited through family members who are working there as casuals" (28/06/2002). This not only increases the number of casual workers in a particular household, but also introduces a set of strong social ties into the casualised labour process.

Since the casualisation of work allows employers to shift the costs of adjusting to changes in economic conditions onto the most vulnerable workers (Fudge and Vosko 2001:331), it has led to a polarisation between full-time, job-rich households and households dependent on a succession of casual and temporary work. The absence of an integrated industrial sector in Namibia means that the informal sector was historically small and sustained largely by the recycling of wages earned in the formal sector (Simon 1984). Although over 150 000 people derive some form of employment and income from small and informal business activity, the sector is characterised by low-value outputs, outdated technologies, a lack of management and technical skills, and accounted for a meagre 2.3% of GDP (MoL 1997:39). Insofar as paid employment fails to provide the conditions necessary for the reproduction of non-standard workers through wage income, “it transfers its structural problems to the social security system, creating the need for an alternative system of reproduction through income transfers” (Deakin and Mückenberger 1992:142). Social security payments, which partly decouple the spheres of production and reproduction, are limited in both scope and duration.

Table 3.8 Distribution of Households by Main Source of Income and Area: 2000

MAIN SOURCE OF INCOME	URBAN (%)	RURAL (%)	TOTAL Number (%)
Subsistence Farming	0.5	45.9	89 228 (26.8)
Cash Cropping	0.2	2.1	4 448 (1.3)
Animal Rearing	0.1	2.0	4 115 (1.2)
Business Activities	8.5	4.3	20 176 (6.1)
Wages and Salaries	76.2	28.3	160 852 (48.4)
Pension	6.5	11.5	31 230 (9.4)
Cash Remittances	5.3	4.3	15 615 (4.7)
Other Means of Income/Not Reported	2.6	1.6	6 755 (2.1)

(Source: adapted from MoL 2002:36-7).

In 1993/94, 35% of households relied on subsistence farming as their main source of income; 44% were dependent on wages; 6% on business activities; 11% on pensions; and 4% on cash remittances (NPC 1996:77). In 2000, according to the Ministry of Labour (2002:37), the percentage of households with secondary sources of income was as follows: subsistence farming (6.0); cash cropping (0.8); animal rearing (2.1); business activities (4.2); wages and salaries (8.5); pension (9.6); cash remittances (6.2); none (60.1); and other sources/not reported (2.5). The high percentage of households with no secondary sources of income, combined with the fact that the vast majority of households depends on the income from wage labour (Table 3.8), suggest that

there is a high socio-economic price attached to the loss or lack of employment.

3.5 RETAILING LABOUR: THE TEMPORARY EMPLOYMENT INDUSTRY

In contrast to the prolific range of studies on the trends and patterns of non-standard employment, very little attention has been paid to the structure and functions of the temporary employment industry. A conjunction of legal, social, economic and political forces facilitated a drastic expansion of temporary employment agencies in post-independence Namibia. The industry (known as 'labour-hire' in Namibia) provides businesses with a whole host of labour services ranging from highly skilled technicians to unskilled manual labourers. These workers are paid by the employment agency or labour broker and only have employment with the agency or broker for as long as the contract with the client company lasts. While some of these workers are employed in a quasi-permanent capacity, there is generally an *ex ante* regulation of job tenure and terms of employment. Given the fragmented structure of the temporary employment industry, however, there are invariably tensions between the (prior) formal regulation from the centre of operations and the (subsequent) informal regulation at the dispersed sites where temporary staff are deployed (see chapter 5). These tensions stem from the fact that the temporary employment agency is deemed to be the 'employer' of the workers it supplies to a client-firm, although it is the latter that deploys and controls these workers.

The pressures to create a more malleable and responsive employment structure decisively shaped the demand for non-standard employment, while the regulatory status of agency-mediated or subcontracted labour was vital in securing the supply of non-standard workers. Temporary employment agencies and labour brokers fulfil an important role in driving down wages, expanding secondary labour market conditions, and establishing a new 'working poor' (Mangum *et al* 1985; Harrison and Bluestone 1990; Brown and Scase 1991; Allen and Henry 1997; Heery and Salmon 2000b). The efforts by temporary employment agencies to institutionalise the NER in a manner favourable to the expansion of the industry, as we noted above, affected the norms surrounding the use and deployment of labour throughout the economy. In effect, it constituted "a step in the deregulation of the employment relationship itself" (Gonos 1998:184). As a result, a growing number of workers are regarded by employers as a 'hired service' and as a 'production cost' rather than as a valuable asset.

The rapid growth of temporary employment agencies internationally forms an integral part of a more general trend towards outsourcing, casualisation and the restructuring of the labour market

(Córdova 1986:645; Macken 1992:64; Campbell and Burgess 2001:180). In fact, these agencies allow firms to outsource a significant part of the employment function itself. Contrary to its own pronouncements, the industry plays an active role in reconstituting employment relationships and in the erosion of the SER. The temporary employment industry is both a product of, and an active participant in, the restructuring process. Important as they are, cost factors are not always the sole or even primary consideration for the use of agency temporaries. The mobilisation of precarious and poorly-regulated forms of employment through temporary employment agencies provides industries with predominantly primary employment conditions with numerous advantages in terms of labour deployment and control (see chapter 6). As such, the growth of the temporary employment industry can be viewed, in part, as the outcome of attempts by employers to circumvent the primary labour market without incurring the disciplinary problems normally associated with the secondary labour market. According to the director of a labour research institute,

[w]hen one looks at the proclaimed benefits, cost-wise it is not a benefit to get workers though [the larger temporary employment agencies] because as the client you pay all these add-on costs. For that amount, you could hire directly. There is no financial reason. The motivation comes in terms of hiring and firing, getting them in when you need them and getting them out when you don't need them, and being protected against unionisation (26/06/2002).

A number of temporary employment agencies have become large, multi-national corporations with an expanding presence in many developed and developing countries. However, the emerging global market for agency-mediated temporary labour is highly uneven in character, reflecting the variety of national regulatory conditions. To create sustainable markets, the global temporary employment industry depends significantly on its ability “to navigate complex and often unfamiliar regulatory settlements” (Peck and Theodore 2002:170). Despite their expanding global and regional expansion, these firms are not as substantial as they might appear at first sight:

they are *hollow* (rather than ‘hollowed out’) entities who formally organise workers on somebody else’s site. They are multi-site operations, yet they do not own the sites. They are mass service firms in terms of employment, yet they possess few tangible assets other than perhaps the offices which house their ‘lean’ management ... While the centre of operations in these large service firms may be formal, dynamic and strategic, the sites are scattered, loose, unpredictable workplaces (Allen and Henry 1996:73-4).

The industry is also becoming increasingly organised, as reflected in the formation of the *International Confederation of Temporary Work Firms*. The Confederation reported growth rates of 15 to 20% per annum in the number of workers in Europe on temporary contracts during the 1980s (Standing 1993:433). Temporary employment agencies are keen to represent their function in the labour market as a mutually-beneficial matching of supply and demand. The agency is presented as serving a vital and largely passive function in the labour market by linking the needs

of enterprises with the preferences of workers. That is, the industry is simply an impartial intermediary working to the benefit of both employers and employees. In the words of a temporary employment agency manager:

[o]ur market share is growing mostly with our manual workers. The client does not have to hire or fire, he can just use my workers for as long as the job takes ... Most of my workers are people who come off the streets. People who have basically never had any income in their lives ... Now send such a person to a client to apply for a job - he has no education, he cannot read, he cannot write. I think we help such people tremendously. Now he is earning something he never had before in his life ... This guy hangs on to what he has, he does not want to give it up to someone else (15/10/1998).

Peck and Theodore (2002:147) propose an alternative conception of the temporary employment industry as “an *active intermediary* in the job market, the role of which can only be fully understood in the context of wider processes of employment restructuring and labour market reregulation”. Temporary employment agencies do not only exploit conditions found in secondary job markets (i.e. market-following), but also contribute to the reproduction and change of these job markets (i.e. market-transforming) (Mangum *et al* 1985; Gottfried 1992; Peck and Theodore 1998). In the case of the former, the focus is on channelling subcontracted workers into *available* jobs usually at or below minimum wage. The latter is most apparent in the extent to which subcontracted workers constitute a continuously job-ready, pre-processed and ‘voluntary’ labour supply for the lower end of the job market.

3.5.1 Labour Market Intermediation and the Triangular Employment Relationship

The division of legal responsibility for enforcing minimum labour standards between the agency or broker and the customer is often not clear in these *de facto* triangular employment relationships. As a result, many of the regulatory protections that apply to the SER are evaded or undermined (Collins 1990; Macken 1992; Maurau 1993; Gonos 1998). Some NERs do not fit the traditional binary employment model. As Becker notes: “contemporary labour law is marked by a disjuncture between theories of rights and duties based on privity of contract between employer and employee and new forms of work relations that disrupt this model of employment by increasingly interposing intermediate employers between the entities of labour and capital” (cited in Fudge and Vosko 2001:335). The mediating role of the broker or agency between the employer and the subcontracted labourer, subjects the latter to more coercive forms of control and structural dependencies not experienced by permanent employees. It must be noted, in opposition to the emphasis on novelty among the proponents of ‘flexibility’, that the process of labour market intermediation has a long and sordid history. Marx (1967:462) clearly shows how the exploitation of women and children during the nineteenth century in England’s “domestic” industry was much more “shameless” than in manufacturing, because “a whole series

of plundering parasites insinuate themselves between the employer and the workmen”.

As the legal employer of subcontracted workers, the temporary employment agency does not use their labour, nor does it control the labour process in which they are employed. In other words, the subcontracted worker is placed under a dual dependency: on the temporary employment agency or labour broker for his/her wages and on the client company for his/her supply of work. Agency-mediated labour can thus be understood as workers employed in an enterprise that is neither owned nor controlled by their direct employer. Their labour is the source of two distinct but related forms of value: (a) ‘direct’ value - the profits that the subcontracted worker produces for the firm which hires him/her; and (b) ‘indirect’ value - the profits that the employment agency makes by hiring out the services of these workers. These workers earn lower wages and receive fewer benefits than workers in SERs due, in part, to the payments that accrue to the employment agency or broker. The wages of most less skilled temporary agency employees vary greatly from one month to the next, but they earn on average between N\$150 - 300 per month. These workers resented the deduction from their meagre wages that goes to the labour broker:

I get paid three dollars an hour. [The temporary employment agency] takes about seventy five cents of my hourly wages. Why should it come off my wages? We are the ones doing the work, not them. They are getting money for nothing (temporary agency worker - 12/07/2002).

Temporary employment agencies produce a secure labour supply for insecure work, in the process reshaping the balance of power relations in the both casualised labour process and the secondary labour market. Temporary employment agencies are responsible for the selection and placement of workers, pay their wages and administer their benefits. This allows the client-firm to shed labour and still maintain an adequate supply of workers to produce its products or deliver its services. The client-firm is absolved from the responsibilities of paying wages and benefits, adhering to hiring and firing procedures, and the provision of training. The agency-mediated workforce in each client-firm is not only isolated from central operations, but also from the permanent staff in their respective workplaces. The client-firm is also relieved of the management function and ensured of arm’s-length dealings with workers when agencies provide supervisors to manage the subcontracted workers at the workplace (see chapter 5). By absorbing some of the social reproduction costs of non-standard work - costs that employers of non-standard labour seek to avoid - the employment agency guarantees and even subsidises the production of non-standard work. In the words of a labour broker:

I take a lot of pressure off our clients’ shoulders ... The advantages for the client is that he does not have to appoint extra staff to handle all the paper-work around pay and so on. I remove all that administrative work from the client. All those people that he hires from me are *my* responsibility (14/10/1998).

The employment relationship of these workers is regulated through a contract for service between the agency and the client-firm. The workers themselves have no say in these matters: “we are not told what our conditions of employment are - you just find out when you get to [the client-firm]” (subcontracted worker - 29/06/2002). A labour broker also insisted that “[t]he terms and conditions of employment of our casuals is a matter between us and the client” (05/07/2000). The efficacy of the laws of supply and demand in the labour market depends on a neat match between the information on available jobs and the information on available employees. In practice, however, any additional information, recruitment, interviews and the like are costly and often result in jobs remaining vacant. By institutionalising the casualisation of employment, the temporary employment industry not only lowers employers’ recruitment costs, but also eliminates both short-term and long-term disjunctures between labour demand and supply. According to the manager of a temporary employment agency,

[o]n average, most of my people work five days a week. But it won’t always be at the same place. Many of my workers go to the same place, but it all depends on the demand from our clients ... The casual doesn’t go to the client every day at eight o’clock and sits there whether he works or doesn’t work. No. He comes to me and goes from here in terms of demand (11/07/2002).

Small and constantly varying contracts raise problems of coordination for the temporary employment agencies. As a result, these agencies are eager to expand the scope and duration of the services they offer:

I have no problems with how long a temporary worker works with a client. It is an advantage for me and for him the longer he works there. I will also find *any* type of worker that the client may need (manager, temporary employment agency - 11/07/2002).

The expansion of temporary employment has more to do with a strong demand or high turn-over in the local labour market than with any particular policy innovation. The growth and occupational diversification of the temporary employment industry are firmly integrated into the business cycle (Mangum *et al* 1985; Maurau 1993; Peck and Theodore 2002). At the beginning of an economic recovery, new recruits are often appointed on non-standard employment contracts. The experiences of retrenchment in the late-1980s and early-1990s encouraged employers to try to avoid lay-offs by employing non-standard workers. Permanent contracts are only extended to new workers with important skills and when economic conditions seem to stabilise. As a temporary employment agency manager noted:

I think temporary work follows the economy. Many companies were retrenching in the eighties and nineties. When business started picking up, they were scared of taking on permanent staff and having to retrench again. It’s not a nice thing to retrench, so they started bringing in temps (10/07/2002).

The role of the temporary employment industry is therefore akin to that of “unproductive

hawkers, the only constructive function of which is to provide a fragile, *temporary* bridge between jobseekers and employers” (Peck and Theodore 2002:148). Firstly, they are not directly involved in the production of value and operate exclusively in the sphere of circulation. Secondly, their capital is no more than the sum of money to transfer commodities (labour power) from one place to another. Third, they are not an independent (class) force, but are subject to the fluctuations in capital-labour relations. As one labour broker so succinctly put it: “[w]e hire people and you can’t hire people to companies who don’t need people” (05/07/2000). Given their unproductive nature and reliance on the cheapest sources of labour, the proliferation of temporary employment agencies may become an obstacle to sustained economic growth, provide employers with a union-avoidance mechanism, and lead to an overall decline in terms and conditions of employment, a dilution of labour standards, and a rise in employment insecurity.

3.5.2 Labour Regulation and the Rise of the Temporary Employment Industry

The ability to generate high levels of profit by paying low wages and diluting labour standards means that some of the fastest growing firms in Namibia are now in the service and personnel sectors. Temporary employment agencies experienced remarkable growth in Namibia from the mid-1990s onwards. As we noted above, a steady supply of ‘willing’ workers, implicit deregulation, and the virtual absence of statutory and collective controls on the use of non-standard employment in Namibia are highly favourable to the expansion of agency-mediated temporary employment. Although these agencies are concentrated in the major industrial centres (Walvis Bay, Swakopmund, Luderitz and Windhoek); they are also found in smaller towns such as Arandis and Tsumeb. The temporary employment industry in Namibia is dominated by one large company that employs about 1 500 workers countrywide on a semi-permanent basis in addition to the numerous workers hired out on a daily basis as demand dictates (LaRRI 2000a:5). The other temporary employment agencies are considerably smaller and limited in their operations to specific towns, companies and skill categories. Some of the smaller agencies, for example, deal exclusively in the supply of temporary workers to one large firm (usually a mine). Semi- and unskilled workers constitute the bulk of the employees hired to private companies and parastatals. However, most temporary employment agencies also supply a whole range of skilled personnel and a few even specialise in the provision of skilled labour on fixed-term contracts.

The temporary employment industry is not simply a mechanism to enforce flexible employment practices, but “its structure and development must be understood in terms of the complex renegotiation of employment relations and regulations on a country-by-country basis” (Peck and Theodore 2002:145). This implies that the composition of the temporary employment sector, the

reasons behind its growth, and its effects on the SER are geographically-specific. There are at least two reasons for this spatial contingency. First, temporary employment agencies play a complex role in the restructuring of employment relationships, not only reflecting but also contributing to the prevailing segmentation of the labour market. The trends towards the casualisation of employment in Namibia are clearly structured and reinforced by those towards duality in the labour market (outlined above). Second, the services offered by the industry are fundamentally shaped by the specific labour demands of its clients. The later, in turn, are influenced by the market conditions, labour process requirements, and regulatory dilemmas endemic to a particular industry or firm.

The temporary employment agencies in Namibia provide firms with temporary employees to meet labour requirements where permanent staff are on leave, absent or sick, to carry out irregular or unforeseen tasks, and to expand the workforce during special projects. In these situations labour brokers do not necessarily replace permanent jobs, but satisfy employers' special or exceptional labour needs. However, there is a growing trend whereby whole departments are being subcontracted to external agencies (see chapter 4). Here standard employees either lose their jobs or find themselves in an employment relationship that is inferior in most respects to that which they enjoyed as permanent workers. According to the permanent secretary in the Ministry of Labour,

[s]ome of the companies go so far that they outsource everything except a few senior chaps. Even their personnel administration is sourced out to a labour consultant. All the core functions of that company are sourced out and that, I think, takes it too far. They must be reasonable (04/07/2000).

The outsourcing of work to temporary employment agencies following the retrenchment of permanent employees is a particularly contentious subject among trade unionists.

I think outsourcing is there to avoid direct responsibility from the management. Management would just retrench all the workers and take in a subcontractor, which is unfair to the workers. No-one wants to take responsibility for the workers (national organiser, Namibian People's Social Movement - 02/11/1998).

Strategically, employers know that the Labour Act makes provision for retrenchment. So they will retrench some workers saying that their job no longer exists. But then they bring in labour-hire workers into these same jobs. The law is not very strict on that issue, as long as the company follows the correct procedure (general secretary, MANWU - 27/06/2002).

This process also leads to situations in which employees performing similar or the same work may receive substantially different benefits. For this reason, many countries have sought to regulate this type of contracting by placing joint and several liability on the client-firm (especially where the agency's employees perform work that forms a part of the client's principal or core

business)¹⁸ and by requiring equality of treatment for non-standard employees. Trade unions in Namibia have occasionally succeeded in preventing employers from retrenching workers and then (unlawfully) employing non-standard workers in the jobs that were ostensibly made redundant (see chapter 6). Despite victories in some battles, the labour movement seems to be losing the war against casualisation as employers continue to expand the outsourcing of ‘non-core’ departments and the government remains unwilling or unable to regulate the temporary employment industry:

[w]e have a big problem with retrenchments. The membership has been declining quite drastically. The introduction of these labour hire companies has severely increased job insecurity as businesses do away with permanent jobs and hire casual labour to do the work (general secretary, NUNW - 22/10/1998).

Standard and non-standard employment, as we emphasised above, imply alternative modes of labour regulation with different structural logics. Likewise, each form of non-standard employment represents “a distinctive social arrangement, the continued validity of which depends on the *presence* of a favorable regulatory environment and supporting legal doctrine - or the *absence* of specific institutional barriers to its legitimacy” (Gonos 1998:171). The distinctive mode of labour regulation of non-standard employment allows businesses to evade and/or reduce the regulatory costs associated with the SER, mobilises workers for low-waged work, and maximises participation in non-standard, unorganised and low-paid work at the bottom of the labour market (Hakim 1989; Gottfried 1994; Felstead and Jewson 1999a). The industry’s rationale is “to open up (comparatively) deregulated spaces within the employment relation within which there is scope for profitably trading ‘less regulated’ labor” (Peck and Theodore 2002:154). As such, the temporary employment industry constitutes a mechanism for the social reproduction of a non-standard labour supply. It actively seeks to counteract the weak pull (demand) of non-standard work by inducing a concerted push (supply) from unemployment. For example:

[s]ince our last study, the labour force of [the largest labour-hire company] has jumped to 12 000 - a massive increase of six hundred percent in three years. They would only take on these workers if there is a demand from the various industries ... Of course, they also create a demand by very aggressively marketing their services. They approach companies directly and then says things that they would never put on the record. We suspect that they will tell the relevant manager: ‘we heard you had an illegal strike and you lost so much as a result. If you use our workers and they get involved in that, just give us a ring and we will replace them’. These things of course never appear in a contract and are completely off-the-record, but they strike a chord with certain managers (director, labour research institute - 26/06/2002).

The larger temporary employment agencies not only advertised their services widely among

¹⁸ This is a legal obligation on each party to indemnify the temporary employee for all harm caused or damage suffered, irrespective of which party is actually at fault.

employers, but were also quick to promote the conditions best suited to the expansion of their industry. According to the general manager at one of these agencies,

[w]e must move away from placing undue restrictions on employers to hire and fire employees. We need to move away from the idea of a job for life. Part-time and temporary work must be seen as stepping stones for both employer and employee. It is to their own good ultimately. Unfortunately, Namibia is moving towards a paternalistic system of employment and protection for the employees. Actually it is Namibianisation rather than globalisation ... Not that there's anything wrong with that, but the inherent danger is that when you have a choice where to invest, you will invest in a place where you have more flexibility in releasing staff that are not suitable for the job (05/07/2000).

There is a tension in this view of the industry between the celebration of poorly regulated forms of employment and the recognition of the vital role that regulation plays in facilitating non-standard employment. This reflects the fact that regulation in the labour market is both a threat and opportunity for labour brokers. While extensive regulation of the SER has in part facilitated the growth of the temporary employment industry, as we noted above, its continued survival depends on minimal social and statutory regulation of NERs. The temporary employment industry has actively sought to limit the extent of regulation imposed on its own sphere of operations and not the employment relationship more generally (Abraham 1988; Anderson *et al* 1994; Gonos 1998; Autor 2000). The industry therefore exists to undercut prevailing standards of labour regulation. Contrary to the image of the temporary employment industry as the impartial and neutral purveyor of a 'free' market ideology,

the temp sector is very much a creature of regulation and as such is an active player in the process of regulatory change. It exists in the shadow of the more regulated zone of the labor market, and the size and vitality of the [temporary employment industry] reflects how that shadow falls ... The temp industry's business interests are best served by being the (marginally) less regulated 'other' of the mainstream economy, hence the sector's structural position not at the heart but on the fringes of the labor market, in the undertow created by successive waves of regulation ... The industry exists ... in the messy interstices of the regulated economy, with which it has a complex and symbiotic relationship (Peck and Theodore 2002:151-3).

By mobilising and demobilising labour strictly in accordance with prevailing demand conditions, the temporary employment industry increasingly assumed the role of a safety valve for the labour market as a whole. The industry forms an integral part of the institutional mechanisms that set and continually adjust the parameters of the labour supply in line with the cyclical movements in economic activity. This has had a profound effect on the way in which employers adjust to fluctuations in economic activity. Retrenching workers during a decline in demand, according to the general manager of a construction firm,

causes you to lose that continuity of an employment relationship. We are working towards a situation where we have more core labour that stays longer in the company ... The rest of the work is done through contract workers (05/11/1998).

In their role as “agents of deregulation”, temporary employment agencies play the role of “neutral brokerage” in the labour market through a “market-enhancing presence” (Peck and Theodore 2002:150). The low-cost, market-orientated strategies of these agencies tend to exploit labour market conditions as they find them. When a client-firm purchases the labour power of a temporary worker, it not only acquires a set of competencies but also a gendered and/or racialised subject whose expectations conform to relations of subordination in the wider social milieu. This establishes a “regressive regulatory accommodation” between non-standard employment and flexible labour markets (Peck and Theodore 2000:133). As a management consultant observed:

[o]utsourcing is becoming one of the ways in which companies keep their own numbers as small as possible and concentrate only on their own central line of business. There are a lot of problems in our labour legislation and the District Labour Court has passed a lot of decisions that are very unfair to employers. It is very difficult to terminate services, even of people who are incompetent. Employers are picking up a lot of problems with people they just can't terminate for one or other reason. Therefore they are becoming hesitant to employ people. They are looking for other ways to substitute for employees which is actually a very bad thing for our country because we are looking for job creation (19/07/2000).

The labour brokers viewed their role explicitly in terms of alleviating some of the costs and burdens imposed on employers by the regulation of the SER. Not surprisingly, therefore, agency-mediated temporary employment is most prevalent in larger, unionised firms where terms and conditions of employment are jointly regulated and statutory provisions are meticulously implemented. According to the director of a labour research institute, the larger temporary employment agencies “watch very carefully which sectors are torn apart by tense labour relations and then target those companies by saying: ‘we can avoid these problems for you in the future’” (26/06/2002).

3.5.3 The Two Guises of the Temporary Employment Industry

The temporary employment industry is internally differentiated. As the industry expanded up and down the occupational ladder at the same time, it become both more heterogenous and polarised. There are the small, locally-owned agencies providing wage-sensitive sectors with low-skilled labour and the large, often multi-national, agencies that service a range of higher level markets. According to Peck and Theodore (1998:671), there are

[s]imultaneous processes ... at work for the industry to ‘restructure down’ into the lowest reaches of the labour market, constructing hyper-commodified employment relations in which daily instability and high rates of exploitation are the norm, and to ‘restructure up’ into once-stable spheres of employment, developing increasingly regularised relationships with corporate clients, for whom the utilisation of temps has become a functionally-integral aspect of medium-term business strategy.

The inadequate legal regulation of the industry in Namibia means that the competition between

large, established firms and numerous small, 'fly-by-night' operations can easily degenerate into a race to the bottom. In fact, some of the latter retain as much as 75% of the fees that they charge and pay wages as low as N\$2 per hour (LaRRI 2000a:10). Self-regulation, weak as it is, has nevertheless imposed costs on larger firms not faced by smaller firms with more informal, 'off-the-books' operations. The managers of two larger temporary employment agencies contrasted their business with the smaller operators in the industry as follows.

We supply his protective clothing: his overalls, earplugs and boots ... We work according to the minimum wages set by the law and carefully screen our workers ... All our casuals are registered with social security, and their leave is payable for 18 days a year ... At the moment we don't have medical aid or pensions - we are still waiting for that to come ... If a temp works more than 45 hours, then it is overtime. If he works on Sundays, it is overtime. And if he works on a public holiday, it is overtime ... If one of my people gets injured at the client's place, we take all the responsibilities on our shoulders. We fetch the person, make sure all the social security forms are filled in and make sure that the man gets to a doctor (10/07/2002).

Customer service is very important to us. We offer a continuous and high-quality service. You get a lot of people who work out of their garage or out of their bakkie, but they simply cannot provide the service that is really needed. All they are interested in is making a quick buck. There has to be some control over these people (11/07/2002).

At the bottom end of the industry, we find individuals who run temporary employment agencies from their homes or back-street offices, largely beyond the reach of formal regulation. Employment relationships in this segment of the market are highly fragile, precarious and price-sensitive. This segment of the industry is characterised by tight profit margins and erratic flows of mostly unskilled labour. "The characteristics I look for is where does he live, how old is he, and where has he worked before - I am not interested in any qualifications" (labour broker - 14/10/1998). The costs of entry into the lower echelons of the temporary employment industry are also relatively low. This not only facilitates an increase in the number of operators in the industry, but also allows some labour brokers to avoid their obligations by simply changing their identity or location. As MANWU's general secretary noted,

you will find that some of these subcontractors are not even registered. You will never find where their offices are, where they are operating from. And their name is also unknown ... The subcontractors have cell-phones [to receive orders for labour] and sometimes their 'office' is inside the boot of their car. Even if you manage to report [an unregistered] subcontractor to the labour inspectors, he simply closes the 'business' and starts under a new name the next day (23/10/1998).

The general secretary of NAFU noted a similar process with regard to some of the agents that actively promote the use of non-standard contracts:

[t]here has been a mushrooming of 'consultants' who are inter-linked with the labour-hire companies. They are making a lot of money by telling the companies to reduce their labour costs by using temporary workers. They are not regulated and they can operate from their house or even from a café while they are drinking coffee (26/10/1998).

Despite the prominence of market regulation, social regulation continues to figure prominently in the incorporation and allocation of temporary workers in this segment of the market. That is, even in labour markets where statutory regulation is minimal and trade unionism is absent, immanent social processes are decisive (Jones 1996). These processes revolve largely around the conventions that have been developed to structure the selection and allocation of labour. The perfunctory screening of workers by the small employment agencies means that 'undesirable' workers invariably slip through the cracks. However, 'trouble-makers' and 'unsatisfactory' workers are soon identified by the labour broker and/or the client-firm and they are then excluded from any future allocations of work. According to a labour broker, the workers "get sorted out very quickly in terms of who can do what" (05/07/2000). While labour in this segment of the labour market may be largely homogenous and therefore highly substitutable, the selection and allocation of workers is influenced by a range of factors. These include preferential treatment by the labour broker based on the individual's past reliability and capacity for hard work; the demands of the task to be carried out; the client-firm's preference for 'reliable' workers with the 'right' attitude and prior experience; and the labour queues established by workers. The latter operate primarily on the principle of 'first-come-first-served'. Hence, workers generally have to arrive at assembly points near the industrial areas at six o'clock in the morning if they are to have a realistic chance of getting a job.

The labour broker receives orders from firms and collects the requisite number of workers from the assembly points. The duration of the work can vary from a few hours to several weeks. Despite some variation in the tasks to be performed, the work is generally of a menial and strenuous nature. Pay is low, the work is irregular, and the struggle to make ends meet is a constant source of worry. While the workers were desperate to get longer-term jobs, they were largely indifferent to the nature of the work. "We don't ask what type of job it is, but you hope it is not just a job for the day" (temporary agency worker - 02/07/2002). By mid-morning, most of the assembled workers are dispersing with only a few remaining on the off chance that work may become available after lunch. This cycle is repeated six days a week. For the majority of these workers, many hours are spent idle waiting for work in a context where labour supply consistently exceeds demand. "We are wasting our lives away waiting for these jobs" (temporary agency worker - 06/07/2000). The interaction among subcontracted workers is strongly influenced by their experience of precarious and intermittent employment, and often centres around mutual aid such as the sharing of experiences and information about access to temporary work.

High labour turn-over in the less skilled categories of employment is not a concern since these

agencies perform their role as labour-market intermediaries in a favourable context of excess labour supply. According to MUN's general secretary, "[a]s long as they know that these workers can easily be replaced, firing them is not an issue" (26/10/1998). The small temporary employment agencies are generally unconcerned with the manner in which the work is done, unless complaints are received from the client. "The client can get [the temporary worker] to do any jobs that are necessary" (labour broker - 19/10/1998). While there is little concern shown by labour brokers in retaining the services of a particular worker, satisfying the requirements and maintaining relationships with a client-firm are paramount to the survival of the agency. Temporary employment agencies allow employers to harness the benefits of casualisation by "extending their 'recruitment reach' deep into the under-employed and impoverished pockets" of the labour market (Peck and Theodore 1998:661). As such, the temporary employment industry represents an institutionalised mechanism for relocating the costs of fluctuating demand into the bottom end of the labour market.

The larger, more established temporary employment agencies have well-appointed offices in or near the major industrial areas. These firms are designed to mobilise and allocate large numbers of temporary workers, with varying levels of skill and work experience, as rapidly and efficiently as possible. In addition to absorbing the fluctuations in its labour demand, the client-firm derives a number of other benefits from these employment agencies (see chapter 6). The sheer size of the reserve army of labour for unskilled occupations raised numerous problems for management's standard recruitment practices. As the manager of a large employment agency explained: "[i]f you advertise for a production job today, you will have hundreds of people outside your factory gate tomorrow" (16/10/1998). Furthermore, in contrast to the dispensability of the less skilled, high labour turn-over among skilled or experienced temporary workers is a major concern for these agencies. Managers in the larger employment agencies that were interviewed consistently complained about the 'poaching' of their best staff members by client-firms. A growing number of employers are using skilled and experienced agency-supplied workers as a more effective and less costly means of screening potential employees in a process of 'try-before-you-buy'. In the words of an employment agency manager:

[c]ertain specialities start developing among some workers. Then I know which workers to use for a certain job ... The feed-back that I get from many clients is: 'we want this guy - you don't send him to another place, he stays with us'. That is how his permanent work starts. Of course, this often means that we loose some of our best workers (07/07/2000).

A small staff complement of four or five employees processes the orders for labour from client-firms, registers and screens new work seekers, and despatches selected workers to their respective workplaces. In contrast to the smaller 'fly-by-night' employment agencies, these firms are more

likely to keep records on employees, adhere to social security and other labour laws, establish internal disciplinary and grievance procedures, and practice more stringent selection of workers. The larger agencies target a distinct sector of the market. "They are looking at companies that are making money - that's where they want to go in" (regional organiser, MUN - 05/07/2002). These agencies are also much more concerned about the negative image of the industry in Namibia.

The bad stories about labour-hire companies that are going around come from people who don't work for us ... The stories that are going around say that we are taking half of the guys' money, that these guys don't get leave, they don't get paid overtime and they don't get social security. This may be so with other labour-hire companies but not with us. My guys are happy ... The bad stories come from the guy who knows that he is walking on thin ice. He is a guy who is constantly off sick, he is the guy who has disciplinary hearings. The chances that he is going to lose his job and that a casual is going to be put in his place are great ... We don't abuse people here because we follow the correct procedures ... Our clients feel more sure about what they get from us than just hiring workers from outside the gates. Now they know they are safe because we are registered. Now there are no more shortcuts (manager, temporary employment agency - 06/07/2002).

There are many employment agencies that are, as you say, fly-by-night operators, but the market situation soon sorts them out. Everybody wants to jump on the bandwagon, but many of them don't have any experience with running a good employment agency. I cannot force any company to use my services, but if you provide a professional service, the word will soon spread ... I have about 800 applicants on my books and it is easier for me to find someone a job than it would be if he went from office to office looking for work. I will say to the client: 'I know this guy and he did a good job at the previous companies I sent him to'. It is better to work through a recognised employment agency if you want temporary workers. We know how to screen the workers and we do all the necessary paper work (manager, temporary employment agency - 02/07/2002).

The workers in this segment of the labour market tend to carry out a more diverse range of tasks, have more job experience, and obtain work of a longer duration than their counterparts in the smaller agencies. Workers on long-term contracts must find their own way to the client-firm and their interaction with the employment agency is reduced to a weekly collection of wages. Both the small and large temporary employment agencies had relatively informal, arm's-length relationships with their employees. There is a tendency, however, for the larger agencies to establish much closer relationships with client-firms and to offer their employees greater employment (albeit not job) security:

[e]verybody after all wants a permanent job. I believe that once our pension fund is up and running, we will get more commitment from your workers. Then the guy knows: 'today I'm working here, tomorrow I'm working there, but I have something to take care of my old age'. Once that comes in, then we will have a much more relaxed atmosphere among the people. Then he won't have any more problems like 'why am I not being appointed permanently?' He is, in other words, already appointed and has his pension scheme with us (manager, temporary employment agency - 06/07/2002).

The clients evaluate the performance of agency-supplied workers and the processes of finding the 'right' workers for the job and weeding out those who do not meet expectations are key to the longevity of relationships with client-firms. Longer and larger contracts are sometimes accompanied by the provision of on-site supervision by the temporary employment agency (see

chapter 5). Since the corporate image of a large client-firm could be tarnished through its association with a disreputable employment agency, they tend to rely almost exclusively on the services of the established agencies. These agencies place a premium on matching employees with the 'corporate culture' of their clients. In the words of the general manager of a large employment agency:

[i]n my line of work you need to be a good judge of character ... Our bigger clients are very fussy about the type of worker you send to them. You must know how things are done in a particular company. Then you can send them the right workers ... We first look at what type of business our clients are involved in. That will give me an understanding of what the client will require. After going through all the growing pains, we establish a relationship with our clients. We both grow through that relationship. We become a part of the company (06/07/2000).

While they possess few tangible assets, a major asset for these agencies is "the value created by customer loyalty - the goodwill of a client to renew a contract and release a further stream of profits" (Allen and Henry 1997:191). The cost-minimising competition in the temporary employment industry has been intensified by the spread of small, unregulated labour subcontracting agencies. Several respondents noted the deleterious consequences of this rise in price-based competition.

As far as subcontractors are concerned, the price gets the job - unless you have built up a special relationship with a specific subcontractor who you want to use again. Mostly it is really a system of cheapest price gets the job. That is unfortunate in many ways because quality can be sacrificed (president, Construction Industries Federation - 18/07/2000).

These contractors have no future, they can be told any day that there is no more work. The company can quickly take another contractor and put him in their place. So they are told: 'you must perform if you want a future in this company' (general secretary, MUN - 28/06/2002).

Pressures from these sources have compelled the larger employment agencies to diversify their range of value-adding services to include payroll administration, the provision of human resource 'solutions', and so on. In an effort to distinguish themselves from the smaller agencies and to evade the negative perceptions of the industry, some of the larger temporary employment agencies have changed their names from 'labour hire' to 'personnel services'. However, as one of NAFAU's regional organisers observed: "[y]ou can give shit another name, but it is still going to stink" (02/07/2002). While there is some truth in this remark, the larger temporary employment agencies have become more selective in the contracts they bid for and are less willing to compromise on certain minimum employment standards in their negotiations with clients. The smaller employment agencies, by contrast,

try to get away with less and provide services at a very low rate. The company will tell the labour broker: 'if you don't want the contract, we will get someone else'. So you will find that some brokers will even go for the lowest contracts. As long as they can get in, make some money and gain the experience to get

another contract, they will accept any conditions (general secretary, MUN - 28/06/2002).

Although price competition remains fierce, temporary employment agencies at the top of the industry hierarchy are to some extent shielded from the bottom-end operators by their emphasis on providing a 'professional' service, their close and long-term relationships with leading companies, and their sensitivity to the distinctive needs of each client. According to a manager in a large employment agency, "[w]e work closely with our clients, we are all together in this arrangement" (14/10/1998). What these agencies offer is not just warm bodies, but rather "particular bundles of work and social skills" (Peck and Theodore 1998:668). Whereas the smaller agencies trade purely on the basis of low wage costs and as a source of employment flexibility, the large firms also operate as the purveyors of work process flexibility by expanding the specialist skills of the client's own workforce. In short, the role of labour market intermediary varies depending on whether the agency is located at the top or the bottom of the temporary employment industry.

3.5.4 Regulating the Temporary Employment Industry in Namibia

A lack of precision in legal terminology has led to a conflation of two distinct forms of statutory regulation. The first is how to provide safeguards against the abuses that have traditionally been associated with casualisation. The second is the regulation of the temporary employment industry itself. While the latter may alleviate some of the excesses associated with agency-mediated employment, it is the former that determines the extent to which temporary workers qualify for broader statutory and institutional protection. Emphasis is sometimes placed on the limited duration of temporary employment. This is done by setting a time limit when the temporary worker acquires legislative protection akin to that of permanent employment. This may, however, simply encourage employers to continuously rotate their temporary staff.

In relatively few countries (Italy, Greece, Spain, Sweden) the law forbids fee-charging employment agencies. The countries which authorise the existence of temporary employment agencies fall into two categories (Hepple 1993:265-6; Anderson *et al* 1994:511-2). In the first category are those countries (USA, Canada, Finland, Portugal and some Latin American states) where law and practice allow these agencies to operate in the same unrestrained manner as any other business. In the second category are those countries where specific legislation has been passed to regulate the business and to protect temporary workers (Belgium, Denmark, France, Germany, Ireland, the Netherlands, Norway and the UK). In these countries, legislation is geared towards three main objectives: (a) to ensure that only reputable and solvent businesses are engaged in supplying temporary workers by imposing licencing requirements; (b) to grant

temporary workers similar protection as permanent workers through non-discrimination clauses; and (c) to protect permanent employment by confining recourse to temporary employment to situations where it can be justified economically and is restricted in terms of duration. In some countries, temporary employment agencies are not allowed to operate at all in certain industries. In others, the precise circumstances in which temporary labour can be used are clearly specified (Casey *et al* 1989; Maurau 1993; Numhauser-Henning 2002). Despite continuing diversity in the regulation of temporary employment agencies, the recent trend in most countries has been towards allowing employers greater latitude in their use of temporary employment contracts (Hakim 1990a:182; Hepple 1993:267; Locke 1995:13).

While recognising the abuses often associated with agency-mediated employment, the Namibian government does not view outright prohibition as a viable solution. Despite the fact that most non-standard employees are not members of a trade union, considerable emphasis is attached to the role of collective regulation. In the words of the permanent secretary in the Ministry of Labour:

I don't think banning labour hire companies is the only way to solve the problem ... I think from the point of view of a regulator, labour hire is only there because there are gaps in the legislation ... Assuming that the basic rights of workers are not infringed upon - they are not exploited - then I don't think that banning them is altogether a good concept. Banning is an easy way out. If you look at it constructively, together with the unions, I think there are possibilities where one can make it a useful instrument. Not necessarily as a substitute for permanent employment. It should not be seen as that, but there is room for its existence ... There has to be soft law such as codes of conduct that can to a large extent be done by the labour-hire companies together with their unions. Together they can have an understanding of what are the do's and the don'ts. But there are certain areas where the government has to come in with more rigid regulatory systems. For instance, to ensure that the contributions to social security or the pay-outs in terms of retrenchment are enforced (04/07/2000).

The *Proposed Guidelines for Labour Hire Employment and Operating Standards*, circulated for discussion in 1999 by the Ministry of Labour, constitute the first meaningful attempt at regulating the temporary employment industry in Namibia. As such, the proposed guidelines attempt to regulate employment practices that are already widespread. These guidelines provide for the registration of temporary employment agencies, the introduction of training programmes, and the establishment of grievance and disciplinary procedures and employment records (LaRRI 2000a:22-3). After some negotiations between the representatives of labour, business and the government in the LAC, an amended set of proposals was presented by the Ministry of Labour in August 2000. The amended proposals compel temporary employment agencies to: (a) register with the Labour Commissioner; (b) adhere to labour and other legislation; (c) register their employees with the Social Security Commission; (d) design and implement a training programme; (e) promote 'good' industrial relations; and (f) refrain from activities aimed at replacing retrenched workers with agency-supplied workers. In addition, the guidelines set out

the following, rather modest, minimum wages: N\$4.70 per hour for labourers, N\$5.30 per hour for semi-skilled workers, and N\$6.00 per hour for skilled workers. By the late-1990s, most semi- and unskilled temporary labourers earned slightly less than these minima, while skilled temporary workers earned considerably more.

These regulations are unlikely to stem the tide of casualisation or limit the proliferation of temporary employment agencies. Firstly, the agencies are only required to provide their employees with benefits such as pensions and medical aid 'where possible'. Given the nature of competition in the temporary employment industry, the provision of benefits will only be 'possible' if it is made mandatory for all agencies. Secondly, while the regulations provide for the training of temporary workers employed on a 'regular basis', they do not define what constitutes such employment. The employment agencies are thus largely free to decide who will benefit from training. Thirdly, the provision that aims to prevent the replacement of permanent employees with agency-supplied employees is exceedingly difficult to enforce. Employers may, for example, eliminate permanent jobs vacated through natural attrition through the use of temporary employment agencies. Fourthly, the regulations would have been much more effective in preventing abuses if equality of treatment and joint and several liability were imposed on all parties involved in work arrangements that depend on the services of intermediaries. Finally, the regulations do not provide any limitations on the period for which an employee can be regarded as 'temporary' or 'casual'. Employers can therefore use the services of agency-supplied workers for an indefinite period and are under no compulsion to create permanent employment.

3.6 CONCLUSION

Capitalist economic growth is characterised by uneven development and cyclical patterns which result in (among others) an uneven demand for and an unstable supply of labour. Which groups of workers will benefit from restructuring is historically and spatially contingent and is shaped by developments in the labour process (i.e. which type of jobs are increasingly being created) and by the state of the labour market (i.e. which categories of labour, suitable to these developments, are available). There is, however, a discernible tendency for permanent, skilled and organised workers to benefit disproportionately from changes in production. "Asymmetries of power within the labor market - rooted in the labor process, the sphere of social reproduction, and the regulatory regime - are principal determinants of the structure and segmentation of labour markets" (Peck 1996:135). The casualisation of labour tends to mirror and reinforce existing hierarchies of subordination in a society, reflecting the broader tendency for insecure, low-wage

jobs to be held by workers with diminished bargaining capacity in the labour market. Our understanding of labour market segmentation will be significantly enhanced if the notion of a linear and unidirectional process of increasing fragmentation is jettisoned in favour of a more contradictory process of decomposition and recomposition of the division of labour (Michon 1987:34). Periods of rapid economic restructuring demand highly variable levels of adaptability and are associated with highly variable levels of labour market insecurity. The mode of regulating this structural change is particularly important: overly prescriptive and bureaucratic mechanisms run the risk of petrifying the restructuring process, while an extensive reliance on market forces invariably generates high levels of insecurity and inequality. Regulated participation by the social partners in the process of economic restructuring is therefore vital if a sustainable trade-off between increased efficiency and greater equity is to be established.

The prospects for marrying labour market flexibility, cost-cutting and greater social equality and employment security in Namibia do not look good. The stability and transparency of the labour market are undermined by the increasing precariousness of jobs, the rising number of jobs which do not provide for acceptable standards of living, and wages linked to discretionary decisions by management. Internationally, the record of deregulation and non-standard employment in creating new jobs and reducing unemployment is poor.¹⁹ In fact, 'flexible' labour market policies do nothing to raise the aggregate level of labour demand and are almost entirely passive with regard to demand-side conditions in the labour market. At best, short-term employment growth is obtained through a process of substitution at the expense of other secondary sector workers. The majority of non-standard jobs are highly precarious and most temporary workers have to endure significantly inferior conditions of employment and the virtual absence of training and career prospects. In the process an 'underclass' of employees is created, increasing the fragmentation of the workforce and resulting in a weakening of collective representation.

The analysis above clearly exposes the weaknesses of an internal/social versus external/economic conception of divisions in the labour market. Any failure of institutional regulation leads not to the revival of price-competitive markets and hence to the absence of social regulation. Far from restoring a 'free' market order, the redistributive effects of deregulation "divert the costs of recession and economic change on to the least politically and economically entrenched groups" (Deakin and Wilkinson 1991:142). Segmentation in the labour market is therefore sustained in part by distinct forms of labour regulation. When non-standard employment is regulated by statute or collective agreement it does not signal protection, it merely ratifies the absence or

¹⁹ See: Brooks (1985); Lane (1989); Storper and Scott (1990); Valverde *et al* (1997); Cousins (1999); Esping-Anderson and Regini (2000a); and Peck and Theodore (2000).

limits of protection. It establishes what has been described as a “regulated precariousness” (Campbell 1996). In practice, regulatory reforms are associated with a partial and *ad hoc* implementation of market-mediated forms of employment ‘flexibility’. The path of labour market development is contingent and has tended to weave between the extremes of long-term, ‘offensive’ flexibility and short-term, ‘defensive’ flexibility (Boyer 1988b). This lack of convergence in the evolution of labour market structures highlights the continuing importance of the choices that are made as to how employment is regulated and refutes the idea that current restructuring is inexorably driven by immutable market forces. There is a growing body of evidence which suggests that the correlation between labour costs, rigidity and economic competitiveness is far more complex than implied by the proponents of ‘flexibility’. There is also no single response to the demands of increased competition - such as the search for greater ‘flexibility’ - since there are significant differences in employment relations and practices between and within countries and industries.

4

'FLEXIBLE' JOBS: INDUSTRIAL RESTRUCTURING, MECHANISATION REGIMES, AND THE SEGMENTED DEMAND FOR NON- STANDARD EMPLOYMENT

4.1 INTRODUCTION

Social scientists of almost every persuasion accept that the economic crisis which has persisted since the mid-1970s is not a phase of the usual capitalist cycle, but is of a deeper, structural nature. Changes in the workplace are increasingly portrayed as part of an epoch-making transformation in the very forces which propel, stabilise and maintain the capitalist world. The emerging new age has been variously described as an information age, a post-modern age, a post-industrial age, an age of globalisation, and a post-collective age. Which of these purported new ages will consolidate or combine in the future remains an open and vexed question. Equally contested is whether the emerging new trends represent a qualitative break with the past or a refinement and modification of old trends. What is clear is that the optimistic 'best-practice' accounts of industrial restructuring, which postulate the dawn of a new virtuous cycle of growth, seriously underestimate the deep-seated institutional and normative constraints on fundamental changes in work and employment arrangements. The prescriptions that emanate from these discourses do not only imply that national modes of social regulation are equally capable of rapid and decisive change, but also that there is a universal dynamic in restructuring towards the elimination of 'rigidities' which impede the ideal 'flexibility' of the market.

Having outlined some of the primary sources of differentiation in labour supply in the previous chapter, we now turn to the conditions that generate a differentiated demand for labour. While the segmentation of labour supply determines which *workers* will take on non-standard employment, the segmentation of labour demand determines which *jobs* will be done by non-standard workers. The focus of attention will therefore shift from the availability of diverse sources of labour towards the variegated employment outcomes of industrial restructuring. On the demand side of the labour market, the ability to mobilise different forms of employment allows capital to expand its workforce without the general increase in wages that would be

fostered by competition for homogeneous categories of labour. The pressures for an increasingly adaptable and variable labour force are generating types of employment that both strengthen and undermine the regulatory framework associated with standard employment. Since the employment outcomes of restructuring are always mediated through the actions and values of the various institutions of interest representation, they cannot be determined in advance or made to conform to a model of linear and universal progression in labour utilisation. In contrast to the erstwhile prominence attached to the increasing homogenisation of the working class (Gordon *et al* 1982), now the inevitable 'peripheralisation' of the labour market is assumed. Such extremes leave us ill-equipped to provide the conceptual foundation necessary for an adequate understanding of what is a highly uneven process with divergent implications for labour. What has emerged is "a mosaic of different types and levels of security and vulnerability" among different segments of the labour market (Storper and Scott 1990:577). In other words, modes of labour regulation enhance the security of some employees while increasing the precariousness of others.

The processes of capital accumulation are inherently unstable and prone to crisis. This necessitates a continuous transformation in the conditions necessary to secure the expanded reproduction of capital. The crisis of Fordism was in part the product of growing tensions between established national forms of regulation and the increasingly global dynamic of accumulation. As such, it was a crisis of both accumulation *and* regulation. Workplace restructuring is thus not simply a technological or economic process, but also a social and political process. In fact, the proponents of 'flexible' accumulation regard the social regulation of labour as a fundamental obstacle to competitiveness and hence as the primary site of restructuring. A regime of labour regulation mediates the impact of product and labour markets on the employment relationship, shapes the capacity of employers to respond to changes in labour supply and demand, and provides employees with the resources to constrain management's predilections in the workplace. 'Resolving' a crisis of regulation therefore involves a process of restructuring the employment relationship to reassert the priorities of accumulation. In other words, the restructuring of production is always also the restructuring of the employment relationship. In the process of restructuring, as Peck (1996:240) points out, "the contours of labour control are [continuously] reworked and remade". It is in this light that we should view the attempts by capital to introduce (selectively and partially) elements of a post-Fordist accumulation regime such as employment 'flexibility' and 'lean' production.

In this chapter, we first consider the development of the 'flexible' firm and its role in the segmentation of labour demand. Next, we outline some of the limits to and possibilities of

restructuring in the Namibian economy since independence. Attempts at strengthening labour *and* improving productivity are severely constrained by the inherent limitations of a neo-colonial economy. The wider economic context in which the labour market is embedded is increasingly confining the search for competitiveness to considerations of price rather than quality. Many of the factors that contribute to the growing stratification of the workforce have less to do with productive efficiency and more with the prevailing costs and methods of control over the workforce. Finally, we consider a sorely neglected dimension of non-standard employment in 'flexibility' theories - the sectoral dynamics of restructuring. The debate on labour market 'rigidities' generally fails to shed light on the reasons why particular types of non-standard employment flourish in some industries rather than others. Segmentation on the demand side of the labour market is explored through an analysis of the types of non-standard jobs created in different economic sectors. The largely distinct regulatory dilemmas that are identified with the various industries explain the search for different regulatory 'fixes'.

4.2 THE 'FLEXIBLE FIRM': SEGMENTATION OF LABOUR DEMAND

The processes of industrial restructuring that have unfolded since the 1980s are conceptualised in different ways: flexible specialisation, the Japanisation of work, new production concepts, manufacturing excellence, and lean production.¹ Common to all these perspectives is the idea that changes in the workplace involve a radical and largely uniform departure from the employment patterns, mechanisms of control, and technologies associated with the Taylorist and Fordist organisation of mass production. The model of the 'flexible firm' proceeds from the micro-level of labour demand in the form of employer strategies to vary labour inputs directly with fluctuations in external demand conditions. That is, the flexible firm is defined by its ability to meet rapid changes in product markets (Atkinson 1985). This is achieved by the institutionalisation of at least three forms of flexibility. First, *functional* flexibility is achieved in two main ways. Internally, by fostering the development of a 'core' group of permanent employees through multi-skilling, semi-autonomous work groups, quality circles and the like. Stable employment is offered in exchange for flexibility and a continued reliance on the firm-specific skills of these employees. Flexibility is achieved, externally, by using specialist subcontractors in non-routine projects or tasks. Second, *numerical* flexibility is established, internally, by using overtime or short-time working to match supply and demand; and externally, by employing a 'peripheral' workforce through employment contracts such as part-time work,

¹ See: Peters and Waterman (1982); Piore and Sabel (1985); Kern and Schumann (1987); Oliver and Wilkinson (1988); Womack *et al* (1990); and Upton (1994).

subcontracting and self-employment. Third, *financial* flexibility is attained by keeping labour costs variable. This can be done by utilising peripheral workers strictly in accordance with demand and/or by linking the wages of core workers to individual performance. All three strategies lead to an increase in the segmentation of labour demand.

The notion of employment 'flexibility' has long ceased to be a mere academic or theoretical issue - it directly informs the policies and practices of governments, employers and various other influential economic agencies. Managerial discourse in Namibia is replete with ideas drawn from 'best-practice' literature. For example: "[a]s far as line management is concerned, we believe in a lean structure where open communications are of vital importance to the running of the company, where people are flexible and multi-skilled and understand the broader issues that are vital to us" (president, Construction Industries Federation - 18/07/2000). 'Flexibility' is put forward as the solution for alienated work, industrial conflict, recession, the instability of product markets, and much else. Its antithesis - 'rigidity' - is presented as the main obstacle to increased cooperation and productivity. Such universal claims are a hallmark of flexibility theories. In practice, however, flexibility strategies are inserted into the distinct evolution of particular labour markets and production systems. As such, flexibility can be traced to numerous causes and has different meanings in different places. Labour market flexibility is therefore a function of the wider system of labour regulation. This is clearly reflected in the overriding concern with the problems of management. As Pollert (1991b:26) notes, unless the flexibility debate is understood at the *political* level, it is not easy "to comprehend its popularization as a new orthodoxy, its insertion in policy or its intractability to empirical verification or refutation".

The flexible-firm model has come in for extensive criticism.² Most of these critics do not deny that working practices have undergone significant changes, but dispute the supposedly radical disjuncture and universality of these changes. In other words, it is not clear to what extent these developments are not simply a local manifestation of the inherent tendencies of capitalism towards crisis, to revolutionise the forces of production, and to extend the division of labour. The Parisian regulationists, and Aglietta in particular, are cautious about naming a successor to Fordism.³ By contrast, the flexibility approach amounts to a truncated, 'productionist' debate that

² See: Elger (1987); Williams *et al* (1987); Marginson (1989); Wood (1989), Hirst and Zeitlin (1991); Hyman (1991); Pollert (1991a); Gilbert *et al* (1992); Curry (1993); Hunter *et al* (1993); Legge (1995); Brown (1997); Burgess (1997); and Storey (1997).

³ As a thesis, post-Fordism is not generally associated with the *régulation* approach, although the conceptual framework that informs the thesis clearly draws on the theoretical stance adopted by the regulationists. It is, however, a crude and deterministic appropriation of the conceptual tools of *régulation* theory.

fails to seriously explore how a post-Fordist economy and workplace might be regulated (Peck and Tickell 1994:283). Despite the sheer volume of literature on the debate, “surprisingly little progress has been made in resolving key problems associated with the nature and outcomes of flexibility ... because of the speculative nature of much of the discussion” (Harley 1994:107-8). This is starkly revealed by the dearth of empirically-grounded analyses of the various dimensions of flexibility.

Sayer (1989:666) contends that the literature on ‘flexibility’ is “confused in its arguments, long on speculation and hype, and based on selected examples whose limited sectoral, spatial and temporal range is rarely acknowledged”. By generalising from localised and sectorally-specific changes, complex socio-economic and political problems are often reduced to mere technical and/or organisational obstacles. The central concept in this debate - ‘flexibility’ - is burdened with an inordinate amount of explanatory power. It attempts to capture a myriad of often discrete changes in production and employment under the rubric of a singular dynamic.⁴ Current industrial restructuring is far more problematic for both capital and labour than these purely technical-organisational discourses suggest. Crude notions of ‘flexibility’ radically simplify the dynamics of the employment relationship and seriously underestimate the costs and difficulties associated with institutional and normative transformation.

Some of the key shortcomings in the flexibility approach, of relevance here, include the following. First, the search for greater ‘flexibility’ is essentially concerned with creating the conditions in which the market can operate more efficiently (Pollert 1988; Burgess 1997; Callaghan 1997; Deakin and Reed 2000). The economic order secreted by these theories is essentially that of a ‘free’ or minimally regulated market. As Anderson *et al* (1994:492) note, “greater flexibility is largely a neo-liberal war cry”. Monetarists of the New Right insist that price stability, a restrictive monetary policy, and the removal of barriers to competition in labour, product and financial markets would restore the conditions under which the market could rectify structural imbalances in an economy. Numerous ‘rigidities’ in the labour market are seen as responsible for rising unemployment, declining productivity, wages that are too high and too rigid, and wage differentials that are too small. These institutional rigidities ossified the major systemic power of a capitalist market economy: the capacity for a fast and flexible response to changing circumstances. This idea of flexibility as adaptability to changes in external circumstances sees only one form of response - i.e. responsiveness to price signals. In reality, however, many of the perceived ‘rigidities’ are necessary to make markets work in the first place

⁴ Likewise, the notion of ‘flexible specialisation’ is, as Sayer and Walker (1992:192) note, “overly flexible and insufficiently specialized”.

by producing price norms, reducing uncertainty, guiding expectations, generating a minimum of trust, and so on (Lawson 1997). Not surprisingly, the role of the state is largely overlooked by the proponents of flexibility. An appreciation of the state's involvement in regulating the labour market is crucial for countering the claim that the search for flexibility is a spontaneous, market-driven phenomenon that is confined largely to the private sector (Colling 1999). The emphasis on market-led restructuring devalues the intractable problems of economic coordination that find expression in the industrial strategies devised by national governments (Peck 1996).

Second, the relationship between systems of production and labour market outcomes is highly complex. There is no straightforward connection between industrial structure and labour market structure, and hence between flexibility in production and flexibility in employment (Peck 1996; Waddington 1999). The flexible-firm model simply translates "the neo-classical emphasis on labour market deregulation and employment fragmentation into a new management policy of 'peripheralisation', without considering how sectoral and occupational development relates to employment forms" (Pollert 1988:283). This encourages the assumption of a direct and unproblematic relationship between production flexibility and a flexible labour force. There is no scope for conflict between these two forms of 'flexibility', nor any appreciation of the variety of contingent effects in terms of employment outcomes. The development of a functionally flexible workforce, for example, is constrained by the quality of available skills, the degrees of functional integration in the production process, and the levels of trade union opposition to the blurring of job demarcations. As such, functional flexibility requires a more long-term commitment to training and quality; depends on significant changes to the organisation of work, trade union practices and occupational solidarities; and is more costly to sustain than numerical flexibility. Most of the management respondents also noted that investment in training is a high-risk endeavour in Namibia since the 'poaching' of skilled staff is rife. These limits on the scope for functional adaptability have encouraged the use of alternative flexibility measures.

Third, underlying the flexibility debate is the notion of a universal shift in production paradigms that is disconnected from the national context. Research shows that "particular institutions and types of social groups tend to encourage the development and reproduction of distinctive kinds of work organization and control and, perhaps more directly, discourage antithetical ones" (Whitley 1997:228-9). A failure to explore the constraints on new employment strategies that are imposed by prevailing institutional and normative arrangements invariably results in a voluntarist conception in which anything is possible. Distinct national growth paths are the product of "a coherent and interlocking system of consumption, production and social reproduction" that forecloses certain paths of development by virtue of its embeddedness in a specific societal

system (Rubery 1994:347). Here the focus of analysis is on the social institutions associated with distinct kinds of industrialisation. As Thompson and Smith (1999:197) argue,

each nation state has a particular institutional configuration that reflects factors such as the nature of class formation, the development of the various circuits of capital and the forms of market and inter-firm relations. The mode of regulation of such relationships typically involves both distinctive forms of articulation and representation of interests and a social settlement between the major socio-economic actors ... Each nation state has an historical mode of integration into the international division of labor, reflecting the particular character of [its] industrialisation process.

Distinct national strategies of competitiveness are forged in the context of various organised interests, with particular power and ideological resources, that struggle to assert discrete paths of restructuring (Nielsen 1991; Boyer 1993; Frenkel 1994; Whitley and Kristensen 1997; Esping-Andersen and Regini 2000a). That is, the effects of industrialisation and development are filtered through a range of different socio-economic, political and institutional frameworks. The different possible combinations of Fordist and non-Fordist elements imply not only different types of Fordism, but also different routes to post-Fordism.⁵ By implication, it is necessary to conceptualise industrial restructuring not only in terms of successive phases of development, but also in terms of “historically *coexistent and competing* local alternatives” (Peck 1996:120). Some forms of non-standard employment, for instance, are more closely tied to a revival of ‘old’ forms of labour utilisation than to ‘new’ forms of employment flexibility. We are therefore more likely to witness the development of composite models with post-Fordist developments in some industries and a continued reliance on Fordist and Taylorist techniques in others.

Fourth, the establishment of a ‘flexible firm’ presupposes an increasing polarisation of the workforce. Several studies identify a growing divide between a skilled, technical élite that appropriates the lion-share of gains from restructuring, and an increasingly marginalised and insecure periphery that is either deskilled or unemployed (Chalmers 1989; Brown and Scase 1991; Felstead and Jewson 1999a; Heery and Salmon 2000a). Even the pioneers of flexible specialisation recognised that its implementation could lay the basis for an “island” of highly flexible craft workers surrounded by a “sub-proletarian sea of misery” (Piore and Sabel 1985:279). The casualisation of labour, as we noted in the previous chapter, has had the most debilitating effects on those sectors of the population who are most vulnerable and lacking in labour market power. Labour market ‘flexibility’ has simply become a euphemism for downgrading the rights and conditions of certain sections of the workforce. In fact, there tends to be a “systematic relationship between management’s attempts to increase labour market

⁵ The point is not that there are no comparable institutional and normative features between nation-states, but rather that there is a distinct lack of convergence in the evolution of national modes of social regulation.

flexibility - that is, to recommodify labour power - and the recent growth in earnings dispersion” (Harrison and Bluestone 1990:363). Although polarisation on a number of levels is evidently on the increase, to view this “as stabilising into a clear-cut dualism ... misinterprets the constant dynamic of restructuring and conceals the continuation of conflict and inequality” in the workplace (Pollert 1991b:4). In other words, what may be emerging now are a variety of new permutations of flexibilities and rigidities rather than a simple trend towards greater flexibility (see chapter 6). Forms of micro-regulation that enhance flexibility at the workplace level may well generate and reinforce rigidities at the macro level (Boyer 1988b:229; Deakin and Reed 2000:11). The segmentation of labour demand, in particular, is more likely to encourage a reallocation of rigidities rather than foster a generalised increase in flexibility. ‘Flexibility’ is thus more an ideological slogan than an analytical device:

[t]o define certain social regularities as rigidities (rather than points of stability) and others as flexibilities (rather than areas of uncertainty) is to impose a particular evaluation, to commend a particular *distribution* of options and constraints, and hence to propose a particular structure of social power. Thus the issue is not rigidity versus flexibility but what *kinds* of rigidity? ... Here the ideological dimension is of crucial importance, for a key influence on the discourse of flexibility is *who gains or loses* from a particular set of institutional arrangements, and *whose interests* would benefit or suffer from their alteration (Hyman 1991:281).

Finally, faced with an astonishing variety of changes, many researcher have seized upon “simple polemical contrasts, often in the form of binary histories” (Sayer and Walker 1992:192). Attempts to draw sharp distinctions between phases of development are susceptible to a logic of binary contrasts between rigid or collective ‘old times’ and flexible or individualistic ‘new times’ (Williams *et al* 1987; Sayer 1989; Legge 1995; Peck 2000). Such a logic, Amin (1994:3) argues, produces “overviews based on arbitrarily derived guiding principles and universal claims based on partial truths, thus denying the key aspect of history as a complex and heterogeneous process of many determinations”. Several critics of the flexibility thesis reject the idea of absolute turning points and clear breaks between distinct phases of development, preferring instead a more evolutionary conception of change which incorporates a mixture of continuity and change from one period to another (Lever-Tracy 1984; Pollert 1988; Hyman 1991; Curry 1993). For example, multiple technological systems are known to coexist and managers have always been interested in some degree of adaptability on the part of labour. The overburdened dualisms contained in flexibility theories also obscure the relations between micro and macro processes: “the micro-economic trend takes on such a multitude of forms that no dichotomy at the global level can appear” (Michon 1981:91). What is generally observed is a continuum of possibilities, with some correspondence between micro and macro levels (e.g. propelled by similar social forces, operating through similar institutions, and discriminating against the same groups).

At stake in this debate is the extent to which changes in the workplace are (a) the outcome of a long-term, broad-based settlement in the form of a 'new' production strategy; or (b) the local manifestation of the cyclical tendencies inherent in capitalist economic activity. It is simply not clear how far these changes are a product of the transition to post-Fordism or the outcomes of other tendencies, dilemmas and contradictions. An increasing differentiation of employment conditions, for instance, is not merely the product of 'flexible' management strategies. The uneven impact of an economic crisis itself lays the basis for greater differentiation in the wages and conditions that different firms can afford, and changes in the workplace do not entail the same consequences for all categories of employees. In short, restructuring takes place on a number of different levels and is characterised by a highly uneven pace of development (Tailby and Whitston 1989:12-3). A narrow conception of production, a simplistic account of industrial restructuring, and a disregard for the inherent contradictions of labour regulation encouraged many of the exaggerated claims that a 'flexible' or 'post-Fordist' regime of accumulation is in the process of consolidation. The opportunities for and limits to workplace restructuring are determined in large measure by the wider economic context in which the enterprise is embedded. The nature, pace and direction of changes in labour demand are thus the contingent outcome of the institutional propensities and liabilities in a specific spatio-temporal conjuncture.

There is an urgent need for a greater appreciation of the open-ended and complex nature of industrial change. This calls for a concrete analysis of the diversity in contemporary workplace restructuring and not simply grand theorising. An important inference is that there is "no single emerging pattern which characterises the integration of Third World countries into the international division of labour" (Jenkins 1984:46). A whole variety of different models of growth have emerged between and within countries. The focus of analysis is on the socially embedded nature of industrial change, and the likelihood of it taking a hybrid character of old and new constituent parts rather than conform to some universal model. The inherently uneven nature of industrial development raises the issues of contingency and particularity:

[i]f sweatshops and economic backwardness would result from industrial restructuring in one place, while technological innovation and the revival of craft might emerge in another, one challenge was [sic] to clearly understand the factors responsible for shaping different patterns of industrial change. Underlying this approach is the conviction that no superior logic dictates how the profile of industry *must* evolve. The process will always be contingent upon local, political, social and cultural forces that deserve to be placed at the centre of economic analysis (Benton, cited in Lawson 1992:12).

We need to unpack the various dimensions of industrial restructuring and not glibly present them as part of one coherent package such as 'post-Fordism' or 'flexible specialisation'. The interaction between production, distribution and consumption implies that we cannot look for the determinations of industrial restructuring exclusively within the parameters of the workplace. Not

only would this yield a distorted vision of changes that are occurring, it would also be incapable of shedding light on the ways in which broader socio-economic, political and ideological processes are shaped in different industries and regions.

4.3 THE NAMIBIAN ECONOMY IN THE 1990s: NEO-COLONIALISM, GLOBALISATION, AND THE SEARCH FOR COMPETITIVENESS

The economic woes that plague post-independence Namibia are not unique in the region. A majority of the people in sub-Saharan Africa face a future in which “not even bare survival is assured” (Leys 1994:34). Out of a total population of about 500 million, nearly 300 million are already living in absolute poverty, and it is likely to get much worse. Per capita incomes have been falling at over two percent a year since 1980, world demand for what sub-Saharan Africa produces is growing slowly or even declining, while world supplies are constantly expanding and produced much more efficiently elsewhere (Leys 1994:34-5). The decline in world trade in the early-1980s shattered many illusions regarding the inevitability of economic expansion. This created systemic instability at the level of the global economy and a much less favourable international climate for the industrialisation of developing countries. Attracting and retaining foreign investment became increasingly difficult at exactly the time when it was touted as a central pillar of economic growth. In general, there is little prospect of industrial development solving the problems in most African countries. For a start, social and political conditions in much of Africa have reached a point where manufacturing investment no longer appears profitable. Many African countries have seen significant disinvestment by foreign companies over the past decade. The level and share of manufacturing in the sub-continent remains extremely low compared with other parts of the developing world. There has also been minimal growth in manufactured exports from the region (Riddell 1993:223). Furthermore, manufacturing based on current technologies will never absorb Africa’s surplus population, while goods that are still produced by labour-intensive methods are less and less in demand. What is required is a “fundamental restructuring” of African economies rather than a perpetuation of the “neo-colonial monoculture export production system at a time when the external demand prospects are dismal” (Adedeji 1991:781).

The developmental problems confronting sub-Saharan Africa are formidable. The industrial base of most African countries remains small, fragile, and predominantly high cost (Riddell 1993:219-20). Production is linked primarily to a limited processing of agricultural or mineral products and exports are dominated by low value-added primary commodities. In 1988, industry contributed

25% to Gross Domestic Product (GDP) in sub-Saharan Africa, while the manufacturing share was only 10% as compared to 24% for all low-income countries (Riddell 1990:5). In fact, sub-Saharan countries contributed only 3.6% of total manufacturing value added in all developing countries (Riddell 1990:11). None of the economies in the region have managed to decisively overcome the restrictions on economic growth imposed during the era of colonial dependence. Industrial development is constrained by low degrees of interlinkage between manufacturing and other productive sectors of the economy, outdated machinery, a lack of skilled labour, poor management skills, low productivity, and a small domestic market. The slowdown of economic growth in the 1980s - combined with the sharp rise in the price of imported capital goods, growing shortages of foreign exchange, and declining levels of investment - exacerbated these constraints as capacity utilisation levels plummeted, plant and equipment deteriorated, and processes of de-industrialisation set in (Weiss 1988; Adedeji 1991; Riddell 1993; Mihyo and Schiphorst 2002). As Leys (1994:45) puts it, it is not so much that Africa 'got off to a bad start' at independence, it is rather that "the timing of its original incorporation in the world capitalist system, combined with the extreme backwardness of its precolonial economies and the limitations of subsequent colonial policy, prevented most of the continent from starting at all on the key transition to self-sustaining capital accumulation after independence".

4.3.1 Apartheid, Neo-Colonialism, and Economic Dependency

Namibia, as we noted above, has all the hallmarks of a country that does not consume what it produces and does not produce what it consumes. An export share in GDP that is twice as high as for sub-Saharan Africa signals the high degree of openness of the Namibia economy. Namibia's economy is characterised by its export orientation, sensitivity to changes in external demand, and its reliance on the export of primary commodities. Through its structural dependence on South Africa and its highly uneven distribution of wealth, the colonial economic structure has attained a largely self-perpetuating dynamic. During the colonial era, the apartheid government in Pretoria sought to bolster its unlawful occupation of the territory by actively encouraging foreign companies to share in the country's riches and acquire a stake in the exploitation of its human and natural resources (Cooper 1988). The South African government encouraged foreign investment in Namibia through a policy of favourable taxes and licence fees, generous write-off provisions for capital invested, and the granting of exclusive prospecting grants. An important strategic consideration behind the involvement of foreign capital in Namibia's economy was the creation of a "bond of mutual interests" between the apartheid regime and multi-national corporations as a bulwark against international sanctions (Mbuende 1986:90). Foreign investors recognised that enormous profits could be reaped in the vulnerable

and dependent economy of Namibia and took active steps to minimise diplomatic pressure on South Africa to relinquish its control over the territory (Moorsom 1980; Green and Kiljunen 1981; Cooper 1988). Long-term investments by British, Canadian, German, French and other corporations in the Rössing uranium mine during the 1960s and 1970s, for example, were premised on the assumption that “South Africa was there to stay” (Minter 1986:244).

Namibia’s economy is dominated by foreign private investment and up to half of its GDP was estimated to be creamed off every year in the form of dividends and remittances sent abroad (Cronje and Cronje 1979:7). Foreign-owned companies generally have higher rates of productivity than local companies, but the former create only seven jobs per N\$1 million invested as compared to 18 for the latter (Iyanda 1998:14). The giants of the Namibian economy in 1960s and 1970s were Consolidated Diamond Mines (South African owned), Tsumeb Corporation (majority share-holding from the United States), and the British-based South West Africa Company. The capital assets of these three companies were estimated to exceed the country’s annual GDP of \$300 million in the mid-1960s (Minter 1986:199). Mining accounted for more than half of total exports and contributed an average of forty to fifty percent of government revenue. This extreme dependence on a few mining operations constitutes a serious economic risk to the post-independence economy. Moreover, not only did the black majority benefit very little from mining’s contribution to the colonial economy, the taxes that accrued from the mining sector helped to sustain South Africa’s occupation of the territory and provided a significant incentive for its continuation. The largely foreign-owned mining industry also stands accused of tax evasion, transfer pricing, and the payment of excessive dividends instead of reinvestment in the country. In 1986, the United Nations Centre on Transnational Corporations concluded:

[t]he transfer of technology by transnational corporations into Namibia appears to have been negligible because the companies concerned are almost exclusively involved in the mining and extraction of the territory’s natural resources ... The activities of transnational corporations in Namibia have therefore made practically no direct or indirect contribution towards the development of the human resource base required for sustained development (cited in Kempton and Du Preez 1997:594).

In 1989, mining and quarrying accounted for 31.6% of GDP (down from 43.6% in 1980), agriculture and fishing 10.7%, wholesale and retail trade 12.7%, manufacturing 4.7% and construction 2.2% (LaRRI 2001:25). The long-term decline of the primary sector is reflected in GDP contributions for 1995 and 1999 at constant 1990 prices (Table 4.1). Unfortunately, this decline was not the result of growth in other sectors of the economy but largely due to decreases in the mining industry. After the building boom in the mid-1990s, the share of the construction industry has also declined. The manufacturing, trade and hospitality sectors show almost no signs of meaningful growth in contribution to GDP. The Namibian government stresses the association

between manufacturing growth and overall growth rates, and views an “efficient and flexible” manufacturing sector as the “motor force of sustainable and equitable economic development” (MTI 1999b:3). The overall picture, however, remains one of an economy dominated by a large non-tradeable sector (government services) and an export-orientated primary sector (agriculture, fishing and mining).

Table 4.1 Gross Domestic Product by Selected Sectors: 1995 and 1999

INDUSTRY / SECTOR	1995 N\$ million (% of total)	1999 N\$ million (% of total)
Agriculture	521 (7.6)	493 (6.5)
Fishing	307 (4.5)	386 (5.1)
Mining and Quarrying	1 291 (18.9)	1 388 (18.4)
Manufacturing	922 (13.5)	1 001 (13.3)
Construction	221 (3.2)	157 (2.1)
Wholesale, Retail and Hospitality	606 (8.9)	705 (9.3)

(Source: Simon 2002:175).

Namibia’s real Gross National Product (GNP) at constant 1985 prices grew at an annual average rate of less than 0.3% during the 1980s (Tlhase and Kanguuchi 1996:79). With a population growth rate of 3.5% per annum, real per capita incomes declined in the aggregate by nearly 22% over the decade. Real GDP grew at an average annual rate of only 0.1% during this period. This trend has essentially continued during the 1990s with GDP per capita declining from N\$5 011 in 1992 to N\$4 897 in 1996 as the population growth rate continues to outstrip the average real growth of the economy (MTI 1999b:18). The impact of a declining GDP per capita is compounded by a grossly uneven distribution of wealth. Less than a quarter of Namibia’s GDP per capita of US\$1 259 in 1983 accrued to black people, and the richest 10% of the population still received 65% of income in 1993/4. Social spending was also highly skewed in favour of white people. For example, state expenditure on health in 1980/1 was R233.70 for each white person, compared with spending for black people ranging from R4.70 to R56.84 per person, depending on their ‘ethnic authority’ (Andersson and Marks 1987:274). Similarly, the allocation of state pensions was characterised by such high levels of inequality that, despite the adjustments made by the SWAPO government, it still stood at N\$382 per month for whites as against N\$120 per month for blacks in 1994 (Tlhase and Kanguuchi 1996:82). As we noted in chapter 2, the colonial state intervened extensively in mobilising, allocating and controlling black labour, while relegating its social reproduction to the subsistence economies of the labour reserves.

A small internal market, an inability to attract significant foreign direct investment (FDI), and a 'new world order' opposed to protectionist, state-driven economic policies ruled out a viable import-substituting industrialisation strategy in post-independence Namibia. As Curry and Stoneman (1993:42) argue, although Namibia had

experienced a thoroughgoing free market experience from its integration with South Africa, and has inherited a price structure completely unrelated to its own development needs, it has nevertheless joined most other countries in committing itself to adopting a world market price structure ... that may be equally inappropriate for the needs of internal development. The observed outcome in Namibia of integration through a free market with a more advanced economy, is a structure of extreme distortions.

The most salient features of Namibia's inherited socio-economic structure include: an underdeveloped rural sector, especially in the populous north; a small industrial sector dominated by the production and export of a few primary products with minimal processing; a capital-intensive production structure that is not commensurate with the need for a labour-absorbing growth strategy; a severe shortage of skilled labour combined with high rates of illiteracy among the black population; a highly skewed distribution of income resulting in a small domestic market; a poorly integrated industrial structure with few vertical linkages; negative growth rates of real Gross National Income; and a high degree of dependence on the South African economy.⁶ The pace of social transformation in post-independence Namibia is severely curtailed by an economy that was run as an enclave of trans-national corporations.⁷ Of the R1.8 billion invested in the means of production in the three major export sectors (mining, agriculture and fishing) and related processing industries by 1980, not more than R40 million was owned by local interests, and hardly any by black Namibians (Uys 1983:109). The vitally-important diamond industry, for example, continues to be the most profitable and most foreign-owned sector of the Namibian economy.

South Africa has historically maintained Namibia as a market for its exports, while its raw materials serve as comparatively cheap inputs for the South African manufacturing sector. The general manager of a chemical plant echoed the views of many other respondents: "[t]he most pressing challenge that we face at the moment [is] the unfair advantage of South African

⁶ See: Thomas (1978); Cronje and Cronje (1979); Green *et al* (1981); SWAPO (1981); Gottschalk (1983); Allison and Green (1986); Andersson and Marks (1987); Cooper (1988); Wood (1991); Freeman (1992); Curry and Stoneman (1993); Van Rooyen and Backer (1996); Kempton and Du Preez (1997); Melber (2000b); Diener and Graefe (2001); LaRRI (2001); Motinga and Mohamed (2002); Simon (2002); and Winterfeldt *et al* (2002).

⁷ Many of these corporations stepped up production during the 1980s in an effort to strip Namibia of its mineral deposits before an independent, democratically-elected government took power (Herbstein and Evenson 1989:133; Kempton and Du Preez 1997:593). The reckless over-exploitation of Namibia's marine resources, as a result of foreign-owned companies pressing for ever higher quotas, followed a similar logic (Simon 1998:108).

companies that come over the border and dump their products on our market” (05/11/1998). At the time of independence, 90% of physical goods produced in Namibia were exported to South Africa, while 90% of imports were from South Africa. Approximately 85% of all Namibia’s imports are still sourced from South Africa (MTI 1999b:21). It is the composition rather than the scale of exports that constitutes the most formidable barrier to diversified industrial development in Namibia. Almost 90% of Namibia’s exports before independence comprised unprocessed raw materials (ILO 1989:90). In 1994, merchandise exports by commodity still reflected the low value-added character of production: diamonds (31.3%); processed fish (22.5%); other minerals (18.8%); livestock (10.4%); meat products (8.1%); unprocessed fish (6.1%); and other manufacturing (2.8%) (GRN 1995:248).

The legacy of apartheid-colonialism combined with the pressures of globalisation to create a formidable barrier to meaningful socio-economic development. A pressing and exceedingly demanding task confronting the government is to loosen Namibia’s economic dependence on its former imperial master. South African companies dominate diamond and other mineral mining, as well as the construction, fishing, retail, hotel, banking and financial services sectors. Wood (1991:744) convincingly shows that an essential precondition for Namibian independence was “the South African regime’s prior consolidation of the conditions for a stable semi-colonial state”. The various measures taken to ensure that South African capital would continue to dominate the Namibian economy after independence were an essential part of this process. Local companies are highly dependent on the supply chains dominated by South African firms. The manager of an information technology (IT) consultancy expressed a widely-held objection to the current trade regime when he noted:

[t]echnology is expensive in Namibia because there are too many people in the chain who want to make money. Everything that is coming into Namibia, comes from South Africa. I cannot send my courier to pick up equipment from a South African importer overnight. I have to order it through the Namibian branch of the South African company, and this takes three weeks. This puts a lot of pressure on us with our clients. For example, sometimes we need to keep certain components in stock in case there is an urgent need for them. We are also paying import duties twice. The price difference in computer technology between South Africa and Namibia is already nearly thirty percent! (14/07/2000).

In the absence of protective barriers, South African companies exerted monopoly control over the Namibian market through dumping, over-pricing of intermediate inputs, and restrictive purchasing policies.⁸ Under these conditions, as a World Bank report concluded, “the intriguing question is not why is the Namibian manufacturing sector so small, but why does it exist at all”

⁸ See: CIIR and BCC (1981); Green *et al* (1981); SWAPO (1981); Allison and Green (1986); Mbuende (1986); Isaksen and Shipoke (1992); Curry and Stoneman (1993); and Kempton and Du Preez (1997).

(cited in Curry and Stoneman 1993:52). Since the bulk of their products are exported to South Africa and production is mainly small-scale, Namibian producers have little experience in or opportunities for competing on world markets. South Africa's dominance within the Southern African Customs Union (SACU) also has a major impact on the conditions under which Namibian firms produce for the domestic market. Historically high levels of subsidisation, together with economies of scale, have given South African exporters a distinct advantage over their counterparts in SACU. As Curry and Stoneman (1993:51) note,

Namibian firms in all sectors therefore suffer from a double disadvantage in that they get no protection from South African firms, but have to pay high tariffs on their extra-regional inputs (or above world prices for South African inputs) so as to protect South African firms. The overall effect has been of natural resource-based sectors exporting at world market prices, but buying inputs at considerably above world market price levels.

The Namibian Dollar is tied to the Rand and the country's financial policies are dictated by the needs of the South African economy. As a result, it is difficult to access loans, independent sources of investment funds are few, and loans that are obtained bear high interest rates (Curry and Stoneman 1993:50). Only larger firms can finance their working capital requirements and continuing investments from retained earnings, but they find it difficult and costly to finance major expansions. Even well-established, smaller firms face severe financial constraints: raw material costs comprise up to two-thirds of operating costs, making the cost of working capital prohibitive. A lack of collateral, high interest rates, and the administrative costs of small loans effectively prevent borrowing (LaRRI 2002a:18-9). So, even where the requisite skills and materials are readily accessible, the availability and cost of finance remain a formidable obstacle to the expansion of small enterprises in the local market.

4.3.2 Economic Policy, Industrial Structure, and Neo-Liberalism

Namibia's fragmented industrial structure with little or no links between the various sectors means that growth in one sector simply raises import demand rather than stimulating growth in other sectors. The lack of horizontal integration has resulted in the different sectors of the economy being more closely tied to outside interests than to each other. This renders the short-term potential for creating additional employment and expanding down-stream operations negligible. Poorly developed inter-firm linkages in the Namibian economy are reinforced by the fact that the largest and most profitable companies produce almost exclusively for export and consume very little of Namibian origin except labour, water and electricity. Likewise, the extensive reliance on imported basic consumer goods such as food and clothing means that few jobs and economic opportunities are created for Namibians. As the general secretary of NATAU

observed,

[w]e must talk about what sort of business we are putting up in this country. For instance, our timber comes from South Africa, it is already a finished product. What our people are going to do is simply to off-load the product. This will not create the experience necessary to manufacture something ... We must focus on investors that will come in and start production instead of just using an imported finished product (12/07/2000).

The SWAPO government's overall policy objectives are (a) to eliminate the high levels of inequality and to reduce poverty among the majority of the population; and (b) to resuscitate the crisis-ridden economy and to set it on a more competitive and labour-absorbing growth path (GRN 1995; MoL 1997; MTI 1999a). However, the capacity of the government to find a sustainable balance between growth and equity depends in large measure on forces beyond its control. Low rates of economic growth, in particular, are a fundamental obstacle to a process of sustained industrial restructuring. The government is severely constrained in its policy options to shift competition towards high-quality, high-wage and high-skill production. According to Deakin and Reed (2000:36-7),

[a]s national governments lose the power to adjust to changing economic conditions by modulating the exchange rate and altering the balance between taxation and public expenditure, the burden of adjustment is thrown on to the labour market, which is now required to operate with maximum flexibility in the sense of bringing wages and terms and conditions into line with changes in demand.

In an attempt to promote business confidence, minimise potential political instability, and prevent the flight of skills and capital, the SWAPO government adopted fairly conservative economic policies.⁹ A pragmatic decision to avoid alienating the white business and farming élites, according to Simon (2002:172), favoured "a relatively hands-off approach" to the economy. This is perhaps best exemplified by the emphasis placed on attracting FDI into a capital-scarce and labour-abundant economy. SWAPO also moved cautiously on the issues of land redistribution, affirmative action, worker participation, and minimum wages. The equipment, training, transport and processing facilities necessary to reap greater rewards from the beneficiation of raw materials require the active participation of the (largely white and foreign-owned) private sector. The latter is, however, unlikely to succeed in stimulating a more diverse, integrated and higher value-added industrial sector in the absence of resolute government invention "to counteract the underlying pattern established by market forces" (Curry and Stoneman 1993:42). This will require, among

⁹ At its second National Congress, the NUNW (1998:8) adopted a resolution that noted: "[t]he Namibian government adopts a conservative neo-liberal framework for economic growth in line with the policies of the World Bank and IMF and to please international investors ... It adopts a growth first redistribution later approach ... It incorrectly assumed that the current Namibian labour market is inflexible ... It focuses on wage moderation and belt-tightening without dealing with existing wage gaps in formal employment and proposes a social accord to focus on wage restraint".

others, the protection of nascent and strategic industries; the expansion of the small and medium enterprise sector; the provision of institutional and financial support to encourage greater investment by local firms; the introduction of measures to foster backward and forward linkages within the economy; the development of tendering systems to increase local preference in government contracts; and the establishment of institutions to promote skills development (Isaksen and Shipoke 1992). The success of an export-led growth path depends in large measure on an institutional framework capable of controlling costs, keeping wage growth in line with productivity, and curtailing the excesses of market-based regulation. However, far-reaching government action to modify the operation of the market is not often sanctioned in the new world order. The crux of the problem, as the president of the Chamber of Mines explained, is that

Namibia [is] a poor country eager to attract foreign investment. However, to succeed the government had to pass legislation that would protect both existing and future investments and allow unrestricted dividend returns to investors (cited in Kempton and Du Preez 1997:599).

The new world order dictates that economic intervention by national governments should be limited to the creation of an 'investor-friendly' business environment. According to these prescriptions, the activities of the state need to be rolled back from areas that are best left to the workings of the market. That is, growth on business' own terms is regarded as the *sine qua non* of economic stability and competitiveness. This abstentionist logic contrasts sharply with the record of extensive state intervention in the newly industrialising countries during the 1970s and 1980s. The relative success of their industrialisation can be explained in large part by government regulatory policies designed to limit the nature and extent of their integration with the world economy; and manage the impact of international competition on the domestic economy. In short, state intervention was designed to guide the market towards structural change rather than simply conform to it. In the current context of a neo-liberal hegemony and a generalised shortage of global investment, by contrast,

it is difficult to see how local strategies can do anything other than bend to the will of global competition: progressive local social contracts are likely to be difficult to sustain in the face of 'jungle law' at the global level. The basic difficulty, then, lies in trying to establish local order in the face of global disorder ... [W]hile some localities may be successful for some of the time, their success in the current global climate is only being achieved at the expense of failure elsewhere (Peck and Tickell 1994:298).

The Namibian government believes that it was compelled by the force of circumstances to create a favourable climate for FDI by endorsing a market-driven process of economic reform. In particular, the government's industrial policies are essentially geared towards "improving the enabling environment for expanding the contribution of the manufacturing sector to GDP" (MoL 1997:36). The *Foreign Investment Act* (1990) amounts to a free-market investment code with considerable protection against state expropriation, extensive incentives for foreign firms, and

with no requirements for participation or share-holding by local firms in the operations of foreign enterprises.¹⁰ The *Export Processing Zones Act* (1995) provides that any factory within Namibia may apply for export processing zone (EPZ) status subject to certain conditions. After an initial flurry of investment, several EPZ companies went out of business with those remaining providing only a few hundred, mainly low-wage, low-skill jobs (LaRRI 2000b). The flagship of the EPZ programme at Walvis Bay soon became “an enclave with little organic linkage to the rest of the economy” (Simon 2002:183). Despite considerable opposition from the trade unions, the EPZ Act also suspended key elements of the Labour Act (such as the right to strike) within the EPZs.¹¹ As a result, the incentive-led EPZ strategy is associated with a regime of labour regulation characterised by jobs of variable quality with almost half of the workforce in non-standard employment; widespread union avoidance strategies by employers; the almost total absence of collective bargaining; low wages and minimal benefits; dangerous and unsafe working conditions; high rates of absenteeism and low levels of productivity (Simon 1998:119-21; LaRRI 2001:83-4). According to the director of a labour research institute, there is a tension at the heart of government policies:

[the] government’s job creation policies place the question of EPZs and attracting foreign investment alongside the development of small and medium-sized enterprises. Whereas the EPZs will in all likelihood, through the benefits that they get, wipe out an emerging and cash-strapped small and medium-sized sector simply because they can produce cheaper and they can sell 25% of their products in the country ... The Labour Act gives workers fundamental rights that cannot be compromised. But parallel to this, with the collapse of the Soviet Union and any kind of socialist ideas within SWAPO, came a complete shift towards neo-liberal economic policies under the Washington Consensus ... Despite the improved regulation of basic worker rights in the Labour Act, the economic policy is very much one of an open economy, offering increasing incentives to investors, and keeping the unions in check within that framework (26/06/2002).

In its assessment of Namibia’s industrial policy of 1992, the Ministry of Trade and Industry (1999b:63-4) noted that mechanisms designed to stimulate resource-based industrialisation arising out of the major primary sectors are largely under-developed and under-resourced. The 1992 policy is criticised for failing to target specific industries; disregarding the international economic environment; failing to explore the role of technology and innovation in industrial development; and making no mention of trade unions although they are “of general concern for the manufacturing sector ... [and are] perceived as inflexible, and a deterrent to investment and growth”. In spite of these objections, subsequent revisions to industrial policy remain firmly committed to market-driven solutions for the lack of competitiveness, diversification, integration,

¹⁰ The objectives of this Act were reinforced by provisions in the *Manufacturing Incentives* of 1993 and *Export Incentives* of 1994 (GRN 1999).

¹¹ President Nujoma suggested that “the non-application of Namibia’s [labour] code in the EPZ regime is a delicate compromise which is necessary to achieve the larger goal of job creation” (*The Namibian* 30 October 1995).

beneficiation, skills development, equal economic opportunities, small enterprise development, and technology transfer (MTI 1999b). The government summarised its approach to industrial policy in the following terms:

[g]overnment will provide an enabling environment for the industrial sector. Government policies will be orientated at creating and maintaining markets. Specific interventions will operate through markets by providing the appropriate incentives and information ... Government will strengthen its institutional capacity in order to increase its ability to implement flexible industrialisation strategies ... As a small open economy, trade liberalisation represents a unique opportunity for the Namibian industrial sector to benefit from access to larger markets (MTI 1999a:4-6).

The economic and industrial policies pursued by the SWAPO government amount to a self-imposed structural adjustment programme.¹² It regards the private business sector as “the engine of economic growth” (GRN 1996:1) and “will not intervene in [the] market mechanism except as a last resort” (MTI 1999b:30). This policy orientation finds expression in an unwavering commitment to the eradication of trade barriers, stringent control of the money supply, reductions in government expenditure, privatisation and commercialisation, and the like. There are, however, significant tensions between “economic growth and rising incomes through free trade, on the one hand, and internal economic integration and social security through protectionism, on the other” (Kiljunen 1989:120). For instance, while FDI increased from N\$386 million in 1997 to N\$785.4 million in 2000, it was more than offset by capital outflows, which increased from N\$994.6 million to over N\$2 billion during the same period (LaRRI 2001:42). FDI remains small given the generous incentives and is still concentrated on traditional exports such as minerals (Iyanda 1998:9). Like externally-imposed structural adjustment programmes, the combined effect of these policies is to separate “the pursuit of short-term objectives from long-term transformational goals” in a manner whereby the former constitute the “very antithesis” of the latter (Adedeji 1991:780). This tide of neo-liberalism has attracted considerable criticism, especially from the labour movement.

The state is basically following the IMF-World Bank recipes: liberalise and everything else will fall in place. For the IMF the problem is simply that our liberalisation is too slow. Speed it up and then you will reap the benefits. There seems to be sections of government who naively believe that this will be the case (director, labour research institute - 04/07/2000).

Although the Namibian government claims that we are not affected by these structural adjustment policies, if you look at what is transpiring at the workplace level, you can see that we are affected. Downsizing and outsourcing show that it is taking place here (general secretary, MUN - 28/06/2002).

¹² There is considerable support for these policies in some quarters of Namibian society. For example, a prominent economic analyst suggests that the key policy measures for stimulating growth include the “commercialisation and privatisation of parastatals, measures to stimulate competition ... and a further opening up of the economy to the global market in order to reap the benefits of globalisation” (Hansohm 2000:26).

The economic principles and long-term objectives that inform these policies were never the subject of serious negotiations with the trade unions. In fact, the transition to democracy in Namibia was characterised by considerable restraints on the ability of labour and other organs of civil society to press their demands on the post-independence political structure. An “inevitable complement” to a neo-colonial economic structure, as Leys and Saul (1995b:4) note, is a neo-colonial politics that “limits popular demands for radical social and economic policies”. The leadership of the trade union movement is acutely aware of the social costs of neo-colonial politics and its exclusion from policy debates.

The future is dark ... We are still becoming a manufacturing country and most of the people we have here came through direct foreign investment. These people want to make profits very quickly. They ran away from their countries because their labour is becoming very expensive. The politicians are also very much involved in encouraging this process. They say: ‘you are scaring the investors with the way you are organising people. We are trying to create jobs for the people. It is better for people to get twenty dollars per day instead of sitting in the street without anything’. The way in which we are to create jobs is not mapped out clearly. We are trying to attract direct foreign investment, but these people are not really being observed in terms of the jobs they create. It is easy for the skilled workers, but the unskilled and semi-skilled are not really integrated into the industrialisation process (general secretary, NATAU - 12/07/2000).

The lack of effective tripartite structures at the level of the economy and industry means that there is no supportive institutional framework for cooperation in restructuring at the workplace level. Institutional arrangements play an important role in providing workers with employment security amidst growing labour market insecurity, encouraging greater economic efficiency without increasing social inequalities, and establishing sustainable, high-productivity coalitions in the workplace (Streeck 1992; Boyer 1994; Peck 1996; Esping-Andersen and Regini 2000a). A low-cost response to market pressures and changes appears to be most frequent in countries with weak institutions, low levels of unionisation, decentralised bargaining structures, and limited government intervention in the economy. In a country such as Namibia where these conditions prevail, there is a lack of significant moderating influences on the tendency of firms to adjust to competition by reducing and controlling labour costs. In the absence of strong industrial relations institutions, decisions about the restructuring of work are effectively left to individual employers:

[i]ndustrial restructuring is not driven by a national policy framework, it is very much a case of each industry restructuring as they see fit. Restructuring is very industry-specific in Namibia ... Managers simply respond to conditions in their industry without considering long-term policy objectives (director, labour research institute - 04/07/2000).

The internal labour market that was reserved almost exclusively for white workers during the colonial era in Namibia was restructured and enlarged after independence. The insulating effects of the internal labour market on the employment relationship are now largely coterminous with the permanent, full-time and organised segment of the workforce. The current restructuring of

the Namibian labour market has engendered increasing differentiation as employers attempt to incorporate the more skilled and better organised segments of the workforce and to mobilise cheaper, more pliable and less regulated sources of labour. The former ensure continuity in production and provide a basis for cooperation in the workplace, while the latter are deployed to offset rising costs and increase responsiveness to changes in the market. The pressure to enhance competitiveness by reducing labour costs and job security stems, in part, from the preponderance of low-skill, low-productivity and low-technology industries in Namibia. The tendencies to casualise employment and the forms that they assume, as Lawson (1992:18) notes, are related to “the fit between specific industries’ technology and labour needs and place-specific pre-existing production structures”. We are therefore witnessing the coexistence of ‘the old’ and ‘the new’ rather than a simple displacement of the former by the latter. Total change is as untenable as complete stasis.

4.3.3 Globalisation, Workplace Restructuring, and Cost-Competitiveness

The processes of globalisation and the exposure of domestic markets to more intense competition have made the survival of most firms dependent on drastic cost-cutting. Since employers have more direct control over labour costs - as compared to capital or intermediary costs - workers have become the prime target for ‘right-sizing’. This is reflected in a lack of any significant retooling in many Namibian firms for several decades. As the human resource (HR) manager of a leading meat processing firm noted, “[m]ost of our equipment is older than me, they have been here since the establishment of the company” (10/11/1998). The increased uncertainty and volatility associated with globalisation have not only reduced the incentives to invest and innovate, but have also reinforced the reliance on low pay and casualised employment as the only means of survival. The current destabilisation of markets has even restricted the ability of large firms to build stable and long-term employment relationships.

The director from [a large transport company] instructed the manager to replace permanent employees who are retiring or are being fired with labour-hire personnel ... The main aim of the bosses in Namibia, as you know comrade, is to make a quick profit. They forget about the well-being of the worker ... They cut out the permanent workers and bring in temporary workers to reduce the salary costs and increase their income. This is not really making a profit, they are just cutting wages. The money should have gone to the full-time employees (general secretary, NATAU - 12/07/2000).

We use labour hire workers as cleaners and as packers to load the trucks ... We used to have our own security, but now it is outsourced. We also outsourced our gardening and catering services. It is much less costly for the firm to use casual workers in certain jobs ... Outsourcing is definitely going to increase in the future. At the moment, we are employing too few casual and temporary workers (HR manager, beer and beverage manufacturer - 20/07/2000).

Shifts in the sources of labour supply for a range of different jobs are a prominent characteristic

of current industrial restructuring in Namibia. In a climate of uncertainty and insecurity, as we noted above, managers tend to seek for ways to cut costs and to shift the risks of uncertainty to the weaker sections of the labour force. This encourages employers to deal with an unplanned reduction in the number of employees or an unanticipated increase in workload not through labour reserves, but by leasing labour or issuing fixed-term contracts. A growth in the use of performance appraisals and performance-related pay systems in most economic sectors has also reinforced the trends towards imposing risk on individual employees in order to elicit higher productivity, make earnings more variable, and introduce more exacting scrutiny of employee conduct. As the general secretary of NAFAU observed,

[t]here is a trend for wages and increases to differ among workers because of these performance appraisals ... The traditional thirteenth cheque is falling away. Now your bonus depends on the performance of the company during the year. Don't expect anything if the company has not done well. This system exploits workers - it is a slave driver. You are forced to work overtime because if you want to perform you will definitely have to put in extra hours ... Workers get some performance bonuses, but it is mostly the store managers and company executives who benefit from huge incentives (28/06/2002).

High levels of unemployment, accessible pools of vulnerable and disadvantaged labour, outmoded techniques, obsolete technologies, short-term cost-cutting, low quality and effort-intensive systems of work organisation, and the ease with which the terms and conditions of employment of less skilled and unorganised workers can be depressed have historically provided the basis for the competitive survival of inefficient producers (Deakin and Wilkinson 1991:141; Nolan and Walsh 1995:81; Kitson *et al* 2000:633). The combination of these factors with an emphasis on short-term profits created an environment in Namibia in which it is simply easier for many firms to contain labour costs than to seek enhanced profits through costly investments in new technology and skills.

You are not going to grow an IT sector in a company where they still count stock manually. The production and distribution processes need to be automated before the industry will really take off here. The problem, of course, is that there is a lot of cheap manpower available (general manager, IT consultancy - 14/07/2000).

To expand productivity, we would have to bring in new machines - the workers are already pushed to the limit. But machinery is very expensive. We have a fairly cheap, but happy, labour force. Unemployment is also high. If we had expensive labour which was militant, unionised and causing trouble all the time, we would not hesitate to mechanise everything (general manager, pasta and biscuit manufacturer - 17/07/2000).

With the partial exception of the mining and fishing industries, there were no major technological changes in the Namibian economy during the 1990s (Klerck *et al* 1997:50). Workplace restructuring tended to be confined to particular aspects of production or service delivery without involving any qualitative shifts in the way that the labour process was traditionally organised. The piecemeal and *ad hoc* diffusion of new technology is geared more towards cutting costs in

specific operations than towards the creation of an integrated system of production.

In mining, you have a lot of new technologies and capital-intensive production methods because the global conglomerates are linked and use the latest technology available. This contributed to the down-sizing in the sector. Then you have the many small workshops in Namibia, local companies, that are not driven by any new technology. They often use their machines for a very long time and don't see the need for a complete overhaul in terms of technology. You also have the service sector that is the fastest growing sector in Namibia. Here you see IT being used. But this is not so much a restructuring as an expansion of the sectors utilising new technologies. Besides mining, fishing and the retail sector which is medium-sized, every other productive industry in Namibia is fairly small-scale and don't use technology on a huge scale. Here and there you have new machines, but that's it (director, labour research institute - 04/07/2000).

Many Namibian firms have become caught in 'low productivity traps' from which they have little incentive to escape. When these firms face competition from more efficient producers with advanced technology and innovative products, their only hope of survival is to reduce labour costs. Not all categories of labour, however, are amenable to this strategy. Given the excess supply, the less skilled are particularly vulnerable to cost-minimising strategies. The bias towards low value-added production reflects, in part, the historically low levels of investment in training and the lack of access to education by black workers. As the table below illustrates, a significant part of the Namibian workforce has little if any educational qualifications.

Table 4.2 Distribution of Labour Force by Selected Industry and Education: 2000

INDUSTRY / SECTOR	NO EDUCATION (%)	PRIMARY/ SECONDARY (%)	TERTIARY EDUCATION (%)	TOTAL Number (%)
Agriculture	63.1	63.6	16.5	123 297 (28.6)
Fishing	0.3	7.5	3.7	7 863 (1.8)
Mining and Quarrying	0.2	3.3	4.8	4 034 (0.9)
Manufacturing	3.7	17.2	11.4	22 921 (5.3)
Construction	2.7	16.0	5.2	21 390 (5.0)
Wholesale, Retail and Hospitality	6.8	37.3	17.9	47 575 (11.0)

(Source: adapted from MoL 2002:51).

A severe neglect of multi-skilling and polyvalency decisively qualifies the types of industrial change that are feasible or possible. Like the pressures that stem from the high costs of imported technology, raw materials and loans, a poorly educated and trained workforce reinforces the low-wage route to competitiveness in Namibia. The managers that were interviewed admitted that very little resources were allocated to training and tended to confuse multi-tasking with multi-skilling.

If you look at a driver from the depot, for instance, you need a forklift to load the truck. What is the driver doing while the truck is being loaded? He could operate the forklift and it could become one job (HR manager, beer and beverage manufacturer - 24/07/2000).

Managers have a different interpretation of flexibility. To be 'flexible', for them, means you can do multiple jobs. If you are not flexible, or what they call 'multi-skilled', they will streamline the workforce. Workers are laid off and, for the few that remain, the workload is being doubled ... Workers are sent on a few courses, given a small salary adjustment, and then they are told: 'you are now multi-skilled and must do all the jobs' (general secretary, NAFAU - 26/10/1998).

Multi-skilling just means more jobs for the same salary. You end up doing the job of a man who is now on the street. The employers are the only ones benefitting from this process (general secretary, MUN - 28/06/2002).

The local adaptation of new methods of work organisation has followed classic apartheid-colonial lines. Hierarchical and adversarial relations in the workplace, combined with the divisive racial policies of the past, make it very difficult for Namibian firms to realise the cooperative benefits of participatory forms of production such as quality circles. As the president of the NEF noted:

[w]e need to encourage what the Japanese call quality circles, where people get together right throughout the company to see how they can improve things. We need to work in the interests of the company by stressing common interests, rather than to create so often and so horribly the idea that the interests of the employer and the employee are in conflict with each other. We are almost like enemies ... The black-white syndrome is the scourge of Namibian society and leads to distrust and a lack of loyalty between management and unions. This syndrome has resulted in a situation where I cannot confide in my black staff to the extent that I would like to (08/07/2000).

A system of low-skill, low-wage and low-trust relations is embedded in industrial and work organisation in Namibia. Most Namibian firms lack the market power and resources to move into higher value-added batch production and lack the stability and levels of demand necessary to reap the benefits of economies of scale. In the lower value-added segment of international trade, Namibia has to compete with low-wage economies like Bangladesh and China. Much of the low productivity observed in different sectors arises as a direct consequence of the outdated forms of organisation which pervade Namibian enterprises. This rendered most unionised firms highly vulnerable to changes in the regulatory framework:

[w]e had a 49-hour working week and the government brought it down to 45 hours within months of independence. They should have done it much more slowly so that you can bring your productivity up. They have really dented industry by bringing it in immediately (general manager, furniture manufacturer - 17/07/2000).

Comparatively high wages, combined with low labour productivity, act as a major brake on competitiveness (Table 4.3). Although wages in Namibia are considerably lower than those in the industrialised countries, Fashoyin (1998) shows that they remain high by comparison with

many other developing countries, especially in Asia.

Table 4.3 Average Monthly Wages by Selected Industry: 1992/93

INDUSTRY / SECTOR	MONTHLY WAGES (N\$)
Agriculture and Fisheries	641
Construction	986
Trade and Hospitality	1 178
Manufacturing	1 265
Transport and Communication	1 779
Community and Personal Services	1 860
Electricity, Gas and Water	2 208
Finance and Real Estate	2 538
Mining and Quarrying	2 972

(Source: adapted from MoL 1995:30).

Most Namibian employers interviewed as part of a national survey regarded the unit costs of labour imposed by statutory and collective regulation in the post-independence era as excessive (Klerck *et al* 1997:49). As a result of these pressures on profit margins, “there is an attitude developing among some employers that makes them move into labour hire so as to avoid the higher social costs for permanent employment” (permanent secretary, Ministry of Labour - 04/07/2000). In this sense, the growth of a ‘flexible’ or ‘peripheral’ workforce is one of the prices for high wage rigidity in the ‘core’ workforce.

In some industries the pressure of labour costs is felt more keenly than in others. The relative contributions to the total compensation of employees from 1993 to 2000 reveal that agriculture and hospitality contributed an average of 1.3%; construction 2.1%; fishing 4.4%; manufacturing, wholesale and retail trade 8.8%; and mining and quarrying 8.9% (Motinga and Mohamed 2002:13). Despite these variations in capital-labour cost ratios, there was a general consensus among managers interviewed for a national survey that the most significant obstacles to expanding economic growth in Namibia lay with unproductive workers and unrealistic wage demands (Klerck and Sycholt 1997:157). By contrast, over 80% of the 656 workers interviewed thought that their wages were too low (Klerck and Murray 1997:247). These findings suggest, firstly, that employers are likely to regard a reduction in labour costs as the most viable route to greater competitiveness and, secondly, that the wages of permanent, organised workers are at best

a highly contentious source of cost reduction. Cost-savings must therefore be sought among the more vulnerable and least powerful sectors of the labour market. Moreover, the comparatively high costs of overtime for permanent workers reduced its attractiveness as the primary labour adjustment measure and enhanced the incentives to use non-standard employees.

Many of the retail shops are saying that the market is forcing them to extend their trading hours ... This has meant that more casual workers are brought in because they don't want to pay overtime rates. Overtime is a huge cost to these companies and they want to reduce it (general secretary, NAFAU - 28/06/2002).

The factory workers tend to budget on overtime. But, like all companies, we are looking at ways to reduce the high costs of overtime by outsourcing certain functions (HR manager, beer and beverage manufacturer - 20/07/2000).

Not all employers experience and respond to the various economic pressures outlined above in a uniform or consistent manner. In particular, there is significant divergence in the opportunities and constraints imposed on employers in different product markets by the prevailing regime of labour regulation. A secondary labour market of temporary and part-time workers reflects a response by some employers to the legal, political and economic incentives to reduce labour costs by degrading wages, diluting worker rights, and differentiating employment conditions. Understanding sectoral variations in the extent and form of casualisation calls for an analysis that links the employment of non-standard labour to the dynamics of a particular sector of industry and conditions in the local labour market. This will allow us to explore, in more concrete terms, the actual employment conditions of different types of non-standard labour. It is only through the construction of such a meso-theory of employment and labour regulation that the complex and contingent nature of casualisation and outsourcing can be fully appreciated. The focus is on the underlying social, economic and political relations that shape the distinct patterns of industrial and employment restructuring in different industries and occupations. In other words, each industrial sector is confronted with a distinct set of possibilities and constraints in its markets, technology, organisation and regulation.

4.4 THE SECTORAL DYNAMICS OF NON-STANDARD EMPLOYMENT: COMPETITION, COSTS, AND MECHANISATION REGIMES

Industrial restructuring is characterised not only by its highly uneven nature, but also by its sectorally-specific dynamics. In some industries significant changes have occurred, while in others changes are relatively minor modifications to a pre-existing system of production. Flexibility theorists were quick to generalise their findings across a number of industries, thereby ignoring "the limits created by general trends and particular forms of mechanization" (Blackburn

et al 1985:99). The sectoral dimensions of restructuring, as Meulders and Wilkin (1987:16) note, are very rarely seriously considered in the flexibility debate. The balance between security and vulnerability, flexibility and rigidity tends to vary with the technological and organisational structures of production in different economic sectors (Tailby and Whitston 1989; Storper and Scott 1990; Horrell and Rubery 1991; Burgess 1997). This implies that changes in the workplace are not entirely random or arbitrary. Although the nature, extent and direction of change depend on a multiplicity of factors, they are patterned by the internal structures and dynamics of an industry. A focus on distinct 'mechanisation regimes' places the issue of sectoral variations in industrial restructuring at the centre of the sociology of work.¹³

In contrast to the emphasis on determinant managerial strategies by flexibility theories, a focus on the limits and possibilities generated by the material characteristics of different productive technologies and factory regimes presupposes a more complex, contested and sectorally-specific process of industrial and labour market development. Although many employers face similar pressures to reduce costs and increase productivity, research shows that "the modalities and tempo of restructuring varied across and within occupations, industrial sectors and by gender" (Gottfried 2000:235). The notion of discrete mechanisation regimes gives prominence to the structure and organisation of work rather than the characteristics of particular workers. As Storper and Walker (1989:158) argue, labour demand is differentiated because

[t]he nature of the product, the structure of markets, the possibilities for production technology, and production organization feed on each other to propel an industry along a particular development path; they engender divergent sectoral development, based on sequences of positive feedback between technical possibilities, cost structures, and market structures.

A decisive determinant of the growth in low-skill, low-wage non-standard employment is the underlying nature of labour demand.¹⁴ Since it is the employer who determines employment patterns, 'flexibility' is available largely on management's terms. That is, employer needs rather than employee preferences determine the extent and distribution of flexible working patterns. Over 70% of the managers interviewed as part of a national survey indicated that staff selection and the subcontracting of work fall within their discretion and are not open to consultation or negotiation with employees (Klerck and Sycholt 1997:150). The director of a labour research institute confirmed this: "[w]ith the possible exception of some white-collar workers, the unions

¹³ An emphasis on the possibilities and constraints generated by different forms of mechanisation is a long-standing theme in the sociology of work. Studies by Blauner and Woodward in the 1960s, for example, identified distinctive types of production technology and associated forms of management and work organisation.

¹⁴ See: Horrell and Rubery (1991); Standing (1992); Cappelli (1995); Gallie *et al* (1998); Felstead and Jewson (1999a); Heery and Salmon (2000b); and Peck and Theodore (2000).

have very little control over the hiring and deployment of labour in the Namibian workplace” (04/07/2000). Demand-side explanations prioritise employer autonomy in shaping human resource policies, while those on the supply-side emphasise changing priorities and lifestyle choices of workers and changes in the household division of labour. If supply-side factors were the primary force behind the growth of non-standard employment, as many flexibility theorists insist, workers need to prefer such jobs. The forced or involuntary character of temporary and part-time employment in Namibia, as we shall see in chapter 5, is perhaps the clearest indication of employers’ ability to unilaterally determine the nature of non-standard employment relationships (NERs).

According to Sayer (1995:63-5), the economies and diseconomies of scale and scope involved in combining a variety of activities derive from two sources: (α) the powers and liabilities of *specific forms of organisation* (relations of production); and (β) the powers and liabilities of the *activities which the organisation tries to control* (forces of production). Both can be changed, but only in accordance with the causal powers and liabilities of their constituent parts. Neither is completely malleable or capable of doing just anything. The forces and relations of production interact recursively, the activities being shaped to a greater and lesser degree by the modes of organisation and vice versa. This does not, however, licence the reduction of one to the other. The most common fallacy here is a kind of institutional voluntarism in which β is reduced to α so that activities appear infinitely pliable in the hands of management. Automobiles, clothes or municipal services (β) can each be produced within a variety of forms of organisation (α). The economic effects of doing so will vary, precisely because they are “*materially different* activities, which is largely why their industrial organization tends to differ” (Sayer 1995:64, emphasis added). While industrial organisation can take many forms, it can never be indifferent to the material properties of the activities that have to be coordinated. To some extent, therefore, the different forms of governance or regulation in the workplace reflect the technical character of the product.

Social relations in the workplace, as Storper and Walker (1989:166) point out, “have qualities peculiar to every industry or group of industries, whatever the levelling effect of labor market legislation and large unions”. For instance, a basic contrast can be drawn between capital- and labour-intensive systems of production. The total capital-labour ratio for Namibia is 1:8, which means that in value terms eight times more capital than labour is employed. In manufacturing, an investment of N\$72 800 in fixed assets is required to create one job (Iyanda 1998:22). This figure may be as high as N\$97 400 in the chemical industry and as low as N\$30 300 in the wood industry. Sectors with capital-intensive production are characterised by relatively high wages,

while those with more labour-intensive production have predominantly low-wage structures. Significant sectoral variation in capital-labour ratios, as indicated in the table below, generates distinct pressures to restructure workplace relations and encourages different competitive strategies.

Table 4.4 Capital-Labour Ratios of Selected Industrial Sectors: 1991

INDUSTRY / SECTOR	CAPITAL-LABOUR RATIOS
Agriculture	1.75
Fishing	0.31
Mining	22.75
Manufacturing	2.57
Construction	0.62
Wholesale and Trade	2.32

(Source: adapted from Gaomab 1994:12).

The predictability, frequency, intensity and duration of demand fluctuations will tend to vary depending on the nature of the product or service as well as the organisational and technical features of the production process. There is no 'one best way' in which a firm must respond to fluctuations in demand and the associated regulatory dilemmas that confront it. The precise manner in which the opportunities and constraints imposed by broader structural conditions (such as the nature of product markets) are experienced is contingent on the manner in which the labour process is organised (Edwards 1986). This implies considerable variation in both the way that enterprises may choose to compete and the methods they may deploy to raise productivity. The productivity of labour is a contingent combination of at least three elements (Wilkinson 1983). Firstly, the quality of labour power, which includes the skills of the workers, their experience, and their general level of education. Secondly, the means of production at the disposal of the worker which includes, on the one hand, the technology in the workplace as well as the way in which it is arranged. On the other hand, this includes the quality and nature of the intermediate goods, such as raw materials, that go into the process of production. There is, thirdly, the relationships of control, command and subordination in the workplace. The productivity of labour will therefore vary from enterprise to enterprise depending on (a) the quality and nature of these three elements, and on (b) how they are brought together in the process of production.

The level and structure of an industry's costs are relatively fixed by its products, methods of production, and the nature of its product and labour markets. Hence, they can only be changed through a transformation of the economic, technical and power relations in which the industry

is embedded. There are significant sectoral specificities and patterns of technical interdependence specific to each industry's division of labour. The latter determines, in part, the material bases for employers' and workers' control over the production process. Variations in the range and nature of tasks required by the production process and in the costs and constraints imposed by systems of labour regulation lend themselves to different sorts of cost-minimising staffing arrangements. The product markets of firms that rely on numerical flexibility tend to be characterised by price-based competition, while firms that increase the functional flexibility of their workers tend to operate in markets that value the non-price elements of competition (Lane 1989; Gallie and White 1994; Allen and Henry 1997). There are thus essentially two strategic options for reducing labour costs: (a) those designed simply to cut wages or intensify work; and (b) those aimed at increasing labour productivity through the redesign of products, production techniques and organisational structures. While these strategies are not mutually exclusive in the sense that a firm cannot pursue both simultaneously, the balance between them will tend to tilt in favour of a particular strategy for certain workers and under specific market conditions. As Tarling and Wilkinson (1987:19-20) argue,

[t]he tighter the financial constraints and the more pessimistic the firm's expectations of the future, the greater will be the probability that the firm will attempt to reduce labour costs directly by cutting wages and increasing the pace of work within its existing technical and organizational structure. The less onerous the financial and economic constraints, the wider the choice of strategies will be and the greater the possibilities of investing in new methods of production and new products.

Institutional factors are crucial in explaining the variable patterns of non-standard employment across and within industries and firms. For example, the strength of internal labour markets is strongly correlated with use of non-standard employment (Mangum *et al* 1985; Abraham and Taylor 1996; MacKenzie 2000; Grimshaw *et al* 2001). Strong internal labour markets provide incentives to employees to reduce costs and increase flexibility through casualisation and outsourcing. Conversely, a weak internal labour market may provide sufficient sources of flexibility so that the benefits of non-standard employment do not offset their disadvantages. As the director of a labour research institute noted,

[i]n the smaller companies, managers can do as they want with their workers and therefore they do not need to use casual workers. Although their staff are all 'permanent', they can be controlled and are effectively treated like casual workers. In Namibia, it is very much the medium to large firms that use casual workers (26/06/2002).

There can be no general model of internal labour markets that is simply applied in concrete situations because "the specific conditions in each industry give rise to different patterns of segmentation" (Gabriel and Holzapfl 1981:73). Sectoral variations in the way that work is organised are more significant in countries such as Namibia where labour market institutions are

not highly standardised and differ between industries. As a result, firms in the different economic sectors adopt distinct regulatory 'fixes' depending on specific institutional contingencies. The emphasis on commercialisation in Namibia's public sector, for example, has contributed to a climate in which outsourcing is viewed as a primary tool of restructuring (LaRRI 2000c). There is also a deep commitment to outsourcing among many managers in the private sector, although it is inspired by a different set of pressures and incentives:

[c]ompanies in Namibia are not yet using outsourcing to its full potential ... I believe in the principle of outsourcing because it makes good sense in a competitive world. Why do it yourself if you can get it done for you, possibly even better at a reasonable cost. Then you can focus your own limited amount of time on the heart and soul of the business. We have outsourced our security and cleaning. If they fail us, we won't say: 'we are going back to our own staff'. We will try and find another supplier who will give us a better service (president, NEF - 08/07/2000).

Instead of seeking a general explanation for the use of non-standard employment, a more fruitful approach is to focus attention on the reasons why certain industries are more inclined to resort to casualisation or outsourcing (Harrison and Kelley 1993; Maurau 1993; Gallie and White 1994; Drago 1998). This calls for a study of the factors peculiar to a sector - its product market, technologies, industrial relations and so on - that encourage or facilitate the recourse to non-standard employment. There is strong evidence that the frequency with which employment flexibility was pursued by employers varies strongly by industry group.¹⁵ Given the complex distribution of non-standard employment across and within economic sectors, however, there can be no simple or functional relationship between type of production process or market conditions and the use of non-standard employment. To be sure, sector-specific conditions do not "set up a determinate labor demand so much as they set the bounds for a political relationship between employers and workers which serves as an ongoing basis for employers' definitions of labor demand" (Storper and Walker 1989:166). Despite the lack of a simple or direct correspondence between the type of firm and the use of non-standard labour, case studies have revealed some correlation between the nature of the production process and the type of flexibility needed. For example, where volatility in a firm's work load is an important determinant of levels of outsourcing and casualisation, it suggests that employers place a premium on the ability to offer stable employment to their regular workforce.

There are not only distinct differences in the propensity of various industries to casualise or outsource a part of their workforce, but also marked variations in the particular types of non-

¹⁵ See: Mangum *et al* (1985); Dombos and Osterland (1987); Michon (1987); Dale and Bamford (1988); Chalmers (1989); Lawson (1992); Lapidus (1993); Anderson *et al* (1994); Morley *et al* (1995); Allen and Henry (1997); Storey (1997); Gallie *et al* (1998); MacKenzie (2000); and Barton and Turnbull (2002).

standard employment found in different sectors. Industries characterised by large firms tend to use a greater variety of non-standard employees than those dominated by small firms since the former are better equipped to manage diversified employment forms (Shah and Ward 2003). The co-existence of different forms of employment in the workplace, attracting varying degrees of statutory and institutional regulation, also generates a number of sectorally-specific advantages for employers (see chapter 6). Large manufacturing plants, for instance, cut costs by hiring temporary or part-time workers in elementary occupations and expand their services by outsourcing specialised skills.

A survey of 110 randomly selected workers in various occupations, economic sectors and regions of the country explored the impact of restructuring on Namibian workers (LaRRI 2001:57-66). Some of the central findings of this research include the following. First, changes in the types of goods produced or services rendered were limited and confined primarily to the fishing, retail and manufacturing sectors. Second, the major reason cited by managers in all sectors for the introduction of new technology was to improve competitiveness by cutting costs. The effects of the new technology on employment conditions varied: a majority of the respondents from all sectors cited no effects, some indicated increased training (mainly manufacturing), while others noted a rise in retrenchments and in the pace of work (mainly mining). Third, almost two-thirds of the respondents indicated that their employers use casual and temporary workers. Casualised employment was highest in manufacturing (92.9%), followed by mining (75.0%), fishing (72.7%) and retail (51.4%). Fourth, subcontracting and outsourcing is most common in the mining sector (93.9%), followed by fishing (27.3%), retail (24.3%) and manufacturing (15.4%). Over two-thirds of the respondents in all occupational categories stated that the workers in the outsourced jobs were transferred to the subcontractor, 23.8% said they were retrenched, and 14.3% indicated that they were shifted to another department within the company.

The character and effects of economic incentives are central in an explanation of the causes of prevailing employment practices. The lack of statutory or collective disincentives to use non-standard workers in Namibia is reflected in the ease with which certain functions can be casualised or outsourced. "The fact is that in a country like Namibia you want to make it easy to employ people without asking what will happen if things turn against us and we don't need these people any more" (group HR manager, retail - 03/11/1998). The prominence of small firms in the outsourcing industry has exacerbated this lack of disincentives. Trade unions have encountered many obstacles in their attempts to enforce legal regulations and collective agreements in small firms (LaRRI 2002a). The growth in outsourcing has also contributed to the recent expansion of the small industry sector. As the HR manager of a beer and beverage

manufacturer noted,

we will definitely have to look at outsourcing more functions in the future ... One way in which this is done is to support the development of SMEs [small and medium enterprises]. We have just appointed a SME manager to coordinate this programme. We have set up Smart Deliveries and Ice Man to empower small, black entrepreneurs (20/07/2000).

The various types of non-standard labour are therefore employed for a variety of different and interacting reasons, in different market circumstances and positions in the occupational hierarchy, and as a 'solution' to different regulatory dilemmas. The use of non-standard employment is not solely determined by the volatility or unpredictability of product markets as implied by the flexible-firm model; equally important are the functional divisions of a firm, the skill requirements of various stages of production, degrees of specialisation, levels of job protection, and labour-supply factors. In other words, the relationship between industrial sector and the levels, forms and functions of non-standard employment is multi-faceted and contingent on a whole host of factors. In stark contrast to the low levels of production subcontracting between large and small firms in Namibia, the subcontracting of labour is widespread. Non-standard employment in Namibia is not confined to cases of short-term employment to meet exceptional or irregular work demands in industries such as construction. Non-standard employment is found - in varying degrees and forms - in virtually all economic sectors. As the NUNW's general secretary put it: "[y]ou will find casual and labour-hire workers in all industries" (26/06/2002). The mining, manufacturing, construction and retail sectors are, however, at the forefront of casualisation and outsourcing.

4.4.1 Mining

Namibia ranks fourth in Africa in terms of output value from mining. Mining has been the single largest contributor to GDP throughout much of the territory's colonial past. Namibia possesses a relatively wide range of minerals, including diamonds, uranium, lead, cadmium, silver, zinc and copper in significant deposits. However, the bulk of all marketable output comes from only a few minerals, with diamonds and uranium from Consolidated Diamond Mines (CDM) and Rössing respectively, accounting for almost 80% of Namibia's output value, 45% of its GDP, 75% of its export value, and about 50% of government revenue in 1980 (Thomas 1983b:64). Mining companies contributed as much income to government revenues as all non-mining companies combined in 1996 (UNDP 1998:57). Comparatively high levels of capital intensity, however, mean that the mining industry's contribution to employment creation has been less impressive. While the sector accounted for over 60% of Namibia's exports and over 40% of state revenue between 1960 and 1980, it accounted for less than six percent of employment for the same period

(Mbuende 1986:107). In 1993, the mining sector only employed about four percent of the total labour force, albeit at wage levels well above national averages (Hansohm *et al* 1998:7). By Namibian standards, the sector has progressive managerial policies and well-established relations with the mining unions.

The industry is dominated by a tightly-knit group of trans-national corporations such as Rio Tinto Zinc, American Metal Climax, Anglo-American Corporation and Metallgesellschaft AG (SWAPO 1981:33-4; Mbuende 1986:110-2; Freeman 1992:34-5). South African shareholders and companies owned about 40% of all share capital in the mining companies that operated in pre-independence Namibia (Thomas 1978:81). Most of the capital goods, processing facilities as well as the technical and managerial staff also came from South Africa. Foreign mining companies were enticed by low tax rates, generous scope to write off capital expenditure, and the proximity of specialised services in South Africa. The lack of linkages to other sectors of the economy means that mining has not contributed much to the development of an industrial and tertiary sector in Namibia. Nearly all minerals are exported in raw or semi-processed form. While value addition in diamond mining was 10.6% in 1999, this is in stark contrast to a mere 1.9% in the other mining operations (LaRRI 2001:49). In short, the people of Namibia have historically benefitted very little from the mining industry. This situation has not changed substantively since independence, and the Namibian government regards its primary role in the mining sector as creating “an environment that enables private companies to maximize profits” (MoL 1997:33).

Namibian mines vary significantly in size and methods of operation. The three largest mines - Tsumeb, CDM and Rössing - account for the bulk of employees in the sector, with a fairly even divide between underground and open-cast methods of extraction. In 1983, 20% of mining employees were white, 6% coloured and 74% black. The latter earned an average wage of R400 per month, less than a third of the average wage for white miners (Andersson and Marks 1987:280). All three mines are highly mechanised with extensive investments in plants and machinery. The Tsumeb Corporation, for instance, operates its own copper smelter and lead refinery. Four mines accounted for over 80% of the R740 million invested in the sector by 1978: Rössing (R260 million), CDM (R210 million), Otjihase (R61 million) and Tsumeb (R55 million). Under the highly favourable conditions of colonial rule, the mining companies realised vast profits. For example, since the early-1970s CDM consistently returned more than three-quarters of its total capital investment *each year* (SWAPO 1981:39). However, as Curry and Stoneman (1993:48) and Hansohm *et al* (1998:7) note, there has been a precipitous decline in investment in mining since the early-1980s. Fluctuating prices on international markets; the high costs of water, electricity and transport; escalating labour costs; declining reserves and ore grades

have all eroded the profit margins of the mining industry. Since its entire product is exported, the mining sector depends absolutely on the level and stability of world market prices.¹⁶ As the prices of minerals decline, the pressures to raise efficiency and lower costs intensify. In primary industries such as mining, the latter are more easily achieved by reducing the costs of employment and utilising more capital-intensive methods of production.

Historically, labour demand was for a mass of semi- and unskilled workers. For example: out of the total workforce of 6 800 employees in 1982, the Tsumeb mine employed over 5 000 semi- and unskilled black workers with the rest made up of skilled white workers (Mbuende 1986:115). In 1972, the minimum cash wages for black underground workers at Tsumeb were £10 per month plus accommodation and food, whereas the equivalent for white workers was £125 per month with extensive fringe benefits such as free transport and housing, service bonuses, and subsidised medical and life insurance. Since the 1980s, much of the labour demand is for more skilled and experienced machine operators (Kempton and Du Preez 1997:607). In the late-1990s, the sector provided about 8 200 jobs, a decline of more than 50% since the early-1980s (UNDP 1998:57). Although employment levels have declined significantly, wages levels have improved considerably: average remuneration in 1996 (N\$53 514) was almost nine times that of 1981 (Iyanda 1998:12). The relatively skilled, adaptable and highly-paid workforce is more adequately explained in terms of the demands imposed by the integrated, capital-intensive nature of the industry than by a conscious managerial strategy to consolidate a 'core' workforce. A strong internal labour market surrounded by several tiers of subcontracted labour is largely the product of the mines' extreme vulnerability to disruptions in the regular supply of labour and the intense pressure to reduce operating costs. While labour does not constitute a major cost factor for most of the modern, capital-intensive mines, it does represent a sizeable and growing proportion of working costs.¹⁷ A reduction in labour costs also assists the mining companies to ride out slumps in mineral prices.

The declining productivity of Namibian mines spells a bleak future for the industry. The viability of the Rössing mine, for example, is threatened by increased global competition, obsolete technologies and low world market prices for uranium (Freeman 1992:34). To prevent its closure,

¹⁶ Depressed base mineral markets forced the closure of at least six mines between 1973 and 1977. In 1997, there were 240 disused, non-rehabilitated mines in Namibia (UNDP 1998:58).

¹⁷ For example, the total annual wage bill for black workers at CDM was no more than 10% of the company's annual net profits in the late-1970s (Mbuende 1986:113). Diamond mining pays a much smaller proportion of its gross value added as wage remuneration (19.5%) as compared to other mining operations (36.9%) (Kempton and Du Preez 1997:607).

the mine is restructuring by substituting low-grade ore, old technology and outdated work practices (LaRRI 2001:50). The cut in production costs is evident in the drop in employment levels from 1 006 workers in 1999 to about 700 in 2001. Large-scale retrenchments have led to a significant intensification of work among permanent employees:

[t]he mines reduced the number of operators when they brought in a trolley system. But these workers are still carrying out the same tasks that were done by the retrenched workers in the past. The work doesn't change, there are now just fewer workers. In the offices, staff was also reduced because everything is now computerised. Those that remain find that their jobs now include many extra tasks (regional organiser, MUN - 05/07/2002).

The outsourcing of 'peripheral' or 'non-core' activities is an integral part of this restructuring process. In 2000, the Tsumeb mine employed about 400 permanent workers along with 360 temporary workers in outsourced functions such as transport and engineering (LaRRI 2001:50). Only the existence of segmented labour markets can explain why we find an increase in the employment of vulnerable temporary and part-time labourers coinciding with escalating redundancies among sheltered permanent employees. In contrast to the claims of flexibility theories, the profile of the workforce is marked by an expanding, vulnerable 'periphery' and a shrinking, endangered 'core'. This means that the unions in the mining industry are forced to battle on two fronts against the threats to employment security.

In the mining industry, the companies shrink to what they consider their core business and then bring in labour-hire workers in jobs that are not considered to be a part of the core workforce. At one of the larger mines, only 800 out of 2 000 workers are a part of this core ... With the mining industry now estimated at 5 000 workers, coming from 14 000 before independence, it poses a threat to the MUN's very existence. Some mines have closed down, others have cut back dramatically, like Rössing, and with this goes the outsourcing of certain functions. This is a lethal combination for the union (director, labour research institute - 26/06/2002).

The main challenges that we are currently facing in the mining sector are retrenchments and the outsourcing of non-core departments, which has made job security uncertain ... Employers are now aiming for global competitiveness. The companies are increasingly saying that, to be competitive in the global market, they have to get rid of the non-core business and they want more labour flexibility. They concentrate more on the core focus of the industry, where their business is, where they are really involved, but the supporting functions are outsourced ... The jobs that are being outsourced on the mines include cleaning, catering, hospitals, engineering and some workshops (general secretary, MUN - 28/06/2002).

Managers at the Tsumeb mine are committed to reducing the number of subcontracted workers in the future if market conditions improve. The MUN also set up its own investment company to bid for outsourcing contracts and told employers: "if you want to outsource, it must come to our company" (general secretary, MUN - 28/06/2002). As a result, some mining companies simply withdrew their offer to outsource particular functions. The development of subcontracting has always been a highly uneven process that cannot be conceptualised in terms of a steady, unilinear progression. Depending on the relative costs of internal and external solutions to

staffing problems, some companies may extend their subcontracting activities while others reduce their reliance on outside sources by reincorporating certain productive functions. Subcontracting relationships also vary significantly depending on the skills involved, the degrees of formality, the pricing mechanisms, and whether the work is carried out on-site or off-site. Subcontractors that only supply labour charge an hourly rate, while those that provide their own specialist machinery are paid for completing a particular task. The employment contracts of the less skilled subcontracted workers only last as long as a specific outsourcing agreement with a mine lasts. Conversely, some of the more skilled subcontractors are employed on longer-term, more open-ended contracts. Outsourcing on the mines is therefore not confined to short-term and/or specialised services. Many of the subcontracted workers carry out tasks that are substantively the same as those of the permanent employees:

[t]he labour-hire workers are the normal, general workers you can expect in a mine. You find boiler-makers, fitter and turners, cleaners, welders, builders, electricians, painters, truck drivers and all kinds of trades. They are all working in the same environment alongside permanent workers. The difference is just in their pay and their conditions, but the work is the same (regional organiser, MUN - 29/10/1998).

The subcontracting companies vary from large enterprises with operations on several mines to small firms dedicated to a particular mining operation. Functions such as the sinking of shafts and construction were historically outsourced to specialist contractors. The latter, in turn, subcontracted labour brokers to supply them with semi- and unskilled labour. While the subcontracting of non-production activities such as cleaning, maintenance and catering dates back to the 1980s, a striking feature of more recent outsourcing is its penetration into core production functions.¹⁸

In the beginning, the labour-hire companies just employed ordinary labourers. The system has now changed, you can even find qualified HR managers, all types of artisans, whatever ... Anything that has to do with labourers, like cleaning, they will definitely outsource ... For example: catering, cleaning and medical services are outsourced because they are not part of the core business. Engineering is the heart of any operation, but it is also outsourced. When you outsource engineering, what type of cost-saving is that? On the mines, health and safety cannot be outsourced. It remains the responsibility of management. But on some of our mines health and safety has also been outsourced ... So they do outsource core business areas (general secretary, MUN - 28/06/2002).

In contrast to the experience in other sectors of the economy, the retrenchment (rather than the transfer) of employees in functions that have been outsourced is common on the mines. Some of the retrenched miners have been employed by mining subcontractors, albeit under inferior conditions to those they formerly enjoyed as permanent employees. Low wages and the lack of employment benefits are a constant source of dissatisfaction among these employees.

¹⁸ The trends in outsourcing on South African mines followed a similar trajectory (Bezuidenhout and Kenny 1998; Kenny and Webster 1999; Crush *et al* 2001).

When the [retrenched] workers get re-employed, it is on conditions that are much worse than before. A mine will outsource a certain department to a private guy. He will reduce the number of workers and offer them much lower wages than they earned before. The labour-hire companies tell their workers: 'we cannot provide you with any benefits because we are not a production company. We can be chased out, and another contractor can take over, at any time' ... Labour-hire workers only get paid for the hours they work - other than that, there is nothing ... You can see clearly that it is a deliberate attempt to make more profits, to spend less on benefits. Management is just focusing on production without having the interests of these [subcontracted] workers at heart (regional organiser, MUN - 05/07/2002).

The employers get a lot of benefits from using casual labourers. It is not just a saving of money. Department heads are told that if they save this much money, they will get a bonus of so much. The department head will then convince his bosses that he can cut costs by outsourcing certain functions. Once he gets a fat bonus, he will sit back and say: 'I am a good manager'. In reality, he just reduced the costs of the company by using cheaper labour (regional organiser, MUN - 29/10/1998).

A significant part of the subcontracted workforce from the larger contractors possess considerable experience in mining operations. This has absolved the contractors from investing any resources in the training of their more skilled or experienced staff. This pool of skilled, retrenched miners is, however, a finite resource. It is therefore likely that the mining companies themselves will, in the long-term, have to bear the costs for this reliance on subcontractors who depend on past investments in training to realise a profit.

4.4.2 Manufacturing

Manufacturing is the most diverse of the industrial sectors with great variation in average wages across the sub-sectors. At independence, Namibia's manufacturing sector was small and virtually an appendage of the primary sector (Table 4.5). The bulk of the activities in the manufacturing sector are undertaken by branches or subsidiaries of South African enterprises. Key foundations for a competitive manufacturing sector are undermined by existing market and ownership structures. These include the ability of dominant firms in highly concentrated markets to determine the economic growth of upstream suppliers and downstream client-firms, and smaller enterprises unable to scale the barriers to entry created by market concentration and pervasive conglomeration (LaRRI 2002a).

In the industrial sector, there are about 350 manufacturers of which 16 are export-orientated (mainly fish, meat and minerals); 61 are orientated towards the regional market (mills, beverages, packing, engineering and chemicals); 120 are orientated towards local demand (abattoirs, butcheries, bakeries, construction and joineries); and a further 150 are small handicrafts like pottery (Andersson and Marks 1987:278). Most of these industries are tied to the consumption patterns of the predominantly white élite or to the supply and servicing of equipment in the primary export industries. In fact, most of the large-scale, capital-intensive production is concentrated within the primary export and processing sector. For example, the British-owned

Metal Box Company in Walvis Bay supplies the fish processing factories with metal cans.

Table 4.5 Distribution of Enterprises and Employees by Sub-Sector: 1989

SUB-SECTOR	NUMBER OF ENTERPRISES	NUMBER OF EMPLOYEES
Food, Beverages and Tobacco	75	4 687
Textiles, Clothing and Leather	21	389
Wood Products and Furniture	42	669
Paper, Printing and Publishing	13	454
Chemical Products	11	329
Non-Metal Mineral Products	19	1 094
Metal Products	33	1 130
Other Manufacturing	20	131
Repair Services	25	293
Total	259	9 176

(Source: Curry and Stoneman 1993:45).

The minor contribution of this sector to the Namibian economy reflects a high-cost, capital-intensive production structure, low capacity utilisation and low competitiveness (MoL 1997:34-5; Hansohm *et al* 1998:7). In terms of performance, the manufacturing sector is ranked sixth in terms of average annual increase in sectoral output for the period 1990 to 1996 (MTI 1999b:5). The lack of a viable and meaningful industrial sector in Namibia is the product of the historical absence of any coherent industrialisation strategy and the unrestricted entry and indirect protection of South African manufactured goods. Although the share of manufacturing in exports is significant (28% in 1995) given its small size, this includes almost exclusively fish and meat processing. The dominance of natural resource-based manufacturing renders the whole sector highly vulnerable to fluctuations in inputs.¹⁹ The cyclical nature of outputs from agriculture and fisheries also increases overhead costs and constrains efficiency. The little processing of raw materials that does occur is mainly for export, disconnected from the rest of the economy, and largely capital-intensive. In short, the sector is not geared towards diversifying the economy or creating a significant number of jobs.

Manufacturing is concentrated geographically in the urban areas: only 23 companies with 298

¹⁹ For example, the contribution of manufacturing to total exports declined from 15.5% in 1993 to a mere 4.5% in 1996 as a result of progressively severe cuts in fish quota allocations (MTI 1999b:10).

employees are in the communal areas where the bulk of the population lives, while half the companies and 60% of employment is in the Windhoek area alone (Curry and Stoneman 1993:43). The country lacks many of necessary preconditions for a dynamic and expanding manufacturing sector: a small internal market; low levels of economic development in the more densely populated rural areas; the lack or high cost of energy resources and raw materials; a small population scattered over a vast area; a high concentration of subsidiaries of large South African enterprises; and a shortage of skilled labour and capital. The Africa Competitiveness Report of 1998 highlights the following concerns by investors and local manufacturers: competition from South Africa, labour rigidities, the cost of inputs, and the availability of managerial and technical skills (cited in MTI 1999b:17). The industrial sector in Namibia

operates on a small scale, without protection against imports, and grew up in the context of a regional economy dominated by South African suppliers. It is no surprise that it is small and unintegrated, and that it should face many constraints on its expansion (Curry and Stoneman 1993:49).

In 1995, the manufacturing sector (excluding enterprises with less than ten employees) employed 16 836 males and 4 469 females as compared to 10 758 male and 12 079 female workers in 1991 (MTI 1999b:7). The sharp decline in the employment of women is indicative of significant changes in the social composition of the workforce. Labour cost per unit of output in 1994 was as follows: fish processing (20%), meat processing (6%), assembly of machinery and equipment (21%), and total manufacturing sector (16%) (MTI 1999b:8). Namibia's average labour cost per unit of output is comparable to that of South Africa, but considerably higher than in the other Southern African Development Community (SADC) member countries. Costs are low in the relatively simple production process of meat processing, but much higher in the more capital intensive sectors such as fishing. In terms of average labour costs in the manufacturing sector, Namibia (US\$6 587 per person) and South Africa (US\$9 358) are higher than in the rest of the region. However, labour productivity is much higher in Namibia (US\$15 911 per person) and South Africa (US\$21 133) than in countries such as Botswana (US\$10 187) and Zimbabwe (US\$ 8 950). Increasing average labour costs in the sector could send investors to the cheaper economies in the SADC, where longer hours may compensate for the productivity shortfall. Gross Fixed Capital Formation (GFCF) in the manufacturing sector expanded rapidly from 1990 (N\$19 million) to a peak of N\$121 million in 1993 and then declined to N\$89 million in 1996 (MTI 1999b:14). The continuous increase in FDI, while GFCF has declined during this period, shows that foreign investment has been directed towards sectors other than manufacturing.

In contrast to other countries in the region, in Namibia two-thirds of all manufacturing employees are employed by large firms (50 and more workers), and only 12% in micro-enterprises (less than 10 workers) (Hansohm *et al* 1998:8). Less than 10% of all small firms are involved in

manufacturing and have little, if any, linkages with larger manufacturers (GRN 1997:6-9). Curry and Stoneman (1993:43-4) highlight this disjointed nature of the manufacturing sector. A variety of product and market circumstances with some sub-sectors (e.g. grain milling) where local products satisfy a high proportion of local demand, while others (e.g. diary products) are conditioned by trade relations with South Africa, export the bulk of their products (e.g. processed meat) or whose products are dominated by imports (e.g. sugar). The viability of much local production in non-metallic mineral products such as bricks and cement is dependent on the high bulk and low unit value of the output, and highly vulnerable to competition from large South African suppliers. The metal products sub-sector satisfies up to 96% of local demand and survives despite fierce competition from South Africa. These are mostly small factories assembling and manufacturing a limited range of metal products that demand a limited range of engineering skills. Larger processes such as rolling and milling, foundries and precision machining are absent.

The dependence on imported supplies of raw materials and intermediate goods, combined with the poor integration between the different sub-sectors, suggests an industrial structure of “isolated producers, most competing with imports, but themselves dependent on imports also” (Curry and Stoneman 1993:46). A typical example of the effects of this industrial structure:

[i]t may seem strange that we have to import leather when there is such a large cattle industry in Namibia. The problem is that the meat industry does not have a finishing plant. So they have to export the hides to get them finished and then import them again to sell them locally (general manager, automotive component manufacturer - 10/07/2000).

The dominance of light manufacturing and of consumer rather than intermediate or capital-goods manufacturing suggests a production process that is simple in technique with easily acquired skills. This greatly facilitated the widespread use of non-standard employment.

There has been a general decline in job security in the manufacturing sector. Not so much that permanent workers were converted into casual workers, but what has happened is that when companies expand or when there has been resignations and retirements, the new workers are increasingly coming through labour-hire companies (director, labour research institute - 26/06/2002).

The labour-hire workers are all over, across the board, in all jobs. The companies are just keeping a small group of core workers as permanents and then bring labour-hire workers into the rest of the jobs (general secretary, MANWU - 27/06/2002).

Most of the larger manufacturing plants have outsourced one or more of the following functions: security, cleaning, catering, despatch, transport and maintenance. Subcontracted workers are used extensively in this sector to carry out a whole range of different tasks that vary considerably in duration.

Clients often say to me that they need people for a few hours because a lorry has to be loaded or there has been a spill that needs to be cleaned up. I give them the people to load the lorry or clean up the mess or whatever. Otherwise, the client would have to hire a lot of workers and there isn't enough work for them every day. Then you have a company that uses casual workers for several months or even a year. You could almost say that they are 'permanent' casuals. It all depends on the client. The kind of work my people do depends on his production (manager, temporary employment agency - 14/10/1998).

For the salaried staff, we get temporary workers when secretaries go on maternity leave or when someone in the finance department, for example, is absent or on vacation. Here we need to bring in someone with expertise and the necessary experience. In the lower levels, we are basically looking at general labourers to pack and carry the products and so on. We only keep these workers on for as long as there is a high demand (HR manager, meat processing - 04/07/2002).

The most important branch of manufacturing is food processing, with a major part accounted for by fish and meat products for export. Fish products accounted for 72% of the value of all food products in this sector in 1972 (Mbuende 1986:135) and nearly 70% of manufactured exports in 1995 (MTI 1999b:9). Fishing experienced rapid expansion during the 1990s: the value of production rose from N\$500 million in 1990 to around N\$2 billion in 1998 (UNDP 1996:61). With a value addition of six percent in 1999, the fish processing sector reinforced its vital role as a source of manufactured exports (LaRRI 2001:47). Between 1991 and 1997, over 98% of all marine fish landings were exported (UNDP 1996:61). Namibia has one of the world's richest offshore fishing grounds. Under conditions of full production, the fish-processing factories in Walvis Bay accounted for 70% of the sector's gross output, 90% of its profits, and more than half of the total industrial employment during the mid-1970s (Thomas 1978:133). The 7 000 black workers in the industry during the 1970s - most of whom were Ovambo migrant workers - constituted almost half the total employment in the manufacturing sector. According to official statistics released in 1974, a black worker in a canning factory typically earned a monthly cash wage of R27.30 and R18.85 in kind (cited in Mbuende 1986:133). Employment levels in the fishing industry have increased from around 6 000 in 1990 to an estimated 14 500 jobs in 1995, equivalent to about five percent of formal sector employment (UNDP 1998:64).

South African companies have a significant share in the fishing industry that is concentrated around Walvis Bay, which remained a South African enclave until the mid-1990s. The bulk of fish products was exported to South Africa at well below world market prices. By the mid-1970s, the entire production and much of the marketing were controlled by just four corporations - dubbed the "Afrikaner fishing cartel" (SWAPO 1981:30). As a result, Namibia was importing much of its own fish from South Africa! The local ownership rate of fishing companies has, however, increased drastically since independence as the government pursued a vigorous policy of Namibianisation. Over N\$400 million was invested in new on-shore plants and fishing vessels between 1991 and 1997 by both local and foreign firms (MoL 1997:26).

Fish processing is concentrated on two types of fish (pilchard and anchovy) and geared towards export markets. The canneries are large, highly mechanised production units employing an average of 400 workers each. In 1979, a study by the German Development Institute noted that “fully processed tins and fish meal are produced in fully automated factories on large scale” (cited in Mbuende 1986:132). A serious depletion of fish stocks resulted in significant cuts in quotas during the 1990s, leading to a sustained ‘fishing drought’.²⁰ Further growth will have to come from fish processing, to increase added value. The processing sector, which accounted on average for 20% per annum of manufactured output for the period 1990 to 1996, saw its output contribution decrease by more than 40% in 1996 as a result of new quota allocations (MTI 1999b:4). These restrictions, combined with the high costs of inputs and competition from South African firms, placed considerable pressure on profit margins and provided powerful incentives to casualise and outsource a significant part of the workforce. The use of non-standard labour must also be seen in the light of the fact that a continuous introduction of new technology (given the absence of a capital-goods sector) is very costly to sustain in Namibia and increased productivity has to be achieved with existing technologies. This reduces the scope for restructuring and compels management to seek solutions to the profitability crisis in the recomposition of the workforce.

We have outsourced our security and maintenance, and we use labour-hire workers to debone the carcasses during night. They used to be employees of the company, but then we thought: ‘why should we keep them on?’ Now they get paid a commission for every kilo of meat that they produce. At the moment, we are thinking of giving meat-cutting away as well. People can come in, do the job on their own, without being a part of the company (HR manager, meat processing - 09/07/2002).

We used to just hire casual workers when there was a work overload situation and when the permanent staff could not cope. Now we are also using labour-hire workers in some departments such as cleaning and despatch. These workers are not directly employed by the company, but through the labour-hire company ... It is much easier to get rid of these workers and we also save on many employment benefits (HR manager, fish processing - 16/11/1998).

The wages of black women are consistently and considerably lower than their male counterparts in most, if not all, economic sectors (Cleaver and Wallace 1990:21-2). Further cost savings can therefore be achieved through changes in the social composition of the non-standard workforce:

[t]he majority of casual workers in the fishing industry are women. Maybe 80% are women and 20% are men. They are also only looking for young people ... because they can work much faster (regional organiser, NAFAU - 28/10/1998).

²⁰ For example, the high quotas and overlapping of catching and spawning seasons for pilchards led to a drastic decline in catches from 760 000 metric tons in 1975 to 572 529 tons in 1976 and the reduction of quotas to 200 000 tons in 1977 (Thomas 1978:134). The rock lobster industry faces a similar threat with catches declining from an unsustainable 2 891 tonnes in 1981 to 328 tonnes in 1991 (Amutenya 1992:3).

The fishing industry is also subject to sizeable seasonal fluctuations. Hence, the ability to discard the bulk of its workforce during the off-season without costs of maintenance or retrenchment, and re-engage it again during the peak-season without excessive recruitment and training costs, is clearly of major importance. The bulk of the burden of seasonality and variability falls on the workers:

[t]here are certain seasons for fishing and then the factories call the manual fish workers to come and work. They have to pack the fish in boxes, load the boxes on trucks, they have to clean the insides of the fish ... Most of the workers are casual workers in the fishing companies because [the employers] know at the end of the day it is easy to let them go. They just say: 'there is no more work for you any more' (regional organiser, NAFAU - 27/10/1998).

4.4.3 Construction

The contribution of the construction industry to GDP and employment fluctuated significantly during the 1970s and 1980s, never reaching much more than five percent of GDP and four percent of total employment. Value addition in the sector was 2.3% in 1998 and 1999 (LaRRI 2001:54). In 1976, unskilled black workers in the construction industry could expect to receive around R28 in cash per month, plus their food (Cronje and Cronje 1979:59). Wages in the sector vary, often significantly, from job to job. The industry was sustained historically by large-scale infrastructural projects linked in large measure to the demands of the mining industry and the South African military. Since most black people cannot afford formal residential housing in the urban areas, the construction sector has become increasingly dependent on public-sector spending for hospitals, schools, strategic roads and the like. In relation to its small population and vast area, Namibia's physical infrastructure is of a comparatively high standard. Although small local contractors have derived some benefits from these public projects, it is subsidiaries of British and South African firms that have appropriated the lion's share of profits. A recent drop in government-funded projects has been partly offset by a rise in commercial and residential construction sparked by the drop in interest rates.

Recent trends in construction include a move toward more flexible methods of production, particularly that of labour subcontracting. The latter enables firms to avoid the costs of providing benefits and complying with certain regulations. Although the increase in labour subcontracting has shifted employment towards smaller enterprises, the many of which are black-owned, it comes at the expense of training, health and safety, and minimum-wage protections. As the general secretary of MANWU observed:

[i]n the construction industry we face a dramatic challenge from casualisation. You find the construction companies are now using casual labour and some of them are using subcontract. The companies concentrate

on their core business and key staff like artisans and engineers. The rest of the workforce they get from the labour-hire companies ... Our concern is that [the employers] want to hide themselves behind the subcontractor because they know the subcontractor is not providing his workers with overalls or protective clothing or whatever. They are not even giving a pension fund for the workers. The subcontractor is also not paying the minimum wage (23/10/1998).

Construction, as is well known, is a feast or famine industry that experiences regular booms and downward cycles, with large fluctuations in the level and composition of employment. This has a major impact on the employment strategies of employers. The industry's ability to influence the type or level of demand is heavily dependent on external forces, especially the state. More coherent and transparent planning of public sector infrastructure projects is necessary to ensure that the construction industry has a more predictable demand for its services over the long-term. Without the guarantee of a steady demand for infrastructure, the few large firms that dominate the industry are unlikely to be persuaded by a strategy that serves to alter the manner in which business has been done for many years. As the general manager of a large construction firm noted:

[i]n terms of flexibility, there are not too many variables in the construction industry as a whole that you can actually change. Given the local conditions, with high unemployment and government really wanting employment and not supporting the idea of bringing in machinery, we are sort of tied down to the way in which we do things. Compared to international standards, there is some opposition to bringing in new building methods and we do not really fit that profile of change (05/11/1998).

The construction industry is the only economic sector in which centralised bargaining regulates employment conditions on an industry-wide basis. This bargaining structure was established primarily as a convenient means to address the particular challenges confronting business and labour in the industry. On the one hand, the Construction Industry Federation (CIF) was keen to have fixed minimum wages to counter unfair competition in the tendering for construction contracts, especially from Chinese firms. On the other hand, the comparatively small size and limited resources of MANWU are mirrored in the low trade union density in the industry and in the union's inability to conclude separate collective agreements with all employers in the sector. As the president of the CIF noted, industry-wide bargaining in Namibia's construction industry essentially provides "a foundation for tender and labour costs" by ensuring that operators in the industry are "on the same playing field". However, he noted that the

idea was to create rules and standards that everybody would adhere to. The pitfall is that there isn't really a controlling body that has the power to enforce it and make sure that people adhere to it. The contractors that are not members of the CIF and don't implement the minimum conditions then have the advantage ... We can only compete as long as the foreign companies that come into Namibia play by the same rules by paying taxes, by paying minimum wages, by belonging to pension funds, by paying social security for the workers, and by employing local people (18/07/2000).

Workplace labour regulation in the industry has become 'hollow'. Low levels of union activity

at site level, combined with a narrow focus on minimum wages in centralised collective bargaining forums, created a regulatory vacuum in the detail of employment relationships. This 'vacuum' does not signify an absence of social regulation: it provides space for the development of semi-spontaneous and largely informal social relationships that augment and supplant price mechanisms (Jones 1996:124). These relationships are developed, in large measure, to coordinate the cascading series of subcontracting arrangements that allocate responsibility for the different stages or parts of a construction project. Programme deadlines also require employers to be highly adaptable in terms of the quality and quantity of labour that is deployed at any given time.

Subcontracting is an endemic feature of the industry. The reasons for this form of labour utilisation include the following: it allows the main contractor to bring in specialist trades when required; organisational and managerial costs are reduced; working capital becomes the responsibility of the subcontractor; profits can be increased by obtaining low prices through competitive tendering for subcontracts; subcontractors can be laid off without cost or disruption when work is delayed; and closer supervision can be attained, non-productive time and fixed labour costs minimised, and more efficient performance attained (Bresnen *et al* 1985; Gibson and Graham 1986; Evans and Lewis 1989). Competition in the construction industry is based largely of cost factors. Administrative, professional and technical staff constitute a significant fixed costs for the larger companies and contributes to the pressures to casualise on-site labour. The incentives to subcontract have also grown as the market became increasingly competitive with the entry of more foreign firms.

The government, through its expenditure on infrastructure, is the major player in the construction market ... Fair competition is probably the most burning issue for the CIF at this point in time. Chinese companies get preference on the basis of some system that we do not understand one hundred percent. It is all speculation at the moment, but we have heard that they don't pay minimum wage and they don't pay penalties on government contracts (president, CIF - 18/07/2000).

Labour-only subcontractors are playing an increasingly important role in reducing the employment costs and risks of the main contractors. Subcontractors face less onerous obligations than direct employers with regard to compensation and insurance for accidents. Labour subcontracting also allows for tighter controls over project cost and deadlines by the larger contractors. Temporary employment agencies and labour brokers are increasingly performing the labour supply function for a hierarchical network of large and small contractors.

There are three or four tiers of subcontractors. There are the subcontractors with whom you have a good working relationship because they have the same principles as the main contractor, because their price is good, their quality is good, and they can produce on programme. Then there are subcontractors that you work with on a less regular basis. Finally, you have the subcontractors that provide specialist skills or manual labourers (general manager, construction - 05/11/1998).

A few large firms dominate the market and pass the risks associated with large-scale direct employment in a fluctuating market on to the smaller firms who act as subcontractors in an informal but well-defined networks of suppliers. The division of the industry into discrete segments ensures that large firms do not compete directly with the smaller operators. In addition to the large number of casual workers in manual occupations, the large construction companies outsource mainly specialised work like infrastructural pipe work and other civil engineering projects (LaRRI 2001:55). Foreign construction companies supply their own management and engineering staff, but are compelled to employ local artisans and labourers on government contracts, which still account for a significant part of all construction work. It has been estimated that foreign firms that have received government contracts subcontract 40 to 50% of their work to local firms.

4.4.4 Retail

The tertiary sector as a whole contributed 30.5% (R400 million) to GDP in 1977, compared to 42% by mining, 13% by commercial agriculture, and 9.5% by manufacturing, construction and utilities (SWAPO 1981:42). In 1995, the trade sector accounted for 6.4% of GDP and 18.3% of formal employment in Namibia (MoL 1997:40). The wholesale and retail sector contributed N\$508 million to the GDP in 1998 and N\$531 million in 1999 with a value addition of 7.5% (LaRRI 2001:55). Urbanised, black male shop assistants in the commercial and distributive trades earned from R170 to R240 a month, with an average of R205 in 1973. Unskilled workers in this sector, most of whom were migrants, earned from R55 to R90 a month, with an average of R71 (Cronje and Cronje 1979:60). The retail industry in Namibia is constrained by the lack of a mass market and was structured almost exclusively to cater for the affluent white urban population. The retail market in Namibia is further limited by low levels of household consumption due to unemployment, subsistence farming and recessionary conditions. The small and largely informal retail sector aimed at the rural poor is heavily dependent on wholesale supply chains, restricted to a narrow range of basic consumer goods, and burdened by high transport costs. Most urban retail outlets during the colonial era were small-scale, locally-owned family businesses. More recently, the retail sector is increasingly dominated by large South African companies such as Shoprite, Pick 'n Pay, and Game.²¹ The resulting increase in competition is forcing local retail firms to review their organisational structures and employment

²¹ On the one hand, South Africa's domestic retail market has seen little intrusion by international competitors to challenge the dominance of a few large companies. On the other hand, an important component of South African retailers' growth strategies is a move into the rest of Africa to capture new markets (Kenny 2003:171).

practices.

Major changes occurred from the mid-1990s onwards when Shoprite entered the Namibian market. Before that, there were basically just two local firms in the sector. Shoprite came into the Namibian market with a new perspective on trading and with an entry strategy of low prices and quality which compelled the other companies to adapt in order to compete. Local companies had no option but to start revamping their stores ... Once the issue of quality was met, the emphasis shifted back to prices again (group HR manager, retail - 01/07/2002).

There is no getting away from it, Namibian managers are struggling with globalisation. Namibia is becoming more and more an open economy ... One hears a lot of complaints about unfair competition. Companies with a very vast advantage in terms of economies of scale and so on, come in here and they flood the market with products which the locals can't compete with because the companies from the outside can afford to come in with a lower price and so on. We talk of big retail outlets, for example. It is tough. They are struggling and they are trying to compensate (management consultant - 19/07/2000).

The service industry is characterised by highly unstable and fluctuating conditions of demand with significant changes in levels of demand between peak and non-peak times. Employment in the service sector has traditionally been less organised and less continuous than manufacturing employment. Service sector growth has generated a large number of low-paying, low-skilled jobs filled mainly by women and young people (Brooks 1985; Gregory 1991; Leonard 1992; Burgess 1997; Ambrosini 2001). The retail sector in Namibia has more female non-standard workers than most other sectors: “[t]he women that work for us are all cashiers, shop-assistants and rack-packers in the retail sector” (manager, temporary employment agency - 14/10/1998). The amount of flexibility needed is a product of the degree of variance within the sector, especially the extent of discrepancy between labour supply and labour demand (Riley and Lockwood 1997:416). Employers in the retail sector face the perennial problem of long trading hours and peaks and troughs in labour demand.²² Part-time or temporary employment is an obvious choice in an industry where the volume of work is highly variable over time (Dombois and Osterland 1987:229). A system of ‘capacity-orientated variable working time’ - aimed at creating a flexible and temporally variable labour supply that encompasses the majority of the workforce - is common in the retail sector where the volume of work is not only predictably subject to fluctuations depending on the time of day, but also according to individual days of the week and for certain periods of the year.

The number of casual workers, especially in the retail sector, has more than doubled over the last few years. Once one company uses casual and labour-hire workers, then the others have to do the same... Companies are developing ‘core’ employees - I would say between 10 to 20% of the workforce - and the rest, that is 80% of the employees, can be hired and fired on an hourly or daily basis ... To be honest, many of the casuals in the supermarkets are permanent casuals. They work three days a week, every week, in the same

²² Like the retail sector, the variability and unsociability of working hours in the hospitality industry are a prime motivator for non-standard employment, even in so-called ‘core’ functions (Riley and Lockwood 1997; Deery and Jago 2002).

shop (general secretary, NAFAU - 28/06/2002).

The top managers in Johannesburg said that we are spending more than we are getting in. We had to cut costs ... So, when we hire new workers, we decide whether it is a job that requires the same person to be there every day. If it is not, then we hire casuals. But in the deli, for example, you need people to prepare food every day. In the ordering department you also cannot have a different person every two or three days. These posts must be filled with permanent workers. It is different with the person who packs the shelves. When he comes in on Mondays and Tuesdays, he knows what has to be done (store manager, retail - 06/07/2002).

Most retail firms compete for demand through extended trading hours and greater responsiveness to the needs of consumers. Part-time and casual workers carry the bulk of the work load after hours, on Sundays and public holidays. The Labour Act imposes a limit of two days per week for 'casual' employment. To circumvent these stipulations, employers introduced rotating shifts. Part-time workers are treated as casual employees, rostered on different days and different hours from week to week. These workers have little influence over their hours and days of work, receive no overtime or weekend rates, have drastically reduced rest periods, and few if any benefits such as leave or sick pay. 'Flexibility' is largely to the benefit of employers and has little bearing on the needs of employees.

We are working more hours than the permanent staff but our salaries are much smaller than theirs ... If the shop is busy, then we casual workers don't even go out for lunch. As a casual worker, you are just there to do the work ... Although you are a cashier, you stay behind with the other casuals to clean the shop. The permanents won't do that, they are going home (part-time worker - 13/07/2002).

The reason for this policy of using casual staff is the extended trading hours that we have to operate our stores ... When the shop is very busy, we bring in more casuals. But before we do that, we don't let the casuals have their tea and lunch breaks. They must just quickly swallow their food while they are busy working. It is better to get the casuals who are already here to work longer and harder than to bring in more casuals (store manager, retail - 06/07/2002).

Non-standard employment allows for a less costly, more precise and more rapid matching of staff numbers and daily or weekly patterns of trade. Considerable diversity in terms and conditions of employment is in part a reflection of the myriad of employment contracts in the sector. The drive for labour flexibility is shaped by "management perceptions of the advantages of simple cost minimization versus other considerations such as continuity of supply, and quality of output and customer service" (Wright and Lund 2003:152). While quality considerations are important, cost factors are increasingly swaying managerial decisions. This focus on cost reduction stems not only from the fact that the wages of organised, permanent employees have risen considerably since 1990, but also from the low profit margins available in a highly concentrated market. As NAFAU's general secretary noted,

[i]n the supermarkets, they use casuals and part-timers as well as workers supplied by the labour-hire companies. Employers outsource these functions to labour brokers to reduce their labour costs. They say

this is the only way because labour costs are growing. In the big supermarkets, the casuals only earn between 20 to 30 dollars a day ... This casualisation has nothing to do with 'flexibility', it is just a way to reduce labour costs (28/06/2002).

New technology such as electronic point-of-sale systems and computerised inventory control allowed for the increasing centralisation of decision-making processes, a growing fragmentation of working hours, and more complex staffing arrangements to cut labour costs and increase flexibility (Gregory 1991; McLaughlin and Ramussen 1998; Wright and Lund 2003). This technology allows retailers to identify optimum product mixes for individual stores as well as the turn-over of particular items based on point-of-sale information.

With the new information technologies that we use in our stores we can pick up sales every hour, we can pick up sales by customer, we can pick up average customers. The system provides us with essential information for long-term planning and even the number of staff needed at a particular time. Another advantage is that you can go back a year and compare your current performance with the figures of last year ... It also helps us a lot with our productivity measurements. In a store like the one here at Swakopmund, for every man-hour we clock, we must sell forty units. So we take the hours they have worked during a specific week and compare them with the number of units sold (store manager, retail - 06/07/2002).

We know exactly how many items of stock there are in the store at any time. We can also go into the system to find out how many bread rolls, potatoes or toilet paper we sold on a particular day ... The scanning system has made the work of the cashiers much easier. It goes much quicker now, there are no mistakes in ringing up an amount, and it allows us to prevent shrinkage (group HR manager, retail - 03/11/1998).

These technologies also enable retailers to measure changes in the volume of work over an extended period and to identify peak periods of trading more precisely. Accurate forecasts of demand patterns to stagger the hours of a largely part-time staff have become increasingly important.

We are also looking at the way life is changing. Today, the customer wants to get what he wants as quickly as possible and then get out of the store ... Most of our customers prefer to do their shopping on Saturdays and Sundays and to avoid busy month-end periods ... The experience we had was that between five and six in the afternoon there were so many customers in the store that you had long queues. By extending our trading hours, it gives the customer time to go home, get his wife and they can both come in to do their purchases. Another trend that is developing, especially among women, is that they want to watch the soapies like *eGoli* after work and then go shopping. We adjust and accommodate to the trends among the people, what we refer to as the 'in-thing' (group HR manager, retail - 01/07/2002).

In an environment of increasingly comprehensive and readily available information, labour can be hired in discrete and discontinuous 'chunks' of time according to demand. This reduces unproductive, idle time and allows employers to restrict the number of full-time staff to the lowest levels of labour demand. Part-time workers tend to be concentrated in jobs (such as packers and cashiers) that vary directly in accordance with customer demand. The use of non-standard employment contracts is therefore structured in terms of both a Taylorist labour measurement system and a system where staff numbers are essentially related to the turnover of

a store.

Each store is broken down into departments that directly generate income. These are the departments that you need to have to run the store, like your admin and receiving guys. Each department is allocated a number of permanent and casual staff members that they must have. It is down to them to ensure that, in line with labour legislation, they plan to have the casual staff only when the shop is very busy and not to use them when things are quiet. It is down to each store based on their circumstances because the market varies from store to store (group HR manager, retail - 01/07/2002).

The work carried out by non-standard employees is routine, inter-changeable and requires little skill or training. However, there is often no clear distinction between the activities carried out by permanent employees and part-time or casual workers.

Casual workers do the same jobs that permanent workers do. The only difference is that they have to work longer hours and get less pay than the permanent workers ... Some of them have been working for more than six years as casual workers. So, you may find a casual worker who has been in a shop longer than some of its permanent workers (regional organiser, NAFAU - 03/07/2002).

The casuals do all types of work - some are cashiers, others are packers or cleaners. The permanent workers do the same jobs, but at the moment we only have one permanent cashier and a few permanent packers (store manager, retail - 09/07/2002).

The major retail outlets in Namibia have adopted remarkably similar strategies of labour flexibility. The convergence in employment practices of large grocery retailers in different countries, according to Gregory (1991:510), is in large measure attributable "to intra-industry factors, which suggest in themselves some common logic of industrialism". In addition to the common reliance on a large casual workforce, all the major retail outlets have outsourced their cleaning, security and maintenance functions. Of course, the casualisation of employment is merely one strategy for lowering operating costs in a sector characterised by tight profit margins. However, given the low levels of locally sourced inputs and the established distribution chains of South African firms, it is more difficult for retailers in Namibia to restructure their supply networks, impose quality criteria on their suppliers, reduce inventories, and shift the risks of inventory maintenance on to manufacturers and distributors.

4.5 CONCLUSION

In some respects, the outsourcing and casualisation of employment in Namibia reflect an intensification of pre-existing practices and the expansion of those industries that have always depended on a non-standard workforce. Surface manifestations of flexibility and fragmentation may therefore reflect underlying processes of integration and centralisation. There has not been a complete shift in work organisation as postulated by flexibility theorists, but rather a new

direction of change confined to certain industries and occupations. Here we emphasised the different motivations for and routes to employment flexibility as well as the importance of the context in which these measures are introduced. In contrast to an 'offensive' flexibility which aims to compete on the basis of high quality and skills, the 'defensive' flexibility pursued by many Namibian employers serves to reinforce the low-wage, low-skill route to competitiveness. The gains in economic efficiency related to the rise in non-standard employment have come largely at the expense of social equity. The essence of the regulatory dilemmas confronting flexible accumulation is countering the socially destructive effects of economic competition.

Labour regulation has to adapt to changes in the production system if it is to remain effective, while the impact of changes in industrial organisation are decisively influenced by the prevailing systems of labour regulation. The capacity of regulatory mechanisms to absorb the effects of change in a manner compatible with higher growth rates is limited: the efficacy of organisations lies entirely in the stability of their internal rules. That is, the institutionalised compromises between the capital and labour only reduce uncertainty by virtue of their rigidity. But this allows them limited scope to respond to variations in the conditions governing the accumulation of capital. In other words, labour regulation forecloses certain options while allowing others. The goal of a capitalist enterprise is not to transform employment relations, but rather to remain competitive. If that goal can be achieved within the parameters of existing institutions, they are not likely to be altered. "Historically consolidated institutional arrangements create systems of vested interest, a heritage of assumptions, practices, and familiar relationships, which sustain a bias to stability" (Hyman 1994c:20). It is only when labour market institutions became intolerable 'fetters' to the regulation of capital accumulation that they are likely to be drastically altered. The socially embedded nature of these institutions also suggests that the pace and direction of changes will be path-dependent and conditioned by historical factors. This rules out any monocausal or unilinear conception of capitalist restructuring.

The interaction between product market conditions and technical and organisational factors shape the demand for non-standard employment across industries and occupations. Non-standard employment is internally differentiated in accordance with the structures of the technical and social divisions of labour within which they produce value. The extent and nature of non-standard employment depend on the balance of class forces and the specific material conditions of production. As such, it will vary between industries, countries and over time. If technological and organisational changes affect industries to varying degrees and at different times, it is reasonable to expect that the demand for the various forms of non-standard labour would be uneven and sectorally specific. Since certain industries may be more inclined to rely on non-

standard labour, it is important to unravel the different motivations and benefits behind such decisions. The use of external sources of labour or 'distancing' involves the severing of direct employment links with the worker. Numerical flexibility sustained by subcontracting may be performing a basic regulatory function in mobilising a job-ready supply of workers by transferring the costs and risks associated with non-standard employment onto the workers themselves. It also lowers labour costs by limiting the application of statutory minimum conditions. For management, there is little obvious return to paying high wages to workers whose jobs can be easily monitored, are easily replaced and/or perform work that is peripheral to the firm's main objectives. Finally, non-standard employment matches labour supply to demand in a way that eliminates idle time and labour shortages, especially in the lower reaches of the labour market.

In the long-term, an increasing reliance on cheap and precarious labour can become a serious obstacle to economic recovery and may inhibit the introduction of more productive technologies, innovative work practices, and the provision of training (Tailby and Whitston 1989; Sayer and Walker 1992; Zeytinoglu 1994; Crouch 1998; Heery and Salmon 2000b). As we shall see in chapter 6, the casualisation of employment incurs its own penalties in the form of some loss of control, reliability, potential conflicts between non-standard and permanent employees, and problems in maintaining quality and co-ordination. There are also numerous (often hidden) transaction costs associated with the monitoring and enforcement of NERs. These problems of commitment, quality and so on have encouraged some firms to do away with casual and temporary work and revert to more stable patterns of employment. It is therefore misleading to assume that the trends towards employment flexibility are linear or unidirectional and without limits or contradictions. As the HR manager of a meat processing factory noted,

[t]he numbers of temporary and casual staff have actually decreased over the last few years. In the past there was inadequate planning and forecasting of HR needs which allowed people to take leave when demand is high and so on. Now each department is responsible for planning their HR needs more carefully ... We also had numerous problems with the workers in some of the departments, such as transport, that were outsourced (04/07/2002).

The shortcomings in flexibility theories highlight the need to explore the impact of restructuring on work and employment in the context of given product and labour markets. The central concepts of 'core' and 'periphery' in the debates surrounding labour market flexibility need to be re-examined and more closely linked to the dynamics of a particular mechanisation regime and prevailing labour market conditions. As a dualistic employment model, the 'flexible firm' rests on questionable assumptions and muddled influences, and has acquired more sway than its precarious base warrants. It should be jettisoned in favour of

a clear, historically informed sectoral analysis which highlights both continuity and the key sites of change, elaborates the complex relationships between employment structure, employment law and the employment relation, recognises that there is more to management than the control of cheap, flexible labour and does not attempt to reduce the uneven and complex nature of evidence into a single mould (Pollert 1988:311).

Assertions to the effect that we are witnessing a universal trend towards 'flexible' employment shed little light on the variety of different forms of non-standard labour, their uses, levels of autonomy, and so on. The presence of unskilled subcontracted labourers in a 'core' industry, the employment of skilled subcontracted workers through a 'peripheral' firm, and casual workers performing core functions alongside permanent employees all raise intractable problems for the dualistic core-periphery model. Labour is increasingly segmented, not only in terms of high-wage and low-wage economic sectors, but also along the lines of standard and non-standard employment. The latter division is overlaid by a further stratification between the skilled and less skilled, permanent and casual. This growing plurality of employment relationships poses a pressing challenge to redefine the standard employment relationship and to incorporate NERs within the framework of statutory and collective regulation.

5

AN IMPOSED CONTRACTUALISM: MANAGEMENT, THE POLITICS OF PRODUCTION, AND THE NON-STANDARD WORKFORCE

5.1 INTRODUCTION

A hallmark of workplace restructuring over the last two decades was the continuing efforts of managers at loosening the restrictions on the use of labour and deepening the divisions between different sectors of the workforce. These processes of restructuring do not so much affect the number of employees working for a firm as change the type of employee required and increase the differentials in the rewards of employment. The proliferation of non-standard work and the associated differentiation in employment conditions challenge many traditional conceptions of authority structures and systems of work organisation. The bulk of the literature on human resource (HR) management is premised on assumptions of standard employment. As such, it provides few insights into the regulation of non-standard employment. Yet it is largely employer needs rather than employee preferences that determine the extent and distribution of 'flexible' working patterns. Management is the principal actor in industrial relations and the employment strategies that it pursues are among the most influential factors shaping the institutional framework of the labour market. These strategies, as Rubery and Wilkinson (1994:33) argue, "create the rules, norms and structures which shape wage, job, and promotion opportunities in both the internal and external labour market and through which individuals progress, enhancing or diminishing their labour-market credentials". The search for labour market 'flexibility' is in large part an attempt to selectively dismantle or restrict some of these rules, norms and structures in a manner that enhances managerial authority over the use and deployment of labour. That is, the nature and incidence of non-standard employment will tend to reflect the costs and constraints imposed on management by the prevailing systems of labour regulation. 'Flexibility' in the labour market is therefore as much a political as an economic process in the sense that it will invariably generate losers as well as winners.

The literature on employment 'flexibility' has re-introduced the idea of convergence in industrial

organisation and labour policies. A convergence in managerial practice is said to arise from the growing significance of multinational corporations, the free movement of capital, the transfer of technology, and the compulsion to follow 'best practice'. Despite the pressures to conform to a single model, the reality is increasing diversity with considerable variation in managerial approaches and employment policies (Valverde *et al* 1997; Horwitz *et al* 1998; Felstead and Jewson 1999a; Heery and Salmon 2000a; Cook 2002). The wide divergence in working practices and the management of labour across occupations, industries and regions reflects the social embeddedness of the employment relationship. Labour regulation, as we emphasised above, is a conjuncture-specific phenomenon that only coalesces under certain spatio-temporal conditions. In fact, given the social nature and institutional dependence of its production and reproduction, "labor is the most placebound of the 'factors of production'" (Peck 1996:148). Changes in the mechanisms through which labour is incorporated, allocated, controlled and reproduced are always partial, contested and highly context-dependent. As Gallie and White (1994:107) point out, current restructuring is characterised by slow and cautious changes on a trail-and-error basis; a limited and discontinuous search for new employment strategies; a *status quo* bias in the need to maintain worker commitment and legitimate managerial authority; and an *ad hoc* and piecemeal renewal of policies in response to specific pressures. Managements' attempts at restructuring the workplace are therefore far less universal, uniform and purposeful than implied by the perspectives on 'flexibility'.

To adequately understand the management of a capitalist enterprise we need to be sensitive to its contradictory, multi-layered and multiply-determined character. Converting the potentiality of labour power into actual, productive labour is not a zero-sum game in which workers gain what managers lose and vice versa, but rather a dilemma at the heart of labour regulation. The open-ended, indeterminate nature of the employment relationship means that management needs to simultaneously secure its authority over workers and gain their cooperation and consent. In other words, labour is both required and resisted by capital. Labour regulation does not revolve simply around managerial control and worker resistance, but rather involves the more complex and intractable problem of dissent and accommodation, conflict and cooperation (Burawoy 1985; Edwards 1986; Cohen 1991). The control-autonomy dialectic suggests that the attempts by employers to 'solve' the problem of order in the workplace will exacerbate the problem of consent and vice versa. As a result, structural breakdown and spontaneous disorder is as likely an outcome of regulatory processes as spontaneous order and structural integration (Sayer 1995:141). Changes in the management of the workplace should therefore not be seen in terms of an optimal path chosen from a range of equally accessible alternatives. A system of regulation takes on the character of a trial-and-error process in which each trial changes the environment

for the next, so that 'successful' strategies depend not only on their intrinsic qualities, but on when and where they are implemented. To be sure, regulatory change is largely path-dependent and geographically-specific constraints may restrict developments along particular paths for long periods of time. This implies that the politics of production

need to be set within the larger frame of labor markets and broader processes of social reproduction. People in different labor market or national contexts will practice production politics differently. Employers and workers use the conditions in the labor market and in the larger community and society as a way of influencing life within the workplace. This wider relationship between workers and employers is the employment relation, and it is only in the context of employment relations that real demands for labor are defined and supplies of labor produced (Storper and Walker 1989:166).

Our knowledge of the ways in which non-standard employment relationships (NERs) are regulated is extremely limited and has received scant attention in the 'flexibility' debates. Underlying the notion of convergence in the flexible-firm model is the assumption that managers act strategically, with external pressures leading directly to clear and largely uniform courses of action. That is, management strategies are always comprehensive, purposeful and successful. These views rest on the voluntaristic fallacy that anyone can do anything in any context. A rejection of voluntarism raises the need to inquire what it is about a certain situation that gives rise to particular outcomes. In this chapter, we will consider the ways in which employers shape the wage-effort bargain of non-standard employees. Since most typologies of managerial strategies are premised on the standard employment relationship (SER), they cannot fully account for the distinct amalgam of regulatory mechanisms involved in the management of non-standard employment. First, we evaluate the extent to which the use of non-standard employment contracts is part of a general, coherent and strategic plan on the part of employers. Whether or not employers act strategically in their deployment of non-standard labour is judged in terms of the extent to which they pursue a 'core-periphery' strategy, as suggested by the flexible-firm model. Second, we highlight the pivotal role of the law of contract in the management of non-standard employment. The distinction between standard and non-standard employment pivots on the relative balance between market-mediated and bureaucratically-governed modes of labour regulation. Next, we consider the terms and conditions of employment of non-standard employees. Many temporary and part-time workers in Namibia obtain work in the context of unspecified terms and conditions of employment. This regulatory 'vacuum' grants employers an almost unbridled capacity to construct the detail of NERs. Finally, we show how changes in employment practices and the organisation of work are filtered through discrete occupational structures. Shifts in the forms of employment have not only been highly uneven across industries, but have also been assimilated into pre-existing patterns of occupational segregation within industries.

5.2 THE MANAGEMENT OF NON-STANDARD EMPLOYMENT: A RETURN TO 'MASTER AND SERVANT'?

The 'labour problem' at the heart of any mode of regulation - i.e. the conversion of labour power into actual labour - is effectively suspended from analysis by the proponents of employment 'flexibility'. Every workplace must solve this implacable dilemma through the negotiation of order between employers and employees.¹ That is, employers require the cooperation of their employees, but this need has to be tempered by the demands of profitability and the requirements of general or overall direction of the labour process. Flexibility approaches tend to assume that employers always act strategically and have at their disposal the managerial techniques and resources necessary to elicit the required levels of performance from their workforce. This implies that employers have a unique insight into the implications of their decisions and largely rules out the possibility of unintended and unanticipated consequences. In reality, however,

labour management issues are dealt with under conditions of deep uncertainty, creating an important gap between intent and outcome in actual managerial practice. In this sense, labour management is an ongoing process, involving frequent surprise and disappointment. Thus, it cannot always be assumed that the actions taken by capitalist employers are in any meaningful sense the 'best' ones, or more importantly, will yield the same results, regardless of when and where they are taken (Spencer 2000:555).

Implicit in much of the thinking underlying flexible accumulation and its totalising production concepts is the fallacy that there exists 'one best way' in which to manage the workplace. This emphasis on 'best practice', Pollert (1991b:30) suggests, is evidence that "beneath the surface of certainty and assertiveness lie disorientation and a desperate search for panaceas". The effectiveness of an enterprise depends on the contingent amalgamation of a whole myriad of mediating processes that include managerial style, job demarcation and coordination, the distribution of information, the encouragement of learning and innovation, and the motivation of employees. In the workplace, managerial practices find a number of distinct compromises depending on the differences between and within established national work systems and their associated regulatory institutions (Whitley and Kristensen 1997). An analysis of the structural and normative context that makes management possible will allow us to move beyond the vague notion of 'context' and to highlight the social construction and institutional mediation of the management function. This wider societal and cultural milieu in which systems of labour regulation are embedded is so varied that a search for universal models of management is destined to end in disappointment. New forms of labour flexibility, according to Peck

¹ This 'problem' is, of course, manifested in different forms: interruptions to production, deterioration of quality, absenteeism, labour turn-over, a lack of commitment and cooperation, trade union militancy, and so on.

(1996:136),

are associated with new forms of labor control, new forms of labor exploitation and, by implication, new forms of gender and racial exploitation. Again, because these processes are socially constructed, they tend to vary in character and intensity from one place to another ... reflecting the diverse economic histories, regulatory structures, and social conditions.

The flexible-firm model suggests that the move to greater numerical flexibility was primarily related to changes in the technological and market conditions confronting employers. Rubery (1994) shows that these strategies could equally well be interpreted as opportunistic responses to high levels of unemployment. The conceptions of managerial strategy and workplace control that inform the notion of a 'flexible firm' tend to neglect the complex and contingent ways in which order is actually negotiated under specific conditions. Changes within the workplace must be related to internal as well as external opportunities and constraints as mediated through the impact of prevailing organisational structures and regulatory regimes. While managers face the general problem of converting the purchase of labour power as a commodity into actual work performance, their responses are shaped by the particular circumstances in which they find themselves. As Edwards (1986:41) argues,

[f]irms will develop their practices of labour control with whatever materials they have available. They are unlikely to have explicit strategies and more likely to react to particular circumstances as best they can. Even when they have fairly clear goals they are unlikely to follow a policy which conforms to an ideal-type: they will proceed according to their own needs. In particular, they are likely to use a variety of means of controlling the labour process and tying workers to the firm.

A rise in the incidence of non-standard employment is seldom the product of a qualitative change in employment policies. Rather, it appears to be the result of an intensification of existing practices; a reaction to unfavourable economic conditions; the exploitation of inconsistencies and silences in the prevailing patterns of statutory and collective regulation; and an expansion of those industries that have always relied on a 'peripheral' or 'marginal' workforce. The proliferation of non-standard work and the associated differentiation in employment conditions challenge many traditional conceptions of authority structures and systems of work organisation. The management of non-standard employees involves an amalgam of regulatory mechanisms that do not readily fit into the typologies of managerial strategies that have been put forward (Fox 1974; Friedman 1977; Edwards 1979; Purcell and Sisson 1983). The negotiation of order and institutionalisation of the wage-effort bargain - even in workplaces that lack formal and collective procedures - are far more complex and contradictory than is often assumed (Ram 1991; Moulle 1998; Harris 2002). As Edwards (1986:41) correctly notes, for management to rely "solely on arbitrary power or technology or rules would be a very limited and dangerous approach". Even 'simple' or 'direct' control is far from rudimentary or unmediated.

5.2.1 Managerial Strategy, Labour Regulation, and Taxonomies of Control

Management strategy, in its broadest sense, is fast becoming a central focus of industrial relations. To warrant the label 'strategic' managerial actions must be deliberate, coherent, ubiquitous, integrative, pro-active, consistent and long term. The extent to which managers act in a strategic manner is an empirical question. In a wide-ranging study, Marginson *et al* (1988:10) note that "it is a moot point whether it is appropriate to dignify management's approach to industrial relations with the adjective 'strategic'". Research shows that management practices are generally "opportunistic, habitual, tactical, reactive, frenetic, *ad hoc*, brief, fragmented and concerned with fixing" (Thompson and McHugh 1990:137). Management's labour strategies "are not calculated; they are struggled over" and these struggles mobilise particular political resources and capacities, are constrained by different sets of political and economic forces, and regulated in contrasting ways (Peck 1996:138). There is no 'one best way' to manage these conflicts, "only different routes to partial failure" (Hyman 1987:30). Managerial strategy is thus best conceptualised as "*the pragmatic choice among alternatives none of which can prove satisfactory*" (Hyman 1987:30). This view clearly contradicts the notion that employers have an overall and consistent approach to the management of industrial relations.

Achieving and maintaining a balance between efficiency and equity in the workplace depends less upon the relatively simple task of meeting employees' comparative wage aspirations, than on the endlessly demanding one of "creating and maintaining the institutional forms that will maximise their willingness to work efficiently" (Brown and Nolan 1988:353). The productivity of labour is shaped by both the objective combination of the various factors of production and the subjective mobilisation of consent and cooperation. A coherent analytical framework to explain managerial behaviour requires a rejection of approaches that view management simply as a conduit of market forces, an agent of capital or a wilful contingency. There is a pervasive tendency in the literature to view managers as "unproblematic agents of capital who dispatch their 'global functions' in a rationalistic manner" (Storey 1985:195). Understanding the conditioning effects of structural relations over managerial behaviour has not been greatly assisted by the current penchant for models of 'strategic choice'. In Namibia, as we noted above, the rise in precarious forms of employment is more strongly associated with structural features of the economy (such as unemployment, poverty and the impact of labour market institutions), strong demand or high turn-over in the local labour market than with any particular policy innovation (such as employment 'flexibility') on the part of employers. This is partly manifested in the high degree of susceptibility by temporary employment agencies to business cycles (demand) and labour market conditions (supply).

A notion implicit in the flexible-firm model is that employers are acting in a more strategic manner in developing fundamentally new staffing policies. Research in different contexts shows that the use of non-standard employment contracts is very seldom part of a long-term, coherent and strategic plan on the part of employers.² In fact, Hunter *et al* (1993:401) found “an absence of strategy for labour use, and much more concern about survival and opportunistic cost-saving”. Managerial decisions about employment contracts, staffing levels and recruitment are largely *ad hoc*, tentative and based on the perceived benefits and drawbacks of each type of employment. The SER remains the default position in jobs where there are no clear or immediate advantages to using non-standard employees.

A lot of the things, like outsourcing, are dealt with as they come up. Our policies are flexible. It all depends on the situation and how it would affect production. Every problem that arises is looked at separately (HR manager, clothing manufacturer - 09/11/1998).

It is impossible to say whether we will use more or less casual and labour-hire workers in the future. They are brought in as we need them. It changes from one day to the next ... There is no plan that says we must use so many casuals this month and so many next month. It depends on the circumstances at the time (HR manager, electrical engineering - 01/07/2002).

Few employers have a clearly articulated strategy on the use of different types of employment contracts and their reasons for using non-standard workers reflect a response to particular contingencies and a reliance on specific opportunities as they arise. In Namibia, temporary and part-time workers are used to cover for the absence of permanent employees, to carry out irregular or short-term tasks, to reduce costs and economic risks, and to match labour supply and demand. ‘Flexibility’ was very rarely cited as a reason. This predominance of ‘traditional’ reasons for using NERs does not suggest a substantive shift in managements’ employment strategies - it is more indicative of a reorientation of traditional approaches to the incorporation, allocation and control of labour. As we saw in chapter 2, Namibian managers have historically evaded responsibility for labour regulation through strategies that depend on intermediaries such traditional leaders, private contractors and government agencies.

Whether or not employers act strategically in their deployment of non-standard labour is perhaps best judged in terms of the extent to which they pursue a ‘core-periphery’ strategy, as suggested by the flexible-firm model. The stated goal of this model is an expanded market regulation in which new patterns of management emphasise the identification of core competencies and the use of contractual relationships to provide all services falling outside the ambit of this narrow set

² See: Towers (1987); Pollert (1988); Hakim (1990b); Casey (1991); Anderson *et al* (1994); Rubery and Wilkinson (1994); Legge (1995); Burgess (1997); Storey (1997); Valverde *et al* (1997); Nollen and Axel (1998); and Robinson (1999).

of functions. According to Linder *et al* (2002:23), firms are increasingly using outsourcing not only to “off-load non-core activities and reduce costs”, but also to “gain access to competitive skills, improve service levels and increase their ability to respond to changing business needs”. More ‘flexible’ outsourcing - based on trust and partnership - is seen as a driving force in business transformation and as vital in gaining a competitive advantage and increasing efficiency (Cross 1985; Upton 1994; Ghausi 2002; Shy and Stenbacka 2003). Increased global competition, the move to leaner organisational structures, the growing importance of niche markets and specialisation, and the search for greater flexibility are presented as the prime determinants of the upsurge in outsourcing. A more strategic use of outsourcing, it is argued, leads to greater efficiency and quality, a strengthening of the firm’s core functions and increased specialisation, better utilisation of new technologies, and cost discipline. These conceptions of outsourcing as mutually beneficial are closely associated with the view that “the individual has benefited from flexible employment arrangements, particularly in terms of allowing greater time with the family” (Kakabadse and Kakabadse 2002:194). Non-standard employment in Namibia, as we shall see below, rarely corresponds to this optimistic ‘best-practice’ scenario.³

Tasks demanding higher skill levels and necessitating greater autonomy are assigned to permanent employees over whom hegemonic rule is enforced, strengthened by high wages and comprehensive extra-wage benefits. Employers seeking to fill stable, well-paid primary sector jobs - in which training and induction costs are usually high - are at pains to ensure that turn-over risks are minimised. The division between ‘core’ and ‘peripheral’ workers, it is argued, gives employers an additional measure of flexibility in that they can apply different strategies to different sectors of the workforce. This ‘regulatory flexibility’ stems from the strategies of inclusion exercised over a functionally flexible core (e.g. bureaucratic control, internal labour market) and the strategies of exclusion exercised over a numerically flexible periphery (e.g. market control, external labour market). From being a cause for concern, the co-existence of a high-wage, high-protection and a low-wage, low-protection workforce is now celebrated as a source of renewal:

in today’s volatile business environment, executives are called on to change their operating models much more frequently than ever before. More often than not, they do not have all the skills and capabilities that they need to succeed at the new game. Companies that have fallen behind should consider using business transformation outsourcing to regain their lead (Linder *et al* 2002:28).

³ An extensive survey of employment practices in New Zealand also found that the picture that emerged from the findings was not one of innovative working practices that benefitted employer and employee alike. Rather, the most common ‘flexibilities’ involved “crude methods of reducing labour costs such as retrenchments and reducing hours of work” (Anderson *et al* 1994:502).

Any attempt to understand labour market segmentation in terms of a general theory of 'core' and 'peripheral' workers "veils rather than illuminates the distinctive pattern of employment disadvantage associated with specific non-standard contract statuses" (Gallie *et al* 1998:185). The core-periphery model is basically a modified version of the dual labour market theory. Both assume that labour market segmentation can be encapsulated in dichotomous terms. Such broad generalisations may be useful in presenting extremes in the employment profile, but are unable to concretely specify intermediate forms of employment. As labour market categories, concepts such as 'core' and 'periphery' fail to fit any general definition. For example, research by Hunter *et al* (1993:398) shows that managers interpreted the concepts of 'core' and 'periphery' in different ways:

as the nature of the contract of employment, the conditions of service associated with it, the status of the job or of the worker performing it, and as whether the tasks comprising a job were a main activity of the workplace or ancillary ... [The] dimensions of the employment contract used to ascribe workers to the 'periphery' are in fact conceptually - and often empirically - quite distinct.

There is a distinct danger in dislocating changes in production from their national and regional contexts through a process of abstract theorising. Rojot argues that the attempt to impose "a logic of flexibility" on industrial change rests on the false belief that "apparently identical elements (subcontracting, overtime, short-term contract, etc.) of different industrial relations systems can ... be treated as similar and comparable outside their national social context and thus subject to similar interpretations" (cited in Pollert 1991b:8). The core-periphery framework is inserted into flexibility theories in a manner that obliterates both crucial and more subtle variations in employment practices. As we saw in the previous chapter, non-standard workers are employed alongside permanent employees in most economic sectors in Namibia. However, there are significant variations in the duration, form and content of their employment relationships across the various industries. The managers that were interviewed indicated that the number of non-standard workers that they take on and the duration of their employment vary greatly: as few as one to as many as several hundred workers were employed on non-standard contracts ranging in duration from a few hours to as long as several years.

In certain sectors, such as retail and hospitality, non-standard workers make up the majority of the workforce and are absolutely central to the operations of the firms in which they are employed. The social construction of non-standard employment suggests that these workers may be regarded by management and (on occasions) by the trade union as 'peripheral' irrespective of the centrality of their work to the enterprise. In addition to sectoral variations, levels of organisation and skill, and the impact of regulatory institutions in the labour market also have an important bearing on the internal differentiation of non-standard employment on lines other

than core versus periphery. The debates on the demarcation of labour market segments can be most fruitfully conducted at a more concrete level of analysis. This would reveal that labour market boundaries by and large preclude abstract, universal definitions: they are temporally and spatially determined, integrated into the cycles of economic activity, and contingent on a host of other factors.

The available evidence provides little support for the contention that employers are explicitly adopting a core-periphery employment strategy (Hakim 1990b; Casey 1991; Marginson 1991). Dale and Bamford (1988:31) argue that it is “hard to make clear cut divisions into ‘core’ and ‘periphery’” and suggest that the various categories of so-called ‘flexible’ labour should be ranged along a continuum from full-time permanent employees to part-time temporary employees in accordance with the extent of their “peripherality”. Workplace restructuring is generally understood and justified by employers in terms of conventional staff-planning principles and not in grand terms of new ‘flexible’ strategies. As the study of Nichols and Beynon (1977) among others demonstrates, most enterprises ‘muddle through’ most of the time. In other words, actual changes in employment practices have been less dramatic or proceeded more hesitantly than the ideology of ‘flexibility’ suggests. Although he understates its impact on permanent employment, the manager of a temporary employment agency clearly highlights the continuity of temporary staffing arrangements:

[w]e haven't taken any jobs out of the hands of permanent workers. The work that is there has always been there. What we have done is to take over the client's own temporary workers or casuals. Everybody uses casual workers and, as I have said, the guy does not get paid his overtime or his Sunday work. The network, I think, is perhaps getting a bit small and the companies know they are going to get into trouble. That is why they switch over to us (10/07/2002).

The flexible-firm model not only exaggerates the strategic dimensions of managerial practice, but also hinges on a rather simplistic dichotomy (internal versus external) in management's strategies of labour control. As such, it provides few insights into the amalgam of regulatory mechanisms utilised by employers to incorporate, allocate and control labour in different employment relationships. Likewise, in its search for all-embracing categories, the labour process approach also tends to underestimate the “tremendous variations” in how “detailed control” of work is exercised (Thompson and McHugh 1990:147). Braverman's (1974) seminal work has been widely criticised for neglecting the impact of worker resistance; creating an impression of management as unduly unified and rational; conceptualising the evolution of managerial control in a deterministic and unilinear fashion; failing to locate managerial control in concrete historical circumstances; and dislocating control at the point of production from wider social, political and ideological relations (Friedman 1977; Edwards 1979; Littler 1982; Storey 1983). What must be

retained from his analysis, however, is a rejection of the view of the employment relationship as merely an exchange relationship, as primarily a site of bargaining rather than of exploitation. Labour regulation is not simply about the struggle for control, but about *valorisation* (i.e. the realisation of surplus value). Wood and Kelly (1982) convincingly argue that many of Braverman's critics have situated an ill-defined and unsubstantiated notion of 'control' at centre of the labour process.⁴ In so doing, they have obscured Marx's (1967) insistence that valorisation is the central operative principle of both the circuits of capital and the politics of class struggle. Control is, of course, necessary for valorisation.

The excessive preoccupation in much of the labour process debates with the substantive issue of control "renders this perspective incapable of focusing on causal powers of management *other* than control, and gives it a deterministic character" (Tsoukas 2000:38). For Tsoukas (2000:41), management in a market economy is "a sedimented structure" that is vested with the following set of causal powers. First, the ability to *control* the transformation of labour power of subordinates into actual labour given the indeterminacy of labour potential. Second, the ability to elicit active *cooperation* from employees through the provision of material and symbolic rewards. The need for such cooperation stems from the fact that "no system of regulation is comprehensive enough to achieve complete control over the system to be regulated" (2000:39). In other words, labour power must always in part be self-regulating. Third, in the context of competitive product markets and scarcity of resources, managers are organisationally imbued with a drive towards *efficiency and effectiveness*. The effects generated through the exercise of these contradictory powers are contingent on prevailing conditions at the enterprise, sectoral and societal levels. Different configurations of product and labour market pressures are therefore likely to give rise to distinctive strategies for regulating the employment relationship.

Following Burawoy (1985:87), the dynamics of workplace restructuring can be conceptualised in terms of changes in the political apparatuses of production - i.e. "the institutions that regulate and shape struggles in the workplace". The most primitive form of labour regulation identified by Burawoy - *market despotism* - describes a situation in which workers are wholly dependent upon wage-labour for subsistence and are, as a result, exposed to both the economic whip of the market and the autocratic discipline of the capitalist. Despotic regimes were progressively, albeit unevenly, superseded by hegemonic regimes in which various forms of state intervention

⁴ In the studies of the labour process that followed the publication of Braverman's *Labor and Monopoly Capitalism*, as Sayer (1995:216) notes, "one could be forgiven for imagining that the point of producing cars or whatever (usually cars!) was a means towards the goal of dominating labour rather than as a way of meeting the demand for cars".

ruptured the direct link between the reproduction of labour power and wage-labour. The development of employment legislation and the evolution of welfare systems partially separated the processes of production and reproduction: employees were no longer absolutely dependent on waged employment for their livelihoods nor were they absolutely vulnerable to the arbitrary despotism of employers. While coercion was the predominant form of labour regulation under market despotism; politically-mediated consent has come to prevail under the currently dominant labour regime, *hegemonic despotism*, in which the bargaining power of employers is enhanced by virtue of “collective labour’s vulnerability to [capital’s] national and international mobility” (1985:127).

By reducing production to the question of management’s control over its employees, the labour process debates have tended to underestimate the complex and uneven development of the political apparatuses involved in the regulation of capitalist accumulation. In Burawoy’s approach, by contrast, there is no simple and uniform transition from one factory regime to the next. The institutional forms of hegemonic regimes vary widely across time and space, ruling out a simplistic periodisation. For example, he identifies a “peripheralization of the core”, in which some

[a]dvanced capitalist states have responded [to increased competition] by carving out arenas in which labour is stripped of the powers embodied in hegemonic regimes. The urban enterprise zone is one such attempt to return restricted areas to the nineteenth century through the withdrawal of labour protection and the abrogation of minimum wage laws, health and safety regulations, and national labour relations legislation (1985:149).

Classifying managerial strategies, as a first approximation, in terms of the relative balance between market-mediated and bureaucratically-governed modes of labour regulation allows us to establish a link between the nature of the employment relationship and the mode of regulation involved in its reproduction. As we saw in chapter 1, Streeck (1992) analyses the recent shifts in work organisation and employment strategies in terms of changes in the balance between status and contract within a particular system of labour regulation. Similarly, Williamson (1985) considers the relative efficiency of completing a transaction in a market relationship (regulated by contract) or within an organisational relationship (regulated by bureaucratic mechanisms). Completing transactions within an organisation means that the coercive power of the contract must be replaced by a whole range of control systems if performance is still to be regulated. Setting up and maintaining such systems of control involve numerous costs that can be significantly reduced by utilising market relationships. Williamson’s analysis can be usefully deployed to show that control systems vary depending on how heavily the employment relationship leans towards a market relationship or an organisational relationship. For example,

the more company-specific the qualifications of an employee and the more difficult it is to measure his/her performance, the more bureaucratic the control system is likely to be, incorporating promotion ladders, bonus schemes, and the like. If the employee's qualifications are not company-specific and his/her performance can be easily measured, there will be little impetus to convert an essentially market-based relationship into an essentially organisationally-based one. This is best exemplified by the unskilled casual labourer, hired on a day-to-day basis. In contrast to the crude, dualistic conception of managerial strategy that informs the flexible-firm model, the distinction between contract- and status-enhancing strategies suggests a continuum of possibilities that is multiply determined.

The typologies of managerial strategies in industrial relations based on ideal-types are rarely, if ever, observed in practice in their 'pure' form. As Hakim (1990b:167) shows, employers rely on a blend of industrial relations policies with few sharp distinctions and considerable overlap between types, and some ambiguity and variation within types. There is thus no single, clear division between strategies, but rather many gradations. Hence, it is necessary to move down a level of abstraction in order to consider the more concrete dynamics of labour regulation. Descending from the abstract level of analysis, as we noted above, means coming to grips with the complexity and indeterminacy of policy change and institutional restructuring. Empirically, strategies may be combined and the particularities of each case will reflect institutional legacies, conjunctural conditions, and the balance of class forces. These considerations will become particularly evident when we highlight the differences in managerial control exercised over standard and non-standard employees. In the case of agency temporaries, for instance, control cannot be adequately conceived in terms of "a succession of discrete management systems that embody a single organizational logic; bureaucracy coexists with decentralization rooted in opposing organizational logics" (Gottfried 1994:121). Shifts in the relative importance of markets and institutions within a regime of labour regulation are particularly sensitive to broader changes in the balance of powers.

The management of NERs, as we shall see below, is characterised by the growing prominence of a contractual regulation. This expansion in the regulatory influence of the individual employment contract has enhanced the significance of common law principles - flowing from the master-and-servant imagery - in management's control over non-standard employees. As a result, the regulatory sphere of substantive conditions of employment (such as wage levels and other benefits) is effectively insulated from statutory and collective regulation. Labour control regimes tend to vary not only with production technology, industrial sector and plant size; but also with the nature of the labour supply and the prevailing mechanisms of labour regulation.

Very few studies have explicitly sought to account for these factors.

5.2.2 Non-Standard Employment and the Law of Contract

According to Atkinson (1987:89), the internal labour market is restructured into fixed and variable components: “the former being structured by the long-term logic of mutual commitment, and the latter being structured by the short-term logic of the market”. There are a number of inherent weaknesses in the internal-social versus external-economic division of labour markets implied by the core-periphery model. *Deregulation*, as we noted above, does not involve the simple unleashing of pristine or unregulated market forces and a corresponding elimination of social regulation. As Peck (1996:188) correctly notes, market forces are not simply ‘out there’ waiting to be freed, but are politically constructed and institutionally mediated. Even in circumstances such as the casualisation of employment in which market forces might appear to reign supreme, employment contracts are inherently social and context-dependent. The proliferation of non-standard employment has occasioned a shift in, rather than the decomposition of, the established mechanisms through which the employment relationship is regulated. According to Deakin and Wilkinson (1991:138), the primary significance of changes in labour regulation at both the collective and individual level is

not a general opening up of the employment relationship to the ‘free’ or unregulated market, but rather a shift in the direction of protective regulation and its more narrow concentration upon an élite of workers ... [Those] in the ‘flexible’ labour force are left as a surplus labour army to be disciplined by the external market without having the benefit of access to the sources of training and education and to the forms of labour organisation which would enable them to establish minimum bargaining positions.

The shift from a collective-social to an individual-contractual regulation - i.e. a move from contested and circumscribed managerial prerogatives to explicit contractual rights and duties - allows management to frame and inscribe employment relations with the dictates of contract. Freedland (1995:24-6) distinguishes between two levels at which contracting takes place within the employment relationship. At the first level, the concern is with the exchange of services for remuneration. Here collective and associative considerations are marginalised. At the second level, the focus is on the creation of obligations relating to the security of expectations (e.g. security of income or employment and commitments going beyond the rendering of particular services). It is at the second, relational, level of contracting that most of the concerns that labour law has developed for social values come into play. A growing recourse to short, fixed-term or task-defined forms of employment threatens to move the contracting process towards the first level, leaving the relational issues to be resolved, if at all, by common law. In other words, the exclusion of non-standard workers from collective bargaining and statutory protective measures,

relegates their terms and conditions of employment to the dictates of contract. Statutory regulation of the individual employment relationship

all too often has the status of an exception from 'freedom of contract'. Deregulation present itself as just a matter of its removal. This is what is at the root of our inability to cope with the 'atypical' employment relationships ... Without the rigidities of a legal code, we are swept along by the fluid changes of the market. Not only are we unable to adapt the old common law definitions even to know who is an 'employee' and who is not ... [but] also base our legislation upon this uncertainty in a way that encourages a withdrawal of protection from [non-standard] workers (Wedderburn 1988:197-8).

Deakin and Freedland (2000) deploy the notion of an *imposed contractualism* to account for the regulation of public services. It refers to the contract-like relationships between service-providing agencies and the government department they are accountable to for the way in which services are delivered and set targets are reached. Governments impose standards and expectations on public service providers which are enforced as if they were contractual ones. The sanction for failure is essentially conceived of in contract-like terms: it is "envisaged as a fundamental breach of contract, meriting the termination of the contract, and the transfer of the activity in question to a different and more successful contractor" (2000:11). While it may appear to be a contradiction in terms, an imposed contractualism captures many of the central aspects of the regulation of non-standard employment.

Contractualism should refer to the promotion of voluntary exchanging of obligations, and so cannot meaningfully consist of the imposition of regulation. There is, indeed, a temptation for those in power to dress the regulation which they impose, in the clothing of agreement or contract ... It is a marked feature of imposed contractualism that it permits a high degree of specific regulation of the activity to which it relates; as a mode of governance, it is conducive to an intensity of regulation which would be attacked as overly bureaucratic [autocratic?] if it appeared in the form of the direct exercise of unilateral power (Deakin and Freedland 2000:5-6).

To the extent that statutory and collective regulation was limited or rolled back, it gave way to the contract of employment. Far from revealing "a state of *anomie*, [this] placed the law of the contract of employment in a new position of prominence ... as a regulatory system in its own right" (Freedland 1995:18). Deakin and Michie (1997:121) similarly note that changes in public policy and corporate strategy have led to "an increased role for contracts as mechanisms of economic governance". In the 'free market' solutions to the restructuring of the labour market, contractual regulation is regarded as the most efficient mechanism for the allocation of the rational preferences of utility-seeking individuals (Ackers *et al* 1996:18). The role of the law of contract is thus being re-defined not just in relation to an enhanced freedom of contract, but also in terms of a rudimentary conception of contractual employment relationships. The legal doctrine of 'employment at will' that underlies the contract of employment - in terms of which an employment relationship can be summarily terminated without the need to satisfy the statutory requirements of procedural and substantive fairness - is particularly apposite in the case of non-

standard employees. The industrial relations perspective on non-standard employment has shown little awareness of the contributions made by scholars of labour law. If industrial relations researchers are to make a contribution to the analysis of the restructuring of employment relationships, “they will have to get a handle on the labour law and employment contract issues ... [since] a combination of labour sociology and labour economics will not provide a sufficient basis on their own” (Hakim 1990b:180). In particular, they need to come to grips with the dual role of the contract of employment in the modern system of labour law:

on the one hand, it underpinned the common law of ‘managerial prerogative’ through the open-ended duty of obedience, while simultaneously supporting the edifice of social legislation aimed at providing the individual with protection against economic risks ... The reconstruction of the juridical evolution of the contract of employment makes it possible to see more clearly the multiple functions of *regulation and classification* which this concept serves (Deakin 2001:32, emphasis added).

Labour law is a complex of protective legal provisions aimed predominantly at “covering workers in subordinate employment relationships regulated by employment contracts of unspecified duration” (Veneziani 1993:203). It is precisely by identifying deviations from the archetypal model of the SER that we are able to evaluate the limits of the protections provided by labour law. Non-standard jobs are premised on a selective decoupling of the employment relationship from statutory, and hence almost invariably also collective, protective measures. This grants employers considerable latitude in constructing the form and content of NERs to suit their needs. For management, the ideal is an employment contract with conditions that are infinitely variable on a daily basis. Leading voices in Namibia’s business community are advocating a generalised ‘return to contract’:

[t]he running of the business should be purely between the worker and his employer. I think it is ridiculous to have a Labour Act which spells out all kinds of conditions that are often inapplicable to a particular kind of business. There must be much greater flexibility in the sense of the employer and employee getting together to establish conditions of employment. As far as possible this should be done through a written contract. Both sides should know that the common law applies. To my mind, the present Labour Act has weakened the application of the common law to the extent where, quite frankly, the employment relationship breaks down (president, Namibian Employers’ Federation - 08/07/2000).

Recent developments in labour law go precisely in the direction of easing the prohibitions that once restricted the use of a contractual model of employment. The type of employment contract that regulates an employment relationship has as much of a bearing on the individual’s terms and conditions of employment as sectoral, occupational and other broader determinants of labour market opportunities. A more intensive contractual regulation of the employment relationship is a defining feature of most forms of non-standard employment. In fact, employment ‘flexibility’ is premised on a shift in both “the form in which labour is contracted and the scope provided to management by the contract of employment for varying labour inputs” (Regini 2000:15-6). By

contrast, regulation of the SER traditionally involved the introduction of legislation which set limits on both the individual freedom to contract and the managerial prerogative. Within this framework,

regulation means '*de-contractualisation*' - i.e. institutionalisation of legal guarantees for workers which are not at the disposal of the parties to the individual contract of employment. As opposed to that, deregulation means '*re-contractualisation*' - i.e. a process shifting back terms of employment to the contractual regime and thus to managerial prerogative (Mückenberger 1989:385, emphasis added).

The common law sees the individual employment contract, like any other contract, as an agreement between free and equal parties to regulate their relationship through reciprocal rights and duties. This notion of a 'freely bargained' agreement shrouds the real social relationship that secures the subordination of the employee to his/her employer (Fox 1974; Wedderburn 1986; Erbes-Seguin 1989; Collins 1993). Very few employment contracts are arrived at by the bargaining implied in this conception. This is especially the case with non-standard employees: "[t]here is no negotiation about how much money we will get or what our conditions will be" (temporary agency worker - 12/07/2002). Moreover, since a contractual regime depends more on individual bargaining and market power than on a collective and statutory protective regime, a re-contractualisation will be to the advantage of those who have such power and will discriminate against those who do not. Where market power is as unequal as it is between employers and non-standard employees, contractual arrangements are "contracts only in form; in reality they are commands" (Streeck 1992:41). A widespread reliance on contractual arrangements to regulate behaviour in the workplace - grounded in weak forms of collective regulation and a surplus of unskilled workers - is one of the hallmarks of Taylorist work systems (Whitley 1997:252). The proliferation of non-standard employment and the associated contractualisation of the employment relationship, according to Beck, is more accurately described as a form of Taylorism rather than flexibility:

Taylor's 'philosophy of dismemberment' is transferred here from the substantive aspects of labour to the temporal and contractual relations of employment. The starting points for this new 'Taylorism of employment relations' are no longer situated in the combination of labour and machine, but in the temporal limitation, legal (non-)protection, and contractual pluralization of the employment of labour (cited in Allen and Henry 1997:185).

The form that state intervention takes tends to have a significant impact on the regulation of NERs. In Namibia, the legal distinction between permanent and casual employment is clearly delineated. However, the commitment to voluntarism in industrial relations means that the inequalities inherent in the employment relationship are to be ameliorated primarily through social rather than legal regulation. This 'collective *laissez faire*' seeks to limit the unilateral determination of terms and conditions of employment by the employer through legislative

support for trade unionism and voluntary collective bargaining. The role of regulatory legislation in providing a minimum floor of rights has therefore been limited in favour of the voluntarist goal of encouraging self-regulation by unions and employers. This emphasis on self-regulation introduces a latent deregulation into the system of labour regulation that achieves much of the same outcomes as an explicit focus on deregulation (Woolfson and Beck 1996). Voluntarism in collective labour regulation has not only encouraged the development of disparate conditions at the local level, but also frustrated the attempts at transforming the labour market structures of Namibia. The common law rarely intervenes in the internal functioning of the enterprise or the day-to-day management of the employment relationship. Employers are in charge of the organisation of work and employment, and sanctions are imposed only in cases where this power is patently abused. While he acknowledged that “outsourcing can be a problem”, the permanent secretary in the Ministry of Labour suggested that the

main anchor of proper working conditions should be, in my mind, contained in collective agreements that are converted into legally-enforceable instruments ... The prescriptive legal component should be reserved *only* for the worst kind of abuses (04/07/2000).

Since independence, only the more skilled and better organised sectors of the Namibian labour market have succeeded in making consistent and lasting gains in the negotiation of the wage-effort bargain. There is thus a tendency for developments in labour law to favour those who already occupy strong occupational and bargaining positions in the labour market. This has led to a widening of the gap between the wages and employment conditions of non-standard employees and those achieved by standard employees through collective bargaining. Furthermore, by regulating NERs through a labour regime based primarily on common law principles, employers have in part resuscitated the master-and-servant paradigm of the colonial era. This clearly exposes most non-standard employees to a greater level of economic dependence and subordination than that faced by standard employees. As Peck and Theodore (1998:662) argue, “while temp *jobs* may be here today and gone tomorrow, the expectation is that temp *workers* will always be back, a most asymmetrical form of employment contract”. As such, non-standard employment contracts reproduce employment conditions that have historically proved to be unacceptable to full-time, organised workers.

A contract worker’s conditions are regulated by the law of contract. Because of this technicality they are not protected by labour law, a recognition agreement or by the company policy. The chances for a union to intervene to safeguard these workers are minimal (general secretary, MUN - 28/06/2002).

The major problem with our industrial system is that labour laws should just provide the framework for industrial relations and not dictate the terms of employment. The contract of employment should be more important in managing the employment relationship. This is probably the reason why so many companies are now using casual and labour-hire workers (HR manager, mechanical engineering - 30/10/1998).

The non-standard employment contract not only limits the scope of collective regulation and facilitates a more detailed specification of employment conditions; but also allows for the enforcement of a highly disproportionate wage-effort bargain through penalty clauses and contractual remedies. The standard employment contract, by contrast, is largely silent on both the actual pace of work and the levels of wage and extra-wage compensation. These are determined largely through collective struggle and accommodation. In this regard, Watson (1995) draws a useful distinction between 'diffuse' and 'restrictive' employment relationships. In the latter, the implicit employment contract is highly specified, the employee is given detailed instructions and the relationship is based on low levels of trust. In the diffuse employment relationship, the implicit employment contract is more general, the employee has a measure of discretion and autonomy, and the relationship is based on high levels of trust. An enterprise could have both types of employment relationship as well as control systems for different types of work. Restrictive employment relationships are reserved for simple, manual tasks in parts of the firm with a detailed division of labour and an extensive hierarchy of managerial control; and diffuse employment relationships for more complex tasks in parts of the firm with a modest division of labour and relatively autonomous control systems.

The proponents of employment 'flexibility' implicitly assume that legally enforceable contracts, rather than bureaucratic administration, are the most effective means of regulating the nature and level of services provided by a third party.⁵ It is widely argued that, by turning a permanent employee into a subcontracted labourer, management replaces employment relations with commercial contracts (Bresnen *et al* 1985; Fevre 1987; Mückenberger 1989). In fact, MacKenzie (2000:709) suggests that the subcontracting of labour relocates "the mediation of the firm's activities through a series of commercial contracts rather than via vertically integrated bureaucratic structures". As we shall indicate below, however, bureaucratic forms of control are supplemented rather than simply supplanted by market forces. In practice, as Rubery *et al* correctly point out, ostensibly deregulated labour markets "required a more frequent recourse to the law [and other social institutions] in order to regulate the system of industrial relations" (cited in Peck 1996:74). All means to regulate labour require some degree of active management. Contractualisation is therefore not self-sufficient, without contradictions or identical in all places.

There are a number of inherent limitations to the efficacy of the law of contract in regulating the

⁵ Outsourcing contracts are allegedly capable of governing, among others, the tasks to be carried out, the hours of employment, and the arrangements when the client-firm is not satisfied with the performance of an agency worker, loss or damage is caused by the agency worker, and injuries are sustained by the agency worker (Leighton and Syrett 1989:138).

employment relationship in an efficient and equitable manner. The 'contract model' is ill-suited to the task of protecting employment rights since it is too uncertain, too committed to favouring the interests of employers, too exclusive of important categories of workers, and too concerned with individuals rather than collectives. A private law interpretation of the employment relationship reinforces a fundamental assumption underlying the contract of employment: that employees are consenting parties to hierarchy and subordination in the workplace. It is also difficult to enshrine trust or cooperative and quality commitments in a contract, and contract performance is not always easily monitored. The wages of standard employees do not normally depend on a definite expenditure of effort or how much is produced and, as such, these workers do not suffer economic loss for unsatisfactory or sub-standard performance. Hence, management's need for the cooperation of the permanent workforce cannot be secured by contract alone and has to be achieved in large measure through systems of bureaucratic control. As Durkheim insisted, not everything in a contract is contractual: "a contract is not sufficient unto itself, but is possible only thanks to a regulation of the contract which is originally social" (cited in Hyman 2001:11). The very fact that work-to-rule is viewed as a form of resistance illustrates the fact that an employment relationship cannot be reduced to an explicit set of rights and duties. A study of the construction industry by Evans and Lewis (1989:72), for example, shows that "the practical limits of relying on the formal contractual provisions are indicated by the frequent resort to informal economic pressures on subcontractors and the maintenance of approved lists of subcontractors - a practice designed to cultivate co-operation, flexibility and access to supplies of labour".

The ability of employers to circumvent the safeguards in protective labour legislation by employing non-standard labour is facilitated by the restrictive definition of 'employee' on which such laws are often based. Workers falling outside these definitions are classified as 'independent contractors' by reference to antiquated notions of the extent to which subordination to detailed managerial control is regarded as a pre-condition to the existence of an employment relationship.⁶ The law thus plays a crucial role in sustaining the division between permanent, well-paid and

⁶ The 'control test', as applied by the courts from the early twentieth century, was linked to disputes about the employer's liability in the context of the widespread practice of internal contracting (Clawson 1980; Littler 1982; Kristensen 1997). The contract system of hiring labour through an intermediary meant that there was no contractual nexus between the workers hired by the butty worker or foreman (responsible for recruitment, payment and discipline) and the owners of the plant or materials on which they worked (Brooks 1985:164-6; Wedderburn 1986:113-4; Betten 1995:7; Deakin 2001:30). In terms of this test, the gang workers themselves had no claim against the ultimate users of their labour since the latter did not 'control' the performance of their work. Hence, it allowed employers to escape responsibility for the social risks of illness, injury and unemployment that labour legislation sought to impose on them.

legally protected employees and a growing class of 'marginal' and unprotected labourers who are discriminated against and condemned to carry out the least desired jobs for the lowest pay. Non-standard work, as we noted above, is a form of unprotected employment that has flourished within the gaps left by the limits in regulatory coverage. Changes in the regulation of the labour market led to the fragmentation of labour into forms that the law was ill-equipped to protect. Even to the extent that the contract of employment had ever offered a satisfactory basis for identifying the workers on whom statutory employment rights should be conferred, it had done so on the basis of assumptions about the vertical integration of production (Collins 1990). The latter has been superseded in some sectors and occupations by increasing horizontal integration as firms resort to outsourcing. Wedderburn (1986:132) warns that "[l]abour law cannot have lost it touch for inventing different types of 'workers' for different purposes; it cannot muddle on in the pretence that the common law 'contract of service' is a formula for all seasons". For workers falling outside the legal definition of the contract of employment; the managerial prerogative, custom and practice at the workplace, and social conventions in the labour market tend to substitute for statutory rights and obligations. The fact that

the entrepreneur has shifted certain risks onto the worker may indicate rather more about their respective bargaining positions than the true nature of their economic relation. The exact pathway to an efficient acquisition of labour power is therefore unlikely to reveal to a court any profound insight into the nature of the relations of production under scrutiny (Collins 1990:365).

The legal status of many non-standard employees is often uncertain. For example, as Chesterman notes, the labour supplied by subcontractors occupies "a twilight zone between employment and independent status" (cited in Evans and Lewis 1989:69). Temporary workers supplied by an intermediary have long been a problem for labour law. It is often a matter for speculation "whether temporary workers - who in other respects may appear to be employees - are engaged under contracts of employment with either the [temporary] employment business or the user" (Hepple and Napier 1978:84). The vulnerability of non-standard employees is in large measure a problem of appropriate legislation and labour market policy. However, labour laws have not proved to be particularly effective in conditioning the choices made by firms in utilising non-standard employment contracts. This is underscored by the fact that the courts often allow managers, under the guise of the freedom to contract, to choose whether or not they will incur the normal incidents and costs flowing from the role of an employer. By entrusting the will of the parties to the contract, the courts put "bargaining back in the free market" (Veneziani 1993:206) and failed to establish intelligible and coherent criteria for determining the limits to the coverage of employment protection rights. If the latter is to be expanded, Collins (1990:356) suggests that the courts must seek the boundaries of the employment contract, not in the intention of the parties, but rather in considerations of public policy.

There have been widespread calls for the reconstruction of individual employment law on some radically different basis that will render it largely independent of the contract of employment, especially insofar as the criteria for inclusion within statutory employment rights are concerned. The binary division that is embedded in labour legislation - between employees in a dependent relationship signalled by the *contract of employment* and independent contractors indicated by a *contract for services* - attempts to force into neat compartments what in fact comprises “a myriad of patterns of the allocation of contractual risk, and the degrees and range of bureaucratic controls” (Collins 1990:354). The spectrum of dependency or subordination on which the employment relationship is based is not a simple, unilinear one. Employment relationships lie along a broad spectrum of dependency, and there is no sound basis for confining the contract of employment to one pole of that spectrum. While the need remains to identify a category of dependent employment relationships for the purposes of various statutory regimes, this should be achieved without resort to two mutually-exclusive stereotypes. To this end, Freedland (1995:23) suggests that we accord to the contract of employment “a broader more loosely defined scope across a wider spectrum of work relationships”. Moves towards a recognition of wider social interests in the employment context have led to a growing emphasis on the public’s interest in the manner that production is carried out, the way in which the employment relationship is formulated, and a recognition of its inherent social nature. These concerns have not yet filtered into Namibia’s labour laws in any meaningful sense. This is largely a product of the emphasis on self-regulation and the fact that ordinary magistrates, who are quick to resort to a common law interpretation of the employment relationship, are responsible for enforcing labour rights and adjudicating disputes on labour matters.

While the law must distinguish employees from the genuinely self-employed, it should not do so in manner that deprives most part-time, temporary and subcontracted workers of statutory protection. Many contracts for services are in effect contracts of employment. This is particularly true when employees are engaged through a cascading series of subcontracting relationships as in the construction industry or where the contractor has minimal infrastructure as in the security industry. In South Africa, for instance, the client-firm is compelled by law to grant the protections associated with ‘employee’ status to the staff of persons who, while supplying a service: (a) do not directly supervise their employees while working; and (b) supply little or none of the infrastructure or equipment used by their employees. The duration of employment has no bearing on whether a worker is engaged under a contract of employment, a contract for services, or some other species of contract. The overriding question is whether a person could be said to be in business on his/her own. The notion of economic dependence stands at the centre of most

recent attempts at testing for a contract of employment.⁷ The inquiry concern itself with the realities of the employment relationship, especially where it falls within that uncertain area between a dependent and independent relationship, and where it is a multi-partite rather than a bilateral relationship. A central challenge to the regulatory functions of the contract of employment is the extension of the basic labour protections associated with the SER to non-standard employees.

5.2.3 Human Resource Management and Non-Standard Employment

The bulk of the literature on HR management presupposes a SER. As such, it provides few insights into the dynamics of NERs.⁸ Management's primary objectives in increasing employment 'flexibility' are to secure cost-savings, increase the intensity of effort expenditure, dismantle institutional barriers to its control over the deployment of labour, and to reduce the amount of free or idle time available to employees. In particular, the aim is to remove or dilute the protections that insulate employees from competitive pressures in the external market. The proponents of 'lean' production (Womack *et al* 1990) and 'flexible specialisation' (Piore and Sabel 1985) portray the rules that relate directly to work organisation as the main source of 'rigidity' and hence inefficiency in the workplace. To be sure, the putative search for employment 'flexibility' is concerned precisely with the terms of the various institutional rules that govern the employment relationship (Storper and Walker 1989:172). These strategies have struck a sympathetic chord with employers given the context of rising economic instability and uncertainty. Such are the times when cost-cutting is prioritised, the scope for compromise is reduced, and the unions are generally on the defensive. As Wilkinson (1981:9) notes, "the common response of capital to the crisis is to marginalise at least a part of its labour force". Calls for greater 'flexibility' in the deployment and use of labour often amount to an attack on the collective and statutory regulation of work practices. Research has revealed that shop stewards in firms that adopted flexibility agreements were forced to "sell the conquests their grandfathers fought for" (Marsden and Thompson 1990:95). Far from leading to greater autonomy and participation by workers, research in a variety of different settings found that labour market 'flexibility' is more often associated with an enhancement of managerial control over the labour

⁷ The control test is increasingly giving way to a more inclusive conception of employee status focused on 'integration' into the organisation and the 'economic dependence' of the worker. Most non-standard employees in Namibia are dependent on the business of another person rather than being entrepreneurs or employers in their own right.

⁸ In particular, the management literature seriously underestimates the resilience of 'older', more coercive forms of control.

process and a degradation of employment conditions.⁹

The types of 'flexibility' that employers are likely to seek and obtain are directly dependent on the nature of the prevailing mode of labour regulation. In Namibia, a welfare system has not evolved to separate the processes of production and reproduction: most workers remain absolutely dependent on wage-labour for their livelihood. The country also lacks a centralised system of labour regulation that would take wages out of competition and compel employers to compete on the basis of quality, service and productivity rather than labour costs. As we noted in the previous chapter, attempts to cut costs and intensify work within a largely unchanged technical and organisational framework can only increase profit levels at the expense of labour. These factors decisively qualify the type of hegemonic regime that is presently possible or feasible in Namibia. The ideological hegemony of *baasskap* - i.e. the notion of racial superiority fostered by apartheid policies - encouraged white employers to adopt authoritarian and paternalistic approaches towards their black employees. As we noted in chapter 2, the system of colonial despotism in the workplace could only sustain high levels of profitability at the price of considerable instability in industrial relations.

Historically, because of apartheid, industrial relations were not that good in this country. Our first focus point was improving the relations between management and our staff members, and among the staff themselves. There were always these racial tensions because of the divide-and-rule policies that the South African government implemented here. We launched an initiative in 1998 - under the banner of a local word for 'we stand together' - that focused on developing company values and integrating them into our service (group HR manager, retail - 01/07/2002).

The discriminatory statutory framework meant that the system of collective industrial relations was largely informal, subject to the balance of powers at a particular workplace, and prone to unpredictable outburst of militancy. Labour legislation since independence has, however, curbed the autocratic discipline of the employer over permanent employees in the workplace. A balance of class forces decidedly in the employers' favour changed (often dramatically) as new labour laws and the increasing power of organised labour limit some of management's discretion and room to manoeuvre.¹⁰ As Andersson and Marks (1987:285) observed with regard to the mining industry, "management controls virtually all aspects of production" and the social life of workers.

⁹ See: Elger (1987); Abraham (1988); Fevre (1991); Leonard (1992); Harrison (1994); Harley (1994); Campbell (1996); Córdova (1996); Allen and Henry (1997); Moody (1997); Colling (1999); Kenny and Webster (1999); Standing (1999); and Peck and Theodore (2000).

¹⁰ Trade union density has increased significantly since the promulgation of the Labour Act in 1992. While only 25.4% of the total labour force was unionised in 2000; there are important variations in union density between men (29%) and women (21%), urban (34%) and rural (18%) areas, and between industries and occupations (MoL 2002:56).

A corollary of this search for 'total' control is that it "seeks to pre-empt independent decision-making by workers, and is disrupted by even small changes or challenges to the authority structure" (1987:286-7). Trade unionism, in particular, constituted a formidable challenge to the despotic regime of labour regulation inherited from the colonial era.

A lot of managers tend to do things in the way that they think is right and they never consult the workers. As far as managing a business is concerned, they have a rather paternalistic approach. They regard the enterprise as their own undertaking and that they have various entrenched prerogatives which it is their right to pursue. They would look after their employees, but would not necessarily like having to consult the employees on matters which they regard as in their own domain ... These managers also see trade unions as a threat and they have a very negative attitude towards them. Our indigenous business sector is very conservative as far as labour relations are concerned. They have their own view - a rather autocratic view (management consultant - 19/07/2000).

At this stage in our economic history, there should be a better regard for the tremendous responsibility that rests on management. The government should prevent the unions from taking militant action and undermining management ... The impact of politics on the trade unions is hampering and hurting the economy. It is causing disincentives for investment ... The animosity that is being created by the unions against the employer, I think, is counter-productive and against the national interest (HR manager, electrical engineering - 04/07/2002).

The impact of trade unionism has decreased managerial prerogatives in the use of permanent labour and the organisation of work by enforcing some degree of employment and occupational stability and by securing collective agreements that circumscribe management's authority in the workplace. Since the control of standard employees cannot be secured simply through despotic management strategies, it comes to depend in important ways on the social context in which their employment relationship is embedded. The construction of discipline over permanent workers in the larger firms - the prime sites of casualisation and outsourcing - depends on a day-to-day negotiation of order. There are often genuine efforts to sustain an implicit bargain, with managers being careful to maintain certain standards of 'fairness'.

We are like a team here. The workers don't call me 'boss' or anything like that ... My workers even come and discuss the smallest, personal problems with me. I try to understand their culture and explain to them that the stronger the firm gets, the better their working conditions will be. They know that it is not a case of them against me, but rather us against our competitors ... I go out of my way to sort out problems, to keep that relationship going. Problems are now sorted out very quickly because there is trust between us. It is basically an open door policy (general manager, automotive component manufacturer - 10/07/2000).

Employers in certain sectors of the economy no doubt benefit from the levels of cooperation and adaptability that can be derived from a stable, permanent workforce. These employees are more likely to warrant long-term investments in training and possess skills that cannot be readily obtained in the external labour market (Iyanda 1998:17). Punitive and autocratic disciplinary measures simply have too many adverse effects on morale and efficiency. Considerable tacit and express negotiations reflect the fact that managers cannot be too assertive for fear of losing

workers and then being unable to meet peaks in demand. In other words, the negotiation of order in the workplace turns on the politics of the management of labour. Under bureaucratic systems of control, punishment flows from agreed organisational rules, is corrective rather than coercive in purpose and consistent rather than arbitrary in application (Edwards 1979:33). Supervisors negotiate the day-to-day application of the rules and, in so doing, may promote custom and practice that interpret the silences and smooth over any inconsistency of the formal rules or even supplant them (Edwards 1994b). This subterranean world of custom and informality is a prime target in management's efforts at rationalisation.

These 'problems' of control - together with others of a technical or market nature - managers seek to avoid through the use of non-standard employment contracts. A basic interest of management in a recessionary climate is to "free itself as far as possible from rules and procedures that impose restrictions on the utilisation of manpower" (Sengenberger 1981:253). Such 'flexibility' allows employers to take advantage of the high levels of under- and unemployment through selective hiring-and-firing and provides them with the opportunity to marginalise a sector of the workforce. The resulting polarisation in employment conditions, as Cousins (1999:114) argues, produces a workplace of 'insiders' and 'outsiders', exacerbates labour market segmentation, increases wage unresponsiveness to unemployment, and leads to greater precariousness of employment. Non-standard employment is almost by definition also unorganised employment. A non-standard worker enters into an employment contract in which "his or her individual rights are not directly protected by anybody independent of the company of employment" (Gibson and Graham 1986:140). The absence of any collective voice to regulate their terms and conditions of employment means that management can shape their relationship largely at will. Non-standard workers are thus unable to "exert organised control over the type of labour they supply" (Garnsey *et al* 1985:59). This underscores the importance of effective statutory and institutional protection for non-standard employees.

The Labour Act must also address the outsourcing and casualisation problem that we are facing. We cannot just fight casualisation at the workplace, we also need national policies (general secretary, NATAU - 12/07/2000).

The Labour Act does not say what are the rights of casual workers. Most employers are taking advantage of this. The Act does not say how many years you have to work to become a permanent worker. This is a way for the employers to exploit these people because they know that casual workers don't get benefits and are cheap labour (regional organiser, NAFAU - 27/10/1998).

While selective statutory and institutional protection may provide employers with the incentives to casualise the employment of certain segments of the workforce, it does not dictate a definite or coherent pattern of casualisation. The development and implementation of strategic plans for

the utilisation of non-standard labour presuppose (among others) a dedicated HR function. Many Namibian firms do not possess a specialised personnel division. HR managers play a relatively marginal and limited role even in firms that possess such a function. Senior managers devote little attention to industrial relations issues. Labour is merely one of several problems that confront managers and is often not the most important.

Personnel departments are essentially administrative units dealing with wages, time sheets, leave, etcetera. There is no distinct IR [industrial relations] function. Supervisors are responsible for training, discipline and performance evaluations ... The finance, marketing and production managers carry the most weight in the company. Decisions that are made are production-orientated. Whatever happens afterwards, in terms of HR, that comes second. 'We will deal with it when we get there' ... Personnel issues are always at the bottom of the agenda in our monthly management meetings. The meetings start after lunch and by the time personnel issues come up, nobody is listening to you and everybody wants to go home (HR manager, meat processing - 04/07/2002).

Often the personnel officer here is actually only sort of for personnel administration. Even in wage negotiations they will sit in and take the minutes, but they are not really involved in conducting the negotiations. On the whole, they are of a lower status than line management who regards itself as the backbone of the company. Human resources is just a staff function. Many big companies have personnel managers, but consultants are still doing their work for them as far as industrial relations are concerned (management consultant - 19/07/2000).

Almost 50% of the firms surveyed in 1996 had made use of the services of management consultants since 1990 (Klerck and Sycholt 1997:149). This highlights the fact that many Namibian firms are unequipped to carry out certain human resource functions. Many industrial enterprises in Namibia developed from small, family-owned entities and retained this form rather than becoming limited liability companies.¹¹ In these circumstances, as Curry and Stoneman (1993:50-1) observe, there is little division of labour between management functions and little formal management training. Since attention must be focussed on the production process, little time and resources are devoted to other managerial functions such as human resources. This has allowed the large temporary employment agencies to play a crucial role in shaping the employment practices of many Namibian companies. Some client-firms, according to an employment agency manager, "come to us for all sorts of things - even salary inquiries and human resource decisions" (14/10/1998). Another agency manager noted: "[w]e basically take on the whole personnel function of the client-firm, especially in the case of medium-sized companies" (11/07/2002).

Rising levels of competition, pressure from trade unions, and legal restrictions on the exercise of managerial power are making Namibian employers more conscious of the demands of

¹¹ As a consequence, business loans are often personal loans secured against personal property. This greatly increases the risks of expansion and constrains the size of firms.

efficiency. As the pressures for efficiency increase, so the problem of labour costs intensifies. In firms with a high proportion of non-standard and less-skilled workers, dismissal or the threat of it remains an important form of control. "If we cannot dismiss workers on the spot, they will cause endless problems for us" (general manager, chocolate manufacturer - 04/11/1998). Many Namibian managers resisted the tide of statutory and collective regulation and were quick to use arguments about a 'lack of flexibility'. The latter, however, were often simply an excuse to be inconsistent and capricious. The impact of changes in the regime of labour regulation in the workplace is starkly revealed in the extent to which managers regard the provisions on unfair dismissal as inhibiting their capacity to remain competitive.

It is extremely important that employers can hire and fire workers far more easily than is currently the case ... [At present,] firing is so difficult that you think three times before you engage somebody. It is better to get casual or contract workers ... Flexibility, to my mind, should be interpreted as the ability to prosper, rather than to be handicapped. When you employ a person, management must be free to use that person when and where it believes his or her services are worth more to the company ... The rules in the workplace should be management's responsibility and should encourage entrepreneurship (president, Namibian Employers' Federation - 08/07/2000).

Employers find the provisions on dismissals a real obstacle because of the lack of internal dispute resolution mechanisms. They just want to get rid of problematic or excess workers without having to worry about following the correct procedures (regional organiser, MANWU - 03/07/2002).

The power of an employer to hire and fire in accordance with demand is a fundamental aspect of authority within the workplace. This power is not only diluted by legislation and trade unions, but also by labour shortages.

The attitude of white managers is: 'any mistake that you make, I will just fire you. Your brother or sister is outside begging me for work on a daily basis. So if you give me problems, I won't hesitate to get another person' ... Of course, this attitude will not work with artisans and so on whose skills are scarce in Namibia (general secretary, NUNW - 26/06/2002).

A major preoccupation of employers, therefore, is "to find new supplies of labour, and to 'fix' these new supplies so that they remain available and dependent" (Michon 1987:44). Labour's relative immobility and hence its bondage in space is a major source of capital's power over the working class. However, since workers are not all equally bound in spatial terms, it follows that the power that employers derive from their immobility will vary. There is a widespread lack of sufficient appreciation of "the significance for managerial control of, first, variability in product market conditions and, secondly, variability and resilience in employee resistance" (Macdonald 1985:541). These variations have been found to result in significant differences, not only in the degree of control that management is able to exert over a particular segment of the workforce, but also in the means by which management attempts to exert its control. In the system of "autocratic despotism" (Burawoy 1985:149) that is enforced over less skilled non-standard

workers, the employer has little need to underpin his/her power with consent and reciprocity. A typical example of the way in which the managers that were interviewed regarded their relationship with non-standard employees:

[t]here is no bond between management and the temporary employees. They are not our responsibility. They don't have a career here and they are not a part of our pension plans or medical-aid and housing schemes (HR manager, beer and beverage manufacturer - 04/07/2002).

With non-standard employees, as we noted above, the control over work is less central because payment is for services rendered rather than on a time basis. That is, where payment is linked to a definite expenditure of effort, the generation of consent is less necessary than in the case of the day-to-day dealings with permanent employees, who can shape their effort-levels through struggle. In spite of the fact that he tends to regard non-standard employment as anachronistic and assumes a unilinear development towards an increasingly homogeneous working class, Marx (1967:553-4) provides some insightful comments on the dynamics of labour subcontracting:

[s]ince the quality and the intensity of the work are here controlled by the form of the wage itself, superintendence of labour becomes in great part superfluous. Piece-wages therefore lay the foundation of the modern 'domestic labour' ... as well as of a hierarchically organized system of exploitation and oppression ... [P]iece-wages facilitate the interposition of parasites between the capitalist and the wage-labourer, the 'sub-letting of labour'. The gain of the middlemen comes entirely from the difference between the labour-price which the capitalist pays, and the part of that price which they actually allow to reach the labourer.

Non-standard workers are confronted by a more immediate and arbitrary exercise of managerial authority. "The [client] company does not get involved with you - if there is a problem, they simply tell you to leave" (temporary agency worker). This 'minimalist' approach to the control of temporary employment agency workers allows employers to take advantage of "a high-discipline work regime, the mobilisation and management of which is contracted out" (Peck and Theodore 1998:661). The general secretary of NATAU highlighted a common practice when he noted:

[i]f the employer feels that one of these workers is not doing what he expects, he will just phone the labour-hire company and say: 'please remove him and bring me another one'. Immediately this worker is sent home without even being paid. The employer can just say: 'he did not meet my requirements, he must go'. It is not the responsibility of the recipient to look after the worker, it is the responsibility of the labour-hire company (12/07/2000).

These views were echoed by one of MUN's regional organisers:

[w]ith outsourcing, the company will tell the labour broker that his workers must maintain certain standards. 'If you cannot do this, you will lose your contract'. So, the labour broker will make sure that he keeps the contract by dismissing workers and by making their employment conditions favourable to the company. The company that hires the services of these workers is the one that determines their future. The company

can fire them and their real employer, the labour-hire company, must just remove them and accept that the company is right when it says that the worker was not performing ... Management doesn't manage the labour-hire workers, they just tell them to go if there is a problem. These workers are not their employees, and they know that as long as they can be replaced it is not an issue (05/07/2002).

While the client-firm and the temporary employment agency share a common goal of ensuring an adequate supply of cheap labour and controlling the performance of temporary workers, there is some divergence in their interests at the point of production (Gottfried 1994:117). The client-firm derives value from control over the workers' work intensity, whereas the agency gains value from control over the workers' time at work. The time it takes a temporary worker to complete a particular task has a bearing on the profits of both the client-firm and the agency: the former gains when the task is carried out in as short a period of time as possible, while the latter benefits when the task takes as long as possible. Although the client-firm normally carries some responsibility for the supervision of agency workers, labour problems are virtually eliminated by the fact that these workers have no say over placement, conditions of employment, and so on. Managers do require some cooperation and initiative from the non-standard workforce especially when, for example, a tight deadline has to be met or an unforeseen disruption to the normal flow of work occurs. In such circumstances, management has to concede some degree of autonomy and discretion to its part-time and temporary workers. However, the way in which the casualised labour process is organised allows few opportunities for individual, let alone collective, responses to grievances.

If I go to my casual supervisor and ask him: 'why must they treat me like that?', he will go and tell the boss. Then the boss will tell me: 'if you are not happy with the job, then go home'. They won't listen to you ... So the thing is that we are afraid to discuss our problems. Many casuals don't want to talk about problems because they know that they will lose their job (part-time worker - 06/07/2000).

Once you are on labour hire, the manager will not negotiate anything with you. If he thinks you are not working hard enough, he will just tell you to leave. If that happens, even the labour-hire company will not give you a job again. The people are hungry and they will try very hard to keep their job. People are very much afraid of losing their jobs because of all this unemployment (regional organiser, NAFU - 27/10/1998).

Non-standard workers are made acutely aware of the importance of having the 'right attitude' if they are to attain even a modicum of employment security. The client-firm and the employment agency only have an interest in retaining the most cooperative and diligent of temporary staff. A 'trouble-free' work record is therefore the best guarantee of some continuity of employment. Given the triangular relationship of an outsourcing arrangement, the client-firm needs to manage its relations with the agency as well as the temporary workers. As Gottfried (1991) illustrates, agency temporaries are subordinated within the 'dual control' temporary labour regime of the agency *and* the client-firm that subjects them to overlapping systems of sanctions. The management of production and the management of labour are located in separate organisational

domains leading to “a mode of regulation that disperses control functions and articulates different forms of control into an overall system” (Gottfried 1994:113). Whereas employers’ strategies of control over standard employees involve the conjoining of time and effort to minimise the amount of unperformed potential labour time; with agency employees time and effort is dissociated (Gottfried 1994:105). That is, the temporary employment agency profits from time on-the-job leaving control over effort to the client-firm.

A reliance on external sources of labour leads to a redrawing of the boundaries of responsibility between the client-firm and the subcontractor. In theory, there are several approaches to the performance monitoring of outsourced services: the development of performance indicators to specify and measure workload, efficiency and effectiveness; inspections of work and on-site management to monitor quality by own personnel or a third party; the maintenance of long-term, reciprocal relationships with service providers; the completion of checklists or certification by the contractor; and client complaints and surveys. In practice, as Valverde *et al* (1997:604) and Dean and Kiu (2002:401) argue, outsourcing contracts often lack enforceable mechanisms to ensure accountability for performance, quality issues are addressed in such vague or broad terms that are they difficult to measure and enforce, and transient buyer-seller relationships fail to generate trust and cooperation. The micro-level checks and balances, normally associated with an outsourcing agreement, are increasingly being abandoned by senior managers “so that they achieve an arrangement that is flexible enough to adjust to business conditions” (Linder *et al* 2002:25). Leighton and Syrett (1989:69) also note that the systems used by managers to regulate the use of temporary agency workers are “often loose and poorly thought out”. The client-firm’s expenditure on monitoring the performance of temporary agency staff is decisively shaped by the extent to which the quality of the work outsourced is readily observable or amenable to quantitative assessment, the immediacy of the outcome and hence the extent to which poor performance can be speedily rectified, and the importance of the function to the success of the business.¹² The general trend in Namibia, as NATAU’s general secretary noted, is for

[m]ost of these casual and labour-hire workers [to be] employed in unskilled or semi-skilled jobs. They are just general labourers doing the most basic jobs. You cannot take an unskilled casual workers and put him in a job that is very important to the company. He is just hired to complete a piece of work and, at the end of the day, he is gone (12/07/2000).

The internal labour market structure of a firm reflects a particular compromise between management’s concern with efficiency and workers’ interests in job security. The governance

¹² Occupational dynamics, as we shall see below, have an important bearing on the nature of control that is exercised over skilled and less skilled non-standard employees.

procedures associated with internal labour markets are a particular manifestation of the rules governing the boundaries of management's authority within the employment relationship. They are not a substitute for managerial authority, but a different means of regulating it (Marsden 1999:21-2). It is exceedingly difficult for employers to lower wage costs and improve performance at the same time without sparking discontent in the workplace. Employees who are forced to work harder will inevitably demand a larger share of any resulting increase in profit margins. If management concedes to such demands for higher wages, it becomes increasingly likely that it will reduce the number of staff through redundancies and/or outsourcing to compensate for the pay rises of remaining employees. Since non-standard employees fall outside the internal labour market that partly insulates permanent employees from the pressures of external market forces, their terms and conditions of employment are not shaped by internal equity considerations. As such, non-standard employment is an *institutional* response to the uncertainties and risks faced by employers in product and labour markets (Bresnen *et al* 1985; Beneria and Roldan 1987; Anderson *et al* 1994). If internal labour markets buffered employment from changes in the external labour market, then the shift to more market-mediated employment relationships may well be associated with increased variability in employment conditions and relations. Managing this variability, as Cappelli (1995:595) notes, "represents an enormous challenge for employers". The 'flexibility' of labour therefore comes at a price.

The work performance of semi-permanent non-standard employees in low-paid, unskilled jobs with little intrinsic motivation and divorced from the established work practices and procedures of the firm has to be controlled through close supervision. That is, in the absence of a clearly defined task to be carried out in a pre-determined period of time, the pace of non-standard work is closely tied to the level of supervision. The nature and duration of non-standard employment, and hence its form of management, are in large part a product of the specific labour demand conditions faced by the enterprise. This implies that the significantly inferior terms and conditions of employment for non-standard workers are associated with the employment of disadvantaged persons and "the rationale of industrial structures and processes" rather than with the productivity of these workers (Chalmers 1989:122). Despite the fact that non-standard employees often work alongside permanent, full-time employees, there are profound differences in the way in which their employment relationship is negotiated:

[t]he organised workers stand their ground when the bosses want to change things in the workplace ... With casual workers it is very different. The employer will just call a casual worker: 'hey, do you want work?' If he says 'yes', they will say: 'start work here'. That is it, there are no negotiations (regional organiser, NAFAU - 03/07/2002).

The discipline of daily hiring and the associated exclusion of 'troublemakers' and 'low-quality'

workers effectively undermines the bargaining power of non-standard employees. Unpredictability is an important mechanism of control in the relationship between the temporary worker and the employment agency. Arbitrary power relations make it difficult for these workers to respond collectively to changes in the nature of their work and employment that are perceived to be unfair or unwarranted. The authority of the employer is also highly visible with non-standard workers frequently being admonished or dismissed for what often amounts to minor infringements of company regulations. The employment security of non-standard workers is largely unaffected by statutory or collective regulations and directly dependent on the levels of effort and cost-savings that managers are able to extract from their labour.

As a manager, when I have a problem with a casual worker because he is lazy or he is tardy, I call him into the office and give him a warning or fire him. With the permanent workers, you have to deal with the union. There is always a shop steward who represents him and wants me to give him another chance (store manager, retail - 06/07/2002).

The relations with our workers are becoming more collective, but we try, as far as possible, to deal with them on an individual basis ... To improve productivity we would need to incentivise our operations and reward workers individually. That is, only pay for results. But the union will never go for that as far as the permanent workers are concerned ... With casual workers it is a different story; they don't have a union and are basically just individual workers (general manager, paint manufacturer - 05/11/1998).

In theory, the affairs of each subcontract firm or temporary employment agency are administered by its management. In practice, however, subcontracted and agency employees are structurally controlled by the client-firm. "Most of these labour-hire companies don't look at what their employees have to do, all they are concerned about is how much money they will get from the company that is receiving the workers" (general secretary, NATAU - 12/07/2000). A subcontracting or outsourcing relationship rests on the client-firm's strong negotiating position and its non-negotiable requirements regarding quality, price, and speed of delivery. The subcontract therefore allows the client-firm to specify *employment relations* as well as define the *nature of work* by specifying (among others) the location, degree of regimentation, and speed of production.

The client says how the job is to be done, we don't get involved in that. We work according to the advantages and disadvantages of every client. If he says: 'you must work like this', then we work like that ... Every client has his own rules and regulations, and we naturally work according to them. We adapt to every client (manager, temporary employment agency - 14/10/1998).

We normally accept the hourly rate that the company is prepared to pay for a particular type of worker, unless their offer is completely unreasonable ... Before the labour hire companies were here, the clients knew how many workers it takes to do a specific job. They know how much a man can do in a day. They will soon see if they have enough workers to finish the job on schedule ... The client will say how many people he needs. He will rather hire more people for shorter hours. He will not stretch out a job because it will cost him more money (manager, temporary employment agency - 10/07/2002).

Rather than involving a radical departure from a Taylorist work organisation, as claimed by its proponents, the search for employment 'flexibility' actually presupposes it. The principles of work organisation which standardise tasks and divide jobs into 'measurable' units lays the basis for most preparation and servicing tasks to be divided off and performed by workers in more precarious forms of employment. Stabilising effort-levels ensures predictability or calculability within the firm, and Taylorism is concerned precisely with the processes of determining and fixing effort-levels (Littler 1982:59-62). Once productive tasks are observed, recorded and analysed, knowledge of them can be rendered independent of any workers to the extent that given outcomes can be repeated, taught and built into the organisational structure of the firm. The costs associated with high turn-over rates and on-the-job training - usually experienced in the lower skilled categories - can be largely overcome by the use of subcontracted labour already possessing the necessary skills. Taylorism can thus be extended to further minimise the impact of labour turn-over by structuring work organisation around a mobile (temporary) workforce.

The subordinate status of outsourced service functions such as cleaning, despatch or security is reinforced by the structure and timing of the work. It is much the same from one firm to the next, requires very little training or experience, and is largely separate (organisationally and temporally) from the client-firm's main line of work. Subcontracted cleaners, for instance, often carry out their work before or after normal office hours and in the absence of any direct managerial presence. For subcontractors, the uncertainty attached to the coordination and control of on-site work and employment leads to a "tension between, on the one hand, the need to regulate workers across a multitude of sites and, on the other, the need for the work to be completed on site each day, regardless of the regulatory requirements laid down by firms or government legislation" (Allen and Henry 1997:191-2). The former requires a largely formal system of regulation, while the latter introduces the possibility of some informal employment practices entering contract work. Hence the diversity of mechanisms drawn on by subcontractors to control and coordinate workforces at disparate sites to ensure that the work gets done on a daily basis.

Besides their own financial and organisational control, labour brokers also carry out personnel functions normally associated with management. As a labour broker put it: "[w]e maintain strict discipline as we should and take responsibility for our workers" (14/10/1998). However, since most subcontracted workers are regarded as temporary employees (i.e. for as long as their contract lasts), the subcontractor is 'spared' a number of managerial obligations such as providing medical-aid schemes, pension funds and paid leave. The forms of control exercised by subcontractors and temporary employment agencies over their employees also tend to be

highly paternalistic:

[m]y people have accepted me as their saviour. I am like their father because I provide them with their bread and butter (labour broker - 15/10/1998).

There are significant variations in the degree to which the client-firm assumes responsibility for the day-to-day management of non-standard employees. While the firm is solely responsible for the performance of part-time or casual employees, its control of subcontracted and agency employees varies with the extent of on-site supervision provided by the contractor or agency. Where on-site supervision is provided by the latter, the supervisor is responsible for wage and time sheets, job allocation, sick leave, health and safety standards, the induction of new workers, and the recruitment of additional staff through the social networks to which the existing workforce belong. The discipline or dismissal of staff is also usually dependent on the opinion of the supervisor. He is the link between the contract workforce, the client-firm and the centre of operations. Although it is normally associated with larger orders, on-site supervision by the agency reinforces the lack of direct relations between agency workers and the client-firm. That is, not only labour mobilisation, but also labour control is externalised. Arm's-length labour management is particularly suited to situations where the control of quality and output can be contractually separated from the control of labour. Under such circumstances, the client-firm increasingly manages contracts rather than employing labour (Evans and Lewis 1989:72). The supervisory presence of the agency in the workplace also contributes to better relations between it and the client-firm by addressing problems that might otherwise have jeopardised those relations. On-site management allows the temporary employment agencies

to deepen and broaden their sphere of control from the labour *market* to the labour *process*: from the predominantly labour-market practices of hiring, screening, (re)allocation, scheduling and payment of workers, through to the predominately labour-process practices of induction and training, supervision, task allocation, performance monitoring and relations with other (temp and non-temp) workers (Peck and Theodore 1998:665).

In the absence of an on-site supervisory presence, the larger employment agencies typically appoint their most loyal and trust-worthy workers as 'team leaders', and liaise closely with their clients to rectify any problems as and when they arise. While on-site supervisors supplied by the employment agency reduce the managerial responsibilities of the client-firm, they do raise the costs of non-standard employment. As a result, the anticipated cost-savings associated with outsourcing and casualisation are not always realised in practice. A reduction in the costs of employment is not, however, the only or even the primary consideration for employers of non-standard workers. Several of the managers that were interviewed indicated that the ability to rapidly adjust the size of their workforce with minimal consideration for procedural requirements

was an important motivation behind the decision to use non-standard employees. For example:

[i]f demand is low, then we let our temps go. Otherwise, we would have to retrench workers all the time and then hire new ones again when the demand increases (general manager, furniture manufacturer - 17/07/2000).

The manner in which the SER is organised and controlled has a significant bearing on the regulatory functions that non-standard employment may be expected to fulfill. That is, the nature of the regulatory dilemmas faced by managers influences the type of regulatory ‘fixes’ they are likely to seek. An imposed contractualism allows Namibian employers to tie wages much more closely to levels of effort; facilitates *ex ante* forms of regulation that reduce the need to maintain bureaucratic systems of control over the entire workforce; and underpins a system of autocratic despotism in which non-standard employees have little collective influence over the deployment of their labour, their services can be terminated at will, and their conditions of employment resemble those of a bygone era.

5.2.4 The Employment Conditions of Non-Standard Workers

The power of the employer is clearly visible in his/her capacity to enforce sub-standard conditions of employment over the more vulnerable sectors of the labour market. The benefits that employers derive from the use of less skilled non-standard employees are premised on the continued availability of second-rate industrial citizens. Research shows that most employers have “a clear and stereotyped model of the behavioural characteristics of each type of worker, and it was these models, rather than detailed cost comparisons, that formed the framework for most decision-making over types of contract” (Hunter *et al* 1993:394). There are marked contrasts between standard and non-standard employment in terms of opportunities for skills development; career prospects and upward mobility; the quality and task discretion of jobs; the importance of motivation and loyalty; autonomy and responsibility in the labour process; the ability to affect changes in the workplace; the likelihood of having to carry the burdens of internal restructuring and external threats; and physical working conditions. In the words of MANWU’s general secretary:

[a]s a casual worker, you could be employed for a week, a month or even a year - it all depends on the position and the company ... Management behaves very differently towards the casual workers. If a casual commits a offence, he is immediately dismissed, but the permanent worker is subjected to an internal disciplinary procedures. The casual workers don’t have any say. Whenever they complain about something, management just says: ‘if that is the case, you can go back to the labour-hire company and they will send me another worker’ ... Most of the people who are hired through the labour-hire companies don’t have any benefits like pension, medical-aid, overtime, transport and housing subsidy. The employer finds this very cheap and, at the end of the day, he has no social responsibility towards these people ... When these workers get injured on the job, they usually lose their job because the companies will refuse to hire them again

(27/06/2002).

The terms and conditions of employment for non-standard workers can best be appreciated when they are contrasted with those of permanent employees. A nation-wide survey of 656 employees explored the employment benefits of workers in SERs in some detail (Klerck and Murray 1997). A large majority of private sector employees receive most of the usual benefits, with medical-aid being the notable exception. Only 43% of the employees surveyed were members of a medical-aid scheme. With regard to the other employment benefits, it is important to note that a relatively consistent group of employees (about 20%) do not receive annual bonuses or regular salary increases, paid or compassionate leave, overtime pay or paid sick leave. The fact that these employees are mainly from small firms devoid of a trade union presence means that their employers are likely to persist in offering only the bare minimum of employment benefits. There also seems to be a general lack of emphasis on performance-related pay: only 14% of the respondents received any productivity bonuses. This is indicative of both the reluctance by employers to involve employees in their efforts to increase productivity and the present inability of the unions to move beyond so-called bread-and-butter issues in collective bargaining (see chapter 6). The employment benefits of public sector workers are, in general, more extensive than those extended to employees in the private sector. In common with the private sector, however, a sizeable minority of public sector employees do not receive an annual salary increase, sick leave, medical-aid or overtime pay.

The term 'casual' labour has gained widespread currency in Namibia. It carries connotations of an 'unusual' employment relationship as well as 'inferior' or 'sub-standard' work of a precarious nature. As such, the category of 'casual' combines work that is short-term and insecure with work that is more long-term and regular. While it may conflate the variety of employment relationships in terms of job security, the notion of casual labour does capture important aspects of practice. The value of the category of 'casual' work, as Campbell (1996:576) points out, lies in the fact that it highlights the existence of employees with long-term service for whom there appears no compelling grounds for denying the benefits and entitlements of permanent status.

Despite a growing recognition of the importance of casualisation in contemporary workplace restructuring, its impact on employment conditions is poorly researched (Beneria and Roldan 1987:14). This is due, in large measure, to the fact that the voices of non-standard employees have seldom been heard in the debates on employment 'flexibility'. These debates, as we noted above, are preoccupied with the concerns of management and exaggerate the homogeneity of employment outcomes occasioned by shifts in the supply of and demand for labour. Gallie *et al* (1998:12) correctly note that "our detailed knowledge of the employment conditions of [non-

standard employees] remains very imperfect”. Many temporary and part-time workers in Namibia obtain work in the context of unspecified terms and conditions of employment. This regulatory ‘vacuum’ grants employers an almost unbridled capacity to construct the detail of NERs. The picture that emerges from the Young Christian Workers (YCW) survey of 173 casual workers is one of a workforce that has considerable continuity of employment and largely standard working hours, but is deprived of most of the other concomitants of the SER.

Table 5.1 Key Indicators of Part-Time Employment in Namibia: 1999

INDICATORS	YES (%)	NO (%)	NO RESPONSE (%)
Member of a Trade Union	9.8	64.2	26.0
Work for Nine Hours and Less per Day	75.7	22.5	1.8
Paid Overtime	34.1	37.6	28.3
Work More than Three Days per Week	68.2	27.7	4.1
Engaged in Shift Work	27.7	64.2	8.1
More than Six Months Continuous Employment	66.5	28.9	4.6
Work for More than One Employer	20.8	74.0	5.2
Registered with Social Security	22.5	68.8	8.7
Receive Regular Pay Increases	23.7	71.1	5.2
Leave Entitlement	32.4	61.8	5.8
Signed Contract of Employment	42.2	53.2	4.6
Paid Treatment if Injured on the Job	26.0	66.5	7.5

(Source: compiled from YCW 1999).

The majority of casual workers are employed predominantly by the same employer, work on average nine hours per day and more than three days per week, and have been in continuous employment for more than six months (Table 5.1). This is a blatant contravention of section one of the *Labour Act* which defines a ‘casual’ employee as “a day worker who is employed by the same employer on not more than two days in any week”. Most part-time workers are denied overtime pay, social security benefits, regular pay increases, vacational and sick leave, and compensation for occupational injuries and diseases. The overriding motives for the employment of casual workers therefore seem to be a reduction in employment costs and the evasion of statutory obligations rather than a putative search for greater ‘flexibility’. In other words, there are few compelling reasons why these workers should be deprived of the benefits associated with permanent, full-time employment. A group HR manager in the retail sector admitted that “the

only difference between permanent and casual staff is that the casuals are not entitled to the benefits that the permanent staff get” (01/07/2002). The overwhelming majority of casual workers were also not members of a trade union, depriving them of any collective agency to mediate in their employment relationship. Given the absence of minimum wage regulations and the lack of collective bargaining within the casualised segments of the labour market, there is little institutional brake on the downward pressure on employment conditions by employers.

These initiatives add up to an emergent labour market strategy that places low-waged, poorly regulated labour at the forefront of attempts to improve competitiveness and reduce costs. The nature and incidence of non-standard employment are inclined to reflect the costs and constraints imposed on management by the prevailing systems of labour regulation. Terms and conditions of employment, the form of the employment contract, and other aspects of labour regulation will tend to reveal “the compromises between the distributional and production objectives of employers and the need to maintain an institutional framework necessary to sustain that compromise” (Rubery and Wilkinson 1994:30). There are, as we noted above, considerable pressures on and opportunities for employers in Namibia to cut costs by subverting aspects of the SER through the use of non-standard employees. For example, non-standard employment is widely utilised in an effort to undermine or evade the far-reaching statutory provisions on occupational health and safety. Many of the agency and part-time employees that were interviewed claimed that their work entailed health and safety risks:

the working environment where casuals work is not good. If [the employers] say: ‘here is a bad place that can hurt the permanent workers’; then they will bring in casual workers because they know that if you get hurt there, they will not be responsible for you (part-time worker - 07/07/2000).

The employment conditions of less skilled agency temporaries bear many similarities with those of their casual or part-time counterparts. An important difference, however, lies in the manner in which the former’s terms and conditions of employment are established and enforced. Acquiring labour through a temporary employment agency - as opposed to hiring casual workers directly - allows employers to shift some of the responsibility for management and employment benefits onto the labour broker. For instance, most employment agencies insist that their employees provide their own protective clothing, safety equipment, pensions, medical-aid and meals. These agencies ostensibly “negotiate with the client company on behalf of the workers” and allegedly have “the interests of our employees at heart” (manager, temporary employment agency - 05/07/2000). However, they are seldom in a position to dictate terms to the client-firm, survive largely on the basis of cost-competitiveness, and clearly have no interest in pricing their ‘product’ out of a cut-throat market. As the president of the Construction Industries Federation noted,

[c]ontrol over the subcontractors is written into the contracts. If they don't perform, then we don't perform. We have weekly meetings and the guys are monitored in terms of the programme that was agreed. Essentially, we are responsible and we must call the shots (18/07/2000).

While the companies that supply cleaning, security and other subcontracted services do not regard themselves as temporary employment agencies and often provide their employees with some degree of employment security, they share many similarities with such agencies. Their workers lack job security and are deprived of most employment benefits, tend to be regarded as 'outsiders' in the workplaces where they are employed, carry out many of the most menial tasks that require little or no training, and have minimal collective influence on their terms and conditions of employment. In addition, given the simple job ladder in the contracting firms, there are very few opportunities for promotion or advancement for their employees. Since contract agencies must ensure that the client-firm retains some of the returns to cost reductions generated by outsourcing service provision, they are under considerable pressure to offer their services at a lower cost than direct employment. These cost savings are largely attained at the expense of the subcontracted employees.

Most subcontracted, temporary and part-time workers found themselves in non-standard jobs not because of their lifestyle or personality, as is often asserted by the proponents of 'flexibility', but because it was the only work available. The less skilled non-standard workers that were interviewed could not find any other jobs and regarded their employment as a last resort: "if you don't want to be a criminal or a beggar, you must take whatever job is available" (temporary employment agency worker - 12/07/2002). Hence, their 'subservience' and 'compliance' is founded on the pressures of unemployment and poverty. As the manager of a temporary employment agency pointed out: "[t]here are hundreds of [job] applications on my table and almost every day more people come in to apply for a job" (14/10/1998). The majority of agency temporaries were in a permanent job before they sought employment through a employment agency, while the rest moved from casual employment (LaRRI 2000a:11). An informal network of friends and family members brought most of them in contact with a temporary employment agency. Part-time or casual workers are mostly residents in the urban areas, while many agency temporaries are migrants who left the rural areas in search of employment. Renting accommodation, buying food and sending remittances to family members in the rural areas account for the bulk of their income (LaRRI 2000a:17). However, these workers remain dependent on food and clothing from their family, especially during periods when work is scarce. Likewise, casual workers tended to be young and depended on their parents or other family members for accommodation and other basic consumer goods. The income generated through employment is simply not sufficient to guarantee the autonomous social reproduction of non-standard labour. At the bottom end of the labour market, as Deakin and Wilkinson (2000:18)

argue,

jobs tend to be classified as unskilled whatever their job content, trade unionism is weak or non-existent, and the law offers little, if any, protection. As a result, terms and conditions of employment are poor, work is often casualised and non-standard forms of employment contracts are common ... At this level, jobs tend to be much more open to anyone, and therefore regular employees are thrown into competition with students and others who want temporary jobs to top up their income from other sources, and who are therefore prepared to accept wages below that necessary for self sufficiency.

Not surprisingly, the most pressing concerns of non-standard employees are extremely low wages, considerable job and/or employment insecurity, and widespread abuse. Employment is very erratic leading to an unreliable flow of income and an inability to plan for the future, the wage-effort bargain is almost unilaterally determined by management and working conditions are extremely poor, leading to a pervasive sense of dissatisfaction and resentment. The less skilled part-time and temporary workers saw casualisation and outsourcing simply as the reintroduction of a despotic labour regime designed solely to increase the profits of employers.

I get paid twenty five dollars for a day's work from seven in the morning to ten at night ... If you are sick on the day you are supposed to work, then you can just forget it. You wouldn't get paid for that day ... It is like slavery over there. We are treated like slaves ... The casuals can lose their jobs for anything. The bosses say that if you go, someone else will come in. And it is true ... They tell you: 'you are a casual and you must be satisfied with whatever money you get'. You don't get an increase. You stay just where you are (part-time worker - 15/07/2002).

The work that we do is exhausting because the permanent staff do all the easy jobs. Because of the long hours that we work, your body feels like you are sixty [years' old] even though you are not yet thirty ... What do we have to show for all this work? Nothing. Only the bosses benefit from this labour hire (temporary agency employee - 02/07/2002).

Subcontracted and temporary agency workers are employed to work in a workplace under a different employer from that of the employees around them. Research by Allen and Henry (1997:189) shows that the "contract relationship gives the client's workforce the power to define itself as central and others as marginal, or subordinate, to [the firm's] activities". Non-standard employees are often deliberately kept separate from standard employees in the workplace. This social and physical separation is reflected in the lack of communication between non-standard employees and the permanent workforce; segregated canteen, changing and toilet facilities; and significant differences in the extent to which 'insiders' and 'outsiders' are able to influence relations in the workplace. In some cases, this led to tension and lateral conflict between these two groups of employees (see chapter 6). As a part-time employee noted: "[e]verybody is our boss at work, even the permanent workers" (06/07/2000). This bifurcation of the workplace is unlikely to change for as long as non-standard workers are too afraid to lodge complaints or get involved in industrial disputes:

[y]ou don't negotiate with them. If you go to the manager to complain about something, they just tell you: 'take your things and go'. That's all. It is better just to be quiet and to be satisfied with what you get (temporary agency employee - 19/10/1998).

In contrast to the claims by the champions of the 'flexible firm', non-standard workers in Namibia are a source of both numerical and functional flexibility. Casual and temporary workers are switched between jobs as and when the need arises. Most non-standard employees have little, if any, say in the type of work they are required to do. Managers are thus demanding an undifferentiated flexibility in which casual and temporary workers can be called on to carry out any tasks assigned to them. This is made relatively easy, as the managers that were interviewed confirmed, by the fact that non-standard workers are not regarded as a part of the company's workforce and that their terms and conditions of employment are generally not open to negotiation.

When non-standard employees are not working, they are not earning a living. Taking sick leave or having a holiday is therefore not only unpaid, but also fraught with risks in terms of regaining employment. In other words, non-standard work in Namibia is largely a no-frills-attached, take-it-or-leave-it type of employment.

There is no negotiation about how much money we will get. I have never heard about salary increases for casual workers. They just stay the same ... You lose your job if you get sick. When you come back, they will say: 'sorry, we've already taken someone else' ... We don't have to be treated differently because we are doing different jobs. The bosses are just abusing casual workers (part-timeworker - 16/10/1998).

The way the managers are treating their casual workers is bad ... Sometimes we are harassed and threatened. But we cannot say anything because our wage is the only thing we are living on. The employers are taking advantage of that by saying: 'if you don't do what we tell you, then we will chase you away' ... As a casual worker, you don't even have the courage to talk if you see that something is wrong. If you talk and they take away your only bread, how will your family live? (part-time worker - 02/07/2002).

The non-standard employees that were interviewed expressed an overwhelming desire for permanent employment and the benefits associated with it. This was confirmed by NAPWU's general secretary: "[w]hen you talk to these people, they tell you that casual workers want to be treated equally with the permanent workers" (12/07/2000). A sizeable majority of agency temporaries, for example, have not received any wage increases, promotions or other improvements in their employment conditions. The overwhelming majority have also received no training. "We don't provide any training and will only use a worker if he has the ability to do the job that the client wants" (manager, temporary employment agency - 05/07/2000). Since there are few incentives for employers to invest in the training of these workers, they will become increasingly disadvantaged in the context of a growing demand for skilled labour. At best, they will remain in low-paid, dead-end jobs and, at worst, they will gradually drift into the ranks of

the long-term unemployed and marginalised.

Perhaps the greatest abuse suffered by non-standard employees is the appallingly low rewards they receive for what is often extremely demanding work. The wages of agency temporaries, for instance, range from N\$1.79 to N\$7.22 per hour for unskilled and manual labourers and about N\$35 per hour for skilled workers (LaRRI 2000a:12-3). Between a third and three-quarters of this wage is retained by the temporary employment agency, depending largely on the skills of the worker and the terms of the contract with the client-firm. Non-standard workers in the service sector generally earned the lowest wages, indicating the impact of prevailing wage rates in different sectors. That employers can get away with paying such low wages reflects their almost unchecked power over non-standard employees in the lower reaches of the job market. This image of managerial autocracy is, however, limited to some extent. Workplace rules are applied in different ways to different workers. The more skilled, experienced and more strategically placed non-standard workers are not subjected to the same forms of discipline and control as their less skilled counterparts.

5.3 THE OCCUPATIONAL DYNAMICS OF NON-STANDARD EMPLOYMENT: POWER, SKILL, AND AUTONOMY

In the previous chapter, we showed how each industrial sector is confronted by a distinct set of opportunities and constraints in its markets, technology, organisation and forms of regulation. This led to a differentiated demand for non-standard employment between the various economic sectors. Shifts in the forms of employment have not only been uneven *between* industries, but have also been assimilated into pre-existing patterns of occupational segregation *within* industries (Elger 1987; Gallie *et al* 1998; Spoonley *et al* 2002). Far from being uniform, the impact of changes in employment practices and the organisation of work is filtered through discrete occupational structures. Effort bargaining and supervision are also conducted in a differential manner across the occupational hierarchy. Hence, non-standard workers in different occupations face a diverse range of possibilities and liabilities that shape their levels and forms of participation in the labour market. The literature on the 'flexible' workforce tends to treat the various forms of non-standard employment as largely homogenous, thereby failing to account for the significant difference within and between them. Non-standard employment is unevenly distributed across the various skill categories and internally differentiated along two poles containing a number of variations: degrees of precariousness and degrees of externality (Rubery and Wilkinson 1981:116-7). The different experiences of advantaged versus disadvantaged,

short-term versus long-term, skilled versus unskilled temporary and part-time workers highlight the heterogeneity of the 'peripheral' workforce. Even where a single employer used different types of non-standard workers,

it was rare for such workers to be doing the same sort of tasks for similar reasons. Employers did not switch between different sections of the periphery according to some calculus of changing relative advantage; instead, they were tapping different sorts of labour supply (with their characteristic advantages and disadvantages) to meet a range of distinct labour needs (Hunter *et al* 1993:399).

Like the study conducted by Gallie *et al* (1998), my research in Namibia shows that the different types of non-standard employment generate distinct types of flexibility, involve different implications for job security, and experience a differentiated degree and type of disadvantage. Occupational dynamics are particularly salient in this regard. An increasingly wide category of occupations has been opened up to casualisation with the expansion of the temporary employment industry. Non-standard employment is now an option for a wider range of employers across a broader range of occupations. The temporary employment industry is inserted into the economy in "complex, variegated and often locally contingent ways, 'colonizing' different segments of the labor market at differential rates and yielding not singular, but multiple and varied employment outcomes" (Peck and Theodore 2002:154). This uneven penetration of non-standard employment into occupational hierarchies and industrial sectors means that it performs a range of different functions across labour market segments and stages of the business cycle. Temporary, subcontracted and part-time employees are also subject to different productive and regulatory norms in different occupations. That is, the nature of the labour supply for each occupation is central to the forms of control management can exercise over it.

The workers hired through a subcontracting agency and casual workers hired directly on a temporary or part-time basis are not readily interchangeable. Young, female employees with no experience of collective organisation are used mainly on part-time contracts; while slightly older males with little education or skills are more prominent in outsourced functions, with the exception of cleaning. Agency workers are found predominantly in manufacturing and mining. Casual or part-time workers, by contrast, are mostly concentrated in the service and tertiary sectors. Agency workers are often more costly than casual workers, but place less demands on the managers of the user firm. There is also less pressure to integrate agency workers into the permanent workforce than is the case with casual workers. As the HR manager of a beer and beverage manufacturer pointed out: "[t]he unions want the casual workers to be employed permanently, but they have not raise the issue with regard to the labour-hire workers" (24/07/2000).

In contrast to the growing importance of numerical flexibility, few Namibian firms show any evidence of functional flexibility or multi-skilling. This is largely the product of a lack of commitment on the part of employers to develop the skills and participatory competencies necessary to establish a 'core' workforce as well as the significance attached to job demarcations by the trade unions (see chapter 6). As the general manager of a paint manufacturing plant noted,

[c]ompanies have to be flexible if they want to survive. We would like to say that we are very flexible, but it is a learning curve for management as well. For example, we found that the unions are opposed to multi-skilling and want specific job descriptions for each worker. The low levels of expertise also make it extremely difficult to be flexible (05/11/1998).

Numerically flexibility correlates strongly with the position of the job in an organisation's occupational hierarchy. The extent to which it is prudent for managers to rely on non-standard workers depends on the degree of specialisation and responsibility attached to the activities involved. Short-term, temporary workers are ideally suited to jobs that demand little skill, autonomy and experience. There are few, if any, incentives for employers to rely on non-standard workers in jobs that require considerable training and company-specific skills. Employers have historically resorted to internal labour markets in an effort to retain the services of skilled and experienced staff. In Namibia, these measures are constrained by a context of historically low levels of investment in training and the resulting labour shortages in several skilled occupations. This has necessitated a reliance on external sources of labour in some of the more skill-intensive occupations such as those associated with the installation, operation and maintenance of information technology (IT) systems. According to the general manager of an IT consultancy,

[e]verything boils down to the lack of skills in Namibia ... Everybody is afraid that, as soon as they train a staff member, one of the big companies will buy him ... Companies just don't have the people to serve their IT needs. That is why they subcontract us. We provide a quality service and remove the need for a company to search for employees with the right skills. In a sense, we are their IT division and we point out the direction in which they must go. The big corporates will still get a person to oversee the whole process, but you can count those with a self-sufficient IT department on your one hand. Even then, we can still get a maintenance contract out of them (14/07/2000).

Insights into the distribution of non-standard employment shed light on the dynamics of labour regulation in the workplace. The internal labour market and the nature of employment conditions within a firm have a major bearing on the extent of and motivations behind the casualisation of labour. Equity considerations constrain the relative wages paid to employees within a single internal labour market. High-wage firms cannot easily pay low wages to their own employees and low-wage firms cannot easily pay high wages to workers in selected occupation groups (Abrahams and Taylor 1996). Hence, the former are more likely to subcontract low-skill work while the latter are more likely to contract out high-skill services. While companies contract out low-skilled services as a way to reduce labour costs, they contract for more highly skilled tasks

in order to benefit from the economies of scale achieved by contract firms or the specialised expertise they offer. A striking feature of current restructuring, as we noted above, is that casualisation is penetrating ever deeper into the primary employment sectors. The survey on restructuring referred to above found that non-standard employees were spread across the occupational hierarchy: semi- and unskilled workers (59.4% of firms), skilled artisans (76.9%), clerical staff (71.4%) and professional staff (33.3%) (LaRRI 2001:65). MANWU's general secretary confirmed this proliferation of non-standard employment across firms and occupations:

[p]eople are losing their permanent jobs across the country and then casual and labour-hire workers are brought in with no benefits, no job security and lower salaries. These workers are found in all the companies that we organise. They can also be found in any kind of job (27/06/2002).

The growing collective strength of certain sectors of the labour market can be partly offset by tapping into labour sources lacking such power. Temporary employment agencies, casualisation and subcontracting in Namibia developed partly in response to the tighter controls on the SER imposed after independence. Faced with rising costs, most Namibian companies "don't cut into their profits, they cut their permanent employment" (director, economic research unit - 11/11/1998). The segmentation of labour markets is clearly evident in situations where one sector of the workforce is spared some of the effects of rationalisation, which are then concentrated in other (socially-disadvantaged) sectors of the labour market. Raising one group of workers' income and lowering their work rates will, *ceteris paribus*, disadvantage another group of workers or firms by raising the prices of wage goods or raising taxes. That is, the ability to take advantage of low-wage segments in the labour market "adjusts the terms of trade in favour of particular productive systems and the beneficiaries include workers in a strong bargaining position" (Wilkinson 1983:423). The trade-offs therefore operate not only between capital and labour or profits and wages, but also between different groups of workers and different firms.

In most cases, you negotiate on behalf of the core members and the employer doesn't have a problem to give whatever increases you want because they only apply to a few people. Whatever you demand, you can reach an agreement with them because they know for a fact it is not going to affect them (general secretary, MANWU - 27/06/2002).

If a manager has a problem with a casual or labour-hire worker, there is no procedure, sit down and talk. They just chase him away. They know that the union will not disturb them, so they can do just what they want to the casual workers. Because the managers cannot do these things to permanent workers, they are thinking that it is better to turn more permanent jobs into casual jobs (regional organiser, NAFAU - 03/07/2002).

The growing demand for skilled labour has raised salaries in the upper echelons of the labour market in line with South African levels, while trade union pressure has significantly increased the wages of many semi-skilled workers (Gaomab 1994:10). The wages of unskilled workers,

by contrast, have remained largely static. As a result, those in the lower echelons of the job market are effectively excluded from the benefits of economic growth. These developments, as we can see in the table below, have reinforced the historically steep wage curve in the Namibian labour market.

Table 5.2 Average Monthly Wages by Selected Occupation: 1992/93

OCCUPATIONAL CATEGORY	MONTHLY WAGES (NS)
Managers and Professionals	4 719
Technicians	3 403
Craft and Related Workers	2 211
Plant and Machine Operators	1 980
Clerical Workers	1 813
Service Workers	1 085
Agricultural Workers	830
Elementary Occupations	656

(Source: adapted from MoL 1995:30).

According to the Ministry of Labour (2002:51), legislators, senior officials and managers constitute 1.8% of the formal sector labour force; professionals account for 8.1% of formal employment; technicians and associate professionals - 5.6%; clerical workers - 6.0%; services, shops and sales workers - 13.7%; agricultural and fishery workers - 24.7%; craft and trade workers - 14.1%; machine operators and assemblers - 4.0%; and elementary occupations - 20.0%. The wages levels (Table 5.2) and occupational distribution (Table 5.3) of the workforce have a significant bearing on the spread of non-standard employment. The comparatively large numbers of professional and technical employees - most of whom are in permanent jobs - in the fishing, manufacturing, trade and hospitality industries means that cost savings need to be sought in other occupations. Employers in sectors such as fishing, mining, manufacturing, construction, retail and hospitality are increasingly recognising that the outsourcing and/or casualisation of some clerical and craft work can significantly reduce the overall costs of labour. The bulk of the trade unions' membership is comprised of semi-skilled, machine operators and assemblers. Besides the continuity and on-the-job experience required from workers in these occupations, organised opposition limits the extent to which these functions can be externalised or casualised. With the exception of mining, there are significant numbers of workers in elementary occupations in all economic sectors. These occupational categories have borne the brunt of outsourcing and

casualisation. A part-time employee expressed a widely held opinion when she noted: “[c]asual workers are doing all the dirty and simple jobs” (06/07/2002).

Table 5.3 Distribution of the Labour Force by Selected Occupations and Sectors: 2000

OCCUPATION / SECTOR	Professionals and Technicians	Clerical Workers	Services, Shops and Sales Workers	Craft and Trade Workers	Machine Operators and Assemblers	Elementary Occupations
Agriculture	818	347	767	1 571	806	21 094
Fishing	780	691	450	266	385	1 505
Mining and Quarrying	441	289	146	1 287	1 219	176
Manufacturing	1 075	876	2 598	13 751	1 142	1 871
Construction	325	441	219	17 178	596	2 850
Wholesale, Retail and Hospitality	1 676	2 724	24 038	8 087	805	7 164

(Source: adapted from MoL 2002:53).

The differentiation in employment relationships is generated by a series of industry- and occupation-specific recruitment policies that reflect and reinforce the hierarchical structuring of labour supplies. The impact of the wider technical and social divisions of labour on the occupational structure, according to Storper and Walker (1989:163), is revealed by the fact that the

scope of the job depends both on the internal organization of work within the workplace and the external organization of production units into large or small firms, industries and territorial clusters. Job specialization or generalization, variability or repetitiveness, depend on what role the worker, workplace, or firm is allocated in a larger production system.

The occupational concentration of non-standard employees means that under certain conditions these workers neither supplement nor displace permanent employees. In parts of the manufacturing sector, for example, direct productive work remains relatively constant irrespective of the level of output. Uncertainty and variability are, however, centred in maintenance, storage, transport and despatch. Non-standard labour is used extensively in these functions. Some jobs are also less mechanised than others, leading to pockets of labour-intensive production. As a result, levels of demand in some occupations fluctuate more than others. Research by Michon (1987:47) shows that firms tend to retain those parts of the production process that are least sensitive to fluctuations and externalise the more variable and specialised functions. Outsourcing in Namibia is driven by similar considerations:

[b]y outsourcing functions such as despatch that fluctuate all the time, we have reduced our overheads and we can now look to the contractor when deliveries are not made on time ... All the functions that remain are a part of our continuous operations and have to be administered by us (HR manager, meat processing - 09/07/2002).

In the more technical processes of production, where it is difficult to monitor the amount of work done by each employee, employers are more dependent on the initiative and cooperation of the workforce. The routinised, transparent and low-skilled nature of routine service work, by contrast, is more readily amenable to simple monitoring, workers are more easily substituted, and their ability to resist the authority of the employer is reduced. In general, firms tend to “internalize a limited range of activities central to their particular industry and to contract out less central tasks” (Anderson *et al* 1994:515). Menial work with limited discretion and little, if any, career progression is concentrated in jobs such as cleaning, security and catering.

We use a labour hire company to provide all our labourers. When I say ‘labourer’, I am talking about your cleaners, your packers and that type of thing. We pay them a fixed amount and they supply us with labour when we need it (HR manager, beer and beverage manufacturer - 24/07/2000).

We hire our temps straight off the street. They don’t do anything specialised, they are unskilled. All you need is someone who can respond to simple instructions (HR manager, meat processing - 04/07/2002).

The standardisation of routine support services has allowed some firms to specialise in supplying labour on multiple sites. The outsourcing of routine service work has led to the growth of large firms especially in the catering, cleaning and security functions (Rees and Fielder 1992; Allen and Henry 1996, 1997). The growth of this industry does not represent an increase in employment since much of it involves the transfer of jobs from one employer to another. In other words, outsourcing creates new lines of division in the workforce, rather than an expansion in employment. The transfer of employees and the related deepening of the social division of labour lay the basis for the more precarious and less rewarding employment associated with subcontracting. Outsourcing allows employers to exploit differentials between minimum rates in the industry that covers the main business of the workplace and the rates in cleaning, catering and security. That is, the boundaries of the bargaining unit are shifted to exclude these workers from the prevailing in-house rates. The significance of these developments lies not in the actual number of jobs that are outsourced, but rather in the transformation of employment relationships occasioned by the externalisation of certain occupational categories and functions. For example, outsourcing arrangements allow managers to dispense with the need to negotiate job allocations and to ensure some job satisfaction.

If you have an employee as a security guard, he may say: ‘I’m afraid to stand at the gate and would much rather do something else’. With contract workers it is very different - they must go where they are sent. There is no negotiation with these worker and employers are not interested in gaining their loyalty (national organiser, NPSM - 02/11/1998).

We bring in casuals to do specific jobs that would not be done in the normal course of events. For example, a huge truck arrives and has to be off-loaded or a cleaning job has to be done. Instead of taking our guys off their jobs when they are very busy, we use the casuals for as long as the job takes. Besides, a machine operator will not off-load trucks. He will see that as beneath him. You really have to bring in casuals for any work that is not in the job description of your employees (general manager, paint manufacturer - 05/11/1998).

The use of non-standard labour is differentiated not only in terms of sector and occupation, but also with regards to employment stability: from short-term contracts with agency workers in manufacturing to the semi-permanent status of part-time workers in retail and long-term subcontracting arrangements in basic services. In other words, a distinction must be made between full-time and part-time non-standard employees. "Some of them work for four or five years as a casual workers, while others are only hired for a few hours" (regional organiser, MANWU - 05/07/2002). While the former has some degree of job security and can be relatively sure of daily employment, the latter are employed strictly in accordance with demand. For example:

[o]ur merchandisers are all temporary workers. Some of these people come in to do a specific job and then they go. Others are, you could say, permanently on a temporary basis. They work on three month contracts which are then usually renewed (HR manager, meat processing - 10/11/1998).

The job security of subcontracted workers is in principle limited to the duration of the outsourcing agreement, few of which last beyond three years. Although contracts are regularly renewed and new tenders are continuously received, there are no guarantees of employment security for individual workers. Subcontracted workers have no say in the renegotiation of contracts and may find a 'discount' agreed to with a client-firm has an impact on their wages. The employees of contract service agencies experience significantly greater security of employment when compared to agency temporary workers. Many of the former are also organised by a trade union, albeit usually from a different sector to that in which they are employed (see chapter 6). The quasi-permanent status of subcontracted workers generates employment relations that are both regular and insecure. When contracts are changed in cleaning and catering, for example, it is not unusual for the new service agency to take over the workers of the previous agency. This allows for considerable continuity and minimises training and induction costs. However, the client-firm and the contractor always reserve the right to exclude particular individuals from employment under a new contract. The dual dependency of these workers, as we noted above, means that they are subject to the dictates of both the client-firm and the contract service provider.

Most of the larger firms in the economic sectors outlined above have outsourced some or all of the following services: catering, cleaning, maintenance, despatch and security. The low costs of

entry into the cleaning and security business in particular, has encourage the growth of service firms and the expansion of existing operators into these functions. As the manager of a temporary employment agency noted,

[w]e are now taking over the security of the bigger firms to give them more room to manoeuvre ... I take the people to different branches. The security doesn't get comfortable with one branch where they work every day. We move them regularly as we please. This prevents any familiarity with the permanent staff and stops them getting involved in any fraudulent activities (10/07/2002).

These so-called ancillary services are inherently labour-intensive and provide few opportunities for increasing productivity by capital investment or innovation. Hence, it is essentially the intensification of labour and the degradation of terms and conditions of employment that provide the cost savings from outsourcing these functions. Some contract service firms also enjoy economies of scale in the provision of specialised services that are not available to the client-firm. The outsourcing of these services is therefore a strategy aimed more at cost reduction than at achieving greater 'flexibility'. This view is reinforced by the growing divide between the in-house versus market price of labour to perform these services, especially in the larger firms. Although it is less widespread than the use of unskilled labourers in outsourced services such as cleaning, a reliance on skilled external services - ranging from engineering to IT and management consultancies - is fairly common among Namibian firms.

Temporary and part-time employment should not be associated exclusively with work that is low in pay, skill, discretion, job satisfaction and security, readily monitored, easy to replace or peripheral to the establishment's long-term success.¹³ Temporary employment agencies offer a whole spectrum of skilled labour for employment on a subcontracted basis. Labour subcontracting reduces the costs management would have incurred in the training of directly-employed workers, by supplying labour that already possesses the necessary skills. The skills of a worker, and hence replaceability in the labour process, affect his/her leverage to extract greater rewards and autonomy from the employer. Michon (1987:33) shows how "relative negotiating powers ... always vary according to the type of job, whatever the firm under consideration". According to the proponents of labour market flexibility, the development of semi-permanent and lucrative relationships belie the connotations of insecurity and dependence associated with the term 'casual' labour. In practice, however, the much-vaunted benefits of 'flexible' employment - namely, increased autonomy, greater job satisfaction, greater income, variety and so on - only apply to skilled, self-employed persons who voluntarily choose

¹³ See: Holmes (1986); Lane (1989); Casey (1991); Klerck (1994); Gallie and White (1994); Jones (1996); Mhone (1998); Robinson (1999); MacKenzie (2000); and Crush *et al* (2001).

subcontracting or freelancing arrangements in preference to a SER. These benefits therefore derive almost entirely from the shortages of reliable and specialised skills.

The casualisation of unskilled work draws on the labour of people with little other prospects of gaining full-time employment. As such, it represents the mobilisation of sources of labour that would otherwise not have been readily available for employment. Namibia's colonial legacy ensured the availability of a pool of economically disenfranchised labour for employers to tap as and when demand dictates. Although there is no necessary association between non-standard work and work which is low paid, without entitlement to benefits and highly precarious, "the very fact of being so marginally attached to an organisation makes these conditions more likely to occur" (Dale and Bamford 1988:192-3). As a regional organiser of MUN noted,

[a]s long as you have a pool of labour, ordinary labourers are in a hell of a problem. The only people that are currently safe are those in higher positions, like artisans. It is difficult to replace an artisan, but if you fire a labourer, the news will leak out and your office will be flooded the next day with people looking for a job (02/07/2002).

With skilled workers, labour subcontracting involves the exploitation of skill shortages rather than the exploitation of surplus labour supplies. The position of skilled (mainly white) subcontracted workers is very different from that of the less skilled (mainly black) labourers. There is a clear correlation between an employee's position within the occupational hierarchy and his/her levels of autonomy and control in the labour process. As Cappelli (1995) and Harley (1999) demonstrate, occupational differentials within firms are strongly related to the nature of the external labour market for each occupation. Notions of a craft identity and of difference were reinforced among the skilled subcontracted workers by the relatively high wages and degrees of independence and self-reliance they could demand and achieve. The wages of these workers are also far more open to bargaining than those of the unskilled and therefore more susceptible to regional and other variations. Firms are willing to pay high fees for specialist subcontractors since their use is based on need and not on costs, and contracts are strictly limited in duration. "Although it can be very expensive, we have to bring in specialists on a temporary basis when we don't have the necessary skills among our staff" (general manager, chocolate manufacturer - 04/11/1998). The relative scarcity of their expertise acts as a bulwark against more coercive forms of control and grants skilled subcontracted workers considerable leverage to shape their wage-effort bargain. Conversely, workplace rules for the less skilled non-standard employees are stricter, and penalties more frequent and severe. In fact, these workers were expected to be less reliable and less committed to the firm than their more skilled counterparts:

[w]e bring in skilled contractors to do certain engineering and IT functions when it is necessary. These workers don't need a supervisor from the company to look over their shoulder to see if they are doing their

job. But the unskilled casual workers need someone to show them how the job must be done and to make sure everything is done correctly. You cannot just put them to work and hope that they will do a good job (HR manager, beer and beverage manufacturer - 20/07/2000).

Most of the skilled agency workers were young and out to get experience, while older artisans were more inclined to be attracted to the security provided by a permanent job. In contrast to the relatively constant demand for unskilled labour, the need for skilled, subcontracted labour is subject to considerable variation. The labour brokers that were interviewed complained about acute fluctuations in the availability of certain skill categories. This reflects the highly uneven demand for particular artisans over time. The overall incidence of subcontracting in the skilled occupations, however, is comparatively low. "The level of temporary work for the more senior staff - that excludes labourers - is relatively low in Namibia and has remained the same over the years" (manager, temporary employment agency - 11/07/2002). In part, this is a product of the efforts by Namibian employers to retain the services of as many skilled employees as is necessary in the face of severe skill shortages. Several of the managerial respondents emphasised the importance of maintaining low levels of labour turn-over in the higher rungs of the occupational hierarchy in their firms.

There are important differences in the experiences of skilled and unskilled temporary workers with regard to job characteristics and demands, task and working hours variability, terms and conditions of employment, the nature and level of supervision, discretionary power and so on. In direct contrast to the unskilled labourers, the more skilled workers sometimes refused to do any work other than on a subcontract basis. According to the manager of a temporary employment agency, many of the skilled workers supplied by his agency are "not interested in working on the same job, in same company, day in and day out" (05/07/2000). The skilled agency temporaries generally have the ability to obtain permanent employment if they so desired. In contrast, the unskilled temporary workers were largely confined to precarious jobs with few prospects for upward mobility. Whereas the focus of the labour broker is primarily on client satisfaction in the case of the less skilled workers, employee satisfaction becomes vitally important with the more skilled workers. For example, unlike the skilled workers, the less skilled have no claims to a particular type of work:

[y]ou just wait for a job to come up. If someone phones in, [the labour broker] just says: 'there is a job, get on the truck'. You don't know where you're going to, what type of job you will do, or anything like that (temporary agency worker - 13/07/2002).

The occupational dynamics of skilled temporary work are very similar to those of skilled permanent work. Skilled subcontracted workers are, for instance, more likely to get a fixed-term contract renewed, less prone to short-notice dismissals and less vulnerable to unemployment, less

likely to remain without work for extended periods, and are generally not regarded as ‘outsiders’ and are often firmly integrated into the permanent workforce. For those in low-paid, non-standard jobs at the bottom of the labour market, “employment risk is something which traps, whereas for those with tradeable skills higher up the income scale, risk may open up more opportunities than it closes down” (Allen and Henry 1997:194). Skilled non-standard employees often enjoy a significant degree of autonomy and choice in the way that they conduct their working lives (Spoonley *et al* 2002). In other words, there are significant variations in the extent to which skilled and less skilled workers are made to carry the burdens of ‘flexibility’.

Skilled subcontracted workers are able to combine the ‘freedom’ of casual engagement with the ‘protection’ of employment conditions that closely parallel or even exceed those associated with standard employment contracts. Their ability to shift between firms almost at will compels management to gain their cooperation and to accord them high status in the workplace. There are much closer relations and greater significance attached to trust between skilled temporary workers and the agencies that supply their labour. These workers also have much greater input into decisions affecting their terms and conditions of employment. This implies that skilled and less skilled agency workers are *differently flexible*: “agency-client relations are conducted differently, allocation and reward systems are institutionalised differently, [and] labour control regimes are configured differently” (Peck and Theodore 1998:671). Tying numerical flexibility to all employment contracts other than full-time, permanent work does not allow for an adequate appreciation of these internal differentiations in non-standard employment. Moreover, there is very little evidence of a new approach to employment but rather more of “opportunism related to labour market advantage for some and lack of any other option for others” (McKeown 2003:184). The opportunities available to, and the constraints imposed on, the individual through non-standard employment vary significantly depending on his/her skills and degree of autonomy and control in the workplace.

5.4 CONCLUSION

With a few notable exceptions, workers employed on non-standard employment contracts tend to earn the lowest wages, receive the most rudimentary employment benefits, and have to endure the worst employment conditions. The exclusion of non-standard workers from collective bargaining and statutory protective measures has allowed employers to subject them to a highly autocratic system of labour regulation, legitimised by the trappings of the law contract. The prominence of the common law contract of employment in the system of colonial despotism has

survived in the regulation of NERs after independence. As Deakin (2001:24) points out, “the legacy of master and servant was the assimilation by the common law of a hierarchical, disciplinary model of service”. The non-standard workers that were interviewed indicated that they have very few rights in the workplace and felt that the government and the trade unions had abandoned them. In other words, the casualisation of employment in Namibia is a product of managerial power rather than labour preference. Most workers on non-standard employment contracts are unable to develop the skills and work experience necessary to allow them access to higher-quality jobs. Hence, the labour market operates in such a way as to ‘trap’ many of these workers at the bottom end of the labour market where real wages are static or declining, labour regulation is coercive and despotic, career ladders are non-existent or truncated, and employment insecurity is a permanent feature of the job. The lack of industry-wide regulation also means that there is no opportunity to spread the risks and costs of labour market adjustment beyond individual firms (e.g. multi-employer training). This clearly limits the extent to which labour market actors can pursue policies that are conducive to efficiency *and* equity. The prevailing legal and institutional framework in Namibia has clearly failed to prevent employers from using non-standard workers as a source of low-cost labour and employing them on markedly inferior terms. Not only is there a need for existing employment rights to be restructured, but a new approach to their enforcement and application needs to be found.

The incidence and distribution of non-standard employment reflect the need of managers for employment practices aimed at decreasing the impact of uncertainty in the market, increasing the stability of the permanent workforce, and enhancing their power over the use and deployment of labour in the lower reaches of the occupational hierarchy. Employers cannot, however, employ any form of labour with impunity and are restricted in their employment practices by prevailing social norms, labour laws and organised labour. Labour market segmentation is therefore the complex outcome of resistance and accommodation between the different fractions of both capital and labour. The vital role of the *form* that an employment relationship assumes becomes patently evident when we compare the conditions of non-standard workers to those employed in full-time jobs doing similar work, in the same or similar institutions. The different rules in the labour market for standard and non-standard employees underpin the growing differentiation between the regulation of SERs (law and collective bargaining) and NERs (contract and market). As Sayer (1995:142) points out, the tensions between strengthening labour and making firms more competitive need to be interpreted not only in terms of the ‘vertical’ relations of class and class struggle, but also in terms of the ‘horizontal’ relations between different workers and different production systems.

An overriding concern with labour market 'flexibility' and 'rigidity' serves to obscure other, more important determinants of casualisation and outsourcing such as the exploitation of inconsistencies and silences in the prevailing patterns of statutory and collective regulation. Changes in the regulation of the labour market are shaped and reinforced by the balance of powers in the workplace, leading almost invariably to distinct winners and losers. A prominent, long-term effect of the proliferation of non-standard employment is a greater polarisation between the opportunities, wages and benefits of 'insiders' and 'outsiders'. A relatively durable mode of labour regulation endeavours to achieve a sustainable compromise between two conflicting demands: transforming industrial relations to enhance competitiveness and avoiding the excesses that stem from unconstrained competition. Labour market 'flexibility', however, rarely promotes economic efficiency in a way that is compatible with greater social equality. It is a largely defensive measure to cope with the uncertainties generated by the economic crisis rather than a means to overcome the crisis itself (Boyer 1991). As such, the search for a regulatory 'fix' in the form of employment flexibility is a symptom of, rather than a solution to, the crisis. This is clearly the case in Namibia where a central dynamic of workplace restructuring is the pursuit of numerical flexibility (i.e. a reduction in the costs of and obstacles to hiring and firing workers) rather than functional flexibility (i.e. multi-skilling through a reduction in job demarcations). The literature on managerial 'best practice' is a poor guide to and a negligible impetus for actual changes in work and employment. Given the varied and uneven distribution of non-standard employment across industries and occupations, for instance,

changing patterns of labour regulation cannot be conceptualised as either a process of 'progression towards best practice' or as 'random deviations from best practice' ... [A] range of sector-specific factors (product market conditions, the composition of capital, levels of unionization, and traditions of representation) is the key 'determinants' of new and ever more varied patterns of management-labour relations (Barton and Turnbull 2002:153).

Changes in employment practices have been gradual and largely in response to external pressures and opportunities, rather than a coherent and integrated component of managerial strategy. The management of non-standard employment is shaped by a range of contingent factors that can only be revealed through an empirical investigation of its form and functions in different industrial and occupational settings. That is, we need to study the circumstances that allow distinct forms of workplace controls to emerge. Although a national system of labour regulation has an important contextual impact on workplace relations, the latter are still reflected in and mediated by product market, firm and plant characteristics. Different forms or sites of regulation do not only follow different logics, draw on different resources and cover differing aspects of the employment relationship; but also mobilise and rely on different tools of legitimation and structure the wage-effort bargain in distinctive ways across the occupational hierarchy.

6

ORGANISING THE NON-STANDARD WORKFORCE: CLASS SOLIDARITY, TRADE UNION STRATEGIES, AND LABOUR MARKET SEGMENTATION

6.1 INTRODUCTION

Internationally, the current conjuncture is one in which the labour movements of many countries are under attack, trade unionism is on the decline in its traditional strongholds, and management has seized the initiative in both the restructuring of production and the transformation of regulatory structures in the workplace. The rise of a so-called 'flexible' workforce marks the movement from a dominant pattern in which internal labour markets shielded workers from market forces, to employment relationships where pressures from product and labour markets are used to mediate the labour-management relationship. As just-in-time organisation of inventory and production has spread, so too has 'just-in-time' human resource (HR) management. The net result is a growing class of truly 'disposable' employees. In the words of Catalano (1999:36): "[I]about relations today reveal a segmented world of labour, full of oppositions and exclusions". The anxieties and uncertainties generated by these changes have undermined the participatory impulses of new managerial strategies and made it increasingly difficult for employers to retain the commitment and cooperation of their workforce (Pollert 1988; Harrison 1994; Moody 1997). The track-record of policies geared towards increasing the 'flexibility' of the labour market also reveals that relatively little is achieved in terms of the alleviation of poverty, skill shortages or structural unemployment.

An emergent pattern of non-standard work that is no longer location-specific, time-bound and male dominated, according to Gottfried (1994:103), "poses a challenge to the adequacy of labour process concepts ... [that] continue to assume a traditional work setting with a prototypical male worker". Social relations in the workplace are increasingly structured in a manner whereby advantage and disadvantage, control and autonomy, efficiency and equity are patterned by the regulatory distinction between standard and non-standard employment. The use of non-standard employees constitutes, in part, an attempt by employers to evade the statutory and collective

protective measures designed to stabilise the standard employment relationship (SER) by constructing new zones of 'flexibility'. In the words of Nolan and Walsh (1995:60):

[t]he compelling equation [in labour regulation] which linked internal labour markets with increased employee commitment and greater production and transactions cost efficiency came under siege from New Right theorists committed to the law of contract, deregulation and employment flexibility.

By defending the SER, as Mückenberger (1989:219) notes, the unions have come to focus exclusively on its positive or protective function, thereby neglecting its negative or exclusionary character. The multiplication of divisions among workers poses a grave challenge to the unions. As fault lines develop among workers, union capacities for effective action are severely tested as "established foundations for solidaristic social and political action are eroded" (Yates 1998:120). On the basis of a cross-national survey, Golden and Pontussen argue that "sectional and centrifugal conflicts among groups of workers and their organizational representatives ... [are] driven by the material fragmentation of working-class interests and the more acute competition for wages and jobs" (cited in Hyman 1994c:14). Despite some notable exceptions, union policies to combat the increasing differentiation in terms and conditions of employment have met with very little success. These divisions have become especially portentous in Namibia, where employers' primary target for casualisation and outsourcing is those sectors of the occupational hierarchy that have historically been fruitful union recruiting grounds. Such employment practices amount to a drastic recasting of the balance between economic competitiveness and social equality in the lower reaches of the labour market. If the trade unions in Namibia are to expand their influence and consolidate their gains, an effective strategy to confront the casualisation of work needs to be sought. Such a strategy should address the causes and not merely the symptoms of casualisation. An effective response to the casualisation of work is premised as much on the strategic resources of the labour movement as it is on an adequate conception of the labour market processes that generate the supply of and demand for non-standard labour.

In contrast to the preoccupation with managerial concerns in much of the burgeoning literature on employment 'flexibility', not much has been written on trade union responses to casualisation and outsourcing. Employees and their organisations are not just passive victims. They can take action by anticipating or responding to managerial initiatives, propose counter-measures and develop strategies that limit management's capacity for strategic action or shift the substance of its policies. In this chapter, we highlight the challenges confronting the trade unions as a result of the growing proportion of workers falling outside the structures of collective regulation in the workplace. First, we consider the impact of the proliferation of non-standard employment and the increasing differentiation in employee interests on trade union solidarity. Second, we outline

some of the benefits of and limits to casualisation and outsourcing. Effective trade union responses to non-standard employment need to be informed by an understanding of the factors that reinforce or limit casualisation and outsourcing. Third, we outline the strategies developed by trade unions to deal with the growing presence of non-standard employees in the workplace. Here a basic distinction is drawn between strategies that aim to incorporate these workers and those that exclude them. Finally, we consider the relationship between the above-mentioned strategies and different 'types' of trade unionism. It is suggested that there are strong links between the various trade union 'identities' and the strategies of representation that they can and do pursue.

6.2 TRADE UNIONS AND THE SEGMENTED WORKFORCE: SECTIONALISM OR SOLIDARITY?

Several studies have identified a 'crisis of representation' stemming from the difficulties that the unions face in finding a common strategy for an increasingly heterogenous workforce, aggregating the growing diversity in employee values and interests, and representing workers in precarious jobs whose interests differ from or even conflict with those of employees in stable jobs.¹ A characteristic shared by the various forms of non-standard employment is that they are invariably unorganised and commonly excluded from the structures of representation in the workplace. These employees are rarely in a job long enough "to earn entitlement to occupational welfare, social security, or even privatized benefits, let alone long enough to develop the confidence to join or form unions" (Standing 1993:433). An almost inevitable result of this lack of collective influence on terms and conditions of employment is that these workers tend to remain in non-standard employment. The people in non-standard jobs are widely dispersed across the labour market; concentrated in jobs and sectors that have historically proved difficult to organise; denied access to established industrial relations procedures; and less likely to perceive themselves as sharing common interests with organised employees, participate in trade union activities, and identify with the labour movement.² The heterogeneity of this workforce has also compounded the problems of interest representation faced by the unions. Despite some efforts at organising agency temporaries and casual workers in countries such as Germany, Canada, France, Korea, South Africa and Chile, no meaningful gains have yet been made in this regard.

¹ See: Brown (1986); Fulcher (1991); Hyman (1992); Goss (1994); Heery and Kelly (1995); Legge (1995); Wrench and Virdee (1996); Catalano (1999); Fudge and Vosko (2001); Richards (2001); and ILO (2002).

² See: Dickens (1988); Delsen (1990); Zeytinoglu (1994); Colling (1995); Campbell (1996); Wrench and Virdee (1996); Heery (1998); Heery and Abbott (2000); Richards (2001); and Klerck (2002).

The fact that the standard versus non-standard employment divide is largely conterminous with that between organised and unorganised employees raises the question of trade union complicity in labour market segmentation. According to Hyman (2001:170-1),

the type of solidarity underlying twentieth-century trade unionism reflected and replicated on the one hand the discipline and standardization imposed by 'Fordist' mass production, on the other the patterns of differentiation within the working class between those who were central to this production process and those who were more marginal.

Non-standard workers represent a significant and growing proportion of the workforce in many countries and often find themselves in "conditions comparable to those of yesterday's proletariat" (ILO 2002:355). In general, non-standard employees earn the lowest wages; are exposed to the greatest risk of injury or disease at the workplace; have the longest hours of work, shortest holidays and most unsociable hours; enjoy few if any non-wage benefits; and are confined to the most menial and routine tasks. They are also subject to a range of other regulations and conditions that reinforce their subordinate status: rigid time management, little formal autonomy and decision-making power, low levels of education and training, and relatively little political or cultural influence. Moreover, the social processes that relegate less skilled non-standard employees to secondary jobs minimise their power in both the labour market and labour process, thereby constraining their participation in institutionalised labour conflict. Research shows that non-standard employees are unable to engage effectively in forms of struggle that presuppose detailed knowledge of company policies and procedures (such as work-to-rule), that depend on the ability to engage in non-productive activities (such as extended lunch breaks), and that rely on the solidarity of fellow employees (such as work stoppages) (Gottfried 1994). The capacity for resistance and the form that it is likely to assume tend to vary between different forms of non-standard employees. For example: the conflict of interests between the client-firm and the temporary employment agency, among the agencies themselves, between capital and labour, and the contradictions embedded in dualistic control, grants agency temporaries some space for 'informal' or 'hidden' resistance:

[L]earning the score implicates workers in the regulation of production, but also contributes to a repository of knowledge which becomes the pragmatic grounds enabling worker resistance ... While everyday activities on the shopfloor generate counter-hegemonic practices, these practices may take less visible forms - especially among contingent workers like temporary clericals. Labour process theorists have not conceptualized adequately the disruptive potential of these seemingly mundane and less visible practices that constitute everyday acts of resistance (Gottfried 1994:121).

It is now routinely argued that organised labour's historic role as a class-conscious and cohesive movement has been eclipsed as the working class is increasingly fragmented into competing groups with no common, objective class interests. Widening ideological divisions between and within trade union federations, as well as the growing fragmentation of social identities among

employees, are said to present insurmountable obstacles to the construction of an inclusive, class-based solidarity. In addition, hostile economic and political conditions have encouraged a more inward-looking approach as organisational survival becomes a key union objective. New, employer-led initiatives in the management of human resources have also reconfigured the relationship between individualism and collectivism (Storey and Bacon 1993). As the workforce has become increasingly differentiated, workers' interests and demands seem less amenable to a collective approach. Throughout much of the twentieth century,

unions, as the historical form of worker representation, have developed a variety of social functions. Such functions have varied from representing the aspirations and claims of a relatively homogeneous social group - creating its identity, framing its solidarity and integrating its members into a society which excluded them - to contributing to the system's social regulation by transforming individual interests into collective ones and the latter into suitable proposals for collective bargaining (Catalano 1999:27-8).

Socio-economic and political changes over the last two decades in particular have drastically curtailed the efficacy of these functions. A failure to radically alter prevailing forms of interest representation will, in all likelihood, result in a widening rift between a large and diverse group of marginalised 'outsiders' and a trade union movement confined to a small and privileged group of 'insiders'. This, in turn, will encourage a profound dislocation of trade unions from the needs and interests of the non-standard workforce. Despite rhetoric to the contrary, trade union practice seems primarily orientated to defending "the relative advantages of the stronger sections of the working class against possible encroachment by the weaker (whether unionized or not), rather than challenging the system on behalf of the class as a whole" (Hyman 1996:68). This is clearly evident in, among others, the extent to which the interests of outsiders do not have a bearing on the bargaining practices of insiders (Cousins 1999:114). As a result, the consequences of excessive wage demands (such as job losses) have to be accommodated by a buffer of disadvantaged (often non-standard) workers. Since independence, the trade unions in Namibia have not escaped similar condemnation. They are reproached, from various quarters, for intensifying rather than ameliorating the processes of social polarisation:

[t]hese bureaucrats in the labour movement think increasing salaries by fifteen percent is it. At the same time, they are prepared to see a hundred people retrenched to afford that. All they have learnt is to demand more money ... Then you ask yourself if that is not advocating the labour aristocracy concept of the past ... At the end of the day, you have to ask the unions: 'who are you representing?' Our employment rate is declining and declining. We have thirty percent of people in employment represented by you as trade unions and the rest, the majority of the population, is marginalised (director, economic research unit - 11/11/1998).

The core-periphery distinction within the workplace has been generalised to the level of social stratification as a whole by the notion of labour market 'dualism' (Fulcher 1991:256). This notion implies that class-based strategies by the unions are no longer an effective means of bridging the

divide between a shrinking organised workforce and a growing “disprivileged underclass of employees” (Lane 1989:605). The suggestion that the trade union movement is antiquated or obsolete because it represents the conflicts of a bygone era - whereas new social movements express the realities of a post-modern, post-industrial society - has come in for considerable criticism (Munck 1999; Van Gyes *et al* 2001; Neary 2002). The idea of the labour movement being irretrievably divided today as a result of the disaggregation of the working class is juxtaposed, as Hyman (1994b:159) puts it, to “a golden age when workers were spontaneously collectivist, and labour organizations joined ranks behind a unifying class project”. In reality, however, trade unions have never been monolithic entities in terms of political goals and ideological orientations. The solidarity-sectionalism dialectic suggests that the labour movement is neither intrinsically and irretrievably divided nor inherently and inevitably unified.

The strategies and tactics of unions reflect the complex interaction between the two ‘faces’ of trade unionism (Flanders 1968). The “vested interest” face is characterised by a narrow, defensive preoccupation with the economic concerns of organised employees in the workplace; whereas the “sword of justice” face involves a broader, socio-political role normally pursued nationally to influence the government and public opinion on behalf of most if not all workers. Unions have historically demonstrated exclusive tendencies just as often as inclusive ones. Given the fact that many of the grievances workers have are local in origin and character, ‘sectionalism’ may be seen as “a normal and pervasive feature of trade unionism” (Kelly 1988:146). Trade union representativeness concerns the balance between unity and division in the labour movement - i.e. the inter- and intra-union dynamics of solidarity and sectionalism (Hyman 1994c:11). Trade union solidarity has always been a contingent, contradictory and socially constructed phenomenon built on local foundations: “there are no short-cuts to the identification and (re)definition of interests in a solidaristic manner; it is always necessary to campaign and struggle for (relative) unity among workers and their organisations” (Hyman 1992:166). By representing a particular category of workers and, by extension, excluding others, each union gives institutional expression to a particular set of common interests and excludes others (Heery and Kelly 1995:163). In compartmentalising workers, as Hyman (2001:170) argues, trade unions also compartmentalise solidarity.

The negotiation of order in the workplace rests as much on the relations between organisations, occupations and industries as those within them (Fox and Flanders 1969:164-5). This raises an issue muted in much of the industrial relations literature: the distribution of rewards and privileges *within* classes. The multiplicity of interest groups in the labour market will inevitably be neglected if attention is focused solely on the ‘vertical’ relations in the workplace between

capital and labour. The regulatory systems governing employment relationships have never determined only the distribution of rewards and privileges as between capital and labour. The distribution of power and resources necessarily impacts on the comparative fortunes of different groups of employees. Since employees are not a homogenous category, we cannot ignore the jostling for advantage that takes place between groups of workers. Advantages secured by powerful groups may be at the absolute or relative expense of weaker groups. The latter are therefore “in a sense victims of the successful collective organization of other (more powerful) groups of workers, their own organizational weakness being both cause and consequence of their marginal position in the labor market” (Peck 1996:68). Crouch also argues that “if unions primarily represent the secure work force, their co-operation in restructuring may be bought precisely by requiring insecure groups to bear the brunt of adjustment” (cited in Richards 2001:24). The contradictory effects of such exclusionary practices can be seen in the fact that they entail both costs (divides and weakens the workforce) and rewards (lessens the impact of the reserve army and market forces) for organised labour.

Association in trade unions for the purpose of collective representation of interests reflects an attempt by wage labourers to overcome the power imbalances they experience as individuals in the workplace. “Although trade unions can thus assume a certain protective function vis-à-vis their membership, their influence on industrial relations and the capitalist system in general is all too frequently overestimated” (Schienstock 1981:182). Despite the much vaunted power of the unions, the salience of sectoral and occupational variations in employment conditions suggests the overriding influence of market forces. The organisation of workers in trade unions cannot fully overrule the law that the market price of a commodity reflects the relation between supply and demand. The material and ideological dominance deriving from the ownership and control of capital is such, Fox (1974:276) argues, that unions normally challenge the “real roots of ownership, inequality, hierarchy, and privilege” only at the margins. To be sure, negotiations with employees and trade unions are generally confined to the outcomes of managerial decisions. The fact that trade unionism has generally proved incapable of having a decisive influence on the power relationships governing the labour market and labour process must also be linked to the role of the state in institutional formation and mediation. It is only by restricting the wage demands of trade unions and containing their socio-political demands within the parameters of a capitalist economy that the state can succeed in its regulatory functions - i.e. maintaining the stability of the system. ‘Legitimate’ trade unions demands are limited to ones that can be accommodated within a ‘free market’ economy and the conflict over wage levels is prevented from escalating into a struggle for the abolition of the wage system itself.

There are two aspects to the power of a trade union that are dialectically related: internal and external strength (Fox and Flanders 1969:155). The first is expressed in the power of a union's internal membership sanctions, its power as an organisation over its members, and its means of securing compliance with its decisions. The second lies in the external sanctions it can bring to bear on employers and the state in negotiations or to compel them to observe agreements. These two systems of sanctions develop in conjunction: a union that is internally weak is usually also externally weak and unions cannot be deprived of their external strength without weakening them internally as well. Since external influence and internal democracy are often at odds, a challenge confronting the unions is how intra-organisational relations can be made to strengthen inter-organisational relations and vice versa. When union leaders are not strong enough to act effectively as the 'managers of discontent', then "an essential part of the mechanism of social control, on which [the state and employers] rely for order in industry, breaks down" (Fox and Flanders 1969:156). To extract concessions from external parties through a process of inter-organisational exchange, the leadership of a trade union must have sufficient control over its own intra-organisational processes. It needs to bring the divergent and potentially conflicting interests of its members under an acceptable, common banner and be able to mobilise its members to support the collective demands. That is, the credibility of unions as bargaining partners depends on the extent to which they can compel their members to comply with the provisions of collective agreements. As Hyman (1975:65) puts it, it is only through the power *over* its members that a trade union is able to exert power *for* them.

Richards (2001) argues that the 'crisis of representation' confronting the unions has two components: a crisis of *identity* stemming from changes in the internal composition of organised labour and a crisis of *solidarity* flowing from the difficulties faced by the unions in maintaining the unity of an increasingly disparate constituency and between unionised and non-unionised workers.³ The unions' loss of power and legitimacy, according to Catalano (1999:39), has been "a loss of the capacity to communicate and construct common worlds among workers, society and system". This is not, however, a 'crisis of trade unionism' but rather "a crisis of a specific, narrowly based type of trade unionism" (Hyman 1994b:113). In Africa, as elsewhere, there have been numerous calls for new forms of trade unionism that articulate a wider set of interests (Mihyo and Schiphorst 1995). Addressing the needs and interests of an increasingly heterogeneous workforce requires both more inclusive structures at the workplace and a more active role in policy issues beyond the workplace. As we noted in chapter 5, prevailing systems of labour

³ Similarly, Müller-Jentsch (1988:177-8) identifies three dimensions to the challenge confronting the labour movement: (a) a crisis of interest aggregation, (b) a crisis of workers' loyalty to the union, and (c) a crisis of union representation.

market regulation have a significant bearing on the types of 'flexibility' that employers may pursue. Consequently, the pursuit of 'flexible' labour market policies constrain the strategies and tactics of the labour movement that are rooted in established regulatory regimes. A militant and competitive type of 'job-control' unionism is particularly under threat from these developments. A study of the interaction between the labour market and the restructuring of employment at the level of the firm will reveal that non-standard forms of work often involve a shift from areas of relative union strength to areas of relative union weakness in terms of trade union influence and density. As a result, growing sections of the workforce fall outside the protections offered by union membership and collective bargaining. An increasing gap between the in-house versus the market price of labour available to perform especially low-skill services has led to a growing reliance on external sources of labour.

Working class fragmentation is not a new phenomenon. Although it may assume different forms, the perennial tension between unity and division within the union movement is rarely, if ever, resolved decisively in favour of an unremitting solidarity. Hyman (1992) outlines an inverted U-curve of unionisation that reflects variations in employment status and labour market position. Employees with professional qualifications or high levels of technical expertise may perceive little need for trade union support; while the growing number of workers in precarious forms of employment lack the resources and cohesion for collective organisation. Unions have historically been strongest among intermediate categories of employment such as semi-skilled manufacturing workers. The labour movement is thus flanked by two significant groups of non-unionised employees: the rising middle layers of skilled, white-collar and semi-professional workers and the increasing number of people in non-standard employment. The latter can potentially form a bridge between the marginalised and unemployed members of the working class and the relatively more privileged workers in permanent, full-time employment. Despite the many seemingly insurmountable obstacles, successful organisation among non-standard workers is of great political significance, especially in a country like Namibia with its inherited divisions and social exclusions.

6.2.1 Unity and Division in the Namibian Labour Movement

The unifying tendencies of colonialism and racial oppression among black workers in Namibia were obstructed by the divisive labour market policies of the state and employers in the pre-independence era. During this period, autonomous and militant trade unionism was actively suppressed by the colonial authorities. Employers were also openly hostile towards the trade unions, particularly those that supported SWAPO, and encouraged the proliferation of passive,

'non-political' workplace committees and staff associations. The Namibian labour movement is presently fragmented (largely along political lines) into about thirty different unions, with the National Union of Namibian Workers (NUNW) as the country's largest and most influential trade union federation.

Table 6.1 Trade Union Density by Industry and Gender: 2000

INDUSTRY / SECTOR	FEMALE (%)	MALE (%)	TOTAL (%)
Agriculture	2.8	12.2	8.0
Fishing	47.5	41.1	43.6
Mining and Quarrying	57.5	66.3	64.7
Manufacturing	13.3	31.0	22.1
Electricity, Gas and Water	56.0	45.8	47.0
Construction	13.3	24.2	23.7
Wholesale, Retail and Hospitality	25.3	38.8	31.0
Transport, Storage and Communication	22.4	46.8	43.2
Financial Services	34.0	33.8	33.9
Public Administration, Defence and Social Services	52.8	55.5	54.3
Other Community, Social and Personal Services	17.8	34.1	22.4

(Source: adapted from MoL 2002:59).

The NUNW-affiliates cover most of Namibia's major industries and account for almost 80% of all recognition agreements. In 1988, the total membership of the NUNW was estimated at between 50 000 and 60 000, accounting for more than a third of the black labour force legally eligible for participation in the industrial relations system (ILO 1989:81). Agricultural, domestic and casual labour constituted an estimated 350 000 workers largely beyond the reach of the trade unions and formal collective bargaining. While the rate of unionisation has increased to almost 36% after a decade of independence, there are significant variations in this regard (Table 6.1). For instance, trade union density is roughly twice as high in urban areas compared to rural areas and the rate of unionisation of men is about one-and-a-half times that of women. Most service sector, white-collar, agricultural and non-standard employees have also remained outside the structures of collective representation.

Building on its close ties to SWAPO, the NUNW consolidated its position as the leading trade union federation in Namibia and strengthened its relations with other federations across the

continent, notably the Congress of South African Trade Unions (COSATU). A 'living wage' campaign was launched by MUN and NAFU in the late-1980s demanding the elimination of 'starvation wages' and a 40-hour working week with no compulsory overtime. In June 1988, the fledgling trade union movement planned and carried out, at very short notice, a two day national stay-away in support of a schools boycott. Proceeding from the basic premise that workers are also parents, the unions joined the protest against the close proximity of military bases to schools in Ovamboland and the continued detention of student leaders. The period immediately before and after independence was characterised by militant and united action by the SWAPO-aligned unions not only in terms of grievances in the workplace, but also with regard to broader social and political demands.⁴ After the promulgation of the Labour Act in 1992, the NUNW-affiliates expanded both the scope and reach of their bargaining arrangements with most of the larger enterprises in Namibia. In contrast to these successes, however, the unions have failed to secure recognition agreements with employers in many of the smaller firms and to negotiate on behalf of the workers in the more vulnerable sectors of the labour market. This highlights the dual role of trade unions: in the processes of collective bargaining, they represent and further the interests of the insiders; in social and political matters, they campaign for the rights of all workers.

The patterns of income distribution produced by collective bargaining tend to reflect and therefore reinforce the divisions between the more and less powerful in the labour market. Again this leads to increasing polarisation: the concessions extracted from capital by the organised labour movement have "exacerbated the social distance between unionized industrial workers and those involved in informal and unregulated activities" (Lawson 1992:16). While collective bargaining has certainly improved the lot of organised workers in Namibia's manufacturing and mining sectors, these gains were made largely at the expense of other (especially non-standard) workers rather than profits. Hence, the increasing polarisation between insiders and outsiders reflects, in part, the extent to which the risks of increasing economic uncertainty are borne by the weakest sectors at the bottom end of the labour market. The insider-outsider theory rightly focuses on the exclusionary consequences and resulting social marginalisation that inevitably flow from the privileges granted to the insiders (Esping-Anderson and Regini 2000b:3). Namibia's integration into the global economy will therefore most likely involve the increasing dislocation and exclusion of the least skilled and most economically vulnerable workers from the formal economy.

⁴ A statement by SWAPO in 1988 confirmed its support for a democratic, independent (yet affiliated) trade union movement and noted that "the workers' struggle for economic betterment and that of the nation to achieve independence" were interwoven (cited in ILO 1989:89).

The prevailing organisational and strategic framework of the trade union movement inhibits its capacity to mount an effective campaign against the spread of precarious and poorly-regulated forms of employment. The labour movement in Namibia is still wrestling with the challenges of unifying multiple associations into majority unions for each industrial sector and building its organisational capacity, particularly at the branch and regional levels. The NUNW-affiliated unions also lack a strategic vision, having experienced something of a leadership crisis since independence when many of its most dynamic leaders were integrated into the SWAPO government. The historical allegiance to the SWAPO leadership has underscored the NUNW's influence in the country, but also rendered it vulnerable to pressures from the government to moderate its demands and to tow the party line. The resulting lack of independence and autonomy from the ruling party has constrained the strategic options available to the NUNW-affiliates. More than a decade after independence, the unions still find themselves struggling for recognition and the most basic employment conditions in many workplaces. The range of issues subject to negotiation in Namibia is relatively narrow and centred around wages and benefits. That is, issues with direct monetary implications for workers tend to dominate the bargaining agenda. While such distributional issues may be more prone to industrial action, a labour movement mindful of its capacity and eager to consolidate its organisational gains could easily succumb to pressure not to act against the 'national interest'. In other words, regulatory regimes differ not only in terms of substantive provisions in labour legislation, but also in the degree of centralisation of unions and employers, their organisational resources, and their relationship to the state.

Inter-union competition has also hampered efforts to expand the range and reach of collective regulation. The model of business unionism that prevails in the other major union federation - named, paradoxically, the Namibian People's Social Movement (NPSM) - serves its members as 'customers' in the image of the vested interest face of trade unionism. The aim of this federation is to enlarge its share of union membership at the expense of the less conciliatory or more militant affiliates of the NUNW. A campaign to win over both management and workers is fraught with dangers and unlikely to gain significant returns in a climate of economic hardship and a deep-seated lack of trust between employers and employees. As a regional organiser from NAFAU noted: "[i]f the workers think you are a polite person and you are just begging the employer, they will not support your union". The propensity of employers to develop preferential relationships with unions that they perceive to be more accommodating or less resistant to their change agendas has, however, led to some successes for the NPSM in certain sectors (e.g. retail). The strategic orientation of these rival unions have, in part, blunted the political focus of the NUNW-affiliates:

[t]hese other unions are bread-and-butter unions and are very weak of policy issues generally. When they are in the public domain, it is workplace-based issues like a strike. They are strong in some workplaces over collective bargaining issues and not political issues. Like when the question of privatisation came, it was only the NUNW-unions that made any statement and noise about it. The other unions do not really tackle such policy issues ... We are seeing this kind of more workplace-based, bread-and-butter unions emerging rather the social movement, political unions that we had up to independence and a bit beyond. The NUNW unions are already taking less of a policy debate forward than they used to. This is partly a result of having to compete with these other unions, but it also has to do with their own capacity (director, labour research institute - 26/06/2002).

The 'free-market' policies promoted by government and business has created a hostile environment for improving the legal and social protection of non-standard workers. The uneasy co-existence of the neo-liberal economic policies pursued by the state and the neo-corporatist elements in labour legislation leaves little room for oppositional and confrontational trade unionism: "[w]hile trade unions are crucial as organised representatives of the labour force, it is important to have and ensure harmonious labour relations" (MTI 1999b:64). The Namibian government's industrial and monetary policies seem more concerned with managing the economic crisis by creating an investor-friendly climate than with a commitment to extensive regulation and structural change. "The whole reform process is driven by the question: how do we deal with conflicts in a way that they do not shatter investor confidence?" (director, labour research institute - 04/07/2000). When challenged, employer decisions and managerial prerogatives are routinely upheld, and where employees do succeed the available remedies are generally inadequate. An inevitable consequence of this emphasis on attracting foreign investment is a redistribution of the costs of economic uncertainty and instability to the detriment of weaker sectors in the labour market. The resulting reproduction of a third-class workforce not only undermines the foundations of collective industrial relations and attenuates the legitimacy of labour law, it also imposes a number of constraints on the unions' ability to defend the interests of non-standard workers.

Virtually all NUNW-affiliates negotiate terms and conditions of employment on a decentralised basis, even in industries where they dominate in all companies. The highly decentralised nature of collective bargaining results in the unions spending the bulk of their time and meagre resources on a multitude of separate negotiations with predominantly small companies. The predominance of workplace industrial relations (and the corresponding lack of industry-wide regulation) also means that the broader processes of political exchange are heavily weighted against the unions. Crucially, decentralised bargaining tends to confine employees' perspectives and actions within the enterprise. Such confinement, in the context of adverse economic conditions, reinforces the dominance of 'bread-and-butter' issues on the collective bargaining agenda and encourages employers to redefine the firm as the point of reference for workers'

collective interests and loyalties.⁵ Key decisions about employment policies are usually taken at corporate rather than workplace level. Decentralised bargaining is therefore vital in limiting trade union influence on the content of these policies.

Weak central coordination and direction, combined with high levels of unemployment, compel workplace unions to adopt highly pragmatic positions in relation to employer demands for greater 'flexibility' and to accept considerable variation in employment conditions. The lack of effective national organisations for employers means that industrial relations policies are often reduced to the lowest common denominator. The highly decentralised nature of collective bargaining in Namibia also means that the distribution of economic rewards between profits and wages will largely reflect the balance of powers in the workplace. As such, employees in the larger and better organised workplaces are likely to secure the highest gains through negotiation and collective action. In the process, some measure of industrial peace is secured but at the cost of increasing polarisation within the labour market.

The impact of apartheid on the processes of collective bargaining in Namibia is most starkly revealed in the (almost) racially-exclusive bargaining units. Decades of legislated racial discrimination have produced a strong correlation between race and skill. Indeed, one of the greatest challenges facing the NUNW is to expand its bargaining units beyond the labour movement's historical support-base. This will require, above all, the incorporation of the more skilled (usually white) sectors of the working class within its sphere of interest representation. Racial divisions are, however, being prolonged by managers who refuse to adopt a majoritarian approach and encourages the proliferation of many, small unions. This is clearly in conflict with the spirit of the Labour Act which is committed to majoritarianism and even provides for exclusive bargaining agents. Adversarialism and distrust remain the hallmarks of industrial relations as managers appear reluctant to surrender unilateral control of the workplace, and continue to impose their narrow conceptions of the role and functions of a trade union:

the unions started digging into things in a manner which shows that they now wanted to participate in bargaining over management philosophy, management structures. I think it is completely wrong, it destroys the whole employer-employee relationship ... Only matters which directly affect the future of the employee - for example, pension funds and the health and safety of the workers - should be negotiated. That is all ... The unions are led by opportunistic people who are unduly coloured by ideological factors. There is not

⁵ The only instance of centralised bargaining - in the construction industry - was driven more by labour market and product market pressures than by a commitment to equity and co-determination by management. Industry-wide negotiations are primarily a mechanism for removing labour costs from the competition between construction firms. The limited scope of the negotiations, the generalised character of the collective agreements that are reached, and a failure by the state to promulgate these agreements have all tended to undermine the efficacy of more centralised forms of employee interest representation.

enough recognition of the common interests. There should be a stronger inclination to see that the interests of employer and employee are the same ... The shop steward must have a better understanding of what management is all about. He should present his case in such a way that he improves management's performance. Instead of challenging management, he is a part of management (president, Namibian Employers' Federation - 08/07/2000).

A considerable number of employers still refuses to recognise and negotiate with a trade union. As a human resource manager in the construction industry put it: "trade unions are like dogs - they bite the hand that feeds them!" (05/11/1998). The voluntarist nature of Namibia's post-independence labour dispensation means that there is little compelling employers to negotiate with workers. It has also left the negative perceptions of trade unionism unchallenged and reinforced the commitment to a *laissez-faire* philosophy among employers:

[t]he unions are not doing a good job at the moment, all they want is to take the employees' money to pay themselves. They have done absolutely nothing for our employees. We never see them ... The Ministry of Labour is most probably, at this stage, more of a voice for the workers than the unions are. In my eyes, that is wrong. The state should be neutral, it should not get involved in industrial relations matters. The state should just set up the framework and let business take care of itself (general manager, pasta and biscuit manufacturer - 17/07/2000).

Before considering the strategies developed by trade unions to overcome the crisis in representation in detail, we need to outline some of the benefits and limits to casualisation and outsourcing. If they are to succeed, these strategies must be informed by an understanding of the factors that reinforce employers' reliance on non-standard employment as well as those that undermine it. The most common trade union approaches "try to regulate atypical employment selectively in its individual forms, rather than to treat it globally in a systematic way ... [by] addressing its underlying causes" (Córdova 1986:656). To this end, the unions need to address the conditions that encourage employers to resort to casualisation and outsourcing, bolster those that limit the use of such strategies of labour utilisation, and minimise the benefits to employers that stem from employing non-standard workers. For instance, trade union strategies that prioritise job and employment security could potentially undermine the expansion of precarious forms of non-standard employment and limit cost-based forms of competition. From the perspective of the employer, as we shall see below, casualisation and outsourcing contain both an expansive and a limiting dynamic.

6.3 THE BENEFITS OF CASUALISATION AND OUTSOURCING: A VIRTUOUS CIRCLE?

'Flexibility' and competitive advantage are often mooted as the prime causal explanations of casualisation and outsourcing. These analyses carry a distinct danger of lapsing into a strong

functionalism as non-standard employment is simply reduced to the needs of capital (Holmes 1986:88). The main advantages that management may derive from non-standard employment exist in four broad sets of conditions: technological, product markets, labour supply conditions, and control over the labour process. The reinforcing advantages behind the use of non-standard labour by a specific industry are contingent, but generally include an amalgam of factors. There is a tendency to underplay the interdependence of the considerations that encourage a reliance on outsourcing. Harrison and Kelley (1993:228) show that the “rationales that managers offer to explain [subcontracting] are less distinct from one another than had previously been thought”. Prevailing conditions in the workplace - including management practices and product market pressures - shape the nature and extent of the benefits that employers may derive from the use of non-standard employees. Different forms of non-standard employment may also yield different benefits for employers. Furthermore, non-standard labour can be employed either as a means to avoid drastic changes in the existing workload and composition of the labour force, or as an instrument to create new methods for organising and controlling the production process. Temporary and part-time labour is both (a) *replacement* labour, employed in jobs previously carried out by permanent employees; and (b) *additional* labour, responsible for an increase in the labour force.

The use of non-standard employment contracts must be linked to existing strategies for the efficient procurement of labour. Determining the relative advantages of internal versus external solutions to the dilemmas of profitability and labour control raises problems of contingency and particularity. That is, the choice between contracting work out or performing it in-house is contingent on (among others) the specific configuration of costs and rewards for particular enterprises and jobs. While changes in the labour market may create gaps in the regulatory system, the mere existence of these gaps does not determine whether or how they will be exploited. This will depend on employers' cost-benefit calculations and choices, which in turn will be shaped by the specific advantages and disadvantages of non-standard employment in relation to the alternative options that are available. Decisions about employment contracts and staffing arrangements tend to rest on a weighting of the costs and benefits associated with (often stereotypical) views of different non-standard employment relationships (NERs) in the context of immediate organisational requirements (Legge 1995:170). The benefits of flexibility, increased control and cost reductions will, however, only be realised if non-standard employees are adequately managed. Employers must maintain “adequate controls on their numbers and length of time on the job, and they must provide work assignments that are appropriate for the workers' skills and their expected tenure” (Nollen and Axel 1998:128).

Since employers have several reasons for outsourcing, the use of subcontracted and agency workers often affords them multiple benefits: labour costs can be kept lower and more variable; the risks and burdens of rapid adjustment to fluctuations in demand are transferred to the workers; the costs of recruitment are eliminated by a labour supply with varying skills available at very short notice; the responsibility for uniforms, safety equipment and so on can be placed on the shoulders of the temporary employment agency and its employees; the application of statutory regulations are more narrowly circumscribed; a reduction in the coverage of collective bargaining for whole occupational categories such as cleaners and security guards; areas of competitive advantage can be isolated and shielded from fluctuations in the market; a need to reorganise internal staffing practices can be delayed or obviated; functions that are often difficult to manage can be externalised; the costs associated with training, health and safety standards, retrenchment packages and supervision can be reduced; and internal procedures to administer discipline and grievances can be dispensed with by virtue of the lack of a direct relationship between the client-firm and the subcontracted worker. Hence, in addition to a reduction in labour costs, outsourcing allows for the externalisation of the labour adjustment process. What is specific to subcontracted labourers is that “they constitute an external solution to the problems of organisation and internal management and are used because the firm cannot, or will not, resolve them with internal resources” (Michon 1981:87). The long-term employment of some subcontracted workers, with little or no comparative cost advantages, suggest that they are used mainly to avoid the risks and responsibilities associated with permanent employment. Former employees are commonly drawn into subcontracting arrangements since they already possess the necessary competencies and are familiar with the practices of the firm. The subcontracting of labour also delegates the responsibility for controlling unit labour costs to an employment agency or subcontractor and provides the opportunity to undermine worker organisation within the firm. As the HR manager of a fish processing factory noted:

[I]labour-hire workers are not our employees. We agree on a rate with the labour-hire company, who is their employer, and it is not our concern what they pay their workers (13/11/1998).

Subcontracted and agency workers (especially the less skilled) have little traditional standards for levels of work-effort and it is instituted almost unilaterally by management. Subject only to the approval of the labour broker, employers can specify the work to be carried out and the time allotted for its completion, thereby subverting any existing effort-norms. As we noted in the previous chapter, the client-firm exercises considerable control over how and when work is performed. By tying subcontracted and agency labour to fixed amounts of effort for a fixed monetary sum, employers themselves ensure that it is more efficient to hire these workers than to employ permanent employees. Management of the client-firm has the economic power to

impose strict contractual and punitive controls over the performance of labour brokers, allowing the firm to subcontract work out of highly unionised areas and away from the pressures of traditional effort norms. Multiple sources of labour supply and stringent contractual arrangements with labour brokers and subcontractors can therefore act as an effective buffer against a crisis in profitability. Moreover, insofar as it supplants collective regulation, the spread of non-standard employment has greatly increased employers' freedom over the disposition of labour in the workplace. Strong trade union organisation creates "a differentiated wage structure and [establishes] property rights in jobs ... [that tend to] reduce flexibility in the use of labour", which employers seek to evade by resorting to the subcontract system (Rubery and Wilkinson 1981:123). Under these circumstances, the hiring and firing of employees is no longer an industrial relations issue: it is simply a matter of extending or revoking a service contract in accordance with prevailing labour demand. In terms of both recruitment and training, labour subcontracting makes for very brief replacement times for most types of labour. It is therefore a means of increasing management's control over all the workers and reducing its dependence on any specific category of labour.

The benefits that employers derive from the use of part-time employees include a combination of the following: a spreading of regulatory and financial risks; a reduction in personnel administration costs and management responsibility; increased control over the labour process; the elimination of conflict over working unsocial hours; the evasion of certain statutory obligations; a greater disposability of employees; a buffer against cyclical downturns for permanent employees; a source of labour which can be readily deployed in jobs that lack promotion opportunities; the elimination of employment benefits and a reduction in the costs of training, promotion and annually negotiated wage increases; and the elasticity of employment is retained without recourse to hire-and-fire practices in a context where legislation and collective agreements are aimed at stabilising employment relationships. Part-time employees can be used in a range of jobs that require little skill due to the general absence of job descriptions. Their compensation is also separated from the factors that shape the wages and conditions of permanent employees. Clearly, some benefits involve cost considerations while others do not. The latter function more as a regulatory 'fix' to overcome difficulties associated with the requirements of statutory and collective regulations and the demands of HR management. Nevertheless, all of these potential benefits to companies

have a common underlying cost component - management time - which translates into administration, supervision, and training. Where these can be reduced, the organization is likely to gain an advantage (Nollen and Axel 1998:132).

Harvey (1999:24) shows that standard and non-standard forms of employment "are linked to

different economies of time through the way that they articulate relationships between the *product* of labour, the *utilization* of labour, *money* and *time*". Unlike non-standard workers, employees in standard employment contracts are paid for the duration of the employment relationship (employment time), rather than only for the duration of the actual performance of labour (working time). The wages for standard employees, in contrast to their non-standard counterparts, are paid for working as well as non-working. That is, the exchange between the purchasers and sellers of non-standard labour is for working time alone rather than employment time, which entails both working and non-working time. Since paid non-working time is eliminated with non-standard employment, per hour work can be equated with per hour of employment. These employees receive no payment for lunch breaks, holidays, sick leave, retirement or interruptions and delays.⁶ To be sure, this is not an explanation of the differences in the price of labour, but differences in the pricing mechanisms of labour. As Harvey (1999:33) puts it: "[d]ifferent pricing mechanisms purchase different temporalities of labour". By linking payment to the successful completion of designated tasks, a service contract places the risks of diligent work, unplanned obstacles, the unavailability of work or an unforeseen increase in the workload on the employment agency and its workers. The latter bear the brunt of these burdens. Systems of labour subcontracting shift "the costs of inactivity from the contractor to the employee but, to be effective, it is necessary that subcontract labour be readily available either because the whole industry is organized in this way or because there is a captive labour force available" (Rubery *et al* 1984:109).

Evidence of higher levels of outsourcing in firms with a volatile output demand suggests that subcontractors play a buffering role.⁷ This role as a 'buffer' has reinforcing advantages for both management and the permanent labour force. Managers can evade the costs associated with regular employment and full-time workers are spared the risks of unstable employment. The employment of low-skill, vulnerable temporary workers constitutes an effective means by which managers can "fundamentally tip the balance of power in their favour, producing a relatively cowed and docile workforce" (Gallie *et al* 1998:12). Outsourcing functions such as cleaning and security also represents an extension of the social division of labour and further divides the workforce. Labour subcontracting agreements perpetuate the differentiation of the workforce by being continually changed, thereby making the conflict between new and established workers a permanent feature of shopfloor politics. Moreover, by continually changing labour brokers,

⁶ Health and pension plans, in particular, form a considerable part of the costs associated with the regular workforce.

⁷ Where temporary and permanent workers carry out different tasks, however, this buffering role is more apparent than real (Hunter *et al* 1993:399; Drago 1998:167).

management creates competition between them and in so doing ensures that 'competitive' wages are maintained. As the manager of a temporary employment agency noted:

[e]very company in this business goes through a high point and then a dip. It is like a cycle. At one moment, you will see that some firms find favour with the big corporates and the parastatals. Then they rotate them. As soon as they get fed up with one person, they go to the next one, and so on. They try everybody and then the whole cycle starts again (11/07/2002).

Non-standard employment, with a few notable exceptions, is cheaper and more precarious because it is usually unorganised labour. Research shows that the use of temporary and part-time labour allows employers to reap all the benefits associated with lower levels of trade union organisation (Fevre 1991; Anderson *et al* 1994; Burgess and Strachan 1999; Kenny and Webster 1999). In contrast to their more skilled counterparts, less skilled non-standard workers have no recourse to "collectively established routines for regulating output" (Gottfried 1994:116). High levels of unemployment, widespread poverty and the absence of social security increase the vulnerability of unskilled non-standard employees even further. It is on this basis that these workers are subjected to the harshest working conditions, the lowest pay and the most coercive forms of managerial control. In the words of a part-time employee:

[p]ermanent workers have their rights and if their rights are taken away, then the unions will fight for their rights to be recognised. As a casual worker, if you don't even have the right to say something, how will you claim your rights? If you don't have a union, how will you fight? (07/07/2000).

The consent of full-time, permanent employees to the priorities of the firm is secured in part by retaining the more desirable jobs in-house, while 'outsiders' are employed on a temporary or part-time basis in the least-desirable and/or worst-paid jobs. This results in an increase in the vertical differentiation of the job structure and strengthens the tendency towards "a bipolarisation of the workforce" (Sengenberger 1981:246). Standard and non-standard employment contracts vary in terms of the extent of the firm's commitment to different workers and provide for differential access to the gains of collective bargaining. The dispensability of casual and temporary employees alleviates the effects of fluctuating and unfavourable market conditions on standard employees, thereby partly undermining the potential for militancy among the latter. The so-called 'core' workers are thus given a stake, albeit a contradictory one, in the reproduction of NERs. For employers, it is easier to treat casual and temporary labourers as individuals, whereas permanent workers have historically established their relationship with management collectively through struggle and accommodation.

Temporary employment agencies alleviate the problems and costs management may face if it had to incorporate, allocate and control temporary labour unaided by external agencies. The structure and policies of management in an industry where less skilled, subcontracted labour is employed,

need not incorporate sufficient measures of direction and supervision to enforce the direct and coercive forms of control prevailing over these workers. Such a management system may come under stress if it also had to incorporate the sanctions and apparatuses associated with these forms of control. Time as well as resources can be concentrated on the hegemonic structures absorbing and directing permanent, full-time employees. Securing the consent of standard employees is of utmost importance since their wages are largely independent of the individual's expenditure of effort. The use of non-standard labour makes upward mobility possible for a key group of workers and bypasses the fact that some employers lack the financial incentives and organisational capacity to incorporate the whole workforce into bureaucratic arrangements. Outsourcing can therefore counteract the tendency for large, capital-intensive firms to develop a bloated bureaucracy.

Part-time and temporary labourers have also been used effectively as a less disruptive alternative to installing costly, new machinery for the production of components with small volume and/or in jobs with uneven and fluctuating patterns of labour demand or of limited duration. The labour broker or subcontractor constitutes an agency of effort stabilisation and task allocation, often to integrate the various stages of production (Lawson 1992). For instance, the use of non-standard workers is commonly linked to an increased demand for labour in the less mechanised sections of production. The early stages of production are "generally subcontracted to other firms whilst the latter stages are more likely to be put out to particular labour groups, such as immigrants or married woman, who may be organized into gangs or subcontract individually" (Rubery *et al* 1984:109). The division between standard and non-standard workers therefore provides management with a degree of flexibility not possible in the context of a less differentiated labour force.

The tacit skills and on-the-job experience acquired by temporary and part-time workers are very rarely rewarded with wage increases and promotion. Their only hope of career prospects lies in the off-chance that a member of management might recommend them for permanent employment. These workers can thus act as a supplement to the internal labour market from which management could recruit labour. The 'poaching of temps' is a further advantage that employers derives from the use of subcontracted and agency workers. Where a company is interested in expanding or replacing certain categories of its labour force, there seems to be a trend emerging whereby non-standard labour is used both on a trial-and-error basis for new projects and as a recruiting ground for the 'right type' of worker. According to the store manager of a large retail outlet,

[s]ome of the casuals do not feel that they are a part of [the company] and they will not walk the extra mile for you. However, many of them realise that once a permanent post becomes available, we will only appoint those who we know are the best workers. I am always telling them: 'don't be lazy, work hard, and you may get a permanent post in the future' ... Of course, you can't say the same thing to permanent workers, but they know that we can replace them with casuals if they don't work hard (06/07/2002).

Even where non-standard employees cost more than standard employees, the former may satisfy other requirements of a firm. The additional costs associated with (especially skilled) non-standard employment is preferable to redundancies, overtime, missing deadlines or losing business during peak times, or paying for idle permanent workers during slack times. The use of labour brokers as an intermediary mechanism to link the internal and external labour market addresses the twin problems of guaranteeing the supply of labour and exerting control over labour in production. That is, labour subcontracting involves both "the mediation of a relationship between two discrete units of capital and the regulation of a capital-labour relationship" (MacKenzie 2000:710). The temporary agency employee is legally bound to the employment agency, but socially and economically he/she is tied to the client-firm. This intermediary role of the temporary employment agency or labour broker has the effect of rendering indirect, temporary employment more precarious and dependent than direct, permanent employment in at least five ways:

first, the objective of subordinating labour utilisation to short-term fluctuations in demand means that margins are tight, employment is at least *potentially* unstable and there is minimal tolerance of 'suboptimal' job performance; second, because agencies make it their business to engineer an excess labour supply, temp workers experience the threat of substitution as a daily reality of employment; third, the fact that the wages and benefit packages of temp workers are invariably less generous than those of 'regular' employees means that there is an increased likelihood that changes in temps' personal circumstances ... will precipitate involuntary exit from employment; fourth, the truncated career ladders of temps restrict occupational mobility and expose workers to greater competition from internal (client) and external labour markets; and fifth, the subordinate position of temp workers in corporate hierarchies (individually and functionally) renders them particularly vulnerable to labour market risks such as downsizing, pay cuts, or redundancy (Peck and Theodore 1998:670).

Employers therefore derive a multitude of benefits and advantages from the availability of a reservoir of cheap, temporary labourers who can be hired and fired in accordance with the dictates of demand and the seasonal or cyclical fluctuations in production. Less commonly countenanced, though no less real, are the costs and limits of a supposedly more 'flexible' workforce. Many of the benefits of non-standard employment that accrue to employers are invariably achieved to the detriment of temporary and part-time workers. Although temporary employment agencies structure their operations to maximise flexibility and minimise costs, "the *source* of these competitive advantages continues to lie with their floating and generally under-employed labour force" (Peck and Theodore 1998:672). While the advantages outlined above account for much of the growth in non-standard employment, there are also numerous and

interlocking disadvantages to such forms of labour utilisation that limit their expansion.

6.4 THE LIMITS TO CASUALISATION AND OUTSOURCING: A VICIOUS CIRCLE?

An expansion in non-standard employment feeds off rising unemployment, mobilises new sources of labour supply, increases profits and managerial control, and lessens the impact of declining demand. In the long-term, however, an increasing reliance on non-standard labour can become a serious obstacle to economic recovery and may inhibit the introduction of more productive technologies and innovative work practices (Tailby and Whitston 1989:13). Widespread unemployment and overabundant supplies of low cost labour may encourage the revival of older, more labour-intensive techniques and more coercive forms of labour utilisation. The use of non-standard employment contracts also incurs its own penalties in the form of some loss of control, potential conflicts between temporary and permanent employees, and problems in maintaining quality and co-ordination.⁸ The capacity of employers to effectively deploy a non-standard workforce as a bulwark against the growing uncertainty and instability in product markets must be conceptualised in the context of these constraints. Despite the possible advantages that managers may derive from a 'core-periphery' employment structure, its continued reproduction will invariably generate various regulatory dilemmas and obstacles to increased efficiency. 'Flexible' labour markets are particularly vulnerable to crises of labour control and reproduction, and hence vitally dependent on appropriate systems of labour regulation. As Peck (1996:142) argues,

[t]he nature of labor market flexibility is a product of the local social and regulatory milieu in which it is embedded. The contradictions of flexible labor markets pose a host of regulatory dilemmas, medium-term solutions for which must be found or happened upon if growth is to be sustained.

While the rapid rise in non-standard labour's share of total employment may suggest a largely unconstrained capacity to casualise or outsource work, there are distinct limitations to the extent that employers and the state are able or willing to pursue the goals of labour market 'flexibility'. The proponents of such 'flexibility' tend to overlook the tensions between the consolidation of a 'core' and the expansion of a 'peripheral' workforce (Pollert 1991b). The demands of functional flexibility (such as greater job security) are often in direct conflict with the requirements of numerical flexibility. Many managers are aware that the maintenance of internal

⁸ See: Bresnen *et al* (1985); Dawson and Webb (1989); Pollert (1991b); Geary (1992); Sayer and Walker (1992); Hunter *et al* (1993); Valverde *et al* (1997); Allen (2000); Heery and Salmon (2000b); and McKeown (2003).

adaptability depends on a satisfactory degree of employment security. The management goals of employment flexibility, quality and commitment may conflict and trade-offs between them are therefore likely (Geary 1992:267-8; Hunter *et al* 1993:398). That is, these goals involve a “difficult balancing act to pursue high quality service standards while simultaneously deploying non-standard labour as a cost minimisation measure” (Allan 2000:198). Since new technologies and the high quality standards now aimed for require a loyal and cooperative labour force, most employers would hesitate to go too far down the road towards a ‘flexible’ workforce. An essential precondition for business strategies that emphasise quality improvement and innovation is a stable, secure and trained workforce. Wage policies designed to exploit conditions in the external labour market, as Grimshaw *et al* (2001:51) point out, may “compromise internal consistency and fuel internal rigidities”.

Labour market institutions and policies play a central role in moderating the tendency for firms to adjust to competition by attacking labour costs. For example, competitive strategies based on crude reductions in labour costs of especially the less skilled are highly vulnerable to minimum wage legislation. In general, the limits to casualisation are found in: (a) the availability of suitable firms and groups of workers; (b) opposition from the unions and other organs of civil society; (c) the attempts of employers’ associations to restrict ‘unfair’ competition; and (d) pressures on the state to limit the extent of poorly regulated and precarious forms of employment.

Outsourcing, as we argued above, does not entail a simple shift to market forces or the absence of institutional mechanisms. However, the utilisation of labour from beyond the boundaries of the firm has “supplanted the direct employment relationship, thus precluding access to the associated mechanisms of regulation” (MacKenzie 2000:723). This has given rise to a whole host of regulatory dilemmas and the introduction of measures to cope with the effects of a reliance on less regulated supplies of labour, which are themselves beset with contradictions. Outsourcing has therefore created a number of intractable problems associated with ensuring the productivity and stability of a labour supply (of the requisite quality) in the absence of direct control over an agency or subcontracted workforce. Moreover, the ‘cash nexus’ between the temporary worker and the employment agency may snap simply because it is only a monetary incentive and leaves nothing else to bind the worker to an acceptance of his/her situation. Research shows that “the inherent uncertainty associated with the operation of a flexible labour market has proved unacceptable, due to the potentially detrimental effect on operational capabilities” (MacKenzie 2000:717). The client-firm is often compelled to fill the regulatory gaps in the employment relationship - left by the dismantling of the structures of the internal labour market - in an attempt to guarantee the supply of labour and the reproduction of skills. Crucially, the alternative

mechanisms of regulation that were developed

were beyond the influence of collectively bargaining structures and procedures, and therefore subject to unilateral management sovereignty ... [T]hrough the development of these alternative mechanisms, the firm essentially had sought to address the problems experienced in association with the processes of deregulation, by appropriating the role of regulation wrested from, or surrendered by, traditional instruments and agents associated with direct employment ... [T]he experience of deregulation was not the panacea it had been expected to be, and consequently provided the imperative for the partial reregulation of the capital-labour relationship (MacKenzie 2000:723).

Cost savings, as we noted above, are not always the primary motivation for using agency temporaries. In fact, some employers noted that they could obtain cheaper labour by directly employing casual workers rather than relying on temporary employment agencies. The HR manager of a fish processing firm questioned the wisdom of becoming too reliant on the services of employment agencies over the longer term. He warned against creating a dependency on temporary employment agencies: "if you use labour-hire workers, the work should be put out to tender every year or second year, so that you don't completely come in the grip of [a single] labour-hire company" (16/11/1998). He also noted that, since his firm had no hold over the agency's workers, there were no benefits to enhancing their productivity through the provision of training. The amount of training required for effective work performance is, however, "a pivotal factor in determining the cost-effectiveness of contingent workers in any given situation" (Nollen and Axel 1998:132). There is thus a tension between the reliance on vulnerable sources of labour in the external labour market and the demands for a stable internal labour market. The same institutions that set constraints or impose burdens on employers may also provide them with resources and opportunities. Extensive job security, for instance, is not only a constraint on management's capacity for strategic action, but also a resource enabling managers to harness the commitment and malleability of labour.

The idea, which underlies some of the motivations for resorting to non-standard employment contracts, that the open-ended nature of an employment relationship can be closed by constructing detailed job descriptions is misleading. One reason why work tasks cannot be exhaustively defined by means of highly detailed job descriptions is that they involve a practical understanding of the ways of doing things, outputs that are not readily open to measurement, and the application of tacit knowledge (Marsden 1999). Moreover, with considerable variability of tasks between workplaces, their development over time, and the widespread importance of learning-by-doing, there is seldom if ever a fully standardised way of carrying out a particular set of tasks. The processes of 'making out' described by Burawoy (1979) presupposes a body of knowledge, possessed by workers and withheld from managers, that cannot be readily committed to a contract. An important part of designing work tasks lies in their adaptability to local

conditions, their capacity to prioritise, their evolution over time, and their capacity to respond to contingencies. In practice, initial job descriptions become increasingly irrelevant to the tasks actually undertaken (Marsden 1999:14). Actual work content differs, sometimes considerably, from the formal job descriptions. Managerial planning is also done on the basis of actual practices and not in terms of formal procedures.

A second reason is that, from a purely economic point of view, the benefits of a detailed description of the tasks constituting a job are often superficial and of short duration. Apart from being costly to devise, ever more precise job specifications can be self-defeating in the sense of encouraging a focus on the wording of the contract, leading to rigidity and conflict around interpretation (Marsden 1999:15). Great detail in task definition is also likely to be counter-productive under conditions of uncertainty and/or volatility as these bring a higher probability of unanticipated demands and unforeseen problems. Such variation is more easily accommodated by broad job definitions than narrow ones. Thirdly, work measurement has generally not been about precise measurement of work tasks, but rather about negotiation with work groups over rates of work and rates of pay (Marsden 1999:16). Since the employment relationship involves an exchange of labour services against pay, there is a strong quantitative dimension to any notions of equivalence among similarly classified jobs. In practice, management deals with the limited codifiability of job contents by employing agents who are themselves familiar with the tacit elements in jobs rather than relying on formal descriptions. This allows senior management to control line management and to attribute responsibility if something goes wrong.

Low-wages, low-trust and high levels of labour turn-over rule out the development of the cooperative relations and multi-skilling necessary for the high-quality production and adaptability that global competitiveness demands. Reducing the number of non-standard workers would require firms to achieve the desired numerical flexibility by other means. Alternative forms of flexibility, however, require a greater commitment to training, cooperation, and trust from permanent staff members than most Namibian employers are presently willing to countenance. Moreover, the excessive use of non-standard employees in response to external pressures may “violate the implicit contract [with standard employees] around employment stability and firm-specific training, and thus impede the long term capacity of the organisation to adapt to technical change” (Grimshaw *et al* 2001:51). Price-competitive employment practices tend to yield short-term benefits at the cost of long-term disadvantages. In the retail sector, for example, dissatisfaction, labour turn-over and absenteeism are relatively high among casual and part-time workers. They also have very few opportunities to move to full-time, permanent employment and are therefore unlikely to display the same dedication and attention to detail as standard

employees. While price-based competition has played a prominent role in the marketing and operating strategies of most retailers, few would opt to compete solely on the basis of price. Managers remain dependent on their employees to use their initiative when interacting with customers or dealing with unforeseen problems, and hence cannot afford to rigidly pursue a cost-based employment strategy which may generate low levels of motivation, reliability and commitment.

Research has found that labour market 'flexibility' is generally associated with an erosion of job security; a decline in the scope of employment protection rights and social security; an increase in the discipline exercised by the market; a rise in underemployment; a weakening of the collective institutions of labour; and a reduction in those covered by collective agreements (Barker and Christensen 1998; Felstead and Jewson 1999a; Heery and Salmon 2000a). The use of non-standard employment contracts has also been widely identified with a drastic deterioration in terms and conditions of employment for the workers involved. In general, workers and their representatives associate labour market 'flexibility' with insecurity and this constitutes the basis of employee and union opposition to non-standard employment. By concentrating non-standard workers in particular sections of production, managers also obstruct workplace-wide communication and undermine the development of trust and solidarity among employees. Organised, permanent workers may therefore react strongly to the use of temporary employment agencies and subcontractors because they are seen as the tools of management. In other words, outsourcing has increased insider-outsider problems by internalising such divisions within the workplace. A firm's treatment of non-standard workers may affect the trust, security and commitment of its standard workforce (Dickens 1988; Geary 1992). The presence of non-standard employees in a workplace signals employment and job insecurity for all employees. Hence, the availability of part-time and temporary employees may impact on the solidarity and assertiveness of the permanent workforce, and lead to tensions between the two groups of workers.

The job security of the permanent workers has also been threatened. If you are not performing, you will definitely be replaced by a cheaper, casual employee ... The employer is always telling the permanent workers: 'if I have trouble with you, I will retrench you and bring in more labour-hire workers on low wages' ... Casual labour is going to increase in the future and threaten more and more permanent jobs. Even the position of some managers is not safe - all the jobs are being threatened now (general secretary, NAFAU - 28/06/2002).

The workers see me, a black man, as part of management, and for as long as you are a manager, you are white. Because of the past, they have no reason to trust a white man ... The workers are suspicious and always think: 'what are they coming up with now?' That mistrust is always there because of the uncertainty that prevails in their minds due to retrenchment, outsourcing and fluctuating economic trends. People are nervous and quite uncertain twenty four hours a day. They don't know what tomorrow will bring for them (HR manager, meat processing - 04/07/2002).

The savings that accrue to a firm by virtue of the lower wages and benefits of non-standard workers must be balanced against the cost-effectiveness and productivity of these workers. Casual and temporary workers tend to be younger, less experienced and less motivated. Non-standard employees are unlikely to show high commitment if it is not reciprocated by the firm. Admittedly, commitment and cooperation is less important with less skilled non-standard workers in jobs that are transparent, structured and/or machine paced. At best, employers are often only able to secure a sullen obedience and a contrived cooperation from non-standard workers. If non-standard employment is seen as providing opportunities for gaining standard employment, however, these workers may expend greater effort and show a greater willingness to cooperate in an attempt to improve their chances of moving into the permanent workforce. A group HR manager in the retail sector provided the following illustrative example:

[o]ne of our competitors operates six stores in Windhoek with about 60 permanent staff, while we operate four stores with 260 permanent staff members. [This company] had a big strike and dismissed most of their staff, and since then they have moved towards getting more casual employees. Our position in this regard is quite simple: you do not get the commitment and loyalty that you would get from a permanent staff member. The guy is just there for a few days a week and he doesn't care much about their business. A further consequence for [this competitor] is that they don't have opportunities for these guys. When we have vacancies, we firstly give preference to our casual employees. So these guys have something that keeps them going on. They know that they have to prove themselves to be afforded the opportunity to be appointed permanently (01/07/2002).

There are numerous other, less tangible costs and disadvantages associated with the use of especially less skilled non-standard employees. Their exclusion from the internal labour market leads to insecurity and unreliability; a lack of loyalty, commitment, motivation and continuity; and a deterioration of quality standards and customer service (Blyton 1996; Anderson *et al* 1994; Gasteen and Sewell 1994; Allan 2000; McKeown 2003). An unwillingness to work 'beyond the contract' is almost inevitable when the short-term and long-term rewards for doing so are negligible:

[m]ost of the casual workers feel that the bosses are just there to exploit us. They just want us to work hard for very little money. Many of the casuals think: 'to hell with them, we are not going to work hard, we are just working at our pace' ... The casual workers are not treated like employees, they are just treated like slaves. The bosses can chase you away at any time and there is nothing you can do. So, you just do what they tell you and try not to make any mistakes (part-time worker - 06/07/2000).

As outsiders, temporary part-time or casual workers usually lack a detailed knowledge of company procedures and practices. Hence, they cannot be given complex tasks, are often more difficult to manage, and regularly need closer supervision than permanent staff. Under some dimensions of flexibility, therefore, non-standard employees are in fact less flexible than permanent employees. Hunter *et al* (1993) and Valverde *et al* (1997) show that non-standard employment generates rigidities and involves (often hidden) transaction costs associated with the

monitoring and enforcement of non-standard contracts that are not always fully appreciated when the initial decision to seek employment flexibility is made. Contracts are often too vague with ill-defined levels of service, and managers regularly underestimate the time and skills required to successfully manage outsourcing contracts and contain costs:

[o]utsourcing is one of the latest HR buzz-words. We have outsourced our catering, transport and security functions. But, I can tell you, it doesn't always work. We have had major problems with the contractors doing these jobs. Obviously, we have a contract with the transport contractors, the caterer and with the security company. They handle everything and if there is a problem with their services, they must immediately rectify it. But we have to monitor them continuously ... Outsourcing only makes sense if it is managed correctly, but this takes time and costs money (HR manager, beer and beverage manufacturer - 20/07/2000).

A lack of strategic planning and monitoring in the use of non-standard employees contributes to the rising costs and declining benefits of such employment. These problems of commitment, quality and performance have encouraged some firms to revert to more stable patterns of employment. As Nollen and Axel (1998:141-2) argue,

[j]oint employer relationships with a staffing company are determined by the amount of control an organization retains over its contingent workers. Practically speaking, almost all companies maintain some control over these workers since they typically provide the day-to-day supervision and determine the work to be done ... As a rule, the more a company chooses to control its contingent workers, the more likely it will be judged a joint employer with the staffing company and the more likely it will be considered liable when a violation of the law occurs ... In the end, employers may find that contingent staffing relationships present more complications, and thus less of an advantage to the organization, than they anticipated.

The problems and difficulties associated with casualisation and outsourcing are not, however, equally applicable to all forms of non-standard employment. They are often much more intense where there is a highly tenuous relationship between the worker and the firm as with casual workers or agency temporaries. The more durable relations with permanent part-time workers are less likely to lead to severe problems since they are often more firmly integrated into the firm's employment structures and practices. In other words, different types of non-standard employment serve different needs and raise different challenges. For instance, as Allan (2000:189) points out, temporary part-time employment and its inherent high turn-over rates entail higher administration costs in terms of record maintenance, payroll calculation, induction, supervision and recruitment.

All control strategies require some degree of integration of the workforce and hence the use of non-standard labour may not solve all management's 'problems' of control. Greater insecurity reinforces low-trust relations in the workplace, provides disincentives for employers to invest in training, and accentuates the trend towards cost reduction as the main route to competitive advantage. Where companies seek to minimise uncertainty and instability by reducing costs

rather than investing in new productive capacity or new products, they tend to perpetuate outdated techniques and promote work intensification. Furthermore, non-standard employment not only imposes costs on the individual, but also on the society as a whole. For example, an influx of the least skilled and least experienced workers in the most high-risk jobs invariably leads to increased accidents and maladies in the workplace (YCW 1999). Given the fact that they normally have no access to a medical plan, occupational injuries and diseases involving non-standard workers place an unnecessary burden on the public health system. The trade unions are increasingly highlighting the wider, social costs of casualisation and outsourcing such as a reduction in tax revenues, an overburdened social security system, and the limited impact of national skills development strategies. Several trade union respondents also indicated that some employers resort to non-standard employment contracts as a means to avoid the costs associated with permanent employees that have contracted HIV/AIDS.⁹ In the words of NATAU's general secretary:

[i]f you have permanent employees who suffer from HIV/AIDS, production will go down and the company will have to inject a lot of money into the medical-aid. It will not be the company's responsibility if they put labour-hire workers there and get rid of them when they get infected. They cannot just think about profits, they must also look at the well-being of the employees (12/07/2000).

Unstable and insecure employment may discourage non-standard workers from making long-term investments in pensions, housing and the education of their children (Rubery 1996:34; Valverde *et al* 1997:599). This will not only render these workers a future liability on state revenues, but also condemn the next generation to low-skill, low-wage and precarious forms of employment. While the use of part-time and temporary employees can reduce the pressures on employers by absorbing demands for additional labour, reducing costs, and so on; it also serves to limit the growth of stable and secure employment, and creates the scope for a process of competitive downgrading of regulatory standards. Through its potential to induce a 'race to the bottom' in terms of labour market standards, the casualisation of employment poses a dire threat to social prosperity, stability and cohesion. As the only consistent voice of the impoverished and marginalised sectors of society, an enormous responsibility rests on the labour movement to combat the deepening of divisions in the labour market associated with the proliferation of non-

⁹ The spread of HIV/AIDS imposes costs on employers by: (a) reducing labour productivity, either on account of extensive sick-leave or because employees have to take care of family members infected with the virus; (b) increasing the costs of labour and exacerbating skill shortages; (c) inducing a rise in training costs as terminally-ill employees are replaced; and (d) increasing employers' contributions to medical-aid schemes as the number of claims mounts. Moreover, HIV/AIDS will reduce the demand for consumption goods because more money will be spent on health-care and the number of consumers will decline. Finally, it is estimated that the pandemic could reduce Namibia's workforce by up to 35%, affecting mainly more skilled and experienced staff (MoL 1997; UNDP 1998; Schade 2000). A code for HIV/AIDS at the workplace, which serves as a guideline for employers, was adopted by the National Assembly in 1998.

standard employment.

6.5 TRADE UNION STRATEGIES AND THE NON-STANDARD WORKFORCE: INCORPORATION OR ISOLATION?

Together with labour law, trade unions are the principal mechanisms for regulating the unfettered exercise of employer power in both market and authority relations. Union-negotiated employment conditions act as a system of protection against the untrammelled operation of the market, supplementing the more partial protections offered by statutory regulation. The collective regulation of work rules operates like high wages to raise labour costs, giving unionised employers a stronger incentive to outsource than otherwise similar non-union employers. By counteracting the homogenisation effects of labour law and collective bargaining, the mobilisation of cheap and disposable labour through non-standard employment contracts allows employers much greater individualism in the employment relationship. Trade union intervention in employment restructuring in Namibia has, on the whole, been limited and largely ineffective. The failed attempts at establishing acceptable ratios of temporary-permanent employees, for example, highlight the fact that prevailing trade union strategies are ill-suited to coping with the proliferation of NERs. The role and character of a trade union movement are strongly influenced by the existing systems of labour regulation (Müller-Jentsch 1988; Whitley 1997; Waddington 1999). Consequently, trade union responses to employment flexibility are moulded and mediated by the regulatory structures of the labour market.¹⁰ Trade unions, as Ackers *et al* (1996:2-3) argue, “make and remake themselves in different historical settings in response to detailed changes in the character of the employment relationship”. Although it is rarely, if ever, possible to draw a precise and predictable correspondence between patterns of work and forms of union organisation; the nature and levels of collective control over terms and conditions of employment are not without influence on the type of trade unionism that is likely to prevail at a particular time and place. Even when trade union movements face similar imperatives for action, “their responses are shaped by their different starting points and can involve a dynamic which is path-dependent” (Hyman 2001:169).

Unions are, in principle, able to negotiate agreements that prevent or severely restrict the ability of employers to casualise or outsource work. In practice, however, the provisions of the agreements with organised employees tend to closely follow legislated minima and common practices in a sector. The substantive provisions of collective agreements constitute a floor of

¹⁰ For example, industrial relations scholars have long recognised that the centre of power in the labour movement is wherever collective bargaining takes place (Clegg 1979).

minimum labour standards and impose a standardisation that serves trade union interests in minimising competition between individual employees. These provisions are, however, largely couched in terms of permanent, full-time employment. Collective bargaining has historically been geared towards establishing minimum labour standards to support and protect workers in standard employment contracts:

[c]ollective bargaining is still largely concerned with wage and benefit issues. Reported disputes almost always centre around these issues. There have not been any negotiations, to my knowledge, around issues like outsourcing. Even training is secondary to wages and benefits (director, labour research institute - 04/07/2000).

Collective agreements often sanction differential treatment for full-time and part-time or temporary workers, to the detriment of the latter. Where they provide for non-standard employment, collective agreements typically also seek to limit its use (Campbell 1996). This can be achieved by specifying proportional limits or quotas (calculating non-standard employees as a proportion of the workforce or non-standard hours as a proportion of total workforce hours) or by establishing restrictions on how, when, under what circumstances, and for how long non-standard employees may be used. Some agreements also specify a 'casual loading' on the hourly rate of pay, intended as compensation for the lack of standard entitlements and as an additional barrier against the reliance by employers on non-standard workers at the expense of permanent workers. The public sector unions in Namibia have been uniquely successful in limiting the spread of non-standard employment, if not in the parastatals, certainly in the public service:

[t]here are very few casual workers in the public service ... We do not allow casual workers to work for more than two days a week. We also encourage the government not to give a bad example to the private sector. We negotiate until the casual workers are made permanent employees. We have to represent and negotiate on their behalf, even if they are not our members. They must not be isolated or treated differently. Any benefit that is given to a permanent worker must also apply to casual and labour-hire workers (general secretary, NAPWU - 12/07/2000).

The Namibian trade union movement concentrated most of its energy and resources on the organisation of (predominantly male and permanent) black unskilled and semi-skilled workers (Table 6.2). One unintended consequence of this organising strategy - despite its inherent logic and priority - was to cement the divisions between black and white, skilled and unskilled, and standard and non-standard workers.¹¹ The most common forms of interest representation among skilled workers and professionals, for instance, include staff associations, craft unions and professional bodies. In sharp contrast to the successes of the industrial unions in organising semi-

¹¹ At its second National Congress, the NUNW (1998:26) noted that "[m]ost of our recognition agreements confine us to bargaining within low categories", and resolved to launch a campaign "to seriously recruit across colour lines and workers in higher bands".

skilled employees in the manufacturing and mining sectors, union organisation in sectors (such as retail and construction) with a long-standing prevalence of non-standard labour has historically been inconsequential.

Table 6.2 Trade Union Density by Gender and Selected Occupation: 2000

OCCUPATION	FEMALE (%)	MALE (%)	TOTAL (%)
Professionals	62.3	63.3	62.8
Technicians and Associate Professionals	44.0	37.8	41.1
Clerical Workers	33.4	49.6	38.4
Services, Shops and Sales Workers	16.9	29.6	21.8
Skilled Agricultural and Fishery Workers	3.3	14.0	8.7
Craft and Trade Workers	11.4	29.6	24.8
Machine Operators and Assemblers	20.5	43.5	42.5
Elementary Occupations	19.3	23.0	21.1

(Source: adapted from MoL 2002:59).

It is precisely in the sectors where the need for collective regulation is the greatest that the unions have the least influence and where they experience the most difficulties in recruiting and retaining members. Jobs are fast disappearing in sectors (such as mining) with a history of high union density, while new jobs are created mainly in sectors (such as services) where the unions have traditionally been relatively weak. The limited impact of the unions in the retail sector, for example, only serves to reinforce the differential employment conditions for standard and non-standard employees:

I think the unions must make the casual workers their members. We casuals don't have any rights. The casuals must have their rights protected just like the permanent workers ... The unions just fight for the rights of the permanent workers and there is no-one that fights for the casual workers ... If we succeed with a casual worker union, then we can go to the bosses and tell them that casuals are also people like the permanent workers (part-time worker - 07/07/2000).

While collective bargaining has certainly improved the lot of organised workers in Namibia, it seems that these gains were made at the expense of other workers rather than profits. Moreover, as the view of non-standard employees as 'marginal' or 'peripheral' to the core activities of the enterprise takes hold, the social distance between these workers and full-time, organised employees is strengthened. Part of the problem facing the unions in recruiting and retaining non-standard workers as members, resides in the fact that they have often reinforced this division by

pursuing a strategy of exclusion as a means of protecting the interests of permanent workers.

The unions only care about the permanent workers. Sometimes they do not allow labour-hire workers to be their members because they know that if they have to recruit such a worker, maybe this month he is working, the next month he is not working. Then the union is losing fees because they are depending on the fees of their membership ... The union is a body for helping workers and they mustn't see everything [in terms of] money. They also have to see the situation of the workers (temporary agency employee - 19/10/1998).

In the absence of a broader strategy to stop the process of casualisation as a whole, the unions very often fall back onto a strategy of enforcing job descriptions. The dilemma then arises that the unions only concentrate on the workers who are their members and make very little inroads in recruiting casual workers. The very low union membership among those who come through labour hire or directly as casual workers leads to this defensive position (director, labour research institute - 26/06/2002).

An important reason for this strategic orientation by the Namibian trade unions stems from the dilemma posed by the high expectations of their *existing* membership and their limited organisational and financial capacity. The structures of collective regulation, as we noted above, also constrain the ability of the unions to respond in a systematic and coherent manner to the plight of non-standard employees. In addition, the regular use of casual and temporary workers as strike-breakers has significantly reinforced trade union opposition to non-standard employment.

The unions are trying to keep us out of a strike situation because they can't put pressure on the client by saying: 'we are going to strike and you will not produce' ... I think it is right that companies should hire casuals during a strike. If you are my client and you phone me to say that your workers are striking, I will send workers because the country's economy suffers if you cannot produce. That is part of why we have so many clients. If [a client] has problems with his workers, then I am there to send people to him ... My people won't have problems with that, it is work for them (manager, temporary employment agency - 05/07/2000).

An on-going problem is the question of scab labour during strikes. If your membership is largely semi-skilled, it is fairly easy for companies to break strikes all the time. We have seen relatively modest wage increases as a result. The strike weapon wasn't all that successful in terms of forcing employers to give substantial increases (director, labour research institute - 26/06/2002).

Evidence of a deep-seated reluctance to organise non-standard workers is not hard to find. Unions on occasion also appear to share employers' conceptions of such workers as 'disposable' in an attempt to protect the jobs and conditions of their members. Despite some variation in the approaches adopted by individual unions to the difficulties posed by the recruitment of non-standard workers, the main approach remains one of avoiding the challenge. Most unions have devoted very little time and resources to grappling with the challenges of organising non-standard employees. This has been reinforced by the belief (a) that a union's core commitment and main source of income and strength resides with full-time, permanent employees; (b) that non-standard employment is a threat to the job security and conditions of employees in a SER; and (c) that

there is a fundamental divergence of interests between full-time, permanent employees and non-standard employees. As the general secretary of the NUNW noted with regard to temporary agency workers:

[w]e have launched a campaign against these flexible labour policies. We call these labour-hire companies a 'slave trade' because they are in fact selling people to do work for other people ... The unions have already decided that such labour policies will not be allowed anywhere in Namibia. In the companies that are organised by NUNW unions, we will definitely fight any such initiatives (22/10/1998).

Since different unions face different problems in relation to non-standard employment, there is some degree of diversity in the practices of individual unions. While some trade unions have started to devise tactics to deal with the threat of non-standard labour, unions in industries that are still dominated by full-time, permanent employment have been slow to respond. High levels of unemployment, fragmented bargaining structures, the selective functioning of labour legislation, and the exclusion of smaller firms from collective agreements have all reduced labour's ability to resist the casualisation of work. Crucially, the changing composition of the workforce poses serious challenges to the efficacy of the modes of organisation that have long served the labour movement.

I think outsourcing makes life for the unions much more difficult. In the traditional way that unions are organised, how do you organise a very flexible and liquid worker? I think the unions must also start adapting to that more flexible system ... and move away from the very rigid and well-defined fields in which they have traditionally organised. Now all of a sudden you have a workers who is hired once in the public service, once he is in the fishing industry, the next day he is in the metal industry. How do you organise the guy? It is very difficult (permanent secretary, Ministry of Labour - 04/07/2000).

It is very difficult to organise these workers because they are easily divided. As soon as the workers want to join the union, you will find that the labour-hire companies move the workers to another company. Today he is in the food industry, tomorrow he is in the construction industry, and so on ... It is very easy for them to move the contract workers from one job to another. If the worker doesn't want to go where he is told, tough luck, someone else will take over his job ... Besides saying that we want to get rid of labour hire, to be honest with you comrade, we don't have any strategy. If you want to protect them, you are protecting a non-member. It is very difficult because you do not have any mandate from them (general secretary, MANWU - 23/10/1998).

Union officials and shop stewards have considerable difficulty in articulating a mobilisation against casualisation and outsourcing with a drive to recruit non-standard employees. That is, they have struggled to strike a balance between representing non-standard workers and maintaining their principled opposition to these forms of employment. Trade unions face at least three dilemmas in terms of their response to non-standard employment. The first is whether to resist casualisation and outsourcing or cooperate with it in an effort to influence policy and employment outcomes. The second is whether or not to include non-standard workers as trade union members once jobs have been casualised or outsourced. The third is whether special union policies are necessary once non-standard workers have been recruited. These dilemmas are

starkly revealed in the conflicting responses to temporary employment agencies. The mine workers' union recently entered into a recognition agreement with one of the larger agencies. According to the general secretary of MUN,

[t]his agreement only establishes a platform for defending these workers. Companies can use labour-hire workers under our law, so the unions have to find other ways of dealing with them ... To fight casualisation from the outside means that you don't have much influence and power. If you fight from within, you will manage to put some agreements in place, to influence legislation and to force them to come to the negotiating table. When we signed this recognition agreement, it didn't mean that we really moved away from our principles: labour-hire companies are nothing other than the application of a cheap labour system ... Even though labour-hire companies provide poor benefits to their employees, they do provide them with some means of survival. If you say abolish labour hire without putting any alternative mechanisms in place, I think it will also create a problem ... If they are not abolished, then the workers' employment conditions must be changed (28/06/2002).

Other NUNW-affiliates reject this approach and maintain that the establishment of a bargaining relationship with these agencies is tantamount to legitimising the temporary employment industry and acknowledging its right to exist.

Although some of our sister unions have signed an agreement with labour-hire companies, we are totally against this ... We have to discuss this through our federation so that we know what is the position if some affiliates recognise the labour-hire companies. We are defeating our own principles. We must define our position. We organise these workers to secure their well-being, but we do not have to organise them in a way that says we recognise that industry as a legitimate business. You just open the door so that if they have a problem you are able to assist them as members of the working class. But, in reality, you cannot organise the sector which is recruiting the people (general secretary, NATAU - 27/06/2002).

Some people say we must organise these workers at the labour brokers' office. Our position is that once you have entered into negotiations with a labour broker, you are bound to recognise the labour broker. We reject that. This is a dilemma that we have to overcome ... We cannot allow labour-hire companies in independent Namibia. Before independence, we were preaching that contract labour must be stopped. Labour hire is the same system that SWANLA used - it is a second colonial system. To take a big portion of the wages that someone earns through hard work, is slavery and exploitation (general secretary, NAFAU - 28/06/2002).

The 'traditional' trade union policy towards non-standard employment is centred on the defence of full-time permanent employment and a hostility towards all non-standard forms of employment (Campbell 1996). The use of non-standard labour is viewed as a symptom of employer greed, a threat to the numbers and conditions of permanent workers, and as a veiled attempt at undermining the unions. Traditional trade union policy proved to be indiscriminating in its approach to the various forms of non-standard employment and tended to regard them as a homogenous category (Delsen 1990:263). All non-standard employment is rejected irrespective of its employment conditions, whether it is voluntary or not, and whether it is structured in terms of permanent or casual status. By refusing to organise non-standard workers and by concentrating their attention solely on protecting the job security of permanent workers, the unions themselves contribute to the segmentation of the labour market. In other words, the very policies pursued by

the unions may encourage the growth of insecure and poorly regulated employment. A simple prohibition of non-standard employment is likely to drive it 'underground' in the form of illegal or 'off-the-books' employment.

Traditional trade union policy is valuable insofar as it sets out to defend some notion of 'permanency' in the employment relationship. A defence of employment relations that are expected to be continuous signals that employees have certain rights in the workplace. But to defend standard employment at the expense of *all* forms of non-standard employment is problematic for at least two reasons (Campbell 1996:591). First, the traditional policy of seeking to limit or exclude non-standard employment has clearly failed. The best index of this failure is the rapid expansion of non-standard work in almost all sectors of the economy. Second, indiscriminating hostility and opposition to non-standard employment reduces it simply to an expression of employer preferences and ignores changing employee interests. For example, traditional union policy cannot account for employees who voluntarily enter into part-time employment. This policy therefore prevents the unions from developing strategies to improve the conditions of part-time workers and to integrate part-time and full-time work.

A 'blame-the-victim' attitude is slowly giving way to a perception that the interests of full-time, regular members may be served by measures designed to improve the position of non-standard workers. The numerical strength of the unions is bound to decline as casualisation targets the middle and lower ranks of the occupational hierarchy, the bulk of whom has traditionally constituted the union membership. To be sure, labour market 'flexibility' policies do not so much "raise the level of employability across the labour market as a whole as increase the rate of exploitation in its lower reaches" (Peck and Theodore 2000:132). Increasing competition in low-wage labour markets is thus likely to create a downward pull on both wages and regulatory norms. Since the emergence of a growing sub-stratum of employees who endure poor employment conditions and high levels of precariousness constitutes a serious threat to the conditions of the core membership, unions can only ignore them at their own peril.

The membership has been declining quite drastically. The introduction of these labour-hire companies has severely increased job insecurity as businesses do away with permanent jobs and hire casual labour to do the work. This has hampered union membership (general secretary, NUNW - 22/10/1998).

The companies are outsourcing more and more workers to labour brokers or labour-hire companies. They are no longer dealing with labour because they don't want to negotiate with the unions. So now they can just focus on running the company, while the labour brokers deal with the manpower. They call it 'streamlining the operations' ... Casualisation is just there to weaken the strength of the union. The companies do not inform or negotiate with the unions when they decide to use casual workers. They say that it is a managerial decision and they disregard the union (education officer, NAFAU - 15/07/2000).

Recent organising initiatives have largely originated at the apex of the trade union movement within national federations and/or the full-time leadership of individual unions. Despite the top-down character of organising initiatives, the style of organising which has been favoured in many cases has been mobilising and bottom-up (Heery and Abbott 2000). Local union leaders and rank-and-file members benefit from organising to the extent that it enhances bargaining strength and prevents undercutting of wages. They may therefore resist a sudden infusion of new members that threatens to shift the balance of powers or involves a transfer of resources away from servicing existing members. National union leaders, by contrast, may have greater freedom to prioritise organising because their accountability to existing members is less immediate and they may also be more acutely aware of the benefits of increasing membership in terms of expanding revenue, status and influence. There is a conspicuous lack of accurate membership figures for the various trade unions in Namibia. Of the approximately 129 000 union members, the NUNW accounts for about 70 000, the bulk of whom belong to NAPWU (\pm 20 000), NAFAU (\pm 15 000), MUN (\pm 13 000), MANWU (\pm 7 000) and NATAU (\pm 7 000) (LaRRI 2002b:8).

A successful and sustained campaign to regulate non-standard employment demands both an increased activism at the level of the workplace and more effective national coordination and strategic policy-making. The effective articulation of local and national levels of trade union organisation is a vital component of the struggle against casualisation. Leaving workplace union structures to their own devices and meagre resources, will invariably result in highly variable and potentially conflicting strategies that may intensify divisions between members by encouraging fragmentation and parochialism. Confining union responses to non-standard employment to the national level, will provide more generalised policies and reduce the isolation of workplace activities, but at the risk of riding roughshod over the variations in union power and capacity at the local level. The lack of a coherent vision and long-term goals invariably leads to a tension within the unions between “pressures toward hierarchical accommodative forms of unionism and workplace-based union activity” (Fairbrother and Waddington 1990:16). Consequently, a crucial test for the unions will be the extent to which they are able and willing “to reconfigure the current distribution of authority, skills and resources within their organisations” (Colling 1995:132). To date, trade union responses to non-standard employment in Namibia have been largely uncoordinated, pragmatic, piecemeal and defensive.

At the NUNW’s second National Congress in 1998 a resolution was adopted calling for greater regulation of non-standard labour. It was noted that “many” firms employ non-standard workers as “a means of cheap labour”, often in blatant violation of the country’s labour legislation. “Some employees”, the resolution continues, “have been employed as casual labourers for more than

five years, working five days a week, receiving monthly salaries, and [are] still being regarded as casual workers” (NUNW 1998:22). In an attempt to alleviate the plight of non-standard workers, Congress stipulated that a person who works continuously over a cycle of twelve months or more should not be regarded as a casual worker. The Congress also resolved that a policy on the matter must be formulated and called for tripartite consultations on “this ugly scenario” (1998:23). This resolution has not, however, been translated into practice in any sustained or coherent fashion.

Through a sheer force of numbers, some NUNW-affiliates were compelled to recruit non-standard workers. NAFU’s paid-up membership varies by as much as 5 000 when seasonal workers in the fishing industry are without work (LaRRI 1999:6). This translates into a unionisation rate that varies between 25% and 45% depending on whether or not the measure is taken during the fishing season. The industries organised by MANWU - metal, construction, and the like - consist of many small firms with a large share of non-standard employees. Although it organises in sectors that have historically constituted the backbone of labour movements elsewhere, MANWU’s unionisation rate stands at only 13.1% (LaRRI 1999:7). In the first of its kind in Namibia, MANWU entered into centralised bargaining with the Construction Industries Federation in 1996. An agreement has recently been struck in this forum which seeks to regulate the employment conditions of casual and temporary workers. Even where non-standard employees have been organised, however, their interests are not necessarily well represented nor are their needs and conditions adequately understood. All too often, the actions of organised employees serve to perpetuate the subordinate status of non-standard workers.

The casuals have to do what a permanent worker tells them to do. The permanent workers also see themselves as our bosses. There is no cooperation between us ... Because they are permanent and we are casual, they are also kind of using us ... Maybe they act like that because they are permanent workers. If they do something wrong, the union will come and fight for them. If a casual worker and a permanent worker have an argument, then the shop steward will come and help the permanent worker. They would not help the casual worker The problem is that we casuals have too many bosses (part-time worker - 06/07/2000).

A casual workers is sometimes working with a permanent worker and the permanent worker is afraid that, if this casual workers is doing a good job, the employer might take him as a permanent worker. In that way they are trying to look for small problems, for the casual worker to do something wrong, and then report him and get him dismissed ... Our people have to realise that any person, whether he is a permanent, a casual or a temporary, should be regarded as an employee and they should unite. It is a strategy by the employers to divide the workers. So, when the permanents exclude the casuals, they are doing what the employer wants (regional organiser, NAFU - 02/07/2002).

A ‘new’, emerging approach adopts a less hostile and more discriminating approach towards non-standard employment (Campbell 1996). In particular, it distinguishes between forms of employment that are beneficial to those involved and forms that are detrimental. According to

a regional organiser from MANWU,

[w]e don't have a problem with casuals that are hired *directly* off the street. You cannot eliminate casual labour that is just employed for a few days because of the nature of industry and high unemployment. It is also easier for the unions to represent and negotiate the wages of these casual workers as compared to labour-hire workers. We only condemn it when the casual is working for two or three years in the same company (05/07/2002).

This approach seeks to move from opposing non-standard employment to upgrading it by adopting policies such as full pro-rata pay and benefits. Union policies on membership are often amended to reflect a commitment to recruiting new categories of employees more actively and to represent their interests more effectively. This commitment is underwritten by a call for 'decasualisation' that aims to restrict non-standard employment to those cases where employment is necessarily short-term, seasonal or irregular, and to convert the remainder (majority) to a permanent status. To this end, collective agreements are geared towards establishing a clear ratio of non-standard and permanent jobs with a view to increasing casual loading as well as evaluating conventional restrictions on and incentives for casualised employment. The unions in Namibia have also sought to temper the dictates of increased economic competitiveness with the demands for greater social equality:

[t]he outsourcing of non-core departments is a major challenge facing us ... The companies are increasingly saying that to be competitive in the global market, they have to get rid of the non-core business and they want more labour market flexibility ... You cannot talk of 'flexibility' without addressing the imbalances in wages which were created by past discriminatory laws (general secretary, MUN - 26/10/1998).

There are three broad limitations in the new trade union approach to the regulation of non-standard employment and the associated principles of decasualisation (Campbell 1996:594-5). First, the new approach to regulation is too narrowly focused on redesigning the text of collective agreements. Management's unilateral control over recruitment, in particular, is seen as a vital area for union intervention:

[w]e have to put a mechanism in the recognition agreements that we negotiate with the companies to deal with recruitment. If we manage to convince the employers that their recruitment policy must become a part of the recognition agreement, then we will be able to control the inflow of casual workers. If you have a recruitment policy that states clearly that the company can only engage casual workers for a certain period, then those workers must be deemed to be full-time employees when the period expires (general secretary, NATAU - 27/06/2002).

Non-standard labour flourishes not only in the spaces marked out by the text of agreements, but also emerges in the interstices left by limits in enforcement and reach of labour regulation. The negotiation of collective agreements is the channel into which most trade union activity has been directed. The narrow channel of single-employer bargaining appears increasingly inadequate as a mechanism for combatting the expansion of non-standard employment. As the director of a

labour research institute pointed out: “[y]our recognition agreement basically doesn’t help you with the outsourcing of departments because you have no legal right through a collective agreement to say: ‘you mustn’t outsource’” (04/07/2000). Second, the new approach to regulation is too narrowly focused on the distinction between casual and permanent status. While the conversion from casual to permanent status is an important part of any decasualisation policy, the decisive issue for the unions must be terms and conditions of employment. A focus on employment status rather than employment conditions is likely to miss or mask significant features of non-standard work.

Third, the new approach has proved largely unsuccessful in practice.¹² Several studies show that, even where the unions seek to recruit and represent non-standard employees, they have largely failed to establish effective mechanisms to protect and to retain these workers as active members (Colling 1995; Campbell 1996; Wrench and Virdee 1996; Kenny and Webster 1999). The main direction of change has been towards a degradation in the conditions of non-standard employment. In Namibia, implicit labour market deregulation, neo-liberal economic policies, the promotion of small businesses, and employer restructuring at the workplace have significantly reduced the space for the implementation of trade union policies on casualisation. The latter is increasingly confined to islands of union strength. There is also a tension between attempts to enforce the limits on non-standard employment contained in labour legislation and the demands of non-standard employees.

The law is saying that casual workers must not work more than two days per week. But you will see that in most of the companies they are working more than two days. One thing that I’m seeing from casual workers is that they are happy to work more than two days because they are getting more money. They are also demanding to work more days (regional organiser, NAFAU - 02/07/2002).

The workers prefer to be given as many hours of work as possible. They are actually very unhappy if they only go to a client for three hours. Almost all my clients know that they want work for eight hours a day. Then I don’t have any problems and everyone is happy (manager, temporary employment agency - 14/10/1998).

Too little debate has taken place within the ranks of organised labour on the design and implementation of strategies specifically geared towards the recruitment and retention of non-standard employees. Recruiting workers who have no tradition of collective organisation and are subjected to individualistic and despotic forms of managerial control is fraught with difficulties. Different tactics are being used reflecting differences in recruitment problems, potential membership, and areas of organisation. The tradition of ‘job-control’ trade unionism, where

¹² For example, the Transport and General Workers’ Union in England stressed ‘link’ campaigns to win over the growing non-standard workforce, but achieved very limited success (Snape 1994).

union strategy “sought to regulate rather than transform work practices” (Locke 1995:17) and to defend rather than subvert existing job demarcations, has experienced considerable difficulty in responding to the restructuring of work and employment. The lack of job descriptions is seen as both a root cause of the vulnerability of casual workers and a significant obstacle to the prevailing ‘job-control’ model of union organisation in the workplace.

For casual workers to have a say, to say: ‘this is my job, I’m only supposed to work here’; they must have contracts with job descriptions. That is the only way we are going to protect them. If they don’t have that, they can be chased anywhere like the bosses want. They can say: ‘you work here, you work there, it is all the same’ (regional organiser, NAFAU - 02/07/2002).

Casual and labour-hire workers have no job descriptions. If there is a problem with these workers and if you want to protect them, you will have to start from scratch. There is no base from which you can attack the employer. You have no proof, the employer can just say what he wants to ... Sometimes the employers draw up a contract after they have fired the workers to protect themselves. But we ignore any contract that does not have the worker’s signature (general secretary, NAFAU - 26/10/1998).

Trade union recruitment strategies have made little impact, especially where non-standard workers are not seen to be in direct competition with full-time, permanent workers. Unionisation rates are markedly lower for non-standard workers in every size of workplace and industrial sector. Union policy cannot afford to be confined to the realm of the effectively regulated sectors of the labour market at the cost of policies to deal with problems outside this realm. Several formidable barriers impede the recruitment and retention of non-standard employees. The factors that contribute to making non-standard employees difficult, expensive and unattractive to organise include: (a) their varied, unsocial and limited hours of employment; (b) the distinctive, often unfamiliar problems associated with non-standard employment; (c) the extensive demands on the time of organisers make it almost inevitable that collective issues will gain precedence over individual complaints; (d) the reluctance by some non-standard employees to become union members for fears of victimisation by employers; (e) the divergence in the needs and interests of standard and non-standard employees; (f) an ambivalence towards trade unionism due to their perceived reluctance to cater for the needs of non-standard workers; (g) union dues are often viewed as an excessive deduction from meagre wages; and (h) high labour turn-over undermines the continuity of union structures in the workplace. The triangular employment relationship of agency temporaries presents a distinct dilemma:

[i]f you go to the mine and say: ‘we want to organise these casual workers’; the bosses will say: ‘look, they are not our employees. They are employed by this subcontractor’. When you go to the subcontractor, he says: ‘they are my employees, but they work on the mine. You must go and speak to the mine management’ (regional organiser, MUN - 29/10/1998).

It is no surprise, therefore, that accommodating the interests of non-standard employees has assumed a number of forms between and within different regions and industries. These vary from

attempts to regulate their employment conditions in an effort to prevent undercutting, and seeking to obtain pro-rata terms and conditions of employment through legislation and collective agreements, to making certain categories of non-standard employees (e.g. female part-time workers) a priority target for recruitment and organisation. Other areas of potential union action include issue-based campaigns such as the demand for a 'living wage'; reduced union membership fees to certain groups; and rule and policy changes to facilitate the recruitment of temporary staff. The Namibian trade unions have pursued many of these organising strategies - albeit with varying degrees of commitment and proficiency - primarily in an attempt to limit the adverse effects of casualisation on the conditions of organised workers. However, the lack of success in workplace-based initiatives has highlighted the need for broader, systemic changes:

[i]f you just organise and represent the casual workers, it won't solve the problem. The problem is the whole system itself ... The issue is the law. We must change the law so that casuals can also made to be a part of the bargaining unit (general secretary, NAFAU - 28/06/2002).

While legislative changes are an important part of any attempt at halting or reducing the growth of non-standard employment, they are unlikely to be effective in the absence of a decisive shift in recruitment strategies at the local level. The success of these strategies hinges on their ability to sell the idea of trade unionism to non-standard employees. Bargaining issues that are of interest to the under-represented groups that the unions wish to attract must be prioritised. For example, shop steward structures in the workplace need to elevate the profile of working time and job security within shopfloor politics. Demonstrating the ability of the unions to 'deliver' on these issues is crucial in a context where non-standard workers view the unions at best as irrelevant, and at worst as a threat.

When you want to approach these casual workers ... and if you want to intervene, the bosses will retrench them. They will say: 'the guy was just helping us temporarily' ... Later on, the workers look at you and think that you want to take their jobs away from them. When you approach them to maybe organise them, they say: 'if the subcontractor comes here now, we will lose our jobs' (general secretary, MANWU - 23/10/1998).

If you want to organise casual and labour-hire workers, they say that if they join the union they will lose their jobs. Others say that they just work for a few days until the job is done, so why should they waste their money on a union ... Whenever the union approaches these people, the manager will warn them and say: 'I will dismiss you and then you can get the union to find you another job'. He will tell them: 'the unions can do nothing for you. Since you are just a casual worker, you can be told to leave the job at any time' (regional organiser, MANWU - 05/07/2002).

The efficacy of new recruitment strategies is also vitally dependent on closer collaboration between the various unions and the organs of civil society. The 'representation gap' created by the influx of unorganised, non-standard labourers into the workplace has led to an active role by voluntary agencies (such as legal assistance centres, churches and youth groups) in advising and

representing non-standard workers. The unions need to act in concert with these agencies. Broader forms of action beyond economic workplace demands are crucial if the unions are to incorporate non-standard employees and eradicate the excesses associated with casualisation and outsourcing.¹³ Before independence, there were two conflicting conceptions of trade unionism and community activism in Namibia (Bauer 1997:69-71). First, a narrow, bureaucratic view - modelled on trade union structures in the former Eastern Europe - that subordinated worker demands to the formal structures of the national liberation movement and suppressed the activities of autonomous community-based organisations. Second, a more inclusive and democratic view that draws on experiences in South Africa under apartheid, promotes worker control of the labour movement, and seeks active collaboration with community-based organisations. These tensions remained unresolved after independence and continue to plague relations between SWAPO, the trade union movement and community-based organisations.

A shift in the locus of union representation beyond the workplace towards more centralised forms of organisation involving inter-union, cross-sectoral attempts to increase union membership and establish minimum employment standards is potentially the most effective response to the proliferation of non-standard employment. In terms of inter-union co-operation, union resources must be utilised in a co-operative rather than competitive recruitment of workers who, in retention terms, are 'high risk'. In the mining industry, for example, the sheer variety of jobs that are outsourced (e.g. cleaning, catering, security and engineering) has created recruitment problems associated with the sectoral demarcation of the industrial unions:

[y]ou want to organise these workers, but management just says that we are in the mining industry and under our constitution we can only operate in this industry ... One of the impacts of outsourcing is the creation of more unions per industry. You find a cleaning company now which used to fall under the mine but has been outsourced. The cleaning workers' unions will claim those workers and come and organise them. Through this you create tension among the unions and you create room for unions to multiply. You might find unions changing their scope of operations to cater for all this outsourcing. This will result in many unions duplicating their scope of operations ... Instead of one agreement with the whole company, you could have two or three with the different outsourced units (general secretary, MUN - 28/06/2002).

Since they are generally not well organised, non-standard workers do not know or enforce their rights as actively as standard employees. Resistance by less skilled non-standard workers is usually intermittent, informal, individualistic, defensive and accommodative. In other words, the manner in which their labour is regulated influences the extent to which employees are likely to become members of trade unions and take part in collective action. Workplace organisation

¹³ Standing (1993) proposes an 'associational' unionism - grounded in the community rather than in a craft or industry - to represent workers who are not confined to the same trade or industry. Heery (1998) uses the term 'network' unionism to describe campaigns that seek to develop alliances with external groups and sympathetic organisations in an effort to defend the rights of non-standard employees.

among non-standard workers is weak and hence highly dependent on trade union organisers. Diverting resources from permanent to part-time and temporary employees poses a dilemma in terms of democratic practice within the trade unions: “whatever commitment unions may have to the protection of vulnerable workers, they are also required to promote and protect the interests of the majority of their members” (Dickens 1988:151). If the interests of non-standard workers conflict, at least in part, with those of permanent, full-time employees, then the question arises as to how their separate interests can be effectively articulated within the unions. Heery and Abbott (2000:170) argue that two developments are necessary if unions are to respond adequately to the needs of non-standard workers: (a) representing diversity by developing structures of representation within the unions which are designed to reflect the specific interests of non-standard workers; and (b) centralising decision-making processes within the unions in order to redistribute resources from the core to peripheral groups of the labour movement. The gains in democratic representation that could potentially be achieved through the former may, however, be diluted by the tendencies towards oligarchy generated by the latter.

The design and defence of more appropriate forms of labour regulation will pivot on the ability of the labour movement to resolve the weaknesses of existing efforts to implement policies of decasualisation; to actively promote a framework of centralised bargaining; and to adopt a dual appeal to social justice and economic competitiveness to inform its strategic interventions. The effective organisation and representation of non-standard employees raise a number of significant wider concerns: (a) the difficulties associated with the proper inspection of non-standard employment; (b) the creation of a second-class workforce undermines the foundations of collective industrial relations and dilutes the social values and legitimacy of labour law; (c) unfair competition from non-standard employment threatens formal employment; (d) the individualised forms of conflict associated with non-standard labour are not readily amenable to established dispute-resolution procedures; (e) traditional forms of employee representation are often inadequate to meet the distinctive needs of non-standard workers; (f) the established mechanisms for employee participation are usually unsuited to non-standard employment; (g) the social security systems designed to cover the risks inherent in regular, full-time employment are ill-suited to precarious and intermittent forms of employment; and (h) complications often arise in determining which employer is liable for the health and safety and other statutory entitlements of non-standard workers in cases involving a triangular employment relationship.

To be effective, the struggle against the casualisation of labour must be an integral part of the broader challenge to consolidate and expand the power and influence of the labour movement. In particular, pressure needs to be brought to bear on the government to amend labour legislation

in a manner that limits the opportunities for evading minimum standards, ensures greater compliance with regulations, and makes the client-firm jointly liable for compliance. A more practical expression of trade union opposition to casualised employment, according to Wilson and Ewer (1996:137-41), might include: (a) research and advocacy - give voice to workers' experiences of non-standard labour through a serious research programme; (b) alternative conceptions of efficiency - challenge productivity measures that are defined purely by technical and market imperatives by reasserting the social purpose of work; (c) occupational health and safety - unions can reinforce their identity as collectives by highlighting the health and safety problems faced by non-standard employees; (d) career structures - mobilise union members to oppose the fragmentation of work and to develop strategies to ensure that workers are able to acquire training and experience and have career options; (e) staffing levels - since every job shed in the name of 'flexibility' is another source of division, unions need to redevelop their role as defenders of jobs through policies aimed at redistributing work, combatting unemployment, and strengthening the social regulation of the labour market; (f) industrial democracy - union campaigns against outsourcing, for example, would test the extent to which management's prerogative was genuinely open to joint regulation; and (g) union education and vocational training - through their own education work for members and through their involvement in training programmes unions need to campaign for a wider definition of knowledge that extends beyond narrow technical requirement to include a critical reflection on the nature of work in a capitalist society.

There is clearly a need to move beyond the neat dichotomy of 'traditional' versus 'new' in accounting for the variety of trade union responses to the casualisation of work. Common to much of the literature on non-standard employment is the claim that unions can adopt one of four approaches towards non-standard workers: (a) ignore them; (b) exclude and oppose them; (c) limit their numbers and regulate them; and (d) recruit and integrate them.¹⁴ This customary classification of union responses fails to account for the interaction between different approaches and cannot explain why a trade union adopts a particular strategic orientation. The implication that unions simply 'choose' a particular orientation or approach ignores the structural determination of viable options and downplays the contradictions that may arise between structure and strategy. As the director of a labour research institute noted,

it is not a conscious choice or decision ... If you just make policy statements based on what head-office is

¹⁴ For example: Colling (1995:129-31) identifies four models of union responses to outsourcing: 'strained corporatist', 'distanced opposition', 'managed atrophy' and 'resigned opposition'. Foster and Scott (1998:142-3) distinguish between two 'defiance' strategies (non-involvement and industrial action), an 'incorporation' approach (negotiation), and a strategy of 'external appeal' (judicial challenge).

thinking and ignore you members, then of course you will lose your base. It has more to do with organisational weaknesses than policy choices between bread-and-butter, workplace-based unionism or social movement unionism. It is not a choice, it comes out of a sheer lack of capacity to address policy issues that they start focussing on the more narrow issues (26/06/2002).

Identifying multiple responses to non-standard labour should not conceal the fact that choices are structurally determined and that tensions can arise between different union strategies. Although they do not determine our performances, social structures impose limits on the acts we can perform. An adequate account of the tendency for responses to labour market changes (such as casualisation) to vary between unions must therefore be grounded in the existence of different 'types' of unionism. Many of the prevailing typologies of trade unionism, however, cannot adequately account for the variety of responses to 'flexible' employment within a particular trade union or sector, let alone a national labour movement.

6.6 EMBEDDED CHOICES: LABOUR MARKET SEGMENTATION, INTEREST AGGREGATION, AND TRADE UNION IDENTITIES

A pivotal process in any analysis, as we noted in the previous chapter, is that of taxonomy: dividing things up and classifying them into things that are similar or different. Such classification allows us to impose some pattern and intelligibility on the complexity of the real world. Considerable theoretical and empirical work has been invested in the classification of the different forms of trade unionism associated with specific historical conjunctures (Scipes 1992; Moody 1997; Munck and Waterman 1999; Frenkel 2002). Within the empiricist tradition, classification depends on the objectives of the research rather than the objects themselves. In this sense, one classification is very much as good as any other. Descriptive forms of classification commonly overlook the underlying structures of the objects in a group which possess distinctive causal powers and liabilities. Sayer (1984:127) convincingly argues that classification should be by causal rather than empirical grouping. The latter leads to "chaotic conceptions" that combine non-causally or contingently-related phenomena. Empiricism directly encourages such conceptions since its basis for abstraction is confined to a single ontological plane, that of events. Classification by empirical characteristics simply results in categories that can be arbitrarily reclassified. As Harré points out, taxonomy only makes sense if classification by manifest characteristics is "under the control of the theory that there are real differences in the internal constitution of things ... from which their manifested characters and their difference spring" (cited in Pratt 1994:52).

The concept of 'causal power' indicates what a given kind of thing can do, given the right

conditions. Social phenomena have just those powers that they do and not others, by virtue of their respective inner structures (Bhaskar 1989). This allows us to recognise that some outcomes may be unlikely within a given social structure. An effective response to the challenges posed by casualisation, for example, is simply beyond the capability of a narrow workplace trade unionism. In a wide-ranging overview of international developments, the ILO (2002:357) notes that “trade union structures centred on the workplace, whether at the enterprise or industry level, are often not suited to new forms of work organization”. In fact, trade unions have seldom succeeded in preserving jobs through collective action confined to the workplace. The more robust organisations of non-standard workers have mostly been formed around a single occupation such as cleaners or security guards. However, these organisations are often restricted to providing advice and assistance, and have little bargaining power in the workplace or influence in the political arena. The ability to undermine the conditions that facilitate the trend towards casualisation and to bolster those that subvert this trend presupposes a more inclusive trade unionism akin to a social movement. As Richards (2001:28) argues, “the particular organisational configuration of trade unionism has ... enormous implications for its ability to promote working-class solidarity”. In other words, the various types of trade unions possess different capacities and limitations.

Trade union representation has historically been concentrated at the workplace, based on the development of a permanent workplace organisation. The defining characteristic of non-standard employment, however, is that employees become detached from particular places of work or particular employers. Trade unionists in Namibia are increasingly acknowledging the inherent limitations of traditional workplace trade unionism.

After independence the question emerged: what role do we play now? There was a lot of activity around the land question where the unions really played the role of a social movement. But after that it became more and more quiet. Even the living wage campaign was almost dropped and it was left to individual unions to address through collective bargaining ... We are in danger of allowing unions to be very much concentrated on their sectors and dealing with their companies ... The weakness of regional structures is a big problem. You have action taking place around the factory and policy debates and so on at head-office level. The link between the two is not always happening (director, labour research institute - 04/07/2000).

We are still negotiating from company to company which makes the matter worse. We will be in a better position if we can negotiate on a national level ... We will not win the battle against casualisation if we only fight at the level of the workplace. To fight the managers alone won't help because they cannot change the system. We need to fight the legislators as well. Casualisation is not only a union issue. We must make it a national issue. Then it will carry more weight (regional organiser, MUN - 03/07/2002).

The concept of ‘political’ unionism is often applied to the Namibian labour movement given the NUNW’s origins within SWAPO, its role during the struggle for national liberation, and its continued affiliation to the ruling party. An inevitable consequence of political unionism is that

the divisions between unions tend to reflect political affiliations, raising the question whether such affiliation should gain precedence over worker unity. This strategic orientation has important consequences for the unions' role in both the workplace and the wider society. As Bauer (1998:136-7) notes:

[w]hereas unions in Britain and America, and elsewhere in Africa, preceded the formation of labor or other major political parties, this was not the case in Namibia; nor have trade unions in Namibia taken the step that party-created unions in Germany eventually took, emphasizing their political independence ... Given that trade unions in Namibia were largely organized from above and primarily with a political objective in mind, more attention to the shop floor would do much to improve the living and working conditions of a sizeable segment of the labor force - and by extension of many others. Ultimately a social movement unionism of the type emerging in other developing countries might prove the most efficacious in Namibia.

Prior to independence, SWAPO and the NUNW subordinated working class demands to the struggle for national liberation (Melber 1983; Peltola 1995; Bauer 1997). Since independence, the NUNW-affiliates have concentrated on 'bread-and-butter' issues through the consolidation and extension of workplace organisation. However, this increased shopfloor presence has not translated into any significant impact on the national policy-making arena. The Namibian labour movement has not yet developed a form of unionism that would allow it to mount a serious campaign for more radical social change. A national survey in 1996 revealed that most organised workers expect their trade unions to represent their interests inside as well as outside the workplace. However, the prominence attached to trade unions by rank-and-file members in taking up broader socio-economic and political issues "is not matched by the unions' capacities and track records to date" (Murray and Wood 1997a:195). Namibian trade unions very rarely make meaningful contributions towards macro-economic and national development policies.¹⁵ The labour movement's limited influence on economic and social planning has drastically curtailed its strategic options in the struggle against the casualisation and outsourcing of work.

Of concern here is the extent to which attempts to promote the security of existing union members is compatible with attempts to organise non-standard employees. Hyman's (1994b, 1996, 1997) typology of trade union 'identities' outlines a number of different forms of union representation which derive from a particular conception of employee interests.¹⁶ Unions are

¹⁵ At its second National Congress, the NUNW adopted a resolution noting that "the government entered into an agreement with the IMF and World Bank in an untransparent manner" and denouncing the lack of involvement by the labour movement in policy formulation (NUNW 1998:6-7).

¹⁶ These identities are: (a) *guild* - the constituency is narrowly defined in terms of an élite occupation and the focus of representative effort is on preserving the relatively privileged position of a craft or profession; (b) *friendly society* - seeks to provide mutual insurance, representational and consumer services to individual employees; (c) *company union* - develops a productivity coalition with management and seeks, through cooperation, to enhance company performance and the terms and conditions of members within a particular enterprise; (d) *social partner* -

faced with a strategic choice between (a) focussing primarily on the workplace and conferring priority on the defence of their existing members; or (b) becoming more inclusive in the interests they represent and redirecting their activity beyond the workplace. The primary contrast is thus between approaches to employee representation that are based on exclusive or inclusive definitions of employee interests. Central to Hyman's argument is the claim that workers possess a wide range of diverse and often competing interests. Interest representation therefore involves a difficult process of aggregation and the selection of priorities, leaving room for strategic choices and internal conflict. Hence, unions can choose to be more or less inclusive in defining their constituency, more or less restrictive in the issues they pursue, and can adopt strategies of representation based on member mobilisation or passivity. This schema allows for a more nuanced account of union responses and facilitates an analysis of the underlying forces that constrain and/or enable different identities.

Each of the identities outlined by Hyman will tend to preference a particular response to the casualisation of work (Heery and Abbott 2000). By linking the various responses to specific trade union identities and by highlighting the limiting factors that serve to constrain choice, this approach represents a significant advance over alternative interpretations. It allows us to proceed beyond superficial taxonomies of trade unionism and to explore their conditions of possibility, reproduction, and propensity for transformation. The five responses to insecurity that are likely to emerge from the separate identities are the following. First, a common reaction to employer-led flexibility initiatives has been to *exclude* these workers from employment and union membership. This reflects the social distance between standard and non-standard workers as well as the formal union policies and informal workplace rules which deny union membership and representation to outsiders. A strategy of exclusion is also sometimes justified in terms of the need to maintain the coherence of a profession and quality of service. The unions that have adopted this approach have generally failed in their attempts to prohibit the use of non-standard employment.

Second, drawing non-standard workers into trade unions through the provision of *individual services* such as advisory services and reduced union subscriptions. Collective representation at the workplace may be difficult to achieve for subcontracted, casual or self-employed workers because they are dispersed and often highly mobile. A further constraint on this strategy is that many employees remain committed to a more collective conception of trade union purpose.

defines broadly both its constituency and workers' interests and seeks to promote social welfare and economic growth through interaction with government; and (e) *social movement* - orientated towards a broad definition of its constituency and worker interests, but seeks to pursue these through mobilisation and campaigning.

Although some unions in Namibia have increased their numbers partly through the provision of individual services, the majority of less skilled, black workers are not decisively attracted by such consumer, advisory and labour market services.

The third approach targets the employer and seeks to furnish existing members with guarantees of future employment through a *partnership* between management and workers. A commitment to promote the competitiveness of the enterprise is underpinned by employee involvement, training and skills development, and profit-sharing. The degree of employment security afforded through partnership agreements varies, but generally falls short of an open-ended commitment. An essential feature of such partnerships is the externalisation of risks and costs: the union and management protect existing employees by passing off the costs of absorbing business cycles to outsiders. Long-term partnership arrangements are also undermined by systems of corporate financing and governance which place a premium on relatively short-term performance, and the spread of direct forms of employee involvement (such as quality circles) which exclude collective negotiations with trade unions.

The fourth response to worker insecurity consists of attempts by unions to influence government policy and secure changes in employment law through a process of *social dialogue*. Political exchange of this kind is aimed at conserving the jobs of existing union members and at reducing the insecurity experienced by workers on non-standard contracts. The NUNW's approach to casualisation relies heavily on using its influence within the ruling party to secure legislative changes and policies for a more extensive social regulation of the labour market. In the political arena, as the labour movement has learnt to its cost, working class demands are inevitably diluted by the dictates of social stability and economic growth within the confines of a 'free market'. As one of MANWU's education officers observed:

[f]or us as a union, it is almost impossible to limit labour hire. We have asked our government to pass a law to limit them ... The Labour Act must be amended to close the loopholes that the employers are using to bring in casual and labour-hire workers ... The workers are the majority in the country and the government must listen to us or we will just go ahead in a hard way. The government must understand that we want this casualisation and labour hire stopped (15/07/2000).

The fifth response identified by Heery and Abbott (2000) is the *mobilisation* of union members, other employees and wider public opinion against injustices at the workplace. Social movement unionism has two connected aspects. On the one hand, there are attempts to re-create trade unions as social movements such that their purpose is defined in terms of the mobilisation of members. This aspect can be seen most clearly in attempts to extend trade unionism to the non-standard workforce through militant organising campaigns aimed at recruiting new members as well as

mobilising them around grievances and developing effective workplace organisation. On the other hand, there are attempts to submerge trade unionism in a broader social movement such that the boundaries of the labour movement become blurred as it operates within a progressive alliance of organs in civil society. This aspect involves the development of labour-community alliances which seek to draw on the resources of the community in the pursuit of union goals and to develop a broader vision of union purpose which embraces community and environmental objectives alongside improvement in terms and conditions of employment. A central characteristic of social movement unionism is the view that industrial relations is not a self-contained field of action: “success in collective bargaining was shaped by the macroeconomic context and by the legislative regulation of individual and collective employment rights, while the social wage broadly defined reflected the whole matrix of social policy” (Hyman 2001:55).

There are significant constraints on the pursuit of union policy through mobilisation: the risk of counter-mobilisation by employers and/or the state; internal opposition within unions as resources are shifted towards community-based structures and campaigns; and the fact that the interests of union members do not always coincide with those of consumers, civic bodies or environmental groups. The prospects of demobilisation and quiescence loom large where employees perceive the costs of collective action to outweigh any real or potential benefits. Moreover, since they inevitably raise macro-economic issues, we can also expect some correlation between levels of economic growth and the willingness or ability of employers and the state to concede to the demands of social movement unionism. Some critics have also questioned the ontological premises and political strategies implicit in the prescriptions of this form of unionism:

[t]he working class disappears into a discursively plural constructed subject. The capital-labour relation is no longer the fundamental relationship on which society is constructed and, therefore, the working class, whose economic demands now need to be translated politically if they are to be successful, has no more interest in the abolition of exploitation than anyone else: class is only one collective identity among many ... The transition from capitalism to socialism has been transformed into a relatively non-antagonistic process of institutional reform (Neary 2002:159-60).

Hyman (1996:72) clearly acknowledges the schematic nature of his typology of trade union identities, based as it is on ideal types of the main representative choices available to unions. What is at issue is a question of priorities and strategic choices: actually existing unions tend to incline towards “an often contradictory admixture of ideal types” (Hyman 2001:4). The implication that individual trade unions or even national labour movements can fully assume any of the identities is contradicted by the fact that unions tend to develop complex strategies of representation which draw on several of these identities. For example, the development of new services and campaigns on behalf of part-time and temporary employees in Namibia operates

alongside a continued opposition to the use of non-standard labour. It would be “utopian to think that there is one model of worker representation and broader-based bargaining that can accommodate the proliferation and varied forms of non-standard employment” (Fudge and Vosko 2001:346). In practice, trade union identities are complex, multi-dimensional and fluid.

The union responses outlined above are reinforcing and often amount to parallel initiatives with regard to employees (organising and servicing), employers (partnership), government (dialogue) and civil society (mobilisation). To be sure, the increasing variability of employment relationships demands differentiated rather than uniform responses from the trade unions. Models of trade unionism that draw on a variety of different identities are more likely to minimise the impact of the hierarchies generated by differentiation in the labour supply. The relative success of new recruitment strategies, however, will tend to vary between unions given a differential capacity to mobilise the necessary organisational resources and affect the requisite reformulation of strategic orientations. Moreover, as Ross and Martin (2002:278) note, “[a]ttenuating traditional union identities, let alone changing them radically, is risky”.

The efficacy of social movement unionism depends in large part on its ability to respond to the socio-economic circumstances of all workers and not simply the employment conditions and workplace demands of its more skilled and better paid sections. In this regard, the trade union movement in Namibia is at a cross-road:

[i]n Namibia it could go either way. It could go further into a trade union movement that looks more and more at bread-and-butter issues only, that is largely on the defensive, defending members’ interests and fighting retrenchments. Enterprise unions could be the one danger. But then there is likewise the opportunity to revive social movement unionism because of the possible and almost natural links with communal farmers. Many workers have their families in the rural areas ... But [such a revival] would need a specific decision to do it, and it would need a lot of effort in terms of binding your structures together, getting the debate going at local level again, and getting mandates from workers which can be transformed by the national leadership into campaigns (director, labour research institute - 04/07/2000).

The necessary preconditions for an effective social movement unionism in Namibia are only weakly present in the current conjuncture. The high level of demobilisation among organs of civil society has been a striking feature of the post-independence period. As a result, employers and the state tend to dominate national policy debates. Perhaps the clearest indication of the NUNW’s status as SWAPO’s junior partner is the negligible impact made by the labour movement on the macro-economic policies pursued by the state. As the president of the Namibian Employers’ Federation observed: “[a] government as strong as ours should not worry about losing a couple percent of voters because it is not seen as going all out to promote the interests of workers against the interests of the economy” (08/07/2000). In particular, the Namibian government is not crucially dependent on union cooperation to regulate industrial conflict or moderate wage

inflation. Both are in large measure offset by the rise in non-standard labour, high levels of unemployment, divisions within the labour movement, the predominance of decentralised bargaining, and the declining significance of tripartite structures such as the Labour Advisory Council.

The casualisation of labour serves to reinforce the market pressures that have widened the compensation gap between advantaged, high-skill and disadvantaged, low-skill workers. Since non-standard workers are more vulnerable to exploitation and often experience harsh forms of discipline and work intensification, their growing presence in the workplace may stimulate new demands for protection and representation through trade unions. Current labour market restructuring is creating the conditions for a renewed wave of worker mobilisation through trade unions (Kelly 1998:130). Increasingly, the choices available to unions are couched in terms of resistance to business through militant mobilisation *or* accommodation and a search for mutual gain within a rhetoric of partnership (Storey and Bacon 1993; Heery and Abbott 2000). For workers who do not perceive a serious conflict of interests with their employer, or alternatively are so fearful of losing their jobs that they dare not challenge management's authority, appeals to militancy are not likely to prove an effective recruitment tactic (Hyman 1996). In fact, unmitigated militancy is a recipe for defeat and exclusion, while unconditional collaboration invites rank-and-file alienation and rebellion. Any effective system of representation is therefore always a contradictory combination of conflict and accommodation.

6.7 CONCLUSION

A major challenge facing organised labour is how to reconcile the calls for 'flexibility', the demands of globalisation, the encouragement of small businesses and so on with a flattening of the wage curve. Ultimately, the use of non-standard labour is symptomatic of the struggle for control of production between capital and labour. The balance of intra-class forces (e.g. large versus small employers, skilled versus unskilled) and the differentiation of the labour force (e.g. concentrated versus scattered, urban versus rural) will have a decisive influence on changes in bargaining structures and practices. Sectoral demarcations are thus important: if strong and weak sectors are kept separate, the latter will simply become weaker. Collective bargaining in Namibia is, in many respects, at a cross-roads. The choice confronting the state, employers and the trade union leadership is between a low-wage, low-skill, deregulated and fragmented framework which emphasises the need to attract foreign investment and reduce social spending; and a high-wage, high-skill, centralised and co-determinist framework in which employee participation and

training are seen as vital for increasing the productivity of the economy. The former route is likely to be adversarial in nature and divisive in its consequences; while the latter is likely to encourage investment in human resources and expand the terrain for tripartite decision-making. Present conditions in Namibia - the introduction of export processing zones, a governmental emphasis on production at the expense of consumption, SWAPO's neo-liberal economic policies, a fragmented and underdeveloped labour movement, a voluntarist framework of collective bargaining, and the like - favour the low-wage route to increased economic efficiency. To arrest these developments and embark on the high-skill route to economic restructuring would require a drastic shift in government policy, a dramatic change in managerial approaches to industrial relations and, above all, a radical expansion and empowerment of the labour movement. The low-wage route, by contrast, will place additional strains on the alliance between SWAPO and the NUNW and will halt, if not reverse, the efforts to expand democracy and reduce social inequalities.

A critical issue for debate is whether the labour movement has the power, influence and resources necessary to (a) obstruct the cheap-labour route, and (b) constitute the driving force behind a high-wage and high-skill route to increased competitiveness. A new embeddedness of market forces in social relations is necessary to defend the most vulnerable and precarious employees in the lower echelons of the labour market. The lack of centralised bargaining forums means that the current involvement of trade union leaders in policy-making is by and large divorced from active intervention by the membership. A labour movement consumed by disputes revolving around recognition, dismissals, wage increases, and the like would be hard pressed to sustain an informed and mandated presence in broader decision-making structures. The trade unions will have to consolidate and expand their presence in the workplace before they can engage successfully with broader decision-making forums. Strong, militant shop steward structures are the best insurance against both oligarchy in the union structure and subservience to the priorities of management or the state. If a balance cannot be found between seeking to influence the government and becoming the labour wing of SWAPO, the risk of demobilisation or aimless rank-and-file militancy will be considerable.

Black workers in Namibia still live with the collective memory of trade union suppression, apartheid wage levels, and racist and exploitative managerial practices. The prevailing institutional and normative landscape - which includes the racial, ethnic and gender divisions inherited from the past and the predominance of bread-and-butter issues on the bargaining table - has significantly constrained the ability of Namibian trade unions to develop an effective strategic vision to inform their interaction with employers and the state. As a result, the union movement

has been “unable to institutionalise the gains it has made at the shopfloor level, and has found itself marginalised from the national policy formulation arena” (Murray and Wood 1997a:159). In other words, the structural and ideological framework of the labour movement has decisively qualified the form of trade unionism that is possible or feasible in Namibia. The present organisational matrix and strategic focus of the Namibian labour movement are not readily amenable to a systematic and effective response to the plight of non-standard employees. In particular, the NUNW and its affiliates need to counter the threats posed by a growing division between membership and leadership, a decline in worker control over decision-making processes, the marginalisation of local and regional structures, increasing bureaucracy and a corresponding decline in accountability, and a deteriorating organisational capacity.

CONCLUSION

A comprehensive transformation agenda is urgently needed to halt the fragmentation and polarisation associated with the rising tide of casualisation in the labour market. Such an agenda will have to underwrite income and employment security; allocate work in favour of the disadvantaged and marginalised; redistribute incomes to impoverished areas; and promote sustainable, high-quality jobs rather than condemning the under- and unemployed to working poverty and dead-end jobs. A more equitable labour market needs institutions designed to increase its coherence, transparency and efficiency, and to decrease segmentation through the provision of universal standards and stable employment practices. Blanket opposition to non-standard employment is not necessarily progressive or likely to be effective. Given the demand for non-standard labour, a prohibition on all forms of non-standard work may simply drive it 'underground' and 'off-the-books', which would raise more serious problems than it would solve. The resources and political will to initiate a substantive restructuring of the Namibian labour market to overcome the legacies of apartheid-colonialism have not been forthcoming. This calls for more fundamental changes than simply widening the coverage of labour legislation. Attempts to increase the efficacy of legal protections for individual employees and trade unions are bound to falter in the absence of a general extension in the social regulation of the labour market. Agencies of collective interest representation are often not able to protect workers from managerial offensives and the mere threat of casualisation or outsourcing can be a means to enforce lower pay and inferior conditions of employment.

There is a pressing need to strengthen collective organisations and construct a collective consensus around what constitutes appropriate labour market institutions and standards. The most common proposals to counter the casualisation of employment include: (a) voluntary action by employers and trade unions to rebuild job security or promote employability; and (b) increasing the legal regulation of the labour market to constrain employers' use of non-standard workers through restrictions on the right to dismiss and retrench workers, and a harmonisation of the treatment of standard and non-standard employees. The increasing segmentation of employment systems means that it is not appropriate to seek changes solely through voluntary or collective actions. The latter would result in only partial coverage, creating incentives for employers to move into less regulated sectors, thereby destabilising the basis for collectively agreed standards. Conversely, labour standards simply imposed by law are unlikely to be effective unless they enjoy collective legitimacy or are enforced through collective mechanisms. Changes to statutory regulations alone are not sufficient to undermine the trends towards an expansion in non-standard

work, a decline in the security of employment, and a widening of managerial prerogatives in the labour process. Employment and job security are, however, more likely to be created and maintained through statutory obligation rather than corporate self-interest. In a 'free' market environment, employers know that any voluntary guarantee of employment security would place them at a competitive disadvantage compared to firms that do not care or cannot afford to extent such protections to their employees.

The concrete links between class relations and political power set definite limits on the degree of transformation possible in the context of a 'free' market economy. In other words, business confidence may prove a formidable obstacle to fundamental restructuring of the regulatory framework of the labour market. In a presentation to the Labour Advisory Council, the general secretary of the NUNW noted that

[t]he continued casualisation of work raises serious questions about the future of Namibian workers. The lucky ones who are still employed are living in fear for their jobs. We wonder how much national sovereignty does Namibia have when we dare not enforce laws to protect our own citizens' trade union rights for fear that it will scare away investors (cited in LaRRI 2000a:18-9).

The Namibian government's neo-liberal economic agenda, with its accent on market-driven reforms, has inhibited the role of labour market institutions and patterned the distribution of economic rewards to the detriment of the poor and marginalised sectors of society. In other words, 'free' markets are "creatures of state power, and persist only so long as the state is able to prevent human needs for security and the control of economic risk from finding political expression" (Gray, cited in Hyman 2001:12). Despite rhetoric to the contrary, national policies for reconstruction and development have consolidated distinct sets of winners and losers in the labour market. There are significant tensions between the government's stated goal of creating 'good' jobs and the emphasis on attracting investment and developing an economic structure that is adaptable to rapid changes in highly competitive global markets. The *Vision 2030* of the Ministry of Labour pivots on the notion of "decent work for all" and envisages

the improvement of the 'conditions of labour', whether organized or not, whether work might occur in the formal or the informal economy, whether at home, in the community or in the voluntary sector ... The Ministry seeks to enlarge the world of work, not just to benchmark it. It is, therefore, as much concerned with unemployment and underemployment, as it is with the promotion of rights at work ... The goal is not just the creation of jobs, but jobs of acceptable quality (MoL 2003:6-7).

Achieving these goals will require a decisive shift from the prevailing system of labour regulation. For a start, certain categories of temporary and part-time workers must be deemed to be employees for the purposes of labour legislation. This would require the importation of a rebuttable presumption in favour of standard employment. The onus should be on the employer

to prove that the job filled by a non-standard employee is inherently short-term or limited in duration. Provision should also be made for equal pay for equal work, through collective agreements pertaining to a particular workplace if necessary. Furthermore, temporary agency workers need to be protected at the place where they are employed, which is the site where they are most likely to require a collective say in their employment conditions. Ultimately, however, attempts to reconcile flexibility and security, economic efficiency and social equity are doomed to fail in the absence of a coherent alternative to neo-liberalism at the national and global levels. The resolution of these tensions are unlikely to arise from the 'bottom' (local initiative) and need action from 'above' (national and global coordination). As Peck and Tickell (1994:311) explain:

[b]elow the nation state, local regulatory systems ... have been conferred *responsibility without power*: regulatory responsibilities have been handed ... down from the nation state level, but localities can wield little in the way of political-economic power in the context of globalizing accumulation and global deregulation. Above the nation state, supranational regulatory systems have inherited *power without responsibility*: remaining wedded to a neo-liberal agenda, they continue to fuel global economic instability with apparent disregard for its damaging effects on national and local economies and its pernicious ecological and social consequences.

The SWAPO government is no doubt hard-pressed (by the World Bank, foreign business, and other agencies) to insist on compromises by union members on the grounds that high wages and extensive social welfare are inimical to sustained economic growth and hence not in the 'national interest'. The dedication to economic 'flexibility' has co-existed uneasily with a commitment to neo-corporatist forms of labour market regulation. As a result, government policy has been a mixed one, combining elements of voluntarism and compulsion, autonomy and regulation. A durable and redistributive system of labour market coordination and mediation always seeks to "accommodate workers' need for income and economic security and firms' desire for flexibility in deploying labour within a public policy commitment to equity" (Fudge and Vosko 2001:332). The recurring problem of balancing the dictates of economic efficiency and competitiveness with those of social protection and equality is exacerbated by the primary concern of financial markets with projects that will deliver short-term returns and high profit rates. These considerations tend to discourage long-term investments in new technology and human resource development. Far from stimulating greater cooperation and participation, what we see unfolding in Namibia is a form of industrial restructuring largely at the expense of labour. More often than not labour market 'flexibility' simply means low wages, dangerous working conditions 'hidden' from the public eye and official statistics, a lack of job and employment security, long working hours, and the almost total absence of trade union organisation and job controls. There is little evidence of the consensus-seeking and gain-sharing postulated by the proponents of 'flexible' accumulation. To be sure,

[t]he notion of a consensual strategy to increase the quality of working life now seems manifestly utopian. Accordingly, trade union policy-makers are caught between the twin constraints of shaping an agenda which will attract, by reflecting the interests of, the changing constituencies which they seek to represent; yet which at the same time will be realistically attainable either by negotiations with cost-conscious employers or through political channels which are themselves conditioned by sensitivity to issues of national competitiveness (Hyman 1994:126-7).

While the formation of a cheap labour supply may be functional for capital, it cannot by itself provide an adequate explanation of why or how such a labour supply came into being and endures over time. Although the survival of some firms might be absolutely dependent on the existence of a disadvantaged group which they can use as a source of cheap and malleable labour, capital in general does not depend on such contingencies. There are other means by which firms can and do compete and survive. Hence, there is nothing necessary or inevitable about the spread of non-standard employment. It is a conjunctural feature which acts as a functional substitute for other modes of labour regulation. The question is how the differential capacities for resistance possessed by the different sections of the workforce determine their distinct forms of incorporation, allocation, organisation, and reproduction. The root causes of casualisation must be sought in the interaction between (a) the processes that govern the supply of and demand for labour, and (b) the configuration and impact of the prevailing mechanisms of labour regulation. On the one hand, the nature of the products or services, the technology that is used, the fragmentation of tasks in the organisation of work and the like are vital in “determining the ways in which employers might seek to achieve flexible labour costs” (Rubery *et al* 1984:102). On the other hand, some employees may seek to “limit such flexibility through maintaining custom and practice in the workplace, influencing the level at which bargaining takes place and establishing differences in the supply of labour available” (Rubery *et al* 1984:102). The various forms of non-standard employment can therefore best be explained in terms of the differential degrees of protection and security afforded by the regulatory mechanisms in the labour market and the labour process.

The institutional constraints on the flexibility of unit labour costs are associated with the processes of collective bargaining which set minimum conditions, staffing levels, number of working hours, demarcation between skills, and so on. The effect of these elements amounts to a restriction on capital’s ability to reduce labour costs and extend the flexibility of labour beyond certain limits. These restrictions do not, however, apply in an undifferentiated manner to all sectors of the labour market due to variations in the level of skills and bargaining power, varying degrees of institutional protection, and so on. Collective agreements are fundamentally concerned with the distribution of income between profits and wages. Hence, the more effective the organisation of a particular fraction of the working class, the greater is the fixity of its labour costs and vice versa. Permanent, full-time, organised employees are also able to exert a greater

collective influence over the manner in which their labour is deployed and utilised in the workplace. The proliferation of non-standard employment is largely a reaction to the constraints imposed on employers by the protective elements in the regulation of the standard employment relationship. Non-standard employment is therefore a product of the search for a social 'fix' for the regulatory dilemmas generated by incorporation, allocation, control and reproduction of labour at a particular time and place. Only an explicit focus on the different forms that the employment relationship can assume, will reveal that

whenever the balance of advantage tilts to the side of organised labour, capitalists move from seeking to subordinate labour to seeking subordinate labour ... [That is,] capitalists can apparently endlessly export or displace their contradictions on to the next wave of helots they alight upon, at home or abroad (Cohen 1987:252-3).

The social construction of skills implies that employers rank labour supplies and that this forms the basis for systematic discrimination in job allocation. Even controlling for factors such as firm size, significant wage premiums exist between occupations, between men and women, and so on. Contrary to the claims of human capital theory, 'secondary' employment conditions are associated more with the employment of disadvantaged and marginalised workers than with variations in the productivity of labour. If worker resistance and organisation generate different forms of employment, work organisation and levels of reward than those derived from the effects of human capital alone, then it follows that, "where disadvantaged workers are employed, firms may find it relatively easy to deskill, or to pay lower wages and provide more insecure employment than might be merited by a simple consideration of technical skills" (Rubery and Wilkinson 1994:7). That is, skills are part of a more complex set of social relationships in the labour market and labour process that shape terms and conditions of employment. The process of assessing a person for a job involves a consideration of inherently unpredictable factors such as reliability, trustworthiness, creativity and deference to authority. These traits, as well as their unpredictability, follow from the fact that labour power is not a commodity but "a set of capacities borne by *people*" (Peck 1996:34). The process of matching a worker to a job is therefore infinitely more complex than simply determining whether he/she possesses the technical skills or aptitude necessary to carry out the required task.

As more and more workers find themselves located 'outside' the regulatory regime associated with the standard employment relationship, the strains and ruptures in the organisation and reproduction of the labour market are bound to intensify. The very same forces that historically formed the basis for generating the trust, commitment and protection of workers to achieve the dynamic efficiencies of a productive economy are now viewed as the source of disequilibrating rigidities. By the early-1980s, "the concerns about how to improve and extend the labour-market

regulation system to modify the effects of dualism and segmentation had given way to a debate over the merits of regulation *per se*, and over the advantages and disadvantages of a deregulatory strategy for industrial relations (Rubery and Wilkinson 1994:8). The increase in low-wage, gendered, racially-segregated, insecure and deskilled non-standard labour highlights the uneven nature of regulatory change in which earlier forms of discipline and control survive for considerable periods. As Streeck (1992:68) argues, it is not the 'free' labour market of neo-liberalism that appears as the counter-pole to societal corporatism, but "a 'dualist' society whose highly heterogenous order is characterized by growing disparities between primary and secondary, internal and external, central and marginal labor markets". Of particular concern is the fact that the 'secondary' or 'marginal' labour market is now presented, not as a necessary outcome of discrimination and disadvantage, but as the source of renewal and the cure for employment 'rigidities'.

From the viewpoint of personnel and organisational policy, the principal choice which management faces is that between competitiveness based on low costs and competitiveness based on criteria such as quality, product differentiation and innovation. In other words, there is a 'high road' (innovative) and a 'low road' (adaptive) to increased productivity and greater competitiveness (Boyer 1988b; Sengenberger 1992; Sayer 1995; Deakin and Reed 2000). Low-price and low-cost competition presupposes a downward adjustment of labour costs (e.g. redundancies or lower wages), a more intensive deployment of labour to improve performance (e.g. increasing the pace of work or introducing new techniques and technology), or a combination of both. This competitive strategy has a number of inherent limitations. First, the wages of organised employees in particular tend to demonstrate downward inflexibility, a product of institutionalised systems of wage determination. Second, cost-competitive production methods are incapable of sustaining a functionally integrated and decentralised organisation of work that depends on multi-skilled employees with broad generic competencies. Third, the incentives for employers to invest in skills development are reduced if the employment relationship is not long-term. Providing a degree of labour market security is not simply a political imperative in a democratic society; it is also an effective economic strategy. Research by Barton and Turnbull (2002:133) shows that "institutionally saturated patterns of labour regulation are more efficient than institutionally minimalist forms of organization". In a similar vein, Locke (1995:24) argues that

[c]ost-based strategies may give firms a comparative advantage over value-added firms in the short run. However, they exert a perverse externality on society as a whole by making it riskier for competing firms to make the long-term investments needed to upgrade skills and change their organizational practices to get the benefits of these investments. Thus to the extent that cost-based strategies dominate in a country, the nation risks getting caught in a low-wage/low-skill equilibrium. Nations that lack strong institutions that constrain the choice of the low-wage option are particularly vulnerable to this problem.

Low-cost strategies are unlikely to yield the initiative, trust and cooperation necessary to sustain innovative and productive work practices. If a new growth path is to be found, both management and labour must acquire tangible and lasting benefits from workplace restructuring. The changes in working and employment practices that are now deemed necessary to raise productivity would be easier to implement and sustain in a climate of job security and employee participation. In a society where employers and the government demonstrate a commitment to ensuring employment security (e.g. protection against arbitrary loss of employment), workers are far more likely to accept a strong degree of work process and even wage flexibility. The success of many of the rapidly growing East Asian economies was predicated on just this sort of combination of security with flexibility, the one being used to purchase the other. A politically sustainable balance between economic flexibility and social security is best achieved through the mechanism of collective regulation - in particular, by means of bargained arrangements between strong, representative and well-informed organisations in the labour market. Part of the reason for creating stable internal labour markets is to afford some insulation from market pressures to allow long-term, major innovation. Where firms or industries are unwilling or unable to adopt the high road, they have few options other than cost-cutting to stay in business. The resulting low-wage, low-skill system of production - based on outdated techniques and work intensification - is more vulnerable to dislocation and crisis in the face of rising levels of competition. Cost-competitive strategies are also closely associated with the expanded use of market-mediated forms of employment and the concomitant lowering of labour standards. As a result, standard employment tends to constitute a shrinking zone of advantage and stability in the labour market. Moreover, the low wages and intermittent employment associated with most forms of non-standard work exacerbate the problems associated with low levels of consumption.

Although these are not mutually exclusive strategies, in practice they rest on distinct approaches to labour regulation. Allocational efficiency and dynamic or innovative efficiency, for example, may work against one another (Sayer 1995:139). While a reduction in the mobility of capital may inhibit allocational efficiency (by preventing the transfer of resources from less-needed to more-needed activities), it can create a more secure environment for planning and innovation and encourage more robust and accelerated development. Trade-offs between these strategies are therefore to be expected in the formulation and institutionalisation of competitive strategies. The particular blend of approaches that is likely to be favoured depends in large measure on the constraints and opportunities, as well as the distribution of risks and rewards, associated with the prevailing regime of labour regulation. That is, different kinds of 'rigidity' prompt demands for different kinds of 'flexibility'.

Under the emerging global trade regime, systems of labour regulation are “assessed not in terms of their political, social, or even long-term economic value, but instead are represented as merely a variable cost” (Peck 1996:247). A ‘race to the bottom’ in labour standards is an inherent danger of the neo-liberal emphasis on market-driven restructuring and cost-cutting. While economic forces are becoming increasingly globalised, the institutions and norms of labour regulation are largely embedded at the national level. This has severely constrained the capacity of national governments to pursue progressive alternatives. Hence, the most likely prospect of a neo-liberal trade regime is “the creation of an ever larger marginalized section of the labor force alongside prospering islands of successful internationally competitive regions” (Notermans, cited in Peck 1996:256). The effective use of a ‘flexible’ and non-unionised labour force is increasingly viewed as a necessary condition for survival in the no-holds-barred competition for investment between different regions. The growth of ‘sweatshop economies’ is therefore in part the outcome of a geographical hierarchy of exploitation and of an intricate relationship between social disadvantage, ethnicity and the sexual division of labour.

In a semi-industrialised and middle-income country such as Namibia, the scourge of structural unemployment, low economic growth rates, and pervasive inequalities in wealth and power cannot be overcome by narrow techno-organisational imperatives. In the absence of a comprehensive reform agenda, the high-wage and high-productivity growth path suggested by post-Fordists is likely to exacerbate the trends towards social polarisation. Under prevailing circumstances, this growth path may improve productivity and enhance competitiveness in some firms and sectors, but it is likely to be achieved at the cost of job creation. That is, we are likely to witness wage rather than employment growth. Post-Fordist methods are only likely to develop (if at all) in a few strategic industries within the export-orientated sector, while the rest of the economy continues to be marked by hybrid and uneven development, alongside informal sector poverty and rural decline. New technologies and work practices are also likely to be implemented in a manner that intensifies the division skilled, high-wage ‘core’ workers and unskilled, low-wage ‘peripheral’ workers. In a developing country such as Namibia, the economy is highly specialised with an ‘enclave’ type of export sector with limited internal backward and forward linkages; demand is met largely through imports; there is a lack of vertically integrated industrial structures (i.e. incomplete production chains); and export products frequently have low value-added content. To build up a viable, self-reliant economy in these societies, a necessary condition is to generate a comprehensive industrialisation process and hence to restructure the international division of labour. The wealth of a country’s factor endowment; its communications network; its chances of domestic capital accumulation as opposed to direct foreign control of production; the capability to accelerate the domestic acquisition of technological capacities; the national

generation of linkages; and government policy are all decisive factors in paving the way for successful industrialisation. A vibrant and expanding capital goods industry is a key to technical progress, which in turn has a direct impact on labour productivity and investment.

A diversified industrial structure that is capable of supplying a significant proportion of its own requirements for industrial inputs and capital goods is widely regarded as a necessary condition for a self-sustaining, long-run growth path. The more industrialised grouping of developing countries has managed to reduce its dependence on capital goods imports, accounts for the bulk of manufactured exports, and has moved into higher value commodities involving greater and more capital-intensive processing of raw materials. The newly industrialised countries are thus becoming ever more differentiated from the least developed countries in both industrial structure and performance. A dependence on manufactured imports, together with the lack of capital and skilled labour, constitute significant obstacles to industrial development in Namibia (Collet 1980; Jowell 1983; Curry and Stoneman 1993). The rise in machinery costs means that imports can rapidly outstrip the growth in overall export earnings. The growth of the Namibian economy remains vulnerable to external factors with recurring droughts, volatile markets for minerals, rising costs of imported inputs, and highly variable output from the fisheries sector. A managerial preoccupation with control and cost-cutting means that new management techniques are characterised by hierarchical, authoritarian, and adversarial industrial relations. These techniques also contribute to the implicit deregulation of the labour market. As a result, labour continues to be viewed as a burdensome cost rather than as a vital resource requiring continuous training and active involvement in decision-making processes. The local impact of globalisation in exposing domestic markets to more intense competition is highlighted by the ways in which increased competition encouraged a view of workers' rights as production costs. It is therefore the interplay of national and international forces that reproduces the links between low wages, low productivity, low skills and low investment in Namibia.

Given the fact that capital and intermediary costs are considerably higher than labour costs for most sectors of the economy, employers' preoccupation with wage costs and labour utilisation overlooks the limited savings that can be achieved and assumes that cost is the primary determinant of competitive advantage. This forecloses attempts to enhance non-price determinants of competitiveness such as quality and innovation. Cost-cutting has generally been pursued in an opportunistic and non-strategic manner. The pressures for change are resolved in a manner that makes the high-wage, high-skill route to competitiveness more difficult to attain. In particular, there are significant obstacles to the cooperative and participatory features of post-Fordism. First, organisations remain rigidly hierarchical, top-down decisions predominate, and

ordered chains of command are entrenched. Second, inadequate information sharing is widespread and little time and resources are made available for employee participation. Third, there is a general unwillingness among managers to drastically modify existing decision-making structures and employers' organisations currently sanction a highly limited form of worker participation. Fourth, structures of collective interest representation are often simply 'bolted' on to existing organisational forms and have done little to overcome low-trust industrial relations. Fifth, there is a serious lack of opportunities for workers to gain the participatory competence necessary to mount a serious challenge to the prevailing structures of authority in industry. Finally, the current emphasis on individualised forms of employee 'involvement' and 'flexibility' pose significant challenges to the collective regulation of wage-effort norms.

In the light of efficiency gains of about 1.5% per year and a population growth rate of more than 3%, it is estimated that economic growth of at least 4% is required just to maintain the current level of employment in Namibia (Schade 2000). Given the steady depletion of mineral reserves and harsh climatic conditions, much of this growth will have to come from an expanding manufacturing sector. When we consider the types and patterns of industrial growth in southern Africa, according to Riddell (1993), the following features stand out: (a) the predominant source of growth in manufacturing has been domestic demand rather than either import-substitution or export growth; (b) the pace of growth in manufacturing output seems to have been critically determined by the dynamics of the wider domestic economy; (c) manufacturing growth has been dependent on access to sufficient amounts of foreign exchange (to finance plant, equipment and inputs) which the sector itself has in large measure been unable to earn; (d) a substantial growth of manufacturing would be highly unlikely unless the leading productive sectors were also experiencing sustained growth and expansion; (e) the process of substituting for imports has tended to be rather haphazard - it has resulted in neither a very significant degree of linkages with other sectors of the economy nor to a significant fall in the importation of even simple consumer goods; (f) the dominance of consumer rather than intermediate or capital-goods manufacture suggests not only that manufacturing is relatively simple in technique, but also that there has been little structural change in the post-independence period; (g) there is plenty of scope for further import substitution, placing in better perspective the view that future manufacturing policy should be dominated and determined by an expansion of domestic demand; and (h) success in import-substituting industrialisation depended not so much on the dominance of one or other characteristic, but rather on the convergence of many supportive elements over a relatively long period of time.

The tendency for firms to reduce the number of workers that enjoy employment security and to

increase the number of workers with a tenuous grip on employment have created different levels and types of security and vulnerability. It has proved to be extremely difficult to develop policies to deal effectively with these heterogeneous forms of disadvantage. The proliferation of precarious and poorly regulated forms of employment, as we noted above, imposes numerous, often unsustainable costs on the family and the wider community. The question, then, is whether the state will sanction the measures necessary to fundamentally restructure the labour market and break the economic ties of neo-colonialism. Attempts to manage the effects of widespread poverty and inequality, low levels of economic growth, and dissatisfaction with the slow pace of transformation have intensified the authoritarian tendencies within the ruling party (Saul and Leys 1995; Dobell 1998; Melber 2003). SWAPO has provided precious little space for the organs of civil society to articulate and pursue an alternative developmental agenda. Critical voices are too readily silenced or simply dismissed as ‘unpatriotic’ and inspired by the ‘agents of imperialism’.

‘Flexible’ forms of employment and production have spread unevenly and constitute novel subjects and sites of struggle. The significance of these trends is essentially a theoretical question. The tentative nature of changes in a period of transition means that identifying the directions of change involves more than simply measuring the extent of empirical change. A wide range of potentially disparate changes, for example, do not add up to a shift in the overall direction of an economy. We need to identify the types of change involved, determine the reach and pace of these changes, trace the connections between them, and then assess which of the changes (if any) are the more robust or decisive. Changes in the workplace are complex and depend on a range of contingencies such as the prevailing systems of labour regulation, the exposure of the economy to the vagaries of international competition, and so on. If we are to make sense of these changes, both an overly optimistic voluntarism and an unduly pessimistic structuralism should be avoided. According to Jessop (2001b:12),

an adequate account of regulation must not only consider the material preconditions of, and constraints upon, reproduction ... but must also take account of the different modes of calculation and the orientations of the various social forces involved in economic and social regulation. An important theoretical development in this context would be a more explicit concern with the ‘spatio-temporal fixes’ within which capitalist reproduction and regularisation occur.

Even when, over a restricted region of time and space, a structure tends to endure, it is always on the basis of intrinsically dynamic and always potentially transformative, human practice. All social structures are thus only relatively enduring, being spatially and temporally situated or embedded (Bhaskar 1989). It follows from this transformational conception of social activity that if change, or the potential for change, is always present, the analysis of change *per se* is of no

lesser or greater significance to social explanation than the understanding of continuity and reproduction. While some structures can, with hindsight, be said to be more enduring than others, it does not follow that these structures are somehow more 'natural' or 'normal'. There is no ontological asymmetry between relative continuity and relative change (Collier 1994:96). It is simply wrong to regard any social structure or system as something that would somehow reproduce itself unless obstructed from doing so. Consequently, there is equally no epistemic or logical asymmetry between the explanation of relative continuity and relative change. Both are in principle open to, and require, social explanation.

If history was simply a succession of events, as the Humean notion of causality implies, the world would be much easier to change than it has proved to be in practice. Conversely, if social institutions have inner structures which simultaneously enable and constrain their powers, a far more complicated account of social transformation follows. Absent from the neo-liberal image of capitalism as a mass of individuals responding to one another through markets, is any notion of fundamental, enduring social structures that are unlikely to yield to piece-meal change (Sayer 1995:77). According to Bhaskar (1989:4), the structures of social relations are "the explanatory key to understanding social events and trends" as well as "the focus of social activity aimed at the self-emancipation of the exploited and the oppressed". This conception enables him to make the contrast, which the actualist cannot make, between the *transformation of structures* and the *amelioration of states of affairs* as political goals. 'Emancipation' implies that there are objectively existing, effective, relatively enduring, but alterable structures constraining human possibilities. There is a real hiatus between reforms at the level of the actual that retain existing structures and changes at the level of the real that alter underlying structural determinations. One will never fundamentally change structures by the cumulative effect of reforms in accordance with those structures: wage increases, for example, will not abolish class exploitation. Moreover, the relational conception of social reality espoused by critical realists such as Bhaskar implies that one person's oppression always results from another's domination.

Since there is no example of 'total' emancipation, it is more likely that emancipation will always occur as a multiplicity of partial emancipations. For instance, the bourgeois revolutions which emancipated Europe from feudalism, delivered it over to capitalism. Likewise, the national liberation movements that ousted colonial rule often replaced it with dictatorships or corrupt bureaucracies. If emancipatory politics means transforming structures, it must be based on knowledge of those structures. Such knowledge is necessary to transform the will to ameliorate states of affairs into a project for transforming the structures that generate the unwanted states of affairs. We do not need Marx to tell us that the rich rob the poor, but *Capital* highlights the

mechanisms by which this is done and they need to be understood if we are to transform them. To be sure, the amelioration of states of affairs is in no way disparaged or devalued. For it is precisely the aim of structural transformation to ameliorate states of affairs (Collier 1994:10-1). The point is rather that certain states of affairs cannot be ameliorated within existing structures. For instance, it is highly improbable that permanent full employment or the sustainable utilisation of natural resources could be maintained and generalised within 'free' market economies. Which things can be made better without changing the dominant social structures and which cannot is ultimately an empirical question. While critical realism cannot by itself answer this question, the actualism that argues or presumes that there are no underlying structures, only states of affairs, is totally precluded from making the distinction between superficial reforms and radical change.

The Namibian labour movement has not yet developed a form of unionism that would allow it to mount an effective campaign for more radical social change. A preponderance of workplace-based trade unionism, labour's limited influence on economic and social planning, and the low-trust, low-skill and low-wage policies pursued by employers have drastically curtailed the unions' strategic options. Finding a more equitable trade-off between flexibility and security requires a struggle on many fronts. The specific form that the casualisation of employment assumes is a product of the complex interaction between segmented labour supplies, a differentiated demand for labour, and the various dilemmas generated by a particular regime of labour regulation. As a result, non-standard employees are distributed in a complex and uneven manner across industrial sectors and the occupational hierarchy, and face a diverse range of possibilities and liabilities that shape their levels and forms of participation in the labour market. The institutional legacy of apartheid-colonialism, high levels of unemployment and poverty, a growing polarisation of the labour force, the predominance of cost-competitive strategies in workplace restructuring, and the selective coverage of employment legislation and labour market institutions have all accentuated the pressures for casualisation in Namibia. This focus on the limitations of what can realistically be pursued within existing institutional and relational conditions does not sanction or suggest any specific political project with regard to the casualisation of labour. The latter can only be constructed in the context of the constraints and opportunities of prevailing institutions, and by mobilising available (theoretical and material) resources to overcome the fractured solidarities of increasingly segmented labour markets.

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APPENDIX 1:

MANAGEMENT INTERVIEW SCHEDULE

A. GENERAL BACKGROUND

1. Products manufactured or services delivered.
2. Describe the organisational structure of the firm.
3. What are the most pressing local issues?
4. How would you describe the current environment both within the firm and outside?
5. How is the firm adapting to these conditions?
6. How would you describe the product markets in which your firm competes?
7. How would you describe the present state of the labour market and its impact on the management process?
8. How would you characterise your firm's production or service delivery methods?
9. How would you describe the values of the firm?
10. What are the goals or strategic objectives of the firm?

B. GLOBALISATION AND COMPETITIVENESS

11. What strategies has your firm adopted to meet the challenges of increased international competition?
12. What changes do you think would be most likely to improve the productivity of the economy?
13. What changes do you think would be most likely to improve the productivity of your employees?
14. Can productivity and market share be increased with existing organisational structures or is major restructuring necessary?
15. What role does the customer/the state/trade unions play in management's strategies?
16. What are workers' perceptions of quality?

17. What role does the union play in quality issues?
18. How are your employees motivated and their performance monitored?
19. Are workers made aware of the challenges facing the firm and its long-term goals in this regard?
20. Describe the attitudes and behaviour of workers (technical, clerical, manual).
21. Is restructuring at work a specific and short-term response or more long-term and strategic response to increased levels of competition?
22. What is the typical time-horizon of managerial planning?
23. Do you manufacture your products according to demand or do you produce a standard quota?
24. What are the central principles that determine the way in which jobs are designed and allocated in your firm?
25. Outline the extent of change in the following since 1990:

(a) *Organisational Structure:*

- Acquisition and sale
- Expansion and contraction
- Joint ventures and collaborative arrangements
- Markets and competition
- Centralisation and decentralisation

(b) *Production:*

- New technology
- Machine lay-outs
- Work-flow and the pace of production
- Stocks and work-in-progress
- Quality control
- Output levels

(c) *Human Resources:*

- Retrenchments
- Labour turn-over
- Absenteeism
- Working hours and overtime
- Links between pay and productivity
- Team work and employee involvement
- Dispute resolution procedures
- Discipline
- Training and skills profile
- Number and nature of grievances/disputes

26. What is the major driving force behind the changes that have occurred in the workplace?
27. What are the main causes of idle-time and bottlenecks in production? How effective has management been in eliminating them?

C. EMPLOYMENT 'FLEXIBILITY'

28. Number of employees (weekly-paid and monthly-paid).
29. What occupational shifts are associated with black workers?
30. Is management committed to a blurring of job demarcations and therefore greater mobility between jobs within the firm?
31. Has there been a significant change in the extent and content of non-standard labour or simply a continuation of long-established practices?
32. What percentage of the workforce is constituted by *temporary* employees?
- Gender and skill?
 - Increase or decrease in last ten years?
 - Job categories?
 - Reasons for employing these workers?
33. What percentage of the workforce is constituted by *part-time* employees?
- Gender and skill?
 - Increase or decrease in last ten years?
 - Job categories?
 - Reasons for employing these workers?
34. What percentage of the workforce is constituted by *subcontracted* labour?
- Gender and skill?
 - Increase or decrease in last ten years?
 - Job categories?
 - Reasons for employing these workers?
35. What are the major advantages and disadvantages that stem from the use of non-standard workers?
36. Does management have clear policies and goals in the use of non-standard labour?
37. To what extent can management switch standard and non-standard workers between different jobs?
38. To what extent do trade unions and work groups control the acquisition and allocation of labour?

39. What is the difference between the highest and lowest wages in your firm? Is it increasing or decreasing?
40. Are non-standard workers cheaper/more pliable than permanent employees?
41. What are the differences in the skills, promotion prospects, pay rises, age, gender and benefits of standard and non-standard labour?
42. What are the differences in productivity between standard and non-standard labour?
43. What is the turn-over rate of non-standard workers?
44. Do you employ too few or too many non-standard workers?
45. How does the management of part-time and temporary labourers differ from that of permanent employees?
46. Has job security increased or decreased?
47. How do you deal with the tasks of absent employees?
48. Do you encounter any difficulties in filling new or vacant posts?
49. Do you employ different recruitment procedures for different categories of employees?
50. What do you as management look for when hiring new employees?
51. How would you divide or categorise the workforce in your firm?
52. Would you say that the workforce can be divided into a 'core' and a 'periphery' (in terms of status, influence, job security, career prospects, skills, wages, benefits)?

D. OUTSOURCING AND INDUSTRIAL NETWORKS

53. What do you regard as the central advantages and disadvantages of subcontracting or outsourcing?
54. Does management have a clearly-formulated strategy on outsourcing?
55. What criteria do you use to establish which functions should be outsourced?
56. Which functions in your firm are prime candidates for outsourcing?
57. Which activities in your firm would be best retained 'in-house' and which would be best outsourced to suppliers?

58. Would you say that your firm has achieved the optimum balance between in-house and outsourced work?
59. Do you anticipate an increase or decrease in the levels of outsourcing in the future?
60. Do government policies and labour laws facilitate or obstruct the outsourcing process?
61. Is the issue of outsourcing regulated through collective bargaining with the union or discussions with employees? If not, how are these decisions reached?
62. How would you describe the union's position on outsourcing?
63. Would you say that a decision to outsource more of the firm's activities would harm the levels of trust which exist between management and the union?
64. How would you characterise the relations between your firm and its suppliers?
65. Are long-term commitments made to certain suppliers?
66. How do you control the quantity and quality of the materials and services supplied by outside contractors?

E. MANAGEMENT STYLE

67. What are the major constraints on management to run the firm as it sees fit?
68. Would you describe your approach to human resource management as 'flexible' (i.e. able to adapt rapidly to changes in technology and market conditions)?
69. In which areas of production and employment would flexibility be a worthwhile goal for management to pursue?
70. Business consultants emphasise team-working, leaner management structures, just-in-time inventories, flexi-time, and total quality control. Have any of these strategies influenced management's thinking on productivity and competitiveness? Which, if any, of these strategies are pursued in your firm?
71. What is your response to the argument that increased productivity depends on a move away from uniform, standardised pay structures negotiated at a central level to more varied and individualised systems based on performance?
72. How would you describe the terms and conditions of employment for workers at your firm?
73. What are the most significant changes in employment policies and production strategies that have occurred in the firm over the last ten years?

74. In general terms, how would you describe the nature and direction of the changes taking place in human resource management?
75. In terms of decision-making power and its role in the formulation of company policies, how does the personnel department compare with other departments such as accounting, finance and production?
76. Is the dominant management approach to avoid or engage the trade unions?
77. Outline the impact of labour laws on managerial practices.
78. On which issues do you relate to the work force as a collective (through the union) and which matters are dealt with on an individual basis?
79. How are the effort-levels of your employees determined and enforced?
80. Describe the relationship between formal and informal rules in the workplace.
81. Which channels of communication with the employees are most effective? Why?
82. What is the company's policy on affirmative action?

F. INDUSTRIAL RELATIONS

83. What is management's primary objectives in terms of industrial relations?
84. What are the major obstacles to achieving these objectives?
85. Which model of industrial relations do you think should replace the present system?
86. Which categories of the workforce are unionised? Name of the union/s?
87. What are the major changes that have taken place in collective bargaining over the last ten years?
88. To what extent do the unions bargain over wages as opposed to the organisation of work?
89. What role does industrial relations considerations play in key business decisions and broader business strategies?
90. What you think are the main reasons for changes in the importance of industrial relations matters over the last ten years?
91. Describe the nature of the issues that are subject to negotiation with the trade unions.
92. Explain the industrial relations situation regarding the different unions/bargaining units.

93. What levels of trust would you say exist in your workplace?
94. What is the impact of head office on collective bargaining?
95. Describe the means by which corporate head office influences decisions on industrial relations matters.
96. Which decisions are shaped or taken by head office and which are left to the establishment?
97. Is there an attempt to separate pay bargaining structures from the structures for strategic business decision-making?
98. What kinds of trade union behaviour do you find most satisfactory?
99. What kinds of trade union behaviour do you find most unsatisfactory?
100. To what extent does management control the agenda of negotiations with the trade union/employees? What issues dominate the union/employees' agenda?
101. Which areas of decision-making would management be reluctant to open up to negotiations with the trade union?
102. How is the work load or output of each worker determined? Which factors are central in determining the levels of effort that workers put into their jobs?

APPENDIX 2: ✓

TRADE UNION INTERVIEW SCHEDULE

A. GENERAL BACKGROUND

1. Industries and categories of employees organised.
2. Number of current paid-up members? Increase or decrease over the last ten years?
3. How would you describe the current environment both within the union and outside?
4. How is the union adapting to these conditions?
5. How would you describe the terms and conditions of employment of your members?
6. What are the most significant changes in employment policies and production strategies that have occurred in the firms you have organised over the last ten years?
7. In general terms, how would you describe the nature and direction of the changes taking place in industrial relations?
8. How would you describe the goals and values of managers?
9. What are the most pressing local issues?

B. GLOBALISATION AND COMPETITIVENESS ✓

10. What changes do you think would be most likely to improve the productivity of the economy?
11. How are firms responding to the challenges of increased international competition?
12. Do employers make demands for greater employment 'flexibility'?
13. Are workers made aware of the challenges facing the firm and its long-term goals in this regard?
14. Outline the extent of change in the following since 1990:
 - (a) *Production:*
 - New technology
 - Machine lay-outs
 - Work-flow
 - Stocks and work-in-progress

- Quality control
- Output levels

(b) *Human Resources:*

- Retrenchments
- Labour turn-over
- Absenteeism
- Working hours and overtime
- Links between pay and productivity
- Devolved responsibility and employee involvement
- Dispute resolution procedures
- Discipline
- Union recognition
- Training and promotion
- Number and nature of grievances/disputes

C. EMPLOYMENT 'FLEXIBILITY'

15. What occupational shifts are associated with black workers?
16. Is management committed to a blurring of job demarcations and therefore greater mobility between jobs within the firm?
17. Describe the union's approach to non-standard workers.
18. What strategies has the union devised to deal with non-standard workers?
19. Has there been a significant change in the extent and content of non-standard labour or simply a continuation of long-established practices?
20. To what extent can management switch part-time or temporary and permanent workers between different jobs?
21. To what extent does the trade union and work groups control the acquisition and allocation of labour?
22. What is the difference between the highest and lowest wages in your sector? Are these increasing or decreasing?
23. Are non-standard workers cheaper/more pliable than standard employees?
24. What are the differences in the skills, promotion prospects, pay rises, age, gender and benefits of standard and non-standard labour?
25. What are the differences in productivity between permanent and part-time or temporary labour?

26. What is the turn-over rate of non-standard workers?
27. Do you think companies employ too few or too many non-standard workers?
28. Does management have clear policies and goals in the use of non-standard labour? How does the union intend to combat these policies?
29. Has job security increased or decreased?
30. What does management look for when hiring new employees?
31. Would you say that the workforce can be divided into a 'core' and a 'periphery' (in terms of status, job security, career prospects, skills, wages, benefits)?
32. Is management consciously implementing a core-periphery strategy?
33. What effect does the removal of job security for non-standard workers have on other workers?
34. What kind of jobs are most likely be casualised by employers?
35. What percentage of the workforce is constituted by *temporary* employees?
- Gender and skill?
 - Increase or decrease in last ten years?
 - Job categories?
 - Reasons for employing these workers?
36. What percentage of the workforce is constituted by *part-time* employees?
- Gender and skill?
 - Increase or decrease in last ten years?
 - Job categories?
 - Reasons for employing these workers?
37. What percentage of the workforce is constituted by *subcontracted* or casual labour?
- Gender and skill?
 - Increase or decrease in last ten years?
 - Job categories?
 - Reasons for employing these workers?
38. How does the organisation of non-standard labourers differ from that of standard employees?

D. OUTSOURCING AND INDUSTRIAL NETWORKS

39. What do you regard as the central advantages and disadvantages of subcontracting or outsourcing?

40. Does union have a clearly-formulated strategy on outsourcing?
41. What criteria do managers use to establish which functions should be outsourced?
42. Which activities are retained 'in-house' and which are outsourced to suppliers?
43. Do you anticipate an increase or decrease in the levels of outsourcing in the future?
44. Have government policies and labour laws facilitated or hindered outsourcing?
45. Is the issue of outsourcing regulated through collective bargaining with the union or discussions with employees? If not, how are these decisions reached?
46. How would you describe the union's position on outsourcing?
47. Would you say that a decision to outsource some of the firm's activities would harm the levels of trust which exist between management and the union?

E. INDUSTRIAL RELATIONS

48. Is the dominant management approach to avoid or engage the trade unions?
49. Which channels of communication with the employers are most effective?
50. What are the major changes that have taken place in collective bargaining over the last ten years?
51. On which issues do employers relate to the workforce as a collective and which matters are dealt with on an individual basis?
52. On which issues are employers open to negotiation with the trade unions and on which issues do they refuse to negotiate?
53. To what extent do the unions bargain over wages as opposed to the organisation of work?
54. What role does industrial relations considerations play in key business decisions and broader business strategies?
55. Has there been any major changes in the way management deals with the trade unions over the last ten years?
56. What opportunities exist for workers to influence management's decisions?
57. What levels of trust would you say exist in the workplace?
58. Please give details and outcomes of industrial action in the last five years.

59. Which model of industrial relations do you think should replace the present system?
60. What is the impact of head office (NUNW) on collective bargaining strategies?
61. To what extent are terms and conditions of employment and the organisational framework open to change?
62. To what extent does management control the agenda of negotiations with the trade union/employees? What issues dominate the employers' agenda?
63. What performance and appraisal criteria are used by employers?
64. How is the workload of each worker determined?
65. How committed are workers to the productivity and long-term survival of the firm?
66. Would you say that employees have a career structure?
67. Has any decentralisation or delegation of decision-making taken place in your union over the last ten years?
68. Business consultants and academics have made much of the 'Japanese miracle'. They argue that, unlike the rigid mass production methods of the West, Japanese companies have adopted strategies that enhance employment and production 'flexibility'. This, it is argued, allows for effective cost control and a rapid response to changing market conditions. What are your views on these arguments?
69. The proponents of 'flexibility' emphasize team-working, leaner management structures, just-in-time inventories, flexitime, and total quality control. Have any of these strategies influenced management's thinking on productivity and competitiveness? Which, if any, of these strategies are pursued by the firms you have organised?
70. What types of flexibility are sought by employers?
71. What is your response to the argument that increased productivity depends on a move away from uniform, standardised pay structures negotiated at a central level to more varied and individualised systems based on performance?

