

What Strategies are Required to Rebuild Trust Between Labour, Government and Business

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Introduction

After the massacre of mineworkers at Marikana, Lonmin CEO Roger Phillimore attempted to explain the events: “Our tragedy was part of the prevailing unrest throughout the entire sector, which Highlighted issues of trust between Government, unions, employees, communities, mining companies and society at large.”¹ In the events that followed, the word ‘trust’ would come up again and again: in the miners lack of trust in state institutions,² AMCU’s lack of trust in NUM,³ and in the deep tensions that continue today. In the midst of such a real tragedy, it

¹ Phillimore, R. 2013. “Lonmin Initiatives – AGM speech”. London: Lonmin.

https://www.lonmin.com/downloads/media_centre/news/press/2013/20130131_transcript_of_speech.pdf

² The New Age, “Marikana miners have no trust in Zuma”, 3 June 2015.

http://www.thenewage.co.za/160896-1007-53-Marikana_miners_have_no_trust_in_Zuma

³ Business Report, “AMCU loses trust in mining peace agreement”, 5 February 2014.

<http://www.iol.co.za/business/companies/amcu-loses-trust-in-peace-pact-1.1642516#.VdZLjPmqgkp>

seems unusual that so many laid part of the blame on a concept as abstract as 'trust', highlighting just how central it has become to relations between labour, business and government.

With a concept like trust, it remains difficult to know how bad things are. The Edelman Trust Barometer, a global survey of trust in institutions conducted in 27 countries, ranked South Africa last in 'Trust in Government', with only 16% of respondents trusting their government in 2015, compared to a global average of 48%.⁴ The same survey found 64% of South Africans trusted business. Other studies show drastically different results. Approval ratings for President Zuma, a rough proxy for trust in government, have varied between 34% and 60% during his administration.⁵ The reconciliation barometer, an annual survey, identified similar levels of trust in government, but highlights the disparate levels of trust by racial group, with under 30% of white South Africans trusting the government, compared to over 50% of black South Africans.⁶ While little data is available on trust in unions or other institutions, the reconciliation barometer does highlight a continued lack of trust within broader society, with around 28% of respondents claiming to mistrust other racial groups - indicative of a far deeper pandemic of distrust across the country.

Addressing mistrust is extremely difficult. Trust is a complex social-psychological phenomenon that is hard to identify, and difficult to change. But some key strategies to reopen fruitful dialogue between the three parties may contribute to closing the trust gap between them. The article explores these strategies in four parts. First, the concept of trust is assessed. Second, sources of broader societal mistrust are identified; before more focused causes are examined in the case of business, labour, and government. Finally, a few strategies to combat mistrust are proposed.

Defining Trust

Trust is a contested concept with no clear definition.⁷ In academic literature, trust is often discussed in terms of its benefits: a trusting relationship requires less monitoring and increases belief that stated beliefs will be realised, and in so doing trusting relationships tend to involve lower transaction costs.

Trust must not be confused with agreement. Many (perhaps most) of the disagreements between different political actors are based on real, legitimate differences. These differences

⁴ Edelman. 2015. "Edelman Trust Barometer Global Results". New York: Edelman. <http://www.edelman.com/2015-edelman-trust-barometer-2/trust-and-innovation-edelman-trust-barometer/global-results/>

⁵ BusinessTech, "Zuma approval rating at all time low", 3 September 2014. <http://businesstech.co.za/news/government/67424/zuma-approval-rating-at-all-time-low/>

⁶ IJR. 2014. "SA Reconciliation Barometer Survey: 2014 Report". Cape Town: Institute for Justice and Reconciliation. <http://reconciliationbarometer.org/wp-content/uploads/2014/12/IJR-SA-Reconciliation-Barometer-Report-2014.pdf>

⁷ An overview of various definitions of trust can be found in Blind, P. 2006. "Building Trust in Government in the Twenty-First Century: Review of Literature and Emerging Issues." Rome: UNDESA

come in terms of varying approaches to vital questions, as well as fundamentally different interests. Too often commentators jump to frame their opposition's problems with them in terms of lack of trust, as a strategy to deflect real engagement. Workers who are unwilling to accept wage offers are "negotiating in bad faith", while business that seek to cushion its costs are brushed aside as exploitative, and government is disregarded as incompetent. Too often calls for renewed trust are a more subtle way of calling for the other side to agree with you. A trusting environment is not the same as an environment free of conflict.

Mistrust is rather represented in the tendency to attribute disagreements to failings in the opposing side's character. Belief that the other party is engaging in a genuine, open way is crucial to accepting disagreement. From this view, trust is best witnessed in the starting assumption that each part brings into the room, rather than the eventual agreements or disagreements that emerge during and after negotiations. Those that enter the room expecting that their counterparties are negotiating in bad faith or are going to make unreasonable demands, are invariably less likely to make compromises regardless of the substance of the differences.

A trusting environment is one in which disagreements are respected and dealt with on their merits, underscored by a belief that the opposing side is doing their best to engage fairly.

Social Causes

While the trust in question is in a core group of institutions - government, labour and business - many of the most fundamental problems between this group have their routes in broader social problems of a lack of trust. South Africa's long history of violence and injustice makes the country a fertile breeding ground for mistrust, and the exact causes are extremely complex. Nevertheless, a few key factors can be identified here.

Extreme Social Fragmentation

South Africa is a deeply divided society, with extremely high levels of inequality, a racialized distribution of wealth, and lasting geographic dislocation. The practical impact of all this is that a person of one demographic group does not properly understand the personal history and lived experiences of South African of a different race, class or geography. This inequality creates a basic level of distrust and alienation, but is particularly important when institutions remain untransformed. In the case of the three institutions explored here, business in particular remains largely untransformed at senior management level, while the majority of labour's membership must struggle with underprivileged backgrounds that put them at odds with senior figures in the other two parties. The most difficult disagreements to overcome are those based on differing value judgements. With three institutions that are comprised of people from very different backgrounds, it is unsurprising that their value systems are often in conflict, creating the type of intractable disagreement that erodes trust.

Low Growth

Trust tends to degrade during times of economic hardship. When a country is growing quickly, it is easier for people to believe that they will get a fair share, as the pie grows larger and more

opportunities are made available. But when growth is slow, personal well being becomes less about how the pie grows, and more about how it is divided. Without growth, economic activity becomes regarded a zero-sum game. In more practical terms, low growth rates makes business and governments more nervous about their economic positions, and means they are less likely to give in to labour's demands, at exactly the time when labour's own economic insecurity will see these demands rising. While South Africa continues to grow, there is a strong sense of pessimism across the country, with the South African Chamber of Commerce and Industry's Business Confidence Index at a 16 year low.⁸ Turning around the growth trajectory of the country, and rebuilding optimism in the economy, will go a long way to establishing an environment that is conducive to trust.

Specific Causes

Business

Trust in business is starkly divided depending on one's ideological leanings, and various demographic factors, most notably wealth. Amongst many in the general public, business is viewed as inherently exploitative, a reputation gained by a combination of years of apartheid-era operations, the often aggressive actions of profit-driven businesses, difficult adjustments during structural shifts in the economy, the continued lack of transformation amongst senior management, and the inequality inherent in hugely profitable businesses operating in a society in which poverty is rife.

On the opposite end of the extreme, numerous more conservative commentators are almost fanatically supportive of businesses. Under this perspective, business is seen as an embattled job creator that would drive growth if the government and unions would just get out of their way. This faith is largely wrought of a misunderstanding of the concept of market efficiency, which many take to mean that businesses are inherently more efficient than other actors in society. In truth, market efficiency refers to the process in which good businesses succeed and bad businesses fail, and does not in anyway suggest that business is inherently more efficient than government - particularly not in an economy like South Africa, where history defines success more than performance.

These extremely different views of business makes it difficult to engage, particularly since the distribution of these views are unequal. Those in business are likely to consistently engage with pro-business voices amongst their colleagues, the media, and social circles; while those in labour are likely to consistently engage voices that call for business to be more socially conscious. This clustering of opinions on business reinforces both sides sense of victimisation. If you are a business person, it is likely that all the voices you trust most are reinforcing your own importance and criticising labour and government, erasing any inherent doubts you may have of your own opinions, and reinforcing prevailing views (and the same goes on in labour). Here the lack of trust is a social problem, in which the environments in which each group finds themselves feature largely homogeneous opinions. Changing these opinions and transforming

⁸ TimesLive, "South Africa's business confidence falls to 16-year low", 7 July 2015.
<http://www.timeslive.co.za/local/2015/07/07/South-Africas-business-confidence-falls-to-16-year-low>

the different groups will be a long and difficult process, and in the meantime focus should be concentrated on reinforcing channels of communication, to improve understanding across these differences.

Government

Governments around the world are held to a very difficult standard. They are judged according to how well the country as a whole is performing, even though they generally have weak capacity to make large scale changes. Generally speaking, popular governments are those operating in thriving societies. This effect is particularly amplified in the case of the South African government. The ANC government inherited extraordinarily deep social problems, and huge expectations of a rapid and radical transformation. The huge mismatch between what the government could actually achieve and what was expected of it is one of the founding causes of lack of faith in government. This mismatch is particularly strong today, when there is immense pressure on the government to revive growth, at a time in which the finance ministry is committing to greater austerity.

But there are certainly real problems as well. Large policy mistakes like allowing the energy crisis to hit have been devastating to the government's image. A poor government communication system compounds this problem, by not adequately showcasing what does go right. Corruption, headlined by the scandal around the Presidential residence at Nkandla, has been particularly corrosive of trust, having undermined public perception of government motivations. When government does fail, this failure is not attributed to honest efforts that have gone awry, it is instead blamed on self-interest politicians and their corruption. In reality, this explanation is rarely the cause of government failing, which have more to do with policy decisions and institutional structures. But when corruption becomes an easy explanation for those looking to assign blame for a lack of service delivery, even reasonable failures erode trust.

Labour

The labour movement receives much of the blame for many of South Africa's development issues, with many commentators citing an inflexible labour market as the primary driver of poor international competitiveness. When labour is caricatured as the hurdle between South Africa and rapid growth, trust is certain to collapse.

Criticism of labour remains influential for two reasons. First, the aims of labour unions (such as improved job security and better wages) often seem directly contrary to many of the country's most widely discussed economic challenges (such as an inflexible labour market and high government debt burdens). Second, there is virtually no mainstream narrative that highlights the economic benefits of strong unions. Most arguments in favour of unions come in the form of social justice or combatting inequality, but these are ill equipped to counteract competitiveness-based critiques. The positive economic roles of unions in, for example, supporting skills development or smoothing consumption expenditure, are very rarely examined. On the balance between these two factors, the union narrative is being overrun by appeals to the competitive cost of protecting workers, which makes it easy to characterise union demands as unreasonable.

Labour's image problem is compounded by renewed pressure from union members, which place demands on their leadership that are starkly opposed to the demands of business and government. This is perhaps most clear in the case of the platinum sector dispute of 2013. Platinum firms had long complained of the high increases demanded by unions, but those same wage settlements were criticized as unsatisfactory by the union membership. The resulting split and the rise of the Association of Mineworkers and Construction Union fragmented labour and gave rise to even more extreme demands. This is a clear lose-lose for the union's: demand too much and business says their demands are irresponsible and unsustainable, demand too little and unhappy workers could rebel and join more militant unions, which will almost certainly degrade trust even further.

If unions are to rebuild trust, they cannot do so by abandoning the demands of their members, and must instead focus on changing the narrative around organised labour in South Africa.

Strategies to Build Trust

Strategies for Labour - Business

Improving Codetermination and Consultation

Institutionalising worker participation in firm decisionmaking is crucial to reestablishing trust between business and labour. There are multiple different strategies available to include workers. At one end of the scale is codetermination, in which workers are legally required to agree to certain decisions made by management. At the other end is consultation, in which workers have protected access to information and discussions on important decisions.

Codetermination is a common management technique that many companies adopt by choice. Popular management systems and models such as Lean manufacturing (which focuses on constant engagement with the workforce) and quality circles (working groups of employees from different levels that discuss ways to improve efficiency) are widely used and actively promoted by management consultants. But most systems of codetermination are legislatively controlled. The most famous example is that of Works Councils in Germany, firm-level committees that lead engagement with management, and which are widely considered as a powerful driver of sound labour relations and Germany's remarkable productive efficiency.⁹

The central benefit of works councils is to improve the flow of information between management and labour. Management gains a better understanding of the challenges facing workers, which allows them to improve the environment and overcome productivity bottlenecks. Workers gain better understanding of the challenges facing the firm, allowing them to be more accommodative during bad times and to claim a fairer share of the benefits during good times.

⁹ Numerous studies have explored the impact of works councils in Germany. A good overview can be found in Hubler, O. & Jirjahn, U. 2003. Works Councils and Collective Bargaining in Germany: The Impact on Productivity and Wages. *Scottish Journal of Political Economy*, Vol. 50, No. 4.

In the case of South Africa, the Labour Relations Act of 1995 make provision for Workplace Forums, consultative bodies that can be created at the urging of unions in qualifying firms. While these forums create a useful legal basis for advancing codetermination, they are rarely used in practise, and have had limited success in changing the role of workers in firm decisionmaking. A number of changes could be made to improve these systems and build trust.

First, as a short-term strategy, efforts should be made to expand the number of workplace forums. Workers in eligible firms can demand the foundation of a workplace forums, and labour could certainly take the lead on encouraging this process. But the forum would be better promoted by third party, like the Department of Labour, which could bring in both labour and business at the outset, starting the forums from a position of trust and avoiding perceptions of the forums as yet another demand from labour. The lack of widespread adoption of forums is a missed opportunity, but more importantly it undermines the entire workplace forum project. Works councils in places like Germany have proved successful not only as individual bodies, but in changing the institutional culture of the way business is done, promoting the fundamental principle of collaboration as sound business practices. This is only possible in South Africa with a more broad-scale roll-out of workplace forums.

Second, and another short-term strategy, would be running training programmes that aid in codetermination. Successfully applying strategies like work councils requires a certain level of trust and belief in the abilities of individuals on the council. A works council in which bosses are dismissive of workers or workers are ill equipped to engage with management issues can worsen relations and deepen mistrust. As such, regardless of whether codetermination is expanded or remains concentrated on worker forums, unions should take steps to train workers in engagement strategies for codetermination. This training could include an introduction to basic accounting principles (to allow engagement on company finances), an overview of some regulatory and broader economic challenges facing the firm in question, and special training on communication that allows for positive engagement. Equipping workers with the tools to engage authoritatively in codetermination will make them more comfortable and willing to actively take part, and will give them the skills to win concessions from management. Improving communication skills amongst both management and workers is vital to improving trust.

Third, as a medium-term strategy, the eligibility requirements to qualify for a workplace forum must be changes. Currently, only workers in firms with more than 100 staff may form a forum, excluding 74% of formal sector employees, and all but the largest small and medium enterprises.¹⁰ The 100 person scale is entirely out of kilter with international standards. In Germany, for example, works councils are a requirement at any firm with more than 5 people.¹¹ The threshold seems to be designed to avoid burdening small and medium enterprises, which must maintain nimble decision-making structures to remain competitive. But SMEs arguably

¹⁰ Van der Walt, R. 2008. "Have workplace forums contributed to worker participation? Some management perceptions". *S.Afr.J.Bus.Manage.*2008,39(2).

¹¹ Hubler, O. & Jirjahn, U. 2003. Works Councils and Collective Bargaining in Germany: The Impact on Productivity and Wages. *Scottish Journal of Political Economy*, Vol. 50, No. 4.

have the most to gain from codetermination: smaller firms have the right scale to build close relationships with staff, and have greater need for flexibility in their labour relations. SME's consistently complain that labour debates are dominated by large firms, through their role in bargaining councils, and the extension of workplace forums would give these small firms an avenue to address their unique labour issues.

Fourth, as a long-term strategy, interaction could be made more intensive by moving beyond limited consultation models to more significant codetermination, with expanded roles for workers in the form of required agreement on changes to the work environment and partial say in broader strategic business decisions. Giving labour an authoritative say in decisions makes it difficult to blame problems on management: each decision becomes a shared action, the success or failure of which must be more equally shared. The form that deeper codetermination could take would be complex, and would undoubtedly meet substantial resistance from business. But given the extremely tense labour environment in South Africa, it is worthwhile beginning a discussion on how labour could be integrated into decision making structures.

Empowering Firm-Level Negotiations

Codetermination can still be useful even when bargaining is centralised - in fact some studies¹² show it can be more effective under these circumstances, by removing the works councils from acrimonious wage negotiations, and thus maintaining trust. In these cases, the primary benefit of worker forums are to improve efficiency.

On balance, however, codetermination is far more powerful if firm-level workers are empowered in the bargaining process. As stated above, the primary benefit of workers forums is to improve communication, and with it create better understanding between labour and business. If a firm is in trouble, these communication channels mean workers will be able to adjust their demands to protect their jobs. But this is difficult to do when many central labour issues - most importantly wages - remains outside the control of workers at individual firms.

Centralised bargaining is a cornerstone achievement of the labour movement after 1994, with bargaining councils and overarching unions representing a vast and diverse range of interests. There is no appetite to weaken centralised bargaining structures, and doing so could undermine labour's unity and influence. But it is nevertheless possible to introduce some flexibility into the current centralised system.

Workers within firms should be empowered to make decisions within a banded derogation from a baseline. In this scenario, centralised negotiators would negotiate for the based line increase; while firm-level unions would negotiate agreements such as 'baseline minus 1%', or 'baseline plus 1%'. This approach maintains the central importance of union federations and bargaining councils, while also empowering firms. This firm level empowerment may make reaching agreements easier, as the fate of holdout members can be overcome by successful firm level

¹² Freeman, R. B. and Lazear, E. P. (1995). An economic analysis of works councils. In Rogers, J. and Streeck, W. (eds.), *Works Councils – Consultation, Representation and Cooperation in Industrial Relations*. Chicago: University of Chicago Press, pp. 27–52.

bargaining. More importantly however, it empowers those workers who are closest to a company to be responsive to the successes and failures of the individual firm. Workers in firms that are booming can gain a more equitable share of the returns, while workers that are worried about their firm's survival can take the necessary steps to preserve their jobs.

The drafters of the workplace forum provisions would certainly oppose this expanded authority. They purposely divided the role of workplace forums and negotiating bodies, in order to avoid the forums from becoming adversarial. But it is time to rethink this logic. What the current provisions actually do is help assign blame to people without empowering them to respond. Union representatives on workplace forums will find themselves blamed for the actions of their central negotiators, even though they don't have the authority to break from these central structures. Adversariality can be better managed by the people in the know: workers who are actively involved with company decision making. Their ability to respond to the unique demands of their environment will help rebuild trust in the most naturally confrontational part of labour relations.

Strategies for Labour - Government

Stabilizing Key Negotiators

Personal relationships tend to be based more on individual's personal histories than on the social and institutional structures discussed above. Because of this, the creation of strong interpersonal relationships between key negotiators can help overcome some of the structural barriers in the short term. The process of relationship building could be helped by stabilizing the position of senior negotiators. The Department of Public Service and Administration has had five different ministers in three years, and while some of the changes were due to tragic unforeseen circumstances, this instability generated a level of distrust that was clearly on display during the difficult discussions during the 2015 public sector wage negotiations. Getting the right people to the bargaining table and keeping them there for long enough to build a relationship will create a trusted channel of communication that can help overcome difficult negotiations.

Engaging the Budget

Negotiations between public sector employees and the government are deeply constrained by the national budget. This is particularly true since the appointment of Minister Nene, who has committed to reduce the budget deficit in the face of rapidly growing debt. This debt and austerity will be the starting point for all public sector negotiations in the foreseeable future, and threatens to frustrate the relationship between government and public sector unions. To help overcome this, public sector unions should commit to engaging beyond the narrow confines of personnel expenditure. Public sector unions' members have intimate knowledge of the internal workings of government, and are well placed to identify waste and bottlenecks that strain the budget. Union's taking the lead on helping get the budget out of control will demonstrate an understanding of the fiscal constraints facing government and will express their commitment to tackling these problems. Perhaps more importantly for unions, it will allow them to create a narrative whereby government spending can be brought under control without threatening worker wages or benefits. A union-led narrative of austerity will directly restore trust and protect

the government-labour relationship from the destructive impact of an austerity agenda that takes aim at public sector workers.

Reforming PSCBC

Strategies for Business - Government

Reforming Organised Business

Of the three sides in question, business remains the most fractured and disorganised. Organised business groups like Business Unity South Africa have undergone serious instability over the last few years, including the breaking away of businesses that subsequently formed the Black Business Council. The fracture was largely the result of inadequate representation, a problem that continues to persist within organised business. This is not just in terms of race, but also in terms of business type, with small and medium businesses continuing to have a relatively small voice in negotiation. Bringing in different types of businesses, and strengthening the structure of organised business groups, will allow business to develop the institutional capacity to build trust.

Fixing Front-Line Government

Business and the general public do not engage with government as a homogenous entity, but rather come into contact with various front-line departments, such as: the South African Revenue Service, Home Affairs, the Department of Labour, the Companies and Intellectual Property Commission, municipal government, and other departments that provide practical services or complete necessary regulatory functions. Some companies might deal with departments like Trade and Industry if they are benefiting from incentives or export promotion programmes, but for the most part the major economic policy departments spend little time dealing directly with business. There is thus a curious disconnect, in that business opinions of government efficiency are not based on the big-ticket macroeconomic departments, but rather on a selection of front-line departments. These same departments are often the most thinly stretched (think Home Affairs as a perfect example), and accentuate negative perceptions of government.

Two strategies may be helpful here. First, the economic cluster needs to create a more interactive presence, through which it can engage more with firms. A good model for this is the Gauteng Investment Centre, a one-stop shop to complete all investment related administration. Second, government must strive hard to get front-line departments working efficiently. Great advances have been in the likes of the Department of Home Affairs, but organisations that carry the burden of negative perceptions will have to remain consistently excellent to shake their bad reputation.

Improving Government Communication

The big missing party in this discussion of distrust is the media. Government in particular has an acrimonious relationship with most media outlets, which it accused of being excessively critical, and dominated by a few privileged interests. Rebuilding trust between media and government would require a whole other paper of it's own. For now, government must focus on improving its own communications.

Three factors are particularly important here. First, government must become better at promoting its success, and do so in a way that channels this news into mainstream outlets, rather than concentrating on government-run channels like SANews, which lack credibility. Second, government must become better at justifying unpopular decisions. So often the reaction to government decisions is one of bafflement, commentators seem legitimately at a loss to explain an action, even when it does have a legitimate motivation. Explaining the reasoning behind unpopular decisions won't stop criticism, but it may redirect it away from general outrage and towards more substantial issues-based disagreement. Third, government should attempt to manage expectations by setting clear and easily digestible policy targets. A vast body of literature has emerged on this process, largely focused on Central Bank announcements of interest rate targets during the financial uncertainty of the 2008 crisis. Lessons learnt in Central Banks can be applied to other departments, and will better enable government to play a role in setting the standards by which they are judged.

Tripartite Strategies

Reforming Nedlac

Nedlac seems to encapsulate so many of the problems discussed above. The great potential of Nedlac, of uniting disparate elements of society towards the common objective of development, has faded to a body wrought with mistrust and threatened with irrelevance. Nedlac is a victim of the broad societal trends discussed above, including a deep lack of trust, and will only be truly revived when the big issues are addressed. But a recommitment to Nedlac could signal the start of that long and difficult process. All three partners must commit to send senior representatives, who have the capacity to make serious decisions, to Nedlac. All three partners must face the deep trust problem they face, and instead of assigning blame, they should work towards reforms that will bridge the trust gap. The most effective strategies to combat mistrust will be found in that process, amidst frank discussion between the parties that know these issues best. If there is any issue in which business, government and labour must be willing to show faith in each other: it is in putting an end to the culture of distrust, and starting the process of fixing it.