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THE WIEHAHN REPORT AND THE INDUSTRIAL  
CONCILIATION AMENDMENT ACT:

A **NEW** ATTACK ON THE TRADE UNION  
MOVEMENT IN SOUTH AFRICA\*\*

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The views expressed are those of the Author.

The conclusions of the Wiehahn report and the provisions of the so-called Industrial Conciliation Amendment Act have been condemned and rejected by the Special Committee and all major international trade union confederations as another sophisticated attempt at further dividing and suppressing the black trade union movement in South Africa.

The General Assembly has repeatedly called on trade union organizations to provide moral and material support to the oppressed people of South Africa and their genuine trade union and national liberation movements for the eradication of apartheid.

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Acknowledgement, together with a copy of the publication containing the reprint, would be appreciated.

## INTRODUCTION

On 1 May 1979 the report of the Commission of Inquiry into Labour Legislation chaired by Professor Nicholas Wiehahn was released by the South African Government. At first glance its recommendations seemed almost revolutionary against the back-drop of apartheid. The Rand Daily Mail hailed the Commission's report as the harbinger of a "huge and exciting transformation of industrial relations in South Africa" while Business Week called it "the best news out of southern Africa for Washington in many years" and the Johannesburg Sunday Times quoted such comments as "historic" from the chief executives of multinational corporations operating in South Africa.

Just twenty-four hours after the Wiehahn report was made public, the South African Government issued an official White Paper on the Commission's recommendations. Shortly thereafter, the Minister of Labour presented a draft Industrial Conciliation Amendment Act to Parliament formalizing the Government's interpretation of the report. The new Labour legislation passed rapidly through Parliament with virtually no modification and was signed into law before the session recessed.

The Government acclaims the recommendations of the Wiehahn Commission and the provisions of the new legislation as evidence of its intention to reform present apartheid labour policies. It points to the fact that not only will black unions be officially registered for the first time in South African history, but they will be accorded the same rights as white unions. Differential pay scales will give way to equal pay for equal work, racially-based job reservation will be replaced by a policy of non-discrimination, and the statutory bars to integrated work and rest facilities will be dropped.

Careful consideration of the fine print of the Wiehahn report and the Government's interpretation of even its major recommendations has led observers, including those initially hopeful that change was finally in the offing, to reject both the Commission's findings and the new legislation. For they do not herald the reform of South Africa's apartheid labour policies nor even the beginning of such a process. Rather, they mark the start of a new and sophisticated effort to control and, if possible, to break the black trade union movement. Like many other recently announced "reforms," this legislation displays the characteristic features of the "moderate" apartheid policies of the present Botha Government: cosmetic de-racialization and concessions to a tiny majority of blacks combined with substantial tightening of the restrictions on most Africans.

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The registration of African unions will eliminate from their ranks a substantial majority of their members through an exclusive definition of eligibility denying the status of "employee" to all but a small minority of black workers.

The effective reservation of skilled jobs for whites will continue to exist, although it will be enforced by new and no longer overtly racial means.

Unions will be stripped of their important political function in the black community and of control over labour relation training.

All facets of union operations will be opened to direct government scrutiny.

The few loop-holes by which international pressure for change in South Africa's apartheid labour policies have been brought to bear will be sealed.

Two new institutions, the National Manpower Commission and the Industrial Court, will greatly improve government surveillance and control capacities, not the least because both will be largely exempt from statutory regulation.

For their part, black South Africans reject both the specifics of the commission's findings and the new legislation, and the entire reformist approach to apartheid they are supposed to embody. Black leaders have long called for the recognition of African unions and their participation in the collective bargaining process and for the end of job reservation and of gross black-white differentials in pay, training, amenities and rights. But they will not accept these at the expense of the black community and the black labour force as a whole. Nor will they accept them if they are offered as a means of maintaining the fundamental elements of the apartheid system as Wiehahn and the Government intend. For the Wiehahn report calls for giving "all groups a stake in the system" in order to "ensure a common loyalty to both the system and the country." 1/ Africans, however, want no part of the present system. As a recent letter to the Johannesburg Sunday Times puts it, "We who are black do not want more improvements, a mere shifting of the same furniture about the room. We want fundamental change." 2/

## BACKGROUND

On 16 June 1976 thousands of Soweto school children took to the streets in what soon became the biggest and most violent black rebellion against the South African régime to date. Unable to control the students, the police opened fire. Soweto exploded and for a week the violence flared there and in other black townships across the country. Official reports placed the final death toll at 600. African sources cite much higher figures. In addition to the dead and wounded, thousands were arrested, including many in their early teens, and numerous student leaders still face long terms in prison for their alleged roles in the uprising.

The South African Government emerged from the events of June 1976 badly shaken. International opinion was shocked by the sight of children facing dogs and guns with bottles and rocks and, as after the Sharpeville massacre, in 1961 faith in the white régime dropped markedly. At home, the Government had to face both a frightening vision of black rage and the clear evidence that past policies aimed at the control of the black population had failed. The means had to be found to manage internal dissent and to soothe external concern.

To this end, Minister of Defence - now Prime Minister - P. W. Botha announced in 1977 South Africa's adoption of a "total strategy" to meet a "war situation". "Total strategy", stated Botha, can be described as the comprehensive plan to utilize all the means available to a state to achieve the national aims. A total strategy, is therefore, not confined to a particular sphere, but is applicable at all levels and to all functions of the State's structure. 3/ The "national aim" was the preservation of white rule; its maintenance required new methods. To develop those new methods special commissions were formed. On 21 June, 1977 Nicholas Everhaudus Wiehahn and thirteen others were appointed to develop a new state strategy for labour.

In constituting the Commission, the Government charged its members to make recommendations "with specific reference to the adjustment of the existing system." 4/ The Commission took this perspective to heart. It proceeded in its task "from the point of view that as many as possible of the worthy and effectively functioning institutions and practices of the present system should be retained and, if need be, adapted, modernized and brought into line with the needs of the day." 5/ Although the South African Government already exercised an extraordinary degree of control over all aspects of industrial relations and intervenes systematically in the work place, the Commission argued at each step that state control should be expanded still further. It felt that the State should become the "architect, designer, guide and initiator" of labour relations in South Africa. 6/ In keeping with the total national strategy, the Commission's recommendations - now embodied in law - give the State control of labour "applicable at all levels and to all its functions."

### Why Wiehahn?

Three important factors contributed to the need for a renovation of South Africa's apartheid labour policies. First and most important is the impressive and growing strength of black unions; second, increasing inter-

national pressure for change and growing South African fears of isolation, and last, structural changes in the South African economy caused by its rapid growth and diversification in the last twenty years necessitated the development of new, more sophisticated labour management techniques.

### Black Unions

Clearly the main thrust of the Wiehahn Commission's effort was to defuse the "grave danger" posed by black unions and to break or control the black union movement. It is not a new effort, but rather the most recent in a long history of labour repression begun at the turn of the century. Indeed, the black trade union movement has passed through a number of growth cycles at the end of which the imposition of new control measures temporarily blocked its development and reduced membership. During the 1920's black unions mustered 146,000 members only to be killed by the depression and special legislation in the early 1930's. The movement soon reappeared and by 1945 the Council for Non-European Trade Unions, founded in 1942, and 119 affiliated unions with a total membership of 158,000. In 1946 the strongest of these, the African Mineworkers' union, took 74,000 men out on strike. Police broke the strike only by killing 9 miners and wounding 1,200 more.

The coming to power of the Nationalist Party brought new forms of repression. Hundreds of union leaders and members have been harassed and imprisoned under the Suppression of Communism Act of 1950 (now replaced by the Internal Security Act) which defined communism as any effort to bring political, social or economic change, and the Bantu Labour Act of 1953 which declared all strikes by African workers criminal offences. The union movement had begun to overcome even these measures by 1961. Then, with the Sharpeville massacre and the subsequent banning of all major African political organizations, it too faced new and more severe attacks. Numerous trade unionists suffered banning, imprisonment and exile and the unions were once again far reduced in strength. 7/

In 1973, however, African unions launched 246 strikes involving more than 67,000 workers directly and affecting many more. These strikes and particularly those in Durban organized by unions with close ties to the blossoming Black Consciousness Movement, provided the first impulse for the Government review of labour policies which culminated after Soweto in the appointment of the Wiehahn Commission.

#### Strikes by African Workers.

	1971	1972	1973	1974	1975	1976	1977	1978
Number of Strikes	22	16	246	189	119	105	38	51
Number of Workers	2456	3374	67338	37724	11874	15735	7866	8478

Today the African trade union movement is comprised of 27 unions with a total membership of between 55,000 and 70,000 according to the Commission's figures. 9/ At its core is the new Federation of South African Trade Unions (FOSATU) representing the 12 major black unions and 45,000 workers. 10/ The unions touch only a tiny portion of the total African work force of 9.5 million, but as the Commission points out, they are found predominantly in such "strategic" industries as transport, engineering, chemicals, automobile assembly and rubber works, glass, metal and allied works, etc." 11/ Moreover, as the Commission notes, despite their lack of official recognition, many of the black unions have achieved a degree of de facto recognition in their respective industries.

Ironically much of the black union movement's recent development has been possible precisely because they are not officially registered and so have not been "subject ... to the system nor to its essential discipline and control." 12/ The Commission decries the fact that as a result "they are free ... to participate in politics" and have become "vehicles for change" 13/ even "in matters other than those of purely labour character." 14/ They receive large amounts of money from many sources, including foreign ones, and "are under no obligation to account for their income and expenditure," a state of affairs the Commission finds "undesirable." 15/ They also receive "strong moral support from abroad" and "highly undesirable" exposure to "trade union philosophies ... foreign to South Africa." 16/ Bannings, imprisonments and harassment notwithstanding, in other words, until Wiehahn the black trade union movement had not felt the full weight of government control. The Commission's recommendations and subsequent legislation have gone a long way toward rectifying the oversight.

#### International pressures

The Wiehahn Commission also sought to respond to mounting international pressure on South Africa over its apartheid policies. South Africa dreads isolation for economic and psychological reasons. Although largely self-sufficient in strategic materials (with the exception of oil), South Africa's prosperity depends upon the expansion of trade with the West and the continued flow of Western capital into the country. As important as the economic links with the West are white South Africa's identification with Europe and its self-image as an outpost of Western civilization. Since Soweto both sets of ties have increasingly been challenged.

Of particular concern to the Government is growing public pressure in the West on multinationals doing business in South Africa. As an executive of Barlow Rand put it, "If they do not come up with significant changes ... our associates in the United States will find it extremely difficult to retain trade links with companies here." 17/ Fear of such an outcome is evident in the Commission's scenario of the probable effects of a total ban on black activity suggested by one of its members.

"It would unite international employers' and workers' organizations in both the Western and Eastern blocks of the world against South Africa. This could only impose an intolerable strain on the country's relations with the international world, inevitably leading to punitive sanctions

in the industrial, commercial and communications fields. Finally, such a prohibition would be detrimental to efforts to improve relations between South Africa and the international world." 18/

But while it regards such crude action as too dangerous, the report also makes clear that South Africa will not bend to international pressure. The Commission emphasizes that it "can certainly not be influenced in its deliberations and recommendations" 19/ by outside efforts and flatly rejects what it refers to disparagingly as the "alien labour practices of multinational enterprises developing from the different foreign labour codes of conduct." 20/ The Commission's stance undercuts the position taken by American corporations many of which testified at its hearings, that their presence is a positive force for change in South Africa.

In order to help relieve international pressure, however, the Commission's report did embrace many of the cosmetic changes demanded by Sullivan and the other corporate codes of conduct in the hope of strengthening the multinationals' hand at home. The report recommends, for example, the end of statutory segregation of work and rest facilities, although it diminishes the recommendation's impact by suggesting that their integration is a matter to be decided by employers and their employees. 21/

#### Changing needs of the economy

The very expansion and diversification of the South African economy has created new and different labour needs. Proponents of evolutionary change in South Africa often cite this fact as evidence that continued economic growth will inevitably lead to the de-racialization of the country when the need for skilled workers exceeds the supply of eligible whites. An important aspect of the Wiehahn Commission's work was to devise new and more sophisticated labour management policies capable of both meeting the labour needs of a growing country and resisting any erosion of white dominance.

The problem of the general shortage of skilled labour in South Africa runs through the whole Wiehahn Commission report. It notes that in South Africa today there is "an increased demand for labour, particularly skilled labour" while the immigration to the country of skilled workers has slowed to a trickle. 22/ According to Minister of Labour, Mr. Fanie Botha, South Africa will be able to fill only 79 percent of its skilled manpower needs in 1980 and by 1990 will suffer a shortage of 1.4 million office employees, 180,000 technicians and professionals and 758,000 skilled and semi-skilled workers. 23/

Recommendations that increased numbers of blacks be admitted to skilled and semi-skilled job categories pose special threats to the system. However, by virtue of their better incomes and education, skilled workers are a natural pole for political activity. The increasingly complex and interdependent South African economy in which they will be employed is also more exposed to labour today than ever before. Not only are plants employing skilled workers more vulnerable to strikes, but the interruption of production in one branch of a complex economy necessarily has wide repercussions elsewhere and often results in secondary production losses. Thus the means had to be found to co-opt an essential portion of the black labour force while denying its economic and political power.

Reading the fine print

The keys to understanding South Africa's plan for labour relations in the 1980s are not to be found in the publicly acclaimed recommendations of the Wiehahn report nor in the major clauses of the Industrial Conciliation Amendment Act. They are to be found in the fine print and between the lines.

Wiehahn at a glance

Publicized recommendations

The fine print

Registration of black unions and their right to strike

Elimination of all unregistered unions, Elimination of a substantial majority of blacks currently on the membership rosters of the unregistered unions,\* Increased governmental control over those unions registered. End of the present political functions of the unregistered contacts with and assistance for black unions. Exclusion of miners, agricultural workers and domestics as well as all "migrants," Registration of racially mixed unions only under exceptional circumstances,

End of statutory job reservation

Actually only affects 0.48 percent of the total work force, Maintained for workers covered by the Mines and Works Act and the Black Building Workers Act. Immediate removal of only those job reservation categories no longer in use. "Phasing out" of the five operative categories only with consent of the affected parties, i.e. white workers, Continued support for closed shop agreements, the commonest form of job reservation, Institution of a long series of protective measures to secure white workers potentially threatened by black competition.

End of segregated facilities

No statutory integration, issue left to individual employer-employee agreements

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\* Determination of union acceptability for registration is secret and without reference to a fixed and known standard.

### Registration of black unions

The most widely acclaimed and misunderstood recommendation of the Wiehahn Commission reads:

"any trade union which meets the requirements for registration in the restructured system should, irrespective of the colour, race or sex of its members, be eligible for registration and full participation in the statutory bargaining and dispute settlement machinery." 24/

The Wiehahn Commission defends its recommendation on the grounds that registration provides a means to control black unions which it "might in the long run not be possible to dismantle or restructure" and that it poses "a far lesser threat" than other strategies. 25/ In other words, the registration of black unions is specifically conceived of as a control measure rather than a liberalization of the present system.

The "requirements for registration" limit recognition to "bona-fide" "relevant" and "legitimate" unions, ie., those which "serve to maintain peace and harmony within the undertaking, industry, trade or occupation, and the national interest in general." 26/ Registration, in other words, will be granted only to tame unions supportive of the Government and its notions of "peace and harmony" and "the national interest" - both euphemisms for status quo and apartheid.

Unions failing to receive registration will effectively be eliminated. Agreements negotiated with them will have no binding force, membership dues cannot be deducted for them by employers and their activities will be circumscribed. Companies, with the Government, will likely establish house unions with which to negotiate contracts favourable to themselves. Since, in the words of the Commission, "criteria such as majority representativeness or the notion of 'the most representative union,' will not determine whether or not a union is registered, such unions need comprise only a token portion of the affected workers!" 27/ The preferential contracts signed with the registered unions will, of course, undercut the strength of the unregistered union and may eventually kill it.

Whether or not a union meets the requirements for registration will be decided by the industrial registrar in secret and without reference to a fixed and known standard. In the language of the Industrial Conciliation Amendment Act, a union seeking recognition may initially be registered "provisionally" by the registrar "in respect to such interests and area and for such a period and on such conditions as he may determine." The registrar "may from time to time withdraw or amend any condition imposed" and may, moreover, "at any time and without giving reasons therefore, withdraw the registration of a trade union ... if he is of the opinion that such union ... had not complied with any ... provisions of this Act." 28/ Black unions thus may apply for registration, but it may be denied without explanation or granted provisionally under whatever terms, however arbitrary, the registrar desires and may then be rescinded without reason at any time. There will be little

or no recourse for unions failing to receive registration, for the registrar is an appointee of the Minister of Labour and his decision carries the weight of law.

The Federation of South African Trade Unions (FOSATU), a recently formed organization of twelve major black and coloured unions representing 45,000 workers, declared that the Wiehahn report and the new legislation "change the whole context of the registration and operation of unions from one of reasonable legislative certainty to one of unreasonable administrative discretion and uncertainty." 29/ For example, the unions point out that, "It's a Catch-22. We don't have mass membership because we're unregistered."

#### Eligibility for union membership

A key aspect of the new legislation, however, is its exclusive definition of eligibility for membership in a registered union. Contrary to the Wiehahn Commission, which recommended that in time eligibility be extended even to migrants, the new law denies it to all but a small minority of African workers who have permanent residency rights in the white areas and fixed, on non-contract, employment. 30/ Thus, the vast majority of blacks - including, for example, miners, domestics and agricultural workers - are denied the status of "employee."

By this definition fully 80 per cent of the unregistered black unions' members have no legal right to belong to a union. However, the amendment includes a little noticed clause also giving power to the Minister of Labour to change the definition of who shall be included "as he may deem expedient." 31/

Recently the Minister of Labour announced that he would extend the definition of employee covered by the act to include all workers who were "citizens of the Republic and of territories which formerly were part of the Republic." With this action, the South African Government is telling the world that racial barriers have been struck down and trade union rights have been extended to all black South Africans.

However, this action represents another attempt by the South African Government to create the impression that apartheid is dying when in fact it is only being given a different body. Despite the Government's claims, it is uncertain how inclusive the implementation of the Minister's action will be. Some unions may actually lose membership by tightened government controls.

For example, any registered union caught with ineligible members will be subject to a fine of R500 per worker and may lose its registration, while unregistered unions seeking recognition must purge ineligible members from their ranks to qualify.

Yet, the number of Africans who will be included in the Minister of Labour's announced changes matters very little in the final analysis. The South African Government wants full control over black unions that have been a source of black unity and political activity. Obviously the Government has deemed it "expedient" at this time to exercise those controls over more African workers as well. Further, there is no legal protection of these so-called union rights

for the vast majority of African workers and the Minister of Labour can revoke the action at any time, solely at his discretion, revealing the deception of the Government's claim that racial barriers have been eliminated.

Unregistered black unions have not been fooled by the Government's action and intend to resist attempts to force them to register. A statement by the Western Province General Workers Union in the Cape Province illustrates the view of black unions: "We are certain that the unregistered union movement will not register under present conditions. We will not register as long as unions have to relinquish control over our finances, elections and education programme. 32/ Black unions which are registered under present conditions will simply lose what little control and unity they previously had while the Government gains tighter control over African labour.

#### No mixed unions

Following the recommendations of the Wiehahn Commission the new labour legislation prohibits the formation of multi-racial unions except under extraordinary circumstances. 33/ This provision will have a number of important consequences for African unions and for the labour movement in South Africa as a whole. The isolation of black unions will allow continued prejudice against them both through the discriminatory application of laws and the negotiation of contracts less favourable than those negotiated with White, Asian and Coloured unions. The prohibition of mixed unions is also intended to bar the possibility of a united front representing Africans, Asians and Coloureds capable of challenging continued white domination. For while restrictive eligibility requirements will keep African union membership low, Asian and Coloured union membership is proportionally higher. United African, Coloured and Indian unions would muster considerable numbers and, indeed, come close to equalling white union strength. According to the Commission's figures, for example, there are 100,000 Coloureds in Coloured unions, 131,000 more in mixed white-Coloured unions and 55,000 to 70,000 Africans in registered unions, or a total of between 286,000 and 301,000 unionists, excluding Asians who are not enumerated. White unions, on the other hand, muster just 390,000 members, while another 49,000 whites are at present in unions with mixed white-Coloured membership. 34/

An important corollary to the limitation of black union strength is the limitation and potential reduction of white union strength to follow from the prohibition of mixed unions. Until the passage of the Industrial Conciliation Amendment Act, 41 registered unions with 180,000 members represented both white and Coloured workers. Although Whites generally held the positions of power, Coloureds comprised nearly three quarters of their membership. 35/ Unless granted special dispensation, these unions will have to divide, leaving the white union members as well as the Coloured members in far weaker bargaining positions than before. The prohibition of mixed unions also blocks the development of so-called parallel unions, or unions for blacks set up under the auspices of existing white

unions in anticipation of the legalization of black unions. Ted Frazer, General Secretary of the White Brewery Employee's Union, declared shortly before the Wiehahn report was released that the white unions have a dual purpose in establishing parallel black unions: "so they can boost their membership and keep Africans under their thumb." 36/

#### Elimination of a political role

Registration will also cost African unions their essential role in the black community as a whole by denying them connections of any sort with political or quasi-political organizations and forcing them to limit their activities solely to the work place. 37/ This prohibition of political activities has long affected white unions, but has been honored more in the breach than in practice. The ruling Nationalist Party has important roots in the early Afrikaner union movement and, indeed, the apartheid system itself is the political guarantee of the privileged position of white labour in South Africa. Similarly, the economic and political interests of black workers cannot be separated in a system in which their subordinate economic status is merely an aspect of their repression in all fields, repression which is the core of the political system of apartheid. As the black Allied Workers Union point out: "Black workers' interests extend beyond the factory. They extend to the ghetto where black workers stay together in hostels under squalid conditions; to the crowded trains and buses; ... to the absence of amenities; ... to the stringent, irksome and humiliating application of influx control laws; ... to the lack of proper channels whereby people could equip themselves with basic skills and to the lack of political power and machinery to bring about the socio-economic and political system ... acceptable to all people ..." 38/ By denying black unions the right to deal with such broader interests, the requirements for registration effectively leash one of the most potent forces for change in South Africa.

#### Ending statutory job reservation

Both Wiehahn and the new labour legislation have been highly praised for the elimination of laws barring blacks from skilled jobs. This is only partially true and very misleading. In fact, the Commission never challenges the rationale for job reservation, but criticizes it rather "as an impractical and inadequate measure which in the final analysis failed to provide the desired protection" 39/ and which "continues to do tremendous harm to South Africa's international image." 40/ Even so, it does not recommend the blanket removal of job reservation. Rather it recommends the removal of those twenty job reservation categories which are no longer in use. As for the five which are still in effect, the Commission recommends that they be "phased out" over an undetermined period "in co-operation with the parties involved," i.e., the white unions at whose insistence job reservation was first introduced. 41/ The report does not address the Mines and Works Act or the Black Building Workers Act, both of which contain job reservation clauses and regulate industries employing hundreds of thousands of African workers.

In order to defend those white workers potentially affected by the phasing out of job reservation, the Wiehahn Commission recommended the implementation of a broad range of protective measures. These measures, meant to ensure what are euphemistically referred to as "fair labour practices," either block or render meaningless the removal of job reservation

categories. Specifically, the recommendations call for: employer-employee "consultations" before changes in "established labour practices" with recourse to the Industrial Court for any aggrieved party 42/; consensus - i.e., white union veto - on these matters in Industrial Councils 43/ and the empowering of the Minister of Labour to reinstate any displaced white worker or to restore white workers' "terms of employment" in case of a dispute over the ending of job protection. 44/ Moreover, where blacks are hired in previously white job categories, the Commission recommended: that training or retraining be given to whites in the same work place and that in the interim before their qualification for new jobs they be offered a guaranteed income by the employer or the State. 45/; that relocation allowances be allotted to any white workers forced to move 46/; and that threatened semi-skilled white workers be offered training to keep them from being either replaced or superseded by entering blacks. 47/ In case of disputes, the new National Manpower Commission and Industrial Court will both have jurisdiction in "fair labour practices" cases. Their decisions will be binding and have the weight of law, provisions which make a mockery of the formal statutory elimination of job reservation.

The furor over the "ending" of statutory job reservation is also immaterial, for it affects just 0.5 percent of South Africa's total work force and is neither the most prevalent nor the most effective means used to deny Africans skilled jobs. 48/ Today access to these positions is most commonly controlled by closed shop contracts between employers and white unions. By forbidding the hiring of non-union members, such contracts also effectively banned the hiring of blacks. According to figures cited by the Wiehahn Commission, at present some 49 industrial agreements covering 346,000 white workers contain such clauses. 49/

Far from criticizing the closed shop, the Wiehahn Commission report specifically endorses it. The contradiction between the supposed end to job reservation and the endorsement of the closed shop is clearly pointed out in a minority report signed by two of its three black members and three of its four employer members. "It is acceptable," they wrote, that it should be recommended on the one hand that work reservation be abolished and on the other hand that its commonest form be perpetuated and statutorily sanctioned. 50/ The Industrial Conciliation Amendment Act, however, follows the majority recommendation and, indeed, strengthens it by forbidding the formation of multi-racial unions except under very special conditions.\* As a result, overtly racial job discrimination has been removed from the statute books, but not from practice.

#### The National Manpower Commission and Industrial Court

Sketched out in the recommendations of the Wiehahn Commission report and embodied in the Industrial Conciliation Amendment Act are two new and powerful tools for the control of labour: the National Manpower Commission and the Industrial Court. Both new institutions will be equally effective against black and white unions and represent a general threat to the labour movement in South Africa.

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\* Africans are thus still excluded from contracts negotiated between white unions and employers and still subject to closed shop job reservation where it is included in those contracts.

The Commission is a statutory body with jurisdiction in all areas of industrial relations and one which will operate for all intents and purposes entirely outside of legislative control. Its constitution, functions and general activities are to be determined by the Minister of Labour who may appoint and fire members at will, set the proportional representation of its constituent members - the State employers and employees - and define the Commission's terms of reference. 51/ In the National Manpower Commission the Government will have a comprehensive means of controlling labour far more flexible than statutes. For as an administrative wing of the Ministry of Labour endowed with broad discretionary powers, the Commission will allow the "invisible" exercise of power hidden from public scrutiny and detailed in the Government Gazette.

According to the Government White Paper, the National Manpower Commission will be charged with the "design and planning of labour policy and programmes" and the "sustained surveillance of the industrial relations system." 52/ The Commission will exercise the crucial power of determining the negotiating rights, working conditions and so on for the majority of African workers classified as "non-employees." It will "be requested to keep the position regarding the election of appointment of persons to responsible positions in trade union under surveillance, with a view to making recommendations if necessary." 53/ Likewise, the Commission will determine what constitutes "political activity" by a union and "will be instructed to keep this aspect under scrutiny and to make ... suggestions for any further steps which may be required" ... such as terminating a union's registration. 54/

The National Manpower Commission will also exercise control over another vital area, that of industrial relations training. In its report, the Wiehahn Commission notes that it is highly undesirable that until now unregistered black unions have received training and doctrines "foreign to South Africa." 55/ The Government White Paper thus concludes that "Corrective training is needed ... to impart a distinctive character to South Africa's training and to exercise over and exert influence on the nature and quality of the training that is provided, especially in the case of the unregistered trade unions." 56/

Closely related to the National Manpower Commission is the industrial Court. As with the former, members of the Court will be appointed by the Minister of Labour for whatever term he desires. It will have jurisdiction over all provisions of the laws administered by the Department of Labour. In this regard, for example, it will have the power of determining what constitutes an "unfair labour practice." In such cases, the Court will have, in effect, a law-making function, free from legislative control or judicial review, since Industrial Court decisions concerning conflicts on the factory floor cannot be appealed to the Superior Court. 57/

### Conclusion

South Africa's approach to labour relations has changed considerably since the first Nationalist Minister of Labour declared, "we shall bleed the African trade unions to death." The underlying intent has not, however: i.e., to maintain strict white control of the country and the economy. South Africa's rulers have always viewed it as a "white man's country." Their primary concern has been and remains the dual desire to make it so without sacrificing the benefits of access to black labour.

Until recently both ends could be met through the simple application of labour-repression legislation and the undiluted application of apartheid's centrepiece, the "homelands" policy. Changing conditions, however, have forced a modification of the "full, logical conclusion" of this approach. As the Wiehahn report made clear, the South African Government is today aware of the growing extent to which the country's economic prosperity depends upon skilled black labour as well as the traditional army of menials. This awareness is evident in the outline of the new labour policy which emphasizes (1) the continued exclusion of the majority of African workers from the labour relations system, (2) the granting of limited rights to the skilled minority and, (3) the development of a new and elaborate set of instructions and laws to ensure white domination of both, but particularly the more threatening latter. South Africa's leaders, in other words, are willing to accept a few, select blacks as 'honorary' whites and make do with a South Africa a little less pure in order to maintain its continued economic prosperity. The tactical shift in emphasis between the political and economic ends of apartheid is significant. What is essential is that it marks the beginning of another phase of South Africa's modernization of racial domination.

NOTES

Abbreviations: WRC (Wiehahn Commission Report)  
ICCA (Industrial Conciliation Amendment Act, 1979; citations refer to the Amendment Act's divisions and not to those of the 1956 Act)  
WWP (Wiehahn White Paper)

1. WCR 1.19.4
2. Cited in The Guardian, 16 May, 1979
3. Cited in "Wiehahn - Exposing the Contradictions", National Union of South African Students, 1979, p. 5.
4. WCR p. iv.
5. WCR 1.16.6
6. WCR 2.32
7. Stanley Siebert and Adrian Guelke, "Is State Control of Labour in South Africa Effective?", London, The Mandate Trust, 1973, passim.
8. Rodney Stares, "Black Trade Unions in South Africa: The responsibilities of British Companies", Christians Concerned for South Africa, London, 1977, p. 18 and Survey of Race Relations in South Africa, 1978, p. 258.
9. WCR 3.17.1
10. Band Daily Mail, April 24, 1979
11. WCR 3.35.1
12. WCR 3.35.5
13. Ibid.
14. WCR 1.10
15. WCR 3.35.7
16. WCR 3.35.9
17. Cited in Southern Africa, 12:5 June 1979, p. 19.
18. WCR 3.36.8
19. WCR 1.16.3
20. WCR 1.16.4
21. WCR 6.17.1-3
22. WCR 1.2
23. Survey of Race Relations in South Africa, 1978, p. 187.
24. WCR 3.153.2
25. WCR 3.35.14
26. WCR 3.87
27. Ibid.
28. ICAA Section 4A, 1-3
29. Cited in The Financial Mail, 25 May, 1979.

30. WWP cited in The Rand Daily Mail, 8 May, 1979 and ICAA Section 1 (c), a & b
31. Act No. 94, 1b The Star (Johannesburg), 29 September 1979.
32. Financial Mail, 28 September 1979
33. WCR 3.153.2 and ICAA, section 3 a and b
34. WCR 3.17.1
35. Ibid.
36. Cited in The Financial Mail, 9 March 1979
37. WCR 3.110 and ICAA Section 6, b and c
38. Statement issued by the Black Allied Workers' Union (SA), London,  
14 June 1979, p. 5
39. WCR 3.129.2
40. WCR 3.129.5
41. WCR 3.159.4
42. WCR 3.159.2.1
43. WCR 3.159.2.3
44. WCR 3.159.2.4
45. WCR 3.159.2.6
46. WCR 3.159.2.7
47. WCR 3.159.2.9
48. Survey of Race Relations in South Africa, 1978, p.179
49. WCR 3.96
50. WCR 3.103.1
51. ICAA, section 2, passim
52. WWP 5.2.1
53. WWP 6.3
54. WWP 6.5
55. WCR 3.35.9
56. WWP 8.2.1
57. National Union of South African Students, "Wiehahn - Exposing the  
Contradictions", p. 13.