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The Adequacy of the Current Social Plan to Address Retrenchment Challenges in South Africa

by

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Submitted in partial fulfilment of the requirements for the degree DOCTOR IN PHILOSOPHY in EMPLOYMENT RELATIONS in the FACULTY MANAGEMENT at the UNIVERSITY OF JOHANNESBURG

Supervisor: Dr Maartens Erasmus

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DEDICATION

This dissertation is dedicated to the following people:

My late father, Edward Ngele, who once said to me:

"The riches of the parents should not be judged or determined in terms of money but in terms of how they were able to bring up their children and instil good values in them"

I am sure that when he looks at my work, he must be feeling very rich. NGWATO !!!

- Ngele and Mathenjwa families (living and deceased)
- My late friend, Koos Nicholas Masombuka. Your spirit will live forever.
DECLARATION

I declare that:

The Adequacy of the Current Social Plan to Address Retrenchment Challenges in South Africa

is my own work in conception and execution and that all the sources that I have quoted have been acknowledged by means of a complete reference. This work has not been submitted for any research project, degree or examination in any other academic institution.

Thulane Collin Ngele

August 2006
Johannesburg
South Africa
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ABSTRACT

Prior to the democratic elections in 1994, South Africa had a “captive” market. There were regulations that were specifically designed to protect South African organisations. There were various tariffs and taxes imposed on foreign organisations that did business in South Africa. After the democratic elections, South Africa introduced market reforms that resulted in the country being part of globalisation. The globalisation process brought about significant changes. South African organisations had an opportunity to expand their business opportunities, but at the same time they were faced with competition from other organisations from different parts of the world.

The response to globalisation meant that South African organisations had to be competitive and undergo structural transformation. The process led to South African organisations adopting lean management strategies in pursuit of world-class status. Consequently the process led to job losses. Not all job losses can be attributed to globalisation, but globalisation was one of the major factors that led to the phenomenon, as statistical information on the effects of globalisation on employment in South Africa indicates. The statistical information shows that the rate of employment has declined over the years.

After in-depth consultation with various stakeholders, Social Plan Guidelines were gazetted. The Social Plan Guidelines are not the only process available or designed as such to manage retrenchments and ameliorate its effect. Sections 189 and 189A of the Labour Relations Act (LRA) are statutory provisions that provide for the same. The statutory provisions are supported by a Code of Good Practice.

Two case studies, which were each divided into two parts, were reviewed. The purpose of the review was to determine to what extent the Social Plan Guidelines were implemented in practice. It was found that in practice there are organisations that, when faced with large-scale retrenchments, adopted or implemented processes similar to the Social Plan Guidelines. The review
process highlighted areas of concerns and lessons learned from the practical implementation of strategies dealing with large-scale retrenchments. The following conclusions were drawn:

- The structural base of the Social Plan Guidelines was fundamentally flawed and consequently it affected the management of Social Plan processes;
- The legal framework is fragmented. The various statutory provisions do not complement and support each other. They seek to provide for the same objective but the resultant effect is that, at best, they are contradictory, and, at worst, mutually destructive;
- The Social Plan Guidelines do not have to exist as a separate concept in a broader employment relations strategy. The principles of the Social Plan are similar to those of a world-class employment strategy and therefore they should be incorporated into the business strategy;
- There are no synergies between the management of retrenchments and the social corporate investments initiatives.

Consequently the identified challenges were used as a base for constructing a new model to manage retrenchments. It was submitted that the new model be an inherent part of the organisation’s business plan. Further, the management of retrenchments by its very nature involves employees. The employees are involved while they are still employed and also when they exit the company through retrenchments. The participation of employees in matters that affect them and their company is important. The discussions on the construction of the new model of managing retrenchments above were premised on the following concepts:

- The concept that employment relations and corporate social investment can address the objective of managing retrenchments.
- The concept that employment relations (and corporate social investment in its own right) must be managed inherently as part of a company’s business plan.
- The world-class concepts that management and employees jointly drive performance (participative performance-driven governance).
The principal benefits and advantages presented by the new model are the following:

I. It is recommended that the principle of the Social Plan be incorporated into the company's business plan and therefore financial and human resources will more easily be made available.

II. Both management and employees (either by themselves and/or through trade unions) participate jointly in the implementation of the model.

III. The model is linked to corporate social investment and therefore the company will be obliged to report on the management of retrenchments in its financial report when reporting on corporate social investment initiatives.

IV. The model is internally driven and therefore flexible.

V. The model does not create contradictions with other statutory provisions.

VI. The model processes will not create new obligatory internal structures. The existing structures of the company may be adapted to manage the process accordingly.

VII. The application of the model will not be quota-based, but part of day-to-day operations of the company business.

VIII. Integration of resources and operations within the company will be enhanced by implementing the proposed model.
Die toereikendheid van die huidige sosiale plan om uitdagings na personeelinkorting in Suid-Afrika op te los

OPSOMMING

Voor die demokratiese verkiesing in 1994 was Suid-Afrika van 'n markverseker. Daar was regulasies wat spesifiek ontwerp is om Suid-Afrikaanse organisasies te beskerm. Buitelandse organisasies wat in Suid-Afrika wou sake doen, het voor verskeie tariewe en belastings te staan gekom. Na die demokratiese verkiesing het Suid-Afrika markhervormings ingestel wat die land laat deel kry het aan globalisering. Die globaliseringsproses het beduidende veranderinge meegebring. Suid-Afrikaanse organisasies het die geleentheid gekry om hul sakegeleenthede uit te brei, maar tegelyk het hulle te staan gekom teen mededinging van ander organisasies uit verskillende dele van die wêreld.

In hul reaksie op globalisering moes Suid-Afrikaanse organisasies mededingend raak en struktuurverandering ondergaan. Die proses het daartoe geleidelik dat Suid-Afrikaanse organisasies strategieë vir 'n lenige bestuur nagevolg het in hul strewe na wêreldstatus. Die proses het gevolglik tot werkverliese geleidelik. Daar word toegegee dat nie alle werkverliese aan globalisering te wyte is nie, maar globalisering was een van die belangrikste faktore wat tot werkverliese geleidelik het. Aansienlike statistiese inligting oor die uitwerking van globalisering op indiensneming in Suid-Afrika is oorweeg. Die statistiese inligting toon dat die indiensnemingsyfer oor die jare afgeneem het.

Na diepgaande oorleg met verskeie belanghebbendes is die Riglyne vir 'n Sosiale Plan in die Staatskoerant afgekondig. Die Riglyne vir 'n Sosiale Plan is nie die enigste proses wat beskikbaar of as sodanig ontwerp is om personeelinkortings te bestuur en die uitwerking daarvan te versag nie. Artikels 189 en 189A van die Wet op Arbeidsverhoudinge is statutêre bepalings wat in wetgewing vervat is om ook hiervoor voorsiening te maak. Die statutêre bepalings word deur 'n Gebruikskode gerugsteun.

Twee gevallestudies wat elk in twee dele verdeel is, is bestudeer. Die doel van die studie was om te bepaal in watter mate die Riglyne vir 'n Sosiale Plan in die praktyk toegepas word. Daar is gevind dat daar in die praktyk
Die toereikendheid van die huidige sosiale plan om uitdagings na personeelinkortings in Suid Afrika op te los

organisasies is wat, wanneer hulle voor grootskaalse personeelinkortings te staan kom, prosesse aanvaar of implementeer wat soortgelyk is aan die Riglyne vir 'n Sosiale Plan. Die studie het terreine wat kommer wek geïdentifiseer en lesse geleer uit die praktiese implementering van strategieë vir die hantering van grootskaalse personeelinkortings uitgelig.

Daar is tot die volgende gevolgtrekkings gekom:

- Die strukturele grondslag van Riglyne vir 'n Sosiale Plan het fundamentele foute gehad en gevolglik het dit die bestuur van die prosesse vir 'n sosiale plan beïnvloed.
- Die regsraamwerk is gefragmenteer. Die verskillende statutêre bepalings vul mekaar nie aan nie, maar vervang mekaar. Statutêre bepalings wil vir dieselfde aspekte voorsiening maak, maar die gevolglike uitwerking is dat statutêre bepalings in die beste geval mekaar weerspreek en in die ergste geval mekaar uitwis.
- Die Riglyne vir 'n Sosiale Plan behoort nie as 'n aparte konsep van 'n breër werkverhoudingstrategie beskou te word nie. Die beginsels van die Sosiale Plan is soortgelyk aan dié van 'n werkstrategie van wereldgehalte en hulle moet dus deel van die strategie wees.
- Daar is geen sinergie tussen die bestuur van personeelinkortings en die inisiatiewe vir sosiale korporatiewe beleggings nie.

Die geïdentifiseerde temas is gevolglik gebruik as grondslag vir die samestelling van 'n nuwe model vir die bestuur van personeelinkortings. Die betoog is dat die nuwe model 'n inherente deel van die organisasie se besigheidsplan moet wees. Juist die aard van die bestuur van personeelinkortings het 'n inpak op werknemers. Die werknemers word beïnvloed deur personeel inkorings terwyl hulle steeds in diens is en wanneer hulle die maatskappy verlaat as gevolg van inkortings. Dit is belangrik dat die werknemers deelneem aan sake wat hulle en hul maatskappy raak. Die bespreking van die samestelling van die nuwe model vir die bestuur van personeelinkortings hierbo het die volgende konsepte as uitgangspunt geneem:
Die toereikendheid van die huidige sosiale plan om uitdagings na personeelinkorting in Suid-Afrika op te los

- Die konsep dat werksverhoudinge en korporatiewe sosiale belegging voldoende is om die doelwitte van die bestuur van personeelinkortings te bereik.
- Die konsep dat werksverhoudinge (en korporatiewe sosiale belegging uit eie reg) inherent bestuur moet word as deel van 'n maatskappy se besigheidsplan.
- Die wêreld status dat bestuur en werknemers gesamentlik prestasie dryf (deelnemende prestasiegedrewe regulering).

Die nuwe model bied in beginsel die volgende voordele:

IX. Die model inkorporeer die beginsels van die Sosiale Plan in 'n maatskappy se sakeplan en finansiële en menslike hulpbronne sal dus makliker beskikbaar gestel kan word.

X. Bestuur sowel as die werknemers (op hul eie en en/of deur vakbonde) neem gesamentlik deel aan die implementering van die model.

XI. Die model is gekoppel aan korporatiewe sosiale belegging en die maatskappy sal dus verplig wees om in sy finansiële verslag ook verslag te doen oor die bestuur van personeelinkortings wanneer daar oor korporatiewe inisiatiewe vir sosiale belegging verslag gedoen word.

XII. Die model word van binne gedrewe en is dus aanpasbaar.

XIII. Die model skep nie teenstrydhede met ander statutêre bepalings nie.

XIV. Die prosesse in die model sal nie nuwe interne strukture skep nie. Die bestaande strukture van die maatskappy kan dienooreenkomstig aangepas word om die proses te bestuur.

XV. Die toepassing van die model sal nie op kwotas gebaseer wees nie, maar sal deel wees van die daaglikse bedryf van die maatskappy.

XVI. Integrering van hulpbronne en bedrywighede binne die maatskappy sal verbeter word.
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List of abbreviations

Business Unity of South Africa  
BUSA

Congress of South African Trade Unions  
COSATU

Curriculum Vitae  
CV

Democratic Alliance  
DA

Department of Labour  
DoL

Employee Assistance Programme  
EAP

Gross Domestic Product  
GDP

Growth, Employment and Redistribution  
GEAR

International Labour Organisation  
ILO

Labour Relations Act  
LRA

Local Council  
LC

National Productivity Institute  
NPI

National Union of Mineworkers  
NUM

Small, Micro and Medium Enterprises  
SMME

Social Plan’s Technical Support Facility  
SPTSF

Social Policy  
SOCPOL

South Africa  
SA

South African Agricultural Plantation of Allied Workers Union  
SAAPAWU

South African Airways  
SAA

South African Clothing and Textile Workers’ Union  
SACTWU

Unemployment Insurance Fund  
UIF

United Nations  
UN

United States  
US

United States of America  
USA

Versus  
v

World Trade Organisation  
WTO
CHAPTER 1
INTRODUCTION

1.1 INTRODUCTION

South Africa's transition from an apartheid dispensation to a democratic one has resulted in the country becoming part of the global market. Globalisation has brought about global competition. In response to the global competition, South African organisations are required to compete against the best organisations in the global arena.

South African organisations must therefore have the ability to respond effectively to the prevailing challenges in a manner that surpasses that of the competitors. Rhinesmith (1996) is of the opinion that the strategic intent of a "world-class" business organisation is to concentrate on delivering the highest quality product or service to the most profitable worldwide markets at the lowest cost under changing market and competitive conditions.

The responses to globalisation mean that South African organisations had to undergo structural transformation. The structural transformation has led to the shedding of jobs. In the first quarter of 1998 employment levels declined by an additional 3% (over 22 000 job losses) on top of the 4% contraction already recorded in 1997.¹ If the mining sector is included, these core sections of the formal economy shed 100 000 jobs in 1998 (Prinsloo, Moropodi, Slabbert and Parker, 1999).

It is envisaged that the trend will continue for some time to come. In the last two years, the South African currency has appreciated to such high levels that various sectors (e.g. textile and mining) are shedding more jobs to survive. This has an impact on individual employees and communities in which affected organisations are located.

¹ See also Trade for Growth, October 1998/2
It is with this in mind that in 1995 the National Union of Mineworkers (NUM) submitted a proposal entitled “Social Plan Act” to Nedlac for negotiation.

The deliberations at Nedlac resulted in the establishment of a task team (www.nedlac.org.za). The primary focus of the task team was to investigate and develop a framework to guide affected parties in dealing with large-scale retrenchments in all sectors and to formulate a broader proposal on the implementation of the framework agreement.

1.2 BACKGROUND

Following months of task team deliberations, a report containing a comprehensive labour market policy was released. The report (1996) noted that major sectors in South Africa’s economy were engaged in processes of structural change, which would result in massive employment losses.

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2. National Economic Development and Labour Council (Nedlac) is South Africa’s primary institution for social dialogue between organised business, government, labour and community, on issues of social and economic policy.

3. The Management Committee of Nedlac on 13 October 1995 agreed to establish a task team comprising delegates from trade and industry and labour market chambers.

4. The task team was investigating the development of a comprehensive labour marketing policy (which included a social plan).

5. Structural employment loss is a term used to describe, irrespective of causes, those large-scale redundancies which occur relatively rapidly and which are concentrated in particular geographical locations or sectors (or even firms) with limited prospects for prompt renewal of employment for the bulk of the workforce affected.
The report was submitted for deliberation and ratification at the Presidential Jobs Summit⁶ (Jackson, 1999). The constituencies of Nedlac agreed at the summit to a legal framework of a social plan. The Social Plan was consequently gazetted by the Minister of Labour (Republic of South Africa, 1999). The primary objective of the Social Plan “is to avoid job losses and employment decline wherever possible, and seek to actively manage retrenchments and to ameliorate their effects on individuals and local economies when large job losses are unavoidable” (www.nedlac.org.za).

De Lange (1999) summarises the provisions of the Social Plan as follows:

- The Plan affects companies wanting to dismiss more than 500 workers or 10% of their labour within a single year;
- The companies must first advise the Labour Minister of their intention to cut jobs;
- The Labour Department will then make a range of services available to the company and its employees, to assist in the process of retrenchments;
- The services include technical help from the National Productivity Institute;
- The services will also include advice, evaluation of dismissed workers’ skills, training and placement services to help victims find alternative positions;
- Provincial and local authorities will be drawn in to point out new job opportunities;
- Each local authority will receive at least R50 000 from government to start the ball rolling.

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⁶ The Jobs Summit was held on 30 October 1998 to debate intensely the creation of jobs, stable and fair industrial relations, respect for worker rights and sustainable growth and development.
One of the primary objectives of the Social Plan is to ameliorate the effects of retrenchments on individuals and local economies.

This means therefore that the current Social Plan seeks to address the impact of retrenchments on individuals and the local economies – which are the two elements affected within the same geographical region.

The scope of the current Social Plan is therefore limited to the individuals impacted by retrenchments and the organisations within a particular region.

1.3 KEY FOCUS OF THE STUDY

The South African labour market has for some time been affected by retrenchments. The structural transformation, which resulted from the entry of South Africa into the global market, has caused further retrenchments. These retrenchments are affecting not only individuals and local economies, but also industries/sectors (e.g. mining and clothing industries).

As indicated above, the current Social Plan seeks to address the impact of retrenchments on individuals and local economies. The Social Plan is a broad strategic response by the South African government (in consultation with other stakeholders) to respond to retrenchment challenges.

It was indicated above (para 1.1) that the South African economy is shedding jobs and the trend is likely to continue. It is for this reason that organisational retrenchment strategies have become critical.

The study will therefore focus on the current Social Plan to determine whether it is adequate to address retrenchment challenges. An analysis, through literature reviews, will be conducted to determine the adequacy of the current Social Plan to address retrenchment challenges.
The adequacy of the current social plan to address retrenchment challenges in South Africa

The study will also focus on the development of a retrenchment strategy to theoretically and practically provide for the amelioration of the effects of retrenchments.

1.4 BACKGROUND OR SETTING OF THE PROBLEM

“Management calls it downsizing or rationalising. Consultants call it restructuring or re-aligning staff with fiscal goals. Workers call it retrenchment or ....... Death” (Vlok, 2001). It is a reality in which the South African labour market finds itself. For various economic reasons the South African labour market is being impacted by retrenchments.

A need therefore exists to manage retrenchments and ameliorate their effects. The effects of retrenchments have serious implications not only for the individual, but also for families, society and the economy of the country (Ngonini, 2001). It is for this reason that retrenchments or job losses should be managed effectively.

Retrenchment as a risk factor to individuals, families, society and the economy deserves to be given attention by any nation. The Social Plan was consequently developed as a strategic measure to address the effects of retrenchments. The effective management of retrenchments requires a pre- and post-retrenchment strategy that will respond to the challenges of globalisation while embracing the opportunities created by the informal sector and Small, Micro and Medium Enterprises (SMME).

The current Social Plan is not the only measure designed to avoid and/or address the effects of retrenchments. Other measures are sections 189 and 189A of the Labour Relations Act (Act 66 of 1995) (LRA) (Republic of South Africa, 1995) and the Code of Good Practice (general notice 1517 in Government Gazette of 20254 of July 1999) on Dismissals Based on Operational Requirements (Republic of South Africa, 1999b). Sections 189 and 189A of the LRA seek to avoid, minimise and mitigate the adverse effects of retrenchments. The Code of Good Practice is used as a guideline in
support of the Labour Relations Act (LRA). The Code of Good Practice is a
guideline document that contains principles that must be considered when
retrenchments are effected.

The LRA, the Code of Good Practice and the Social Plan are not integrated. They function in isolation despite having the same objectives. Consequently, a holistic approach is not created to address retrenchments. In theory, even if they were to be combined, they still would not be in a position to address the impact of retrenchments due to a failure to recognise a need to promote alternative employment opportunities designed. These processes deal with a legal process rather than a response strategy that seeks to create other employment opportunities.

1.4.1 Definition of the problem

According to the Social Plan Guidelines (National Productivity Institute, 2000), one of the most fundamental principles of a social plan is the "...application of the Social Plan when an organisation or industry sector is in trouble or in the event of threatening large-scale retrenchments (500 people or 10% of the labour force) in an organisation and when such retrenchments could impact on sector, regional or national interests".

The current Social Plan has shortcomings. The immediately identifiable shortcomings are:

- The Social Plan pre-supposes that a social plan is implemented at organisational and industry level. The same Social Plan contradicts itself by fixing a quota only for individual organisations, which pre-supposes an individual approach;

- The current Social Plan (and the LRA supported by the Code of Good Practice) is that it does not provide for situations where individual companies within a sector or region are retrenching less than 500 or 10% of employees (this is a quota that determines the applicability of a social plan). However, the collective number of employees being
retrenched by individual companies is so high that it affects families, communities and the industry/sector;

- The Social Plan has a guideline status and not a statutory status. It competes with neither of the other processes (LRA and Code of Good Practice) that have a statutory status;

- Another shortcoming with the current Social Plan is that even if various companies within a sector/industry or region are engaging in a retrenchment process and they fall within the stipulated quota, it does not provide for co-operation between the companies. Consequently, companies involved will apply the Social Plan individually. The industry/sector impact of retrenchments therefore remains undiagnosed and unaddressed. This defeats the very objective of ameliorating the effects of retrenchments effectively;

- The main shortcoming of the Social Plan as a retrenchment strategy is that it fails to consider the alternative employment opportunities created by the informal sector and Small, Micro and Medium Enterprises (SMMEs). There is a lack of integration with the informal sector and SMMEs.

Given the above shortcomings, the problem statement of the study can be defined as: "Are the current Social Plan Guidelines, as a retrenchment strategy, able to address retrenchment challenges."

1.5 MOTIVATION FOR THE STUDY

The South African economy has for some time been in the throes of a fundamental yet painful process of restructuring. A central feature of this restructuring is the effort by various companies to be more competitive than they have been in the past. Some companies, such as those in the clothing, textile and footwear industries, simply fall by the wayside at an alarming rate due to the failure to make it through the struggle for survival (Matlala, 2001).
The South African Reserve Bank (2001) attributes the high retrenchment turnover and low labour turnover to the following:

- Restructuring by companies;
- The preference for capital-intensive over labour-intensive production processes;
- The introduction of new technology;
- The economic shift from primary and secondary sectors towards service sectors;
- The right-sizing of the private sector.

Other factors that are currently contributing to massive retrenchments are:

- Strong currency;
- Strong currency and cheap imports from Asia;
- Government policies to privatised, and
- The drive for efficiency.

Ngonini (2001) stated that the effects of retrenchments have serious implications for individuals, families, society and the economy of the country. It is therefore critical that organisations respond to retrenchments in a manner that will ameliorate the effects of retrenchments and promote alternative employment. Retrenchment strategies are therefore central in addressing the effects of retrenchments.

1.5.1 Current level of knowledge of the problem

Over the years, many companies have implemented retrenchment processes, thereby also contributing to the already worsening unemployment rate. The retrenchment trends in South Africa seem to be moving from individual organisations to sectoral/industry retrenchments. This is due to the current economic dynamics in various economic sectors. The mining, agricultural manufacturing and textile sectors seem to be the worst-affected industries.
Fraser (2005) reported that the trade union Solidarity hit out at mining group De Beers, following a warning that 1 270 workers – one employee in seven – faced retrenchment at diamond mines in South Africa due to the strong Rand.

Fraser (2005) also warned that 20 000 Free State mineworkers would go on strike in April of 2005 in protest against plans by gold producer Harmony to cut up to 4 110 jobs. The proposed strike was an indication of the meltdown in the gold industry as the strong Rand destroyed the profitability of some operations, forcing their closure.

Ensor (2005) reports that Chinese textile imports to South Africa, underpinned by a weak local currency, low labour cost and state subsidies, grew to 80% in 2001–2002, 196% in 2002–2003 and 88% in 2003–2004. This caused factories to close down (24 since July 2002) and thousands of jobs have been shed (35 500 last year).

This is according to figures provided by the Democratic Alliance (DA), which recently released a proposed rescue package for the ailing industries.

Mathews (2005) reports that Rex Trueform Clothing shareholders are talking to the South African Clothing and Textile Workers' Union (SACTWU) about the future of its Salt River tailoring plant, which employs 1 000 workers. The discussions are about the possibilities of saving the jobs of the employees.

The above articles are an indication of the shift from organisational to industry/sector retrenchments. The current Social Plan seeks to address organisational challenges but is not providing practical solutions and is in conflict with other mechanisms that seek to address the same challenges. Industry/sector challenges will not be addressed effectively unless the organisational challenges are effectively addressed.
1.6 VALUE OF THE PROPOSED RESEARCH

It was stated above that the current Social Plan has some shortcomings with regard to the collective approach needed to address retrenchment challenges.

Retrenchment trends are likely to continue since South Africa as a country is in pursuit of world-class status.\(^8\) Organisations that are in pursuit of world-class status must apply lean management processes to achieve efficiency in productivity. Lean management processes in most cases result in a reduction in the number of employees, who are replaced by state of the art technology.

1.6.1 Theoretical contribution

The literature search conducted so far shows that there is not much research being carried out in the area of post-retrenchment strategies. The search has yielded very few articles and/or research less than four years old. There are very few articles being written and/or research being conducted on the topic of a Social Plan and retrenchment strategies.

The study will therefore add to the literature on the subject. It will highlight the importance of retrenchment strategies and generate debate on the topic. This will consequently add further to the literature.

1.6.2 Practical contribution

A retrenchment strategy is needed to effectively manage the impact of large-scale retrenchments on individuals, families and societies. The study aims to develop a retrenchment strategy that will be incorporated into the business plan of organisations and be managed as part of the strategic business imperative of the organisation.

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7. An official political party, the main opposition in the South African Parliament.
8. Kobus, J. and Moropodi, J. et al. define world-class as becoming competitive with other business organisations (or other countries) in the global arena and that, by implication, means benchmarking one's own performance against theirs.
1.7 RESEARCH DESIGN

A research design is a plan or blueprint of how the researcher intends conducting research. It has to do with the kind of study that will be conducted that will best answer the question that the researcher has formulated (Mouton, 2001).

Hussey and Hussey (1997) use a different term, i.e. “paradigm”, when referring to design. They also confirm that a researcher must recognise and understand his/her personal paradigm, as this will determine the entire course of his/her research.

Mouton (1996) explains that a well-defined research problem is a precondition for any study. The structure and particular logic of research design is determined by the formulation of the research problem. The study’s research problem was articulated in 1.4 above.

1.7.1 Research approach

The research problem as articulated in 1.4 above shows that the study aims at:

i. Analysing the current Social Plan model.

ii. Determining its suitability to address retrenchment challenges.

iii. Developing a retrenchment strategy model that can be used to manage retrenchments as a business imperative factor.

The analysis of the study presents itself as two sub-problems (the sub-problems are mentioned in i and ii above). The sub-problems are to a certain extent different but they can both be addressed through the same research approach.

There are four main types of research that can be labelled as positivist (quantitative) or phenomenological (qualitative); exploratory; deductive or inductive; and applied or basic research (Hussey and Hussey, 1997).
It was explained above that there is limited research on the subject of the Social Plan and retrenchment strategies. For example, the literature search conducted to date on the subject of the Social Plan has not found any articles dating from the four years.

Given the limited literature on the subject, the researcher intends to use an exploratory research approach.

Hussey and Hussey (1997) describe exploratory research as research that is conducted when there are very few or no earlier studies to which one can refer for information about the issue. The aim of exploratory research is to look for patterns, ideas or hypotheses, rather than to test or confirm hypotheses. In exploratory research the focus is on gaining insights and familiarity with the subject area for more rigorous investigation at a later stage.

Sarantakos (1993) refers to three types of exploratory studies, namely:

- Review of available literature;
- Expert surveys; and
- Analysis of case studies.

Sarantakos (1993) is also of the view that most projects employ more than one type of exploratory study, with literature research being predominant. This also constitutes the first step of exploration, when more types of exploration are employed. The research approach followed for this study will therefore be exploratory.

1.8 PROPOSITIONS OF THE RESEARCH

The purpose statement (1.4 above) has identified the general direction of the research, being the analysis of the current Social Plan and development of a retrenchment strategy.
Considering the purpose statement of the research, propositions of the research are:

i. The current Social Plan as a retrenchment strategy has shortcomings.
ii. A retrenchment strategy must incorporate alternative employment strategies (e.g. informal sector and SMMEs).
iii. The effects of globalisation on employment can be managed through an effective retrenchment strategy.

The above propositions will assist in identifying the issues that the research will focus on. These propositions will assist in collecting suitable data and thus arriving at a sensible conclusion.

1.9 RESEARCH METHODOLOGY

Research methodology refers to the overall approach to the research process from the theoretical underpinning to the collection and analysis of the data. Like theories, methodologies cannot be true or false, only more or less useful (Silverman, 1994).

The researcher intends to use a combination of methodologies for the purposes of this study. The methodologies are the review of available literature and analysis of a case study.

Sarantakos (1993) explains literature review as involving a secondary analysis of available information already published in some form, whereas a case study refers to an "insight-stimulating example" and is a general case study.

It was stated in 1.7.1 above that when more than one methodology is employed, the literature review generally becomes the predominant methodology. In this study, the literature review will be the predominant methodology, and will be supported by the case study methodology.
Please note that an in-depth research methodology for the study will be discussed in Chapter 5. The discussions in this chapter are only intended to highlight upfront the approach that the study intends to follow.

1.10 RESEARCH PHASES

1.10.1 Literature Review

The predominant approach of the research will be based on the literature review, which will follow the stages of documentary methods. The following are the stages to be followed:

Stage 1 Identification of relevant documents

The documents will not be limited to South African literature, but will also include international literature. This will enhance the validity and the reliability of the research.

Stage 2 Organisation and analysis of the documents

The analysis of the documents will mainly be reading to determine a trend and understanding of the concepts rather than a content analysis.

Stage 3 Evaluation of the information

The information gathered will be evaluated and assessed against the problem statement of the study, the propositions and the assumptions made.

Stage 4 Interpretation of data

Interpretation of the data will be made in the context of the research topic and the study.
1.10.2 **Analysis of case study**

The approach to be employed in analysing a case study will be direct but unstructured interviews with the main role-players in the particular case.

1.10.3 **Identification and selection of data source**

The data source for the literature review will mainly be through, but will not be limited to, the library. Various national and international literature searches will be conducted through the electronic library system.

Further, the data source will be the practical experiences of organisations that have been through the process of retrenchments. The organisations are DRD-Gold, Eskom Holdings and Telkom.

1.10.4 **Data-gathering methods**

Data will be gathered through the study of various literature sources that will be collected. The data will be comprehensive as it will be representative of national and international literature.

The analysis of the case studies will be employed as a method of data collection rather than as a research model (Sarantakos, 1993).

1.10.5 **Validity**

Attainment of validity is one of the basic principles of social research. Validity means the ability to produce findings that are in agreement with theoretical or conceptual values: in other words, to produce accurate results and to measure what is supposed to be measured (Sarantakos, 1993).

Given the nature of the study, theoretical or conceptual validation will be employed. It is not possible to employ empirical validation because of the nature (exploratory) of the study.
1.10.6 Reliability

In exploratory research it is not possible to achieve reliability through the production of consistent results. The study intends to achieve reliability through precision and objectivity when gathering data; by analysing and interpreting data; and presenting findings.

1.11 ETHICAL ISSUES TO BE CONSIDERED

The researcher undertakes to abide by the following ethics:

- To acknowledge and give credit to the work of other people;
- To honour commitments made to research participants;
- To obtain consent from the participants to publish the research results; and
- Not to fabricate or falsify any data.

1.12 PROPOSED CHAPTER OUTLINE

The chapter outline is as follows:

This chapter is an introductory chapter; it provides information about the introduction of the problem, the problem statement, motivation of the study, value of the research, research methodology and ethical issues to be considered.
<table>
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<tr>
<th>Chapter 2</th>
<th>This chapter will contain an in-depth literature review on the concept of Globalisation.</th>
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<td>Chapter 3</td>
<td>This chapter will contain an in-depth literature review on the management and implementation of the Social Plan and other models designed to ameliorate the effects of retrenchments.</td>
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<tr>
<td>Chapter 4</td>
<td>This chapter will focus on the collection of data through a case study.</td>
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<td>Chapter 5</td>
<td>The research design and methodology will be covered in this chapter.</td>
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<td>The chapter will focus on the interpretation of the results and the research findings.</td>
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<td>Chapter 7</td>
<td>This chapter will comprise the conclusion and recommendations.</td>
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CHAPTER 2
GLOBALISATION

2.1 INTRODUCTION

"In the speeded-up globalised post-modern world we live in we are moving into a time of flux and uncertainty - in short, a time of transformation. This is a process of change unleashed by powerful economic forces but it also reflects a growing social movement of contestation" Munck (2002).

The world has become smaller and smaller. And it is so integrated that it becomes very difficult if not impossible for countries or economies to exist in isolation. The process of uniting the world economies is referred to as "globalisation".

Defining globalisation as a concept is difficult. Much has been said and written about this concept in recent years. In 1998 alone, 2,822 academic papers were written on globalisation and 589 new books on the same subject were published (Globalisation Guide 2002). Each one of these publications offered a definition or a perspective on globalisation. Globalisation as a concept seems to mean different things to different people (Slabbert et al., 1999). This chapter will examine some of the definitions and without attempting to come up with a definition, look at the common factors that are found in the different definitions.

Globalisation as a concept and in practice is not new. Globalisation in the context of closer integration of national markets is not a new concept or phenomenon (O'Rourke and Williamson 2000). Many economists date its efflorescence to the period following the great "voyages of discovery" in 1492, which led to "a transfer of technology, plants, animals and diseases on an enormous scale, never seen before and probably since" (Lindert and Williamson 2001). This chapter will also look at the historical development
of globalisation as a concept. The historical background will assist in putting the concept in perspective.

The concept of globalisation, and the effect of it, has led to different views from different commentators. The views are contradictory: some are for and some are anti. The various commentators base their views on several factors. Some are theoretically based, some are practically based (case studies), and some are both. This chapter will also examine some of these mutually exclusive views. The intention of the examination is not to promote a particular view but to understand all of them.

Globalisation has brought about competition at an international level. Countries, organisations and individuals must compete at an international level. It means that they must benchmark themselves against international competitors. Nel (1994) describes this as the ability to respond effectively to the prevailing challenges in a manner that surpasses that of the competitors. This concept is referred to as "world-class status". The chapter will also examine this concept as something that is the consequence of the reality of globalisation.

The political reforms in South Africa resulted in the opening up of South Africa's economy to global markets. This brought about a need for change in order to cope with international competition (market competition and productivity; Prinsloo et al. 1999). This chapter will also look at the effects of globalisation in South Africa at a macro level.

Any factor that has an economic impact (at a national or international level) will undoubtedly have an impact — negative or positive — on employment. Globalisation has a huge economic impact at both the micro and macro level of the world economies and therefore it will have an impact on employment. Finally, this chapter will look at the impact of globalisation on employment.
2.2 GLOBALISATION

2.2.1 Definition of globalisation

In order to understand the concept "globalisation", it is important to examine various definitions of the concept. The examination is not intended to carve out a single definition but to extract common or standard factors from various definitions. In this way, a broad understanding of the concept will be achieved.

To achieve this broad understanding, various definitions will be listed. The list is by no means intended to be exhaustive.

- Prabhakar (2003) quotes Fafowara as defining the concept as follows: "Globalisation refers to the process of the intensification of economic, political, social and cultural relations across international boundaries. It is principally aimed at the transcendent dental homogenisation of political and socio-economic theory across the globe. It is equally aimed at making global presence worldwide at the world stage or global arena. It deals with the increasing breakdown of trade barriers and the increasing integration of the world market".

In support of Fafowara's definition, Prabhakar further quoted the definition of Ohuabunwa: "Globalisation can be seen as an evolution which is systematically restructuring interactive phases among nations by breaking down barriers in the area of culture, commerce, communication and several other fields of endeavour."

- Lall (2002) defines globalisation as "the closer integration of economies via trade and factor flaws."

- Held and McGrew, et al. (1999), in their entry for the Oxford Companion to Politics, argued that globalisation can be conceived "as a process (or set of processes) which embodies a transformation in the spatial organisation of social relations and transactions, expressed
in transcontinental or interrogational flows and networks of activity, interaction and power.”

- Roberts and Thoburn (2002) are of the opinion that “Globalisation involves the increasing integration of countries into the world economy through trade liberalisation. It takes place in a context where firms increasingly plan their production on a world-wide basis, aided by development in transport and communication.”

- Mhone and Edigheji (2003) understood globalisation to be “a phenomenon that is primarily driven by the imperatives of major multinational corporations and their home governments, with various multilateral and bilateral agencies as their intermediaries and facilitators. The phenomenon is one that has its structural manifestation and underpinnings in market-driven economic processes and market fundamentals. These processes are rationalised through the dogma of economic liberalisation”.

- Lynas (2000) holds the opinion that “globalisation is not a vague warm feeling about the future but a specific economic strategy pursued by countries and transnational corporations, whose interest they represent. The world is shrinking and globalisation is the economic order that binds us all together in mutual interdependence.”

- Hayes (2004) argues that globalisation could be seen as “the unprecedented, worldwide integration of all national economies into a single market for goods, capital technology, information and labour. By removing the barriers between countries, globalisation encourages the expansion of international trade and investment.”

- Bello (2003) is of the opinion that globalisation is the “accelerated interaction of capital, production and markets globally, a process driven by the logic of corporate profitability.”

- Collins English Dictionary (2003) defines globalisation as “the process enabling financial and investment markets to operate internationally, largely as a result of deregulation and improved communications or
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the process by which a company, etc., expands to operate internationally."

As mentioned, these definitions do not represent a conclusive list of definitions about globalisation. There are many more definitions of globalisation.

Upon closer perusal and consideration of the above definitions, the following common factors seem to emerge:

- Process;
- Global / international;
- Trade;
- Competitiveness;
- Political, economic and technological.

The common factors that were identified as most prominent in the various definitions of globalisation are discussed below.

2.2.2 Process

"Process" emerged as one of the common factors in the definitions. Globalisation is therefore a cause of change, which is continuous. Globalisation is therefore not an event but a process that starts at a particular point (see the historical development of globalisation) and continues well into the future. The future cannot be predicted or determined. It might well be a perpetual process, a process that will always be with mankind.

Slabbert et al. (1999) are of the opinion that globalisation has always been there. What changed is the scale and impact of globalisation on business environments around the world and the emergence of what have come to be termed the "global village".
2.3 GLOBAL/INTERNATIONAL

Another factor emerging from the definitions is that globalisation happens at global, international or world level.

Globalisation is therefore a process that has engulfed the entire world. The pace and its effect may differ from one country or continent to the other but it remains a factor for everybody, throughout the world.

The term globalisation itself is derived from the term “globe” which means world. It therefore means that the process of globalisation to live up to its name (derived from “globe”) must be an international factor.

2.3.1 Trade

In the process of globalisation, which takes place at an international level, there is trade between individuals, organisations and nations.

The trade between these parties can vary from a manufactured product to human skills. There is therefore a movement of products, of whatever nature, between individuals, organisations and nations.

2.3.2 Competitiveness

Following from the factor of trade, there is a factor of competitiveness between the parties (individuals, organisations and nations) that are trading. The parties are engaged in this process of trading internationally because they want to reach profitable markets and achieve the greatest competitive advantage. Rhinesmith (1996) is of the view that to be globally competitive, a business organisation must not only do business internationally but must also have a corporate culture and value system that allows it to move its resources anywhere in the world to achieve the greatest competitive advantage.
Cascio (2001) is of the view that a business organisation in the global economy must pass two tests to create a sustainable competitive advantage, namely: it must add value in the market and products and/or its service must be unique, innovative and creative so that it cannot be easily duplicated by competitors.

2.3.3 Political, Economic and Technological

One of the primary drivers of globalisation is the world economy. The economies of various countries are now available to foreign organisations and countries. The economy (or the market, so to speak) has grown. The economies are now so intertwined and interdependent that they have virtually become one. The world economy by its size and diversity has created opportunities for organisations and countries.

Individuals, organisations and nations are taking advantage of the opportunities available. Politics also play an important role in driving globalisation. Politically driven international institutions were established to regulate economic activity in the world economy. The World Trade Organisation (WTO) is one such organisation that was established to administer the rules of international trade (Globalisation Guide, 2002).

Governments of various nations are entering into trade agreements with one another to enhance their participation in the world economy. Newman, Pape and Jansen (2001) are of the opinion that the role of government has been redefined. They refer to the changes in economic policy implemented by national governments. For example, the South African government removed trade or import tariffs to facilitate economic activities between South Africa and European countries. Countries that do not meet acceptable international standards are often excluded from world market participation. Countries like Iraq, North Korea and Cuba are some of the examples.
Technology is one of the enablers and beneficiaries of globalisation. Technology has enabled the global village or the world to be small and interconnected. The process of globalisation is developing largely at the rate at which technology is developing. It is to an extent directly proportional to the development of technology.

2.4 HISTORICAL DEVELOPMENT OF GLOBALISATION

Is globalisation a new phenomenon? Is it something that started in the 20th century or is it something that has been in existence since time itself? Slabbert et al. (1999) argued that globalisation is not something “new” and “alien” or a mysterious and independent process created by a post-cold war world dominated by free-wheeling capitalism.

The Globalisation Guide (2002) reports that there is no agreed starting point of globalisation. It further reports that, to understand globalisation, consideration must be given to the first great expansion of European capitalism that took place in the 16th century, following the circumnavigation of the earth in 1519 to 1521.

The history of globalism (domination) has passed through several phases in the Western political economy, which created and now dominates and operates the modern world system (Prabhakar, 2003). Guillen (2000) confirms that the start of globalisation is a contested issue. According to Guillen (2000) one could argue that globalisation begins with the dawn of history. Prabhakar (2003) navigates through various stages/phases of globalisation (which are referred to in the article as “dominations”).

In summary, Prabhakar argues that the process of domination/globalisation in the rest of the world can be divided into the following five phases.
• **Barbarian domination (15\textsuperscript{th} century to early 18\textsuperscript{th} century)**
Prabhakar (2003) referred to Marx to advance the point of Barbarian domination. According to Marx (1967) “Barbarian domination was the earliest phase of capitalist domination, or capitalist globalisation, it occurred alongside the epoch in capitalist development called primitive accumulation when the west was breaking free from feudalism but had not yet entered the era of capitalism. Certain technological changes such as improvements in maritime technology and the invention of compass facilitated trade between distant lands by allowing the west to venture into the open seas ….”

• **Imperialist Domination**
Prabhakar (2003) argues that the second phase of denomination was the imperialist denomination. Imperialism followed immediately after the fight for Western domination of the national economy. The fight continued for the control of raw materials and markets.

• **Colonial Domination**
The third phase of capitalist domination was in the form of colonialism. It involved direct political and military administration of people to effect sustained maximum economic exploitation through an organised, disciplined and, above all, administered capitalism.

• **Neo-colonial Domination**
This phase of domination, according to Prabhakar (2003), started after World War II and it is still continuing. Neo-colonial domination refers to control that the Western nations had over other nations.

• **Dependency Domination**
Dependency domination is the capitalist strategy of control and exploitation in the modern system, where international financial organisations and multi-national companies become vital actors.

On consideration of Prabhakar’s arguments, it becomes evident that globalisation was not necessarily caused by capitalism. Capitalism may have accelerated its intensity, extensity and velocity as a result of globalisation.
Jackson (2000) is of the view that globalisation is no more damaging or destabilising now than it was in the 1890s.

2.5 ALTERNATIVE VIEWS ON GLOBALISATION

Globalisation is proving to be a very complex phenomenon. It is a process that is highly emotional to various role-players. Its understanding, causes and effects are viewed differently by various groups depending on who is addressing the issue. There are optimists and pessimists.

Slabbert et al. (1999) observe that the subject raises high emotions in certain circles, both positive and negative. It is viewed on the one hand as being beneficial to world economic development and the upliftment of poor nations and as a process that is both inevitable and irreversible. On the other hand, it is regarded as being detrimental to the future wellbeing of many countries, as it is perceived as a mechanism for making the rich richer and the poor poorer.

Optimists look to the possibility of a global village linked together by the Internet and benefiting from ever-increasing material wealth for their wellbeing. But pessimists, on the other hand, see a frightful corporate tyranny, growing inequality, destruction of the environment and livelihood, a rise in unemployment and a sweeping away all that is healthy and meaningful in human existence (Prabhakar, 2003).

It is important that the views of both the optimists and pessimists be articulated and understood. Understanding these different and opposing views will not necessarily offer a moderate and conciliatory view, however. Both the optimists and the pessimists, it seems, are now arguing from an ideological viewpoint rather than a theoretical and/or practical viewpoint.
2.5.1 Optimist’s view

- **Competitiveness**
  For individuals, organisations and economies to be competitive this means that they must compare themselves with something or somebody. To be the best in the world in whatever field, comparison/benchmark with the rest of the world is absolute. Globalisation creates a global village for such a comparison. The result of the comparison compels some to be vigorously competitive in order to be better than the others. In a global village, world-class standards are not only encouraged, they are a reality. (N.B.: The world-class status concept will be discussed in Chapter 3.)

- **Economic Liberalisation**
  National economies become integrated in the world trade and finance markets, and foreign direct investments are easier to make, monitor and withdraw when deemed necessary. Most countries try to gain from this internationalisation of the economy by opening borders to international finance and transactions. The integration of national economies and markets into a world market goes hand in hand with the spectacular rise and strengthening of neo-liberal ideology (Lubbers and Koorevaar 1999).

  Globalisation has led to policy liberalisation. Policies that facilitate openness, the free market, and deregulation have since been introduced.

- **Addressing inequalities**
  Prabakhar (2003), refer to the liberal school of thought in articulating the point on inequalities. According to Prabakhar (2003), new liberals have claimed that globalisation is a way of integrating the world economy, which ensures a win-win situation rather than a zero-sum outcome.
• **Reduction of poverty**

According to the Globalisation Guide (2002), there is mounting evidence that inequalities in global income and poverty are decreasing and that globalisation has contributed to this turnaround. Poor countries that have lowered their tariff barriers have experienced increases in employment and national income because labour and capital shifts import-competing industries to, expanding, newly competitive export industries.

2.5.2 **Pessimist’s view**

• **Unemployment**

Pessimists believe that globalisation has caused unemployment and job losses. Industries in South Africa such as textile, mining and manufacturing have been, and still are being, affected by deregulation and free trade. These are the factors of globalisation.

(The effect of globalisation on employment will be discussed in para 2.6.)

• **Increase inequalities**

Critics of globalisation claim that rising inequality is the inevitable result of market forces. Given free reign, market forces give the rich the power to add further to their wealth. Hence, large corporations invest in poor countries only because they can make greater profits from low wage levels or because they can get access to their natural resources (Ravallion, 2003).

The free market does nothing to address re-distribution of wealth. It assumes that wealth will “trickle down” to the poor.
- **Government loss control**
  Prabakhar (2003) refers to the Marxist school of thought in articulating the point of globalisation undermining governments or nation states.

  The Marxists have disagreed over the role of globalisation in that they believe that global and post-industrial capitalism is undermining the nation-state, including its micro-economic planning, its collectivist welfare state, its citizens' sense of collective identity, and its general caging of social life (Marx, 1967).

  Kobrin (1997) argues that globalisation challenges both the autonomy and independent decision-making of the state and raises question about the meaning of sovereignty in its external sense of a system ordered in terms of mutually exclusive territoriality.

- **Workers' rights undermined**
  Trade unions oppose globalisation, saying that it leads to lowering of wages and workplace standards. Generally, globalisation encourages the trade in goods produced in countries that do not allow unions to defend their workers' rights. They undercut the goods produced in countries where unions do defend unions' rights. This leads to a race to the bottom as those with the lowest standards win the markets.

  It is evident from the above discussion that the causes and effects of globalisation are very intriguing. The optimists are painting a rosy picture of the future, whereas the pessimists are lambasting the very existence of globalisation. Irrespective of one's view, it is undoubted that people must learn to live with and understand the concept of globalisation because it is a reality.

  It has evolved through various historical development phases with differing effects on various people.
2.6 THE EFFECTS OF GLOBALISATION IN SOUTH AFRICA

As mentioned previously, globalisation is a global phenomenon that affects all individuals, organisations and nation-states. It is important to understand how South Africa as a nation-state was (and still is) affected by globalisation.

The understanding is important especially due to the historical background of South Africa. The history of the apartheid system in South Africa is well documented.

Starting in 1925, South Africa adopted an explicit policy of protectionism and hence became one of the first developing countries to introduce the inward-looking industrial policy that became popular during the 1950s and 1960s.

The protectionist system of South Africa at the time is in direct contrast to, or the opposite of, globalisation as it is known today. It was mentioned that the history of globalisation dates back to the industrial age. It means therefore that at the time when the protectionism system was introduced and employed, globalisation existed and was growing. The exclusion of South Africa from the world economy had serious implications for South African organisations and the country. South African organisations could not access the lucrative markets of other countries and exploit the opportunities of world markets.

The South African economy could not attract direct foreign investment and as a result there was no foreign cash injection into the economy.

In 1994 South Africa was reformed politically. This led to South Africa's economy becoming open to global markets. South Africa became part of the "global village".

When South Africa achieved its transition to non-racial government in 1994, a debate took place about the future direction of economic restructuring. Two years later the government of South Africa changed its development strategy by adopting an orthodox economic reform programme: Growth, Employment
and Redistribution (GEAR). The South African economy is now rapidly globalising (Carmody, 2002).

Theoretically it meant that South Africa must make a quantum leap from its protectionist system to embrace globalisation. Globalisation became a reality that must be strategically addressed.

Prinsloo and Moropodi et al. (1999) confirmed that political reform in South Africa resulted in the opening up of South Africa’s economy to global markets. South Africa’s newfound membership of the World Trade Organisation and its obligations to drop protective tariffs changed the entire industry arena.

As regards South Africa’s market place, the following changes/impact of globalisation can be observed (Prinsloo and Moropodi, 1999):

- The South African banking industry used to be dominated by a handful of banks. Today there are around 70 foreign banks all competing for the same “pool” of profitable customers;

- South African Airways (SAA) and about 10 overseas carriers shared the lucrative international routes before 1994. Today 60 carriers fly to this country;

- The hotel industry was dominated by Sun International and Southern Sun, with City Lodge, Protea Hotels and the Karos Group occupying niche markets. Today the market is shared with 47 foreign groups;

- New names of cars that have been available since 1995 in the South African market are depicted in Table 2.1:
The adequacy of the current social plan to address retrenchment challenges in South Africa

**TABLE 2.1**

**THE NAMES OF CAR BRANDS IN SOUTH AFRICA**

<table>
<thead>
<tr>
<th>Prior to 1995</th>
<th>Since 1995</th>
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<tr>
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<tr>
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<td>TATA</td>
</tr>
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<td></td>
<td>Volvo</td>
</tr>
</tbody>
</table>

- The club of stockbrokers on the JSE has faded. The following international giants are now doing business in South Africa:

**TABLE 2.2**

**LIST OF INTERNATIONAL STOCKBROKERS ON JSE**

- Merrill Lynch
- SBC Warburg
- Nat West
- Deutsche Morgan Grenfell
- Flemmings
- UBS
- ABN – Amro
Four local tyre manufacturers used to control the South African market. Now as many as 100 different makes of tyres are on sale;

More than 20 business schools were established.

Foreign direct investment and/or the inflow of money give a major boost to the economy. It builds confidence in the investors and it has a direct and indirect influence on employment. The economy becomes stable and grows at a higher rate; this builds confidence and attracts more investors.

The effect of foreign direct investment on employment can be illustrated by the example of BMW. BMW Germany invested approximately R2 billion in the BMW South African plant in Rosslyn, Pretoria. The plant employs approximately 2 000 employees (direct employment). Indirectly, BMW's supply chain has created 30 000 jobs.

In the Coega region of the Eastern Cape, a port is being developed. An aluminium smelter has been planned for that port by a foreign company (Alcan). It is estimated that the project will create direct and indirect employment of approximately 25 000 in the short term. The Eastern Cape economy will receive a major boost.

The above findings are sending a clear message that a drastic paradigm shift is needed to deal with such competition. The South African government and the business leaders should realise that the economy (and, one can argue, anything under the sun) should be monitored at all times in order to ensure that it is in line with world changes.

In 2.5.1 there was a brief discussion on "competition" as one of the elements of globalisation. It is important therefore to note South Africa's competitiveness on a macro-perspective level.
A survey is conducted on an annual basis to determine the competitive level of various countries. The countries are then ranked according to their competitive level.

Table 2.3 provides an indication of the competitiveness level of South Africa.

Table 2.3

IMD World Competitiveness Yearbook 2005


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35
The adequacy of the current social plan to address retrenchment challenges in South Africa

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The continued globalisation of economic activities is of major significance for the prosperity of nation-states, organisations and individuals.

South Africa like any other country in this global village must make the right choices with regard to its economic policies, to be counted amongst the most competitive nation-states in the world. It is important that a nation-state engender the culture of competitiveness amongst its people.
2.7 THE IMPACT OF GLOBALISATION ON EMPLOYMENT

"From the beginning, civilization has been structured, in large part, around the concept of work ..... Now, for the first time, human labour is being systematically dominated from the production process ... Intelligent machines are replacing human beings in countless tasks.....”

(Rifkin, 1996)

In 2.4 the different views on globalisation were discussed. Different views ranging from outright rejection of the concept of globalisation to the acceptance of the “inevitable” were outlined.

It was indicated that the effects of globalisation on employment would be discussed here. The discussions are mindful of the fact that the relationship between globalisation and employment is surprisingly difficult to define and measure for many reasons. Globalisation is a multi-faceted phenomenon, and each facet may have different effects on employment, varying by country, time, industry, policies and the like. It comes as a part of a large array of economic, technical, social, legal and policy changes, each with interactions and feedbacks, making it difficult to identify the effects of globalisation (Lall, 2002)

Rhinesmith (1996) is of the opinion that to be globally competitive a business organisation must not only do business internationally but must also have a corporate culture and value system that allows it to move its resources anywhere in the world to achieve the greatest competitive advantage and that the business organisation must concentrate on delivering the highest quality product of service to the most profitable world-wide markets at the lowest cost under changing market and competitive conditions.
An analysis of Rhinesmith's (1996) statement highlights two factors (related to employment) that are fundamentally important, namely "moving resources anywhere in the world and delivering at the lowest cost".

It means therefore that business organisations will continuously seek countries that will afford them the opportunity to produce their products at the lowest possible costs.

Fisher (2004) confirms this viewpoint by highlighting the American situation in the manufacturing industry. Fisher said that "many people argue that international competition is an important cause of the loss of manufacturing jobs. They maintain that American firms are outsourcing because foreign wages are a lot lower than domestic wages. But the same argument was also true at an earlier time for a general decline of manufacturing jobs in the industrial Northeast, as companies moved operations to the South and West, where unit costs were lower in the middle part of the twentieth century. There is a grain of truth to the argument that foreign competition has eroded the domestic manufacturing base..." South Africa's manufacturing industry also suffered loss of employment as a result of lower foreign wages. According to the figures released by Statistics South Africa, for the period of March 2004 to March 2005 the manufacturing industry lost 63 000 jobs (Statistics South Africa, 2005).

In pursuit of lower cost, business organisations have moved their businesses to various countries. The countries that have benefited most from this movement are from the Far East – e.g. China, Indonesia and Vietnam.

Countries in which these business organisations were originally situated are left with high levels of unemployment. South Africa is no exception to this trend. The textile sector in South Africa is the "victim" of such practices.
Roberts and Thoburm (2002) illustrated the effect of globalisation in the South African textile industry by referring to statistical information (Table 2.2).

Table 2.4 illustrates that there were particularly sharp reductions in employment in the last three years of the 1990s, with over 30 000 jobs being lost. Employment has fallen in all the main textile sub-sectors, with the largest losses being in spinning, weaving and finishing, where employment in 2001 was more that 45% lower than in 1999.

Carmody (2002) stated that, despite the elimination of international sanctions, since 1996 when neo-liberal economic reforms were introduced more than a half a million jobs have been lost, in contrast to the 600 000 that were meant to be created by GEAR.

An argument can be presented that the movement of business to other countries creates employment for the people of that country. In essence it means that generally in the “global village” employment is not lost but merely moves from one country to another.

Jackson (1998) argues that by opening up markets, real wages, especially of the unskilled, will be driven down by “cheap” foreign labour and capital outflows to “cheap” labour countries. In other words, the countries to which the business organisations move will have maintained lower wages, otherwise the business organisations will move to the next country. This results in the exploitation of workers just to maintain the presence of business organisations. An example of this trend is the NIKE/China relationship.

Further examples: General Electric moved its production plant from the United States (US) to China, IBM computers moved its assembly units to China and Microsoft moved its technical division to China. It should be noted that such movements are not only caused by low wages but also by costs and efficiency as well.
An example that is closer to home is the Volvo motor company. Volvo trucks were assembled in Botswana. The parts of the trucks were shipped from Sweden to South Africa and then transported to Botswana. According to Volvo, it was more expensive to transport the parts from South Africa to Botswana than it was to ship them from Sweden to South Africa. In the interests of business efficiency, the Botswana plant was closed and moved to Durban, South Africa.

The economic impact on countries that experience such disinvestments is very negative. The disinvestments affect both direct and indirect employment. Further, they create a state of economic uncertainty about other potential foreign direct investments. The jobs that would have been created by the potential foreign direct investment are also lost even before they are created.

Some trade unions oppose globalisation on the basis that it leads to a lowering of wages and also of workplace standards. The argument generally presented is that globalisation encourages the trade in goods produced in countries that do not allow unions to defend workers’ rights. This undercuts the goods produced in countries where unions defend workers’ rights. This leads to a “race to the bottom” as those with the lowest standards win the markets (Globalisation, 2002).

**Table 2.4**

**EMPLOYMENT IN SOUTH AFRICAN TEXTILE AND CLOTHING INDUSTRY**

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Spinning, Weaving and Finishing</th>
<th>Other Textile</th>
<th>Knitted/ Crocheted Fabrics and Articles</th>
<th>Clothing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1993</td>
<td>35 260</td>
<td>30 695</td>
<td>15 976</td>
<td>124 687</td>
</tr>
<tr>
<td>1994</td>
<td>35 839</td>
<td>32 053</td>
<td>14 567</td>
<td>124 538</td>
</tr>
<tr>
<td>1995</td>
<td>34 641</td>
<td>32 369</td>
<td>13 682</td>
<td>134 945</td>
</tr>
<tr>
<td>1996</td>
<td>45 566</td>
<td>32 886</td>
<td>19 158</td>
<td>149 219</td>
</tr>
<tr>
<td>1997</td>
<td>42 744</td>
<td>32 713</td>
<td>18 484</td>
<td>136 433</td>
</tr>
<tr>
<td>1998</td>
<td>30 169</td>
<td>26 725</td>
<td>14 540</td>
<td>113 577</td>
</tr>
</tbody>
</table>
The adequacy of the current social plan to address retrenchment challenges in South Africa

<table>
<thead>
<tr>
<th>YEAR</th>
<th>Spinning, Weaving and Finishing</th>
<th>Other Textile</th>
<th>Knitted/Crocheted Fabrics and Articles</th>
<th>Clothing</th>
</tr>
</thead>
<tbody>
<tr>
<td>1999</td>
<td>26 484</td>
<td>26 713</td>
<td>10 210</td>
<td>121 281</td>
</tr>
<tr>
<td>2000</td>
<td>25 182</td>
<td>30 258</td>
<td>10 467</td>
<td>124 001</td>
</tr>
<tr>
<td>2001</td>
<td>25 110</td>
<td>28 487</td>
<td>10 022</td>
<td>119 839</td>
</tr>
<tr>
<td>K/L</td>
<td>36.3</td>
<td>22.3</td>
<td>17.1</td>
<td>4.9</td>
</tr>
</tbody>
</table>

Source: Statistics South Africa

Notes: Data are year averages for 1993 to 1997. From 1998 to 2001, data are as of June. Former "homelands" were only included from 1996, hence the break shown in the series.

Bloch (1998) concluded that globalisation has taken the process of innovation and rationalisation to a point where productivity is outstripping economic performance in a kind of jobless growth. Bloch reasoned that:

- In the medium to longer term, excessively open markets erode socio-economic stability, destroying the old order before a new one is strong enough to take its place. It is quite conceivable that fairly early in this century only a small fraction of the workplace will be required to keep the global economy running;

- Wherever products or services are traded in total freedom across borders, employees seem to get swept away in a relentless downward spiral of rationalisation and redundancies;

- Driving for "world-class" status in the "global village" places enormous pressure on companies to lower costs. To date, no one appears to have found a way to prevent the destruction of jobs in pursuit of such savings;

- Globalisation, once the rallying cry of socialism, has turned full circle. It now works for capital, rather than for labour. Firms are increasing their profitability while workers are losing ground;

- Transnational companies are constantly reinforcing their positions through a variety of strategic alliances. This results in efficiencies that ultimately cut jobs. In the German automobile industry alone, 300 000
jobs were lost between 1991 and 1995, while annual production was held constant (VW will shed 7 000 to 8 000 jobs each year);

- International computer networking has eradicated much duplication. While this cuts costs, it does the same for jobs;

- "Unlocking shareholder value" has become a fashionable term, although in practice it means little more than classical profit-maximisation. Indeed this is the objective of most corporate mergers, which inevitably results in redundancies, but money has no social conscience;

- Events like the collapse of the IT sector in 2000 not only illustrated the vulnerability of the international economy but also caused negative spirals of unemployment world-wide.

2.8 WORLD-CLASS STATUS CONCEPT

The discussions above have clearly demonstrated that globalisation has created a global village or a world that creates and sets the stage for competition.

Competition in the global village is critical for organisational survival, economic survival and, some might also argue, political survival. This implies that if organisations, economies and nation-states want to remain viable, they must continuously adapt in an environment that has become increasingly complex, uncertain and turbulent due to, inter alia, the impact of globalisation.

To survive in the global village an organisation has to be competitive or ascend to "world-class status". The discussions that will follow will be about understanding the concept of "world-class status".

For the purposes of understanding the concept of world-class status, the discussions will be limited to organisations.
2.8.1 Meaning of the “world-class” status concept

Organisations that achieve the highest levels of performance world-wide and successfully compete and make a profit in the global market place represent the status of “world-class” (Kasul and Motwani (1995) and Owusu (1999)).

Prinsloo and Moropodi et al. (1999) stated that ascending to world-class standards in the simplest sense means becoming competitive with other business organisations in the global arena, and that, by implication, means benchmarking the organisation’s performance against others.

Nel (1994), describes being “world-class” as the ability to respond effectively to the prevailing challenges in a manner that surpasses that of other competitors. Rhinesmith (1995) expands on this viewpoint by stating that to be globally competitive a business organisation must not only do business internationally, but must also have a corporate culture and a value system that allows it to move its resources anywhere in the world to achieve the greatest competitive advantage. The focus of a world-class business organisation is therefore the client or customer, in the first place, which then translates into profitability.

Manning (1991) emphasises the importance of customer service but adds emphasis to the major role people play in delivering high-quality customer service. According to Manning (1991), the entire business system must empower employees to meet or exceed customer needs.

Brown (1993) illustrated the importance of empowering employees by using the so-called SYSTAO System of the Great Plains Coca-Cola Company. The SYSTAO System means that every employee must know how things happen in the organisation, from the stage when the customer places the order until the product is delivered to a satisfied customer. Each employee must know the “big picture”.

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It becomes evident that to be world-class the organisation must continuously benchmark itself against other outstanding organisations in the world. They must continuously adopt new strategies of doing things.

MacDonald and Tanner (2003) define benchmarking as “the process of identifying, understanding and adopting outstanding practices and processes from organisations anywhere in the world in order to help your own organisation to improve its performance”.

Benchmarking is therefore a managed change process which:

- Uses a disciplined, structured approach;
- Identifies what needs to change;
- Identifies how to change it;
- Identifies the potential for improvement;
- Creates the desire for change.

2.8.2 Characteristics of “world-class” organisations

Rhinesmith (1996) is of the opinion that the strategic intent of a “world-class” organisation is to concentrate on delivering the highest-quality product or service to the most profitable world-wide markets at the lowest cost under changing market and competitive conditions.

Expanding on Rhinesmith’s opinion, Kasul and Motwani (1995) highlighted the following as factors ensuring ascendance to “world-class” status:

- Management commitment;
- Quality;
- Customer focus;
- Advanced technology;
- Organisational flexibility.
Thorne and Smith (2000) expand on this by indicating the following characteristics:

- Integrated supply chain network;
- Team-based organisational structure;
- Strong people focus;
- Technological innovation;
- Clearly communicated vision and objectives.

Prinsloo and Moropodi et al. (1999) considered the various viewpoints of different authors on the characteristics of "world-class" organisations. Having considered these viewpoints, they developed a model that organisations can use as a guideline in their ascent to, or pursuit of, "world-class" status (see Figure 2.1).

The model highlights the following building blocks:

- Leadership;
- Customer service;
- Operational architecture;
- Relationship architecture;
- Informational architecture.

2.8.3 Globalisation drivers and levers

Globalisation creates an environment that is outside the control of business management. Globalisation drivers can therefore be seen as the factors necessary to use, as a frame of reference in the management of the external business environment.
Parker (1998) is of the opinion that if a business organisation is to remain prosperous it must continually adapt to an external environment that is consistently changing. Boatz (1993) revealed 10 major globalisation drivers that should be taken into account when managing the trends and tendencies in the external environment, namely:

- Speeding up delivery to the customer;
- Improving ties with strategic partners abroad;
- Supporting domestic customers' "international operations";
- Meeting the cultural needs of foreign customers;
- Accessing new technologies;
- Avoiding overseas protectionism;
- Finding lower taxes and government benefits;
- Accessing foreign technical and management talent;
- Accessing low labour cost.
The adequacy of the current social plan to address retrenchment challenges in South Africa

Source: Prinsloo and Moropodi et al (1999)

**Figure 2.1: Model of the World-Class Organisation**
According to Rhinesmith (1996) globalisation levers are the means that business organisations have to respond to changes in the business environment. Yip (1992) specifies four levers of importance:

- The location of value-adding activities from research to production to after-sales service;
- The degree to which a global business organisation uses the same brand names, advertising and other marketing elements in different countries;
- The nature of global competitors and the degree to which competitive advantage can be gained by playing one country or regional market against the another; and
- The extent to which business organisations offer the same or different products or services of the same quality around the world.

It is evident from the discussion that competition or being world-class in this global environment is not only limited to external factors but also includes internal factors. Organisations must not only look at the changing external environment, but must change their internal environment to suit these external environmental factors. Ngele (2003) is of the opinion that for a country to be a global/world-class player and to be competitive, a system that addresses competitiveness and improves productivity is necessary.

2.9 CONCLUSION

Irrespective of our beliefs or viewpoints about globalisation, there must be acceptance that the world has changed. Communication, technology, business, government relations etc. have changed. The common factor/denominator for this change is the scale and speed of globalisation.

It is important therefore that strategies should depart from the viewpoint that globalisation is moving ahead.
Nobody must be left behind. Ajayi (2001) stated that the recent popularity of the concept "globalisation" stems from:

- The scale and speed with which it is occurring and the way technology is changing the world; and

- Globalisation is not just the latest economic fad but the international environment is changing in profound ways and the world is indeed becoming a "global village."
CHAPTER 3
MANAGEMENT OF RETRENCHMENTS

3.1 INTRODUCTION

In Chapter 2 it was mentioned that "discussions on the effects of globalisation on employment are mindful of the fact that the relationship between globalisation and employment is surprisingly difficult to define and measure for many reasons".

In South Africa, for example, it is difficult to attribute all the job losses to globalisation. This is partly due to the difficulties of defining and measuring the effects of globalisation but also to many other factors that are unique to a particular country and probably unique to a particular industry/sector.

Despite the difficulties of definitions and measurements, it is certain that there is a worrying trend of job losses in South Africa. This chapter will deal with the statistical information on employment in South Africa.

During the drafting of the new Labour Relations Act 66 of 1995 (LRA), the drafters were mindful of the fact that the LRA was intended to enhance employment and not cause retrenchments. The provisions of sections 189, 189A and the Code of Good Practice deal with the management of retrenchments. This chapter will also deal with the provisions of the said sections to illustrate the management of retrenchments.

Various trade unions, and more specifically NUM, were of the view that the provisions of LRA had shortcomings when dealing with large-scale retrenchments. NUM then proposed a Social Plan Act to deal with large-scale retrenchments. The primary objective of the proposed Social Plan Act was to force organisations to negotiate with trade unions, a plan that would be used to ameliorate the effects of retrenchment. This chapter will deal with the Social Plan from its proposal stages to its adoption.
One of the primary objectives of the Social Plan is to ameliorate the effects of retrenchments on individuals and local economies. This includes the communities from which the retrenched employees come. The Social Plan by its very nature presupposes (by implication and specific provisions) that organisations must, as part of their social responsibilities to the communities, include within their strategies an element of addressing the plight of their retrenched employees. This chapter will evaluate various large companies' social responsibility initiatives to determine the extent to which they incorporate the element of the Social Plan.

Parker (1998) proposed an employment relations strategy for companies aspiring to be world-class organisations. The strategy suggests that the management of employment relations in an organisation is critical to the success of the organisation, especially organisations aspiring to world-class status. This chapter will look at the strategy and determine the extent at which it caters for a Social Plan or how the strategy complements or supplements a Social Plan.

3.2 STATISTICAL INFORMATION ON EMPLOYMENT IN SOUTH AFRICA

The definition of “unemployment” was recently revisited by Statistics South Africa (Labour Force Survey, September 2004). According to Statistics South Africa, “one of the conditions for a person to be classified as unemployed is that s/he should be available to take up employment during the reference period”. Up until Labour Force Survey 8, statistics South Africa used a period of one week for this criterion. However, not everyone who is seeking work can reasonably be expected to take up a job immediately after it is offered. For example, a person could be temporarily sick or may have to make arrangements for childcare. In light of this, Statistics South Africa increased the availability period from one week to two weeks for both the official and expanded definition of unemployment (the definitions or unemployment are
discussed in 3.3 below). The International Labour Organisation (ILO) guidelines allow for a reference period of one or two weeks in this regard.

The significance of the new definition on the unemployment statistics has not been expressed. The periodic statistical comparison, especially from the cut-off period of new definition, may create a slight anomaly.

3.3 UNEMPLOYMENT RATE IN SOUTH AFRICA

Statistics South Africa uses two definitions (or used to use two definitions until March 2004) of unemployment rates, namely the official definition and expanded definition (Labour Force Survey, September 2004).

The official unemployment rate is defined as follows: “the unemployed are those people within the economically active population who:

(a) Did not work during the seven days prior to the interview;
(b) Want to work and are available to start work within two weeks of the interview; and
(c) Have taken active steps to look or start some form of self-employment in the four weeks prior to the interview”.

The expanded unemployment rate is defined as follows: “the unemployed are those people within the economically active population who:

(a) Did not work during the seven days prior to the interview;
(b) Want to work and are available to start work within two weeks of the interview”.

The expanded definition therefore included persons who said they were unemployed but had not taken active steps to find work in the four weeks prior to the interview (i.e. discouraged work-seekers). The South African unemployment rates (for a period) as per the two definitions (Official and Expanded) are depicted in Tables 3.1 and 3.2 respectively.
The adequacy of the current social plan to address retrenchment challenges in South Africa

TABLE 3.1
UNEMPLOYMENT RATE AS PER THE OFFICIAL DEFINITION
(FEBRUARY 2000 – MARCH 2005)

<table>
<thead>
<tr>
<th>Period</th>
<th>% Unemployment Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 2000</td>
<td>26.7 %</td>
</tr>
<tr>
<td>September 2000</td>
<td>25.8 %</td>
</tr>
<tr>
<td>February 2001</td>
<td>26.4 %</td>
</tr>
<tr>
<td>September 2001</td>
<td>29.5 %</td>
</tr>
<tr>
<td>February 2002</td>
<td>29.4 %</td>
</tr>
<tr>
<td>September 2002</td>
<td>30.5 %</td>
</tr>
<tr>
<td>March 2003</td>
<td>31.2 %</td>
</tr>
<tr>
<td>September 2003</td>
<td>28.2 %</td>
</tr>
<tr>
<td>March 2004</td>
<td>27.9 %</td>
</tr>
<tr>
<td>September 2004</td>
<td>26.2 %</td>
</tr>
<tr>
<td>March 2005</td>
<td>26.5 %</td>
</tr>
</tbody>
</table>


The information depicted in Table 3.1 indicates the unemployment rate (in percentage) from 2000 to 2005. The unemployment rate ranges from 25.8% to 31.2%. On average it means that between 2000 and 2005, South Africa's unemployment rate was around 27.5%.

TABLE 3.2
UNEMPLOYMENT RATE AS PER THE EXPANDED DEFINITION
(FEBRUARY 2000 - MARCH 2004)

<table>
<thead>
<tr>
<th>Period</th>
<th>% Unemployment Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 2000</td>
<td>35.5 %</td>
</tr>
<tr>
<td>September 2000</td>
<td>35.9 %</td>
</tr>
<tr>
<td>February 2001</td>
<td>37.0 %</td>
</tr>
<tr>
<td>September 2001</td>
<td>41.5 %</td>
</tr>
<tr>
<td>February 2002</td>
<td>40.9 %</td>
</tr>
</tbody>
</table>
Table 3.2 indicates the unemployment rate (in percentage) as per the expanded definition from 2000 to 2004. The unemployment rate ranges from 35.5% to 42.8%. On average it means that, between 2000 and 2005, South Africa’s unemployment rate as per the expanded definition was around 40%.

<table>
<thead>
<tr>
<th>Period</th>
<th>% Unemployment Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>September 2002</td>
<td>41.8%</td>
</tr>
<tr>
<td>March 2003</td>
<td>42.1%</td>
</tr>
<tr>
<td>September 2003</td>
<td>41.8%</td>
</tr>
<tr>
<td>March 2004</td>
<td>41.2%</td>
</tr>
</tbody>
</table>


Figure 3.1: The comparison of employment figures as per the two definitions
It is evident that the two definitions result in two different unemployment rates. As indicated above, South Africa has decided to do away with the expanded definition and use the official definition as the only indicator for an unemployment rate. The reason for the choice is not particularly clear.

In order to demonstrate the difference between the two unemployment rate definitions, the two sets of unemployment figures are compared graphically in Figure 3.1.

The information in Figure 3.1 indicates that, over the depicted period, the difference (in distance) between the two unemployment rates remained fairly constant.

For the purposes of the study, it is important to consider the information of both the definitions, especially since the study relates to unemployment due to retrenchments. Retrenched employees do not necessarily immediately after retrenchment seek or take active steps to look for work or to start some form of self-employment.

The information given above includes various industries. It does not explain or indicate which industries are experiencing job losses and which are experiencing an increase in employment. Some industries experience high employment growth whereas others off-set the growth because they experience low or negative growth. Such information will be valuable especially in instances where organisations engage in training and development of their employees affected by retrenchments to give them skills that are needed in industries experiencing an increase in employment.

Table 3.3 illustrates the point that some industries experience high and positive growth whereas others experience low and/or negative growth.
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**TABLE 3.3**

**EMPLOYMENT BY INDUSTRY, MARCH AND SEPTEMBER 2004**

<table>
<thead>
<tr>
<th>Industry</th>
<th>March 2004 (‘000)</th>
<th>Sep 2004 (‘000)</th>
<th>% Difference</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>1 258</td>
<td>1 063</td>
<td>-15,5</td>
</tr>
<tr>
<td>Mining</td>
<td>558</td>
<td>405</td>
<td>-27,5</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>1 594</td>
<td>1 714</td>
<td>7,5</td>
</tr>
<tr>
<td>Utilities</td>
<td>106</td>
<td>99</td>
<td>6,2</td>
</tr>
<tr>
<td>Construction</td>
<td>659</td>
<td>824</td>
<td>25,0</td>
</tr>
<tr>
<td>Trade</td>
<td>2 355</td>
<td>2 542</td>
<td>8,0</td>
</tr>
<tr>
<td>Transport</td>
<td>582</td>
<td>563</td>
<td>-3,2</td>
</tr>
<tr>
<td>Finance (inc.business services)</td>
<td>1 070</td>
<td>1 147</td>
<td>7,2</td>
</tr>
<tr>
<td>Community services</td>
<td>2 158</td>
<td>2 185</td>
<td>1,2</td>
</tr>
<tr>
<td>Private households</td>
<td>1 025</td>
<td>1 075</td>
<td>4,9</td>
</tr>
<tr>
<td>Other</td>
<td>27</td>
<td>26</td>
<td>-6,2</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>11 392</strong></td>
<td><strong>11 643</strong></td>
<td><strong>2,2</strong></td>
</tr>
</tbody>
</table>


However, some of these employment gains were offset by significant job losses in the mining and agriculture industries:

- The severe drought in many parts of the country affected agricultural employment. Jobs in the sector declined by 16% – from 1 258 000 in March 2004 to 1 063 000 in September 2004 (a loss of 195 000 jobs);
- Employment in the mining sector also decreased from 558 000 in March 2004 to 405 000 in September 2004 (a loss of 153 000 jobs).

It was stated in the introduction (Chapter 1) that South Africa’s transition from an apartheid dispensation to a democratic one has resulted in the country becoming part of global competition. In response to global competition, South African organisations are required to compete against the best organisations.
The adequacy of the current social plan to address retrenchment challenges in South Africa

The most notable industries that have been affected by the competition are mining and manufacturing.

Mining is mainly affected by the volatile currency (SA Rand) whereas manufacturing is mainly affected by the cheap imports from Asian countries. It is interesting to review the employment figures of the mining and manufacturing industries from 1994 (the advent of democracy) to the present. The statistical review will assist in determining the progression, either the upsizing or downsizing, of the employment figures in these industries. The following Table (3.4) depicts employment figures in the mining sector.

**TABLE 3.4**

**EMPLOYMENT FIGURES IN MINING INDUSTRIES SINCE 1994 – 2005**

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
<td>1</td>
<td>607688</td>
</tr>
<tr>
<td>1994</td>
<td>2</td>
<td>613584</td>
</tr>
<tr>
<td>1994</td>
<td>3</td>
<td>606841</td>
</tr>
<tr>
<td>1994</td>
<td>4</td>
<td>600619</td>
</tr>
<tr>
<td>1995</td>
<td>1</td>
<td>601585</td>
</tr>
<tr>
<td>1995</td>
<td>2</td>
<td>599885</td>
</tr>
<tr>
<td>1995</td>
<td>3</td>
<td>593390</td>
</tr>
<tr>
<td>1995</td>
<td>4</td>
<td>582766</td>
</tr>
<tr>
<td>1996</td>
<td>1</td>
<td>568914</td>
</tr>
<tr>
<td>1996</td>
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<td>3</td>
<td>456540</td>
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A review of the employment figures in Table 3.4 indicates that in 1994, 607,688 employees were employed in the mining industry. By 2005 (1st quarter) only 452,616 were still employed. This means that over a period of 10 years the mining industry has shed 155,072 jobs. The average job loss in the mining industry is therefore 15,507 per annum. There is no indication that the downward trend will be contained in the near future. This is evident from

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Employment</th>
</tr>
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</tr>
<tr>
<td>2004</td>
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</table>
ongoing retrenchments. Templeton et al. (2005, 24 March) reported in *The Star* newspaper that 6 000 miners were retrenched as DRD-Gold applied for liquidation in the high court. Table 3.5 depicts the employment figures in manufacturing industries.

**TABLE 3.5**

**EMPLOYMENT FIGURES IN MANUFACTURING INDUSTRIES**

**SINCE 1994 – 2005**

<table>
<thead>
<tr>
<th>Year</th>
<th>Quarter</th>
<th>Employment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1994</td>
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<tr>
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<td>1999</td>
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</tbody>
</table>
A review of the employment figures in Table 3.5 indicates that in 1994, 1,422,695 employees were employed in the manufacturing industry. In 2005 (first quarter) only 1,221,964 were still employed. This means that over a period of 10 years, the manufacturing industry has lost 200,731 jobs. The average job losses in the manufacturing industry are therefore 20,073 per annum.
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In order to illustrate the impact on employment statistics for the mining and manufacturing industry, the statistical information can be graphically represented as follows:

![Graph showing employment figures in mining and manufacturing industries between 1994 and 2005](image)

**Figure 3.2: Graphic representation of employment figures in mining and manufacturing industries between 1994 and 2005**

Figure 3.2 demonstrates the movement of the employment statistics in the mining and manufacturing industry and shows that over this period the figures declined significantly.

The unemployment rate (both official and expanded) and the employment figures in the mining and manufacturing industries are indications of the fluctuation of employment. The picture of employment in South Africa as depicted in Figure 3.2 is only the tip of the iceberg if consideration is given to the fact that there is a creation of employment but the employment figures either remain relatively the same or show a negative trend of decreasing.
3.4 STATUTORY PROVISIONS FOR MANAGEMENT OF RETRENCHMENTS

The statistical information on employment as discussed in para 3.3 above indicates that as far back as 1994 there was a problem with unemployment in South Africa. Unemployment cannot solely be blamed on retrenchments; however, the effect that these retrenchments in an environment that already has a high unemployment rate (by any definition) suggests a need to manage retrenchments effectively.

When the new democratic government of South Africa came into power in 1994 it had the opportunity to improve the labour market, to stimulate economic growth that would lead to more employment and fewer retrenchments. The South African government legislated the Labour Relations Act 66 of 1995 (LRA) amongst other pieces of legislation to liberate the labour market. The provisions of the LRA have a specific framework on how to deal with retrenchments. The need to manage retrenchments effectively, fairly and equitably is demonstrated by the manner in which the statutory provisions of the LRA have been drafted.

The economic crisis of South Africa at the time of drafting the LRA created an urgency to reform the economy. The new democratic government was of the view that the prevailing system of industrial relations constituted an impediment to economic recovery.

South Africa, as a member of the International Labour Organisation (ILO), must adhere to the conventions of the ILO. The ILO is an international body situated within the United Nations. It seeks the promotion of social justice and internationally recognised human and labour rights.

Convention 158 of the ILO deals with termination of employment for economic, structural or similar reasons. Sections 189 and 189A of the LRA are the provisions that deal with retrenchments (also referred to in the LRA as
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dismissal for operational requirement). The sections are in line with and give effect to the guidelines of the International Labour Organisation’s convention 158.

Section 189 of the LRA deals with dismissals based on operational requirements that are, according to the specified criteria, deemed not to be large-scale. Section 189A deals with large-scale retrenchments. Retrenchments are generally referred to as "no-fault" dismissals because it is not at the behest of the employee or employees. The provisions that deal with retrenchments are therefore carefully drafted to put more obligations on the employers to consider various alternatives prior to retrenching employees. Du Toit et al. (2000, 3rd ed) confirm that the LRA and Code of Good Practice on dismissals for operational reasons place particular obligations on an employer, most of which are directed towards ensuring that all possible alternatives to dismissal are explored and that those employees to be dismissed are treated fairly.

The sections require that the dismissals based on operational requirements must be both substantively and procedurally fair. The substantive fairness requirement is the same for both sections 189 and 189A and it will be discussed in 3.5 below. The procedural fairness for sections 189 and 189A is slightly different, and will be discussed in 3.6 and 3.7 respectively.

3.5 SUBSTANTIVE FAIRNESS

Substantive fairness means that there must be a good reason for the employer to retrench the employees. A good reason according to LRA is that the employer must have "operational requirements, meaning that the requirements based on economic, technological, structural or similar needs of an employer".

The Code of Good Practice elaborates as follows:

"As a general rule, economic reasons are those that relate to the financial management of the enterprise. Technological reasons refer to
the introduction of new technology that affects work relationships either by making existing jobs redundant or by requiring employees to adapt to the new technology or a consequential restructuring of the work place. Structural reasons relate to the redundancy of posts consequent to a restructuring of the employer's enterprise.”

Du Toit (2003) (4th ed) is of the view that the criterion of operational and commercial justifiability implies a balance between the employer's right to promote the economic interest of the enterprise and the range of employee rights and interest bound up with continued employment.

Despite the LRA definition and the Code of Good Practice's explanation, what precisely is meant by substantive fairness of operational requirement has caused some serious debates. The debates have also caught the attention of the courts.

In SACTWU v Discreto (a division of Trump & Springbok Holdings) LAC, 1998, it was held that 'the purpose of consultation is to ensure that the ultimate decision on retrenchment is properly and genuinely justifiable by operational requirements or put differently, by a commercial or business rationale. The function of a court in scrutinising the consultation process is not to second-guess the commercial or business efficacy of the employer's ultimate decision (an issue on which it is, generally, not qualified to pronounce upon), but to pass judgement on whether the ultimate decision arrived at was genuine and not merely a sham’.

In SACWU v Afrox Ltd, LAC, 1999, the court concluded, "it can no longer be said that the court’s function in scrutinising the consultation process is merely to determine the good faith of the employer. The matter is one of proof by the employer, on balance of probabilities, of:

- The cause or reason for dismissal;
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- The defined operational requirements that the dismissal was based on;
- A fair procedure in accordance with section 189;
- The facts upon which a finding of a substantively fair reason for the dismissal can be made;
- It is evident that employers must have good and justifiable reasons to meet the requirement of substantive fairness. The courts are willing to enquire into the reasons to avoid 'sham' reasons. The approach is adopted to avoid unnecessary retrenchments and protect the continued employment of employees”.

3.6 PROCEDURAL FAIRNESS

Section 189 requires employers to consult with affected employees or their representatives before embarking on retrenchment programmes. If pre-retrenchment consultation is regulated by collective agreement, the parties are required to follow the steps that the collective agreement prescribes to the extent that a binding collective agreement is silent on aspects of the obligation to consult, the provision of the LRA will be read into the collective agreement (Grogan, 2002).

An employer who senses that it might have to retrench employees in order to meet operational objectives, must consult with employees likely to be affected (or their representatives) at the earliest opportunity in order to advise them of the possibility of retrenchment and the reasons for it. The employees or their representatives must then be invited to suggest ways of avoiding terminations of employment and should be placed in a position in which they are able to participate meaningfully in such discussions. The employer should in good faith keep an open mind throughout and seriously consider proposals put forward. The final decision will, however, remain with the employer (Todd and Damant, 2003).
Section 189(2) provides that an employer and the other consulting parties must in the consultation process engage in a meaningful joint consensus-seeking process and attempt to reach consensus on:

(a) Appropriate measures –
   i) To avoid the dismissals;
   ii) To minimise the number of dismissals;
   iii) To change the timing of the dismissals; and
   iv) To mitigate the adverse effects of the dismissals.

(b) The method for selecting the employees to be dismissed; and

(c) The severance pay for dismissed employees.

Section 189(2) (a) is of particular importance to the Social Plan in that it seeks to avoid job losses and to ameliorate the effect of job losses on the individual employees. On closer scrutiny, section 189(2) (a) suggests the following various approaches:

3.6.1 Avoiding and minimising the number of dismissals

Steps that can be taken to avoid retrenchment or reduce the number of dismissals obviously depend on the exigencies of each case. The reason for retrenchment, the employer's conditions of employment, the nature of the employer's operations, the levels of the skill required to keep the operations going after retrenchments and the age profile of the workforce are among factors that determine the appropriateness or otherwise of available alternatives. Some alternatives commonly proposed in retrenchment exercise are the following (Grogan, 2002):

3.6.1.1 Moratorium on hiring new employees

A moratorium on recruitment, coupled with the reduction of the number of existing employees by natural attrition (through deaths, retirement, disability, resignation or dismissal).
3.6.1.2 Shedding of contract workers
Termination of the services of "contract" or "casual" workers to create opportunities for permanent employees.

3.6.1.3 Elimination of overtime
The elimination or reduction of overtime

3.6.1.4 Voluntary retrenchments
Employees who wish to volunteer to be retrenched are permitted to leave the organisation.

3.6.1.5 Extended unpaid leave or temporary lay-off
Employees may be put on unpaid leave or temporary lay-offs especially if the operational requirements that lead to retrenchments are temporary or cyclical.

3.6.1.6 Early Retirement
Employees who have attained, or who are soon to attain, normal retirement age, may be retired or be requested to retire.

3.6.1.7 Reduction of working hours
The employer may reduce working hours or implement short time.

3.6.1.8 Re-deployment or transfer
Employees may be transferred to other suitable available jobs.

3.6.1.9 Unilateral amendment of employees' conditions of service
An employer may vary its employees' conditions of service in order to accommodate the employee.

3.6.2 Changing the timing of dismissals
The timing of dismissals can be critical for employees selected for retrenchments, and adjustment to such timing could afford the selected employees an opportunity to set their affairs in order and minimise the impact of dismissal (Du Toit et al, 2000).
3.6.3 Mitigating the adverse effects of dismissals

Finding alternative employment within and outside the firm or giving workers priority in re-employment when suitable jobs become available may mitigate retrenchments.

3.7 LARGE-SCALE RETRENCHMENTS

In the years since the commencement of the LRA, various stakeholders had expressed various concerns with some of the provisions of the LRA.

Some concerns were related to the interpretational problems and some to the practicality of the some of the provisions of the LRA. Trade unions in particular were vociferous about the provisions of section 189. It was their contention that section 189 made it easy for employers to retrench employees. They campaigned for the amendment of the provisions to include, amongst other things, the right to strike over retrenchments.

Under the weight of social pressure to review the policy norms governing retrenchments, a raft of substantive and procedural changes have been made to the law. In essence, the unions have won the case that retrenchments are too easy an expedient for employers facing hard times, and that the bar must be raised (Cheadle et al, 2002).

Section 189 was consequently amended to include a provision that deals with large-scale retrenchments. The provision is now provided for under section 189A. The amendment of section 189 attempts to close loopholes in the original provision. It proceeds by dividing employers into two categories – large and small. Small employers, or even large employers effecting smaller retrenchments, continue to be governed by the existing section 189. Large retrenchments are governed by a new section 189A (Employment Law, 2002).
Section 189A applies to employers employing more than 50 employees who contemplate dismissing by reason of their operational requirements:

a) At least:-
   i) 10 employees, if the employer employs up to 200 employees.
   ii) 20 employees, if the employer employs more than 200 but not more than 300 employees.
   iii) 30 employees, if the employer employs more than 300, but not more than 400 employees;
   iv) 40 employees, if the employer employs more than 400 but no more than 500 employees; or
   v) 50 employees if the employer employs more than 500 employees; or

b) The number of employees, who together with the number of employees that have been dismissed by reason of the employer's operational requirements in the twelve months prior to the employer issuing a notice in terms of section 189(3), is equal to or exceeds the relevant number specified above.

The implications of the new section 189(A) provision are that:

- **Retrenchments are now a strike-able issue**
  Employees and unions can elect whether to challenge retrenchments through power or law.

- **More scope for trade unions to challenge retrenchments**
  The scope given to labour to contest a looming retrenchment through either recourse to law or industrial action allows it to pick its playing field according to circumstances. Where it is confident on merits, it can approach the courts. On the other hand, where the employer's stance is clearly legally defensible or where the unions simply have economic leverage, the strike weapon is now available.
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- The approach that the courts must take on the merits has been clarified
  The courts will now use the criterion of “operationally justifiable on rational grounds”.

The following Figure (3.3) represents the process to be followed in terms of section 189(A) to effect retrenchments.

![Section 189 (A) - Retrenchment Process Diagram]

Figure 3.3: Section 189 (A) – Retrenchment Process
3.8 SOCIAL PLAN

3.8.1 Background

As far back as 1995, the trade unions believed that South Africa’s entry into the global market would bring about globalisation and competition that would have dire consequences for the continued employment of their members. Organisations have to retrench workers from time to time for economic reasons and because the organisations have to rationalise to remain globally competitive (Department of Labour, 1999).

The trade unions saw the potential effects of globalisation and predicted mass job losses. The trade unions sought some statutory protection from the LRA. The LRA provided for the management of retrenchments. The trade unions, however, questioned the provisions of the LRA. The trade unions are of the view that the LRA makes it easy for employers to retrench, since the requirements of section 189 and 189A are more process compliance than a genuine attempt to avoid retrenchments. Further, the trade unions are of the view that the LRA does not take into consideration the communities from which the retrenched employees come. In fact, the very same retrenched employees are not adequately catered for once they are retrenched. There are no mechanisms in place to reintroduce the retrenched employees to the labour market.

Having considered all these factors, NUM in particular advocated the introduction of a Social Plan. In 1995, NUM submitted its proposal to Nedlac for negotiations. The proposal was in the form of a “Social Plan Act” (Social Plan Act, 1995). The proposal was debated at Nedlac and it was agreed that a task team comprising various stakeholders would be formed to investigate and develop a framework on the Social Plan. The findings of the task team were debated and ratified by all the stakeholders at the Presidential Jobs Summit (www.socialplan.co.za and Jackson, 1999). The Social Plan was then gazetted by the Minister of Labour (Government Gazette, 1999). It is worth
noting 'that the Social Plan was gazetted as “guidelines” and not as “Act of parliament”. Consequently, organisations are not statutorily bound to adhere slavishly to the provision of the Social Plan but merely consider the Social Plan during large-scale retrenchments.

3.9 PRINCIPLES OF THE SOCIAL PLAN

According to the Social Plan, the following principles should apply:

- The Social Plan applies in the event of threatening large-scale retrenchments (500 people or 10% of the labour force of an organisation), as such retrenchments could have an impact on sector, regional or national interests;

- The Social Plan firstly aims to prevent job losses and a decline in employment. As such it promotes negotiations about threats to employment security and potential measures to prevent a decline in employment; and

- The Social Plan aims to ameliorate the social and economic impact on individuals, regions and the economy (Department of Labour, 1999)

The Social Plan has three approaches or phases, namely, saving jobs, managing retrenchments and creating jobs for local economies. In order to carry out its mandate, the Social Plan tasked the National Productivity Institute (NPI), the Department of Labour (DoL) and the Department of Provincial and Local Government to give effect to the mandate. The role of these institutions will be discussed under the three mentioned phases.

3.9.1 Saving Jobs

As a first phase of managing the Social Plan, saving jobs or prevention of job losses becomes critical. The Social Plan would be most effective when both employers and workers are pro-actively involved in preventing job losses. The process proposes that Future Forums be established to identify and analyse problems in an organisation in good times. A Future Forum is a strategic
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association between management, workers and their representatives, established to look ahead for problems, challenges and potential solutions to the problems facing the organisation.

The objectives of the Future Forums are to:

- Promote ongoing discussions between worker representatives and employers about the future of the industry sector and/or the organisation;
- Look ahead to identify problems, challenges and possible solutions;
- Develop turnaround or redeployment strategies to help reduce job losses and to improve business sustainability; and
- Structure and implement proposals agreed on by both the employer and the worker parties.

The Future Forums may request assistance from the NPI, which offers the following services (www.npi.co.za):

- Provide Social Plan Centres;
- Facilitate and assist Future Forums;
- Technical assistance and support;
- Develop early warning systems.

Organisations should meet the following criteria in order to be assisted by the NPI:

i) A break-even analysis should prove with reasonable certainty that the organisation can be turned around.

ii) Redeployment strategies should materially impact on the long-term survival and/or competitiveness of the organisation.

iii) The cost of intervention to create an opportunity for employment should not exceed the potential value to be derived.
3.9.2 Managing retrenchments

If an organisation were contemplating large-scale retrenchments within a period of a year, the employer should notify the DoL as soon as possible.

The DoL offers the following services:

i) Group counselling.
ii) Registration as job seeker and claiming unemployment insurance.
iii) Provide information – labour market opportunities.
iv) Provide an information pack on how to cope with retrenchments.
v) Placement services.
vi) Training and re-training of retrenched employees.

3.9.3 Social Plan: International Perspective

When globalisation was discussed in Chapter 2, it emerged from the various definitions considered that globalisation happens at global, international or world level (3.3.2 above). This implies that there are other countries apart from South Africa that are experiencing or had already experienced job losses. South Africa introduced the Social Plan as a response strategy to the large-scale job losses. An enquiry through literature review is therefore necessary to understand the response strategies (if any) of other countries.

In fact, the proposal submitted by NUM to Nedlac in 1995 was based on the German model of works council (Social Plan “Act”, 1995).

3.9.4 Germany

"...But productivity is growing to such a degree that we are able to produce more and more cars with less labour. For us simply to maintain the current level of employment, markets would have to expand enormously. Only if we sell our cars in every corner of the world, is there any chance at all of securing existing jobs. This means, to put it rather bluntly, capitalism is in the process of abolishing work”.

Michael Schneider, Head of BMW (1999)
The quotation from Schneider (1999) is from a lecture to various German trade union audiences. This is an indication that Germany has also been subjected to the effects of globalisation. The job losses might not be at the same scale as in South Africa but nonetheless are serious enough to be addressed at public gatherings.

In Germany (Works Constitution Act, 1990), the works council has a right to be informed about the economic details of an organisation. This includes consultation on proposed alterations to the organisation, which may entail substantial prejudice to the staff or sectors thereof. In this respect, the works council only has the right of co-determination in as much as it may enforce the drawing-up of a social compensation plan.

An Economic Committee must be established in all companies that normally have more than X permanent employees. The Economic Committee is a body that has advisory and information competence on the company’s economic matters. It assumes functions pursuant to the works constitution law to the effect that it has to inform the works council about the results of its deliberations which the works council can then take into account when exercising its participation rights.

If the changes involve financial or other significant disadvantages for workers, including retrenchments or relocation, the company has to negotiate a social compensation plan (Social Plan) with the works council.

Of particular importance to the German system (social compensation plan) as compared to the Social Plan is that:

i) The entire process is managed at company level without the involvement of other third parties such as an equivalent of NPI and DoL.
ii) Economic committees (equivalent of Future Forums) do not manage retrenchments but merely advise the works council on the economic and financial status of the company

iii) The process is not limited to large-scale retrenchments

iv) They do not have a “dual” system like South Africa (section 189, 189 A and Social Plan).

3.9.5 United States of America (USA)

There is little or no literature available on the subject of a Social Plan in the USA. The only comprehensive literature dates back to 1984 (Carrol, 1984). Despite the age of the information in the article, it is worth referring to. The article indicates the measures that were taken in the 1980s to deal with large-scale retrenchments. For the sake of clarity, the articles will be summarised in full (meaning all the headings will be highlighted and summarised):

i) Magnitude of the Problem

In the decade of the 1970s, the US experienced massive job losses due to plant closures. It is estimated that about 38 million jobs were lost.

ii) Reasons for Business Closedowns

There is no single reason why so many business and plant shutdowns occurred. Some companies were simply in declining industries; others had outdated facilities or outmoded technology and saw the shutdown as their only alternative.

Automation, rising energy costs, inadequate capital investment, availability of transportation, foreign competition, depressed demand for products, costly regulation, labour-management conflict, poor long-term planning, and changes in corporation strategy are other reasons often cited.
iii) Legislative Activity on Business Closings

The degree of legislative activity on the issue of business closings is an index of its viability as a legitimate social issue which management needs to address. To date no federal legislation has been passed, although several bills have been introduced and have failed.

Consequently, this could become yet another realm in which business may be faced with unwanted regulation if it does not implement responsive actions that address some of the problems created.

iv) The Unions’ Role

As with so many other issues, unions have attempted to fight business closings; they have attempted to make the conditions of closing subject to contract agreement and/or collective bargaining.

v) What Should Business Do?

- Before a company takes the decision to close down, it has a responsibility to itself, its employees and the community to thoroughly and diligently study whether closing is the only option available. The company must consider new ownership and/or employee ownership. The employee ownership investigation must consider:
  - Employee readiness for ownership;
  - Union attitudes;
  - Management / entrepreneurial skills present among employees;
  - Company’s products and its markets;
  - Technology;
  - Proposed organisation structure;
  - Potential funding sources.
After the Decision to Close is Made

There is a multitude of actions that business can take once the decision has been made that a closedown or relocation is unavoidable. The overriding concern is that the company seriously attempts to mitigate the social and economic impacts of its actions on employees and community. Possible actions that management can take include:

- Conducting a community impact analysis;
- Providing advance notice to employees / community;
- Providing transfer, relocation and outplacement benefits;
- Gradually phasing out the business;
- Helping community attract replacement industry.

Carroll's 1984 article raises important issues. Carroll is of the view that legislation on the management of retrenchments can be avoided if companies do the right thing by pro-actively managing such situations. Companies owe it to themselves, employees and communities to manage retrenchment and ameliorate its effects. The article indicates that, in the absence of legislation, trade unions enter into contractual and/or collective bargaining agreements.

3.9.6 International Labour Organisation (ILO)

The International Labour Organisation is the United Nations' (UN) specialised agency that seeks the promotion of social justice and internationally recognised human and labour rights. It was founded in 1919 and is the only surviving major creation of the Treaty of Versailles, which brought the League of Nations into being, and it became the first specialised agency of the UN in 1946.

The ILO formulates international labour standards in the form of Conventions and Recommendations setting minimum standards of basic labour rights: freedom of association, the right to organise, collective bargaining, abolition of
forced labour, equality of opportunity and treatment, and other standards regulating conditions across the entire spectrum of work-related issues. It provides technical assistance primarily in the fields of:

- Vocational training and vocational rehabilitation;
- Employment policy;
- Labour administration;
- Labour law and industrial relations;
- Working conditions;
- Management development;
- Cooperatives;
- Social security;
- Labour statistics and occupational safely and health.

It promotes the development of independent employers and workers' organisations and provides training and advisory services to those organisations. Within the UN system, the ILO has a unique tripartite structure with workers and employers participating as equal partners with governments in the work of its governing organs (Director-General: ILO www.ilo.org).

The Employment Sector of the ILO has the responsibility of assisting and advising ILO constituents in analysing national and global employment and labour market developments in order to elaborate and negotiate policies and programmes for employment promotion and human resources development for enhanced employability; to implement special employment promotion programmes in situations of high unemployment, particularly in the context of different types of crisis; to promote the creation of quality jobs in enterprises; upgrade the informal sector and promote gender promotion in employment.

The Employment Sector of the ILO developed a framework for labour market policies on how to deal with large-scale redundancies / retrenchments with a whole array of possible labour market measures which limit their impact on
the workers concerned. Auer (2001) summarised the framework and termed it the “prevention of lay-offs”. According to Auer lay-offs can be prevented in three integrated ways: advance warning system, internal adjustment and external adjustment.

3.9.6.1 Advance warning system

Prospection of markets regularly, observation of competitors and anticipation of the impact of regulation on employment are some of the warnings that can be installed. They represent a first-line preventive action for companies and should be an ongoing exercise in preventive internal labour market management. If major changes are expected, such advance warning system should also be capable of analysing possible impacts and designing appropriate response options.

The warnings systems should be accompanied by:

- Training and human resources development;
- Employability;
- Work-organisation changes;
- Preventive workforce management.

3.9.6.2 Internal adjustment

Internal adjusts include:

- **Training**
  
  Training as a method of internal adjustment does not mean regular training activities. It means the kind of training that is triggered off when redundancies loom. The general idea is to invest in the skill of your workforce during idle periods when they do not need to be taken out of productive work. Once things return to normal, the skills of the workforce are enhanced, broadened or updated and the workforce has become more productive.
• **Leave schemes**
  Leave schemes can contribute at least temporarily to maintain workforce levels in firms while providing workers with skills. Leave schemes might be used in downturns to cope with the problem of temporary redundancy.

• **Working-time changes**
  The general idea is to reduce the number of hours worked rather than the number of workers. A first measure would be to restrict the number of overtime hours worked. A second step is to reduce working time. In other cases, working-time reductions that allow for work-sharing and for avoiding redundancies are subsidised.

• **Changes in work organisation**
  Work organisation is strongly linked to working-time changes and it is in this context that work organisation matters for redundancies. For example, reduction of individual working time nowadays is often accompanied by the extension of equipment running-time or shop / administration opening hours.

• **Temporary lay-offs**
  Temporary lay-offs systems might be of some value for avoiding permanent redundancies.

3.9.6.3 **External adjustments**

External adjustments include:

• **Attrition**
  While attrition is not an active redundancy measure per se, voluntary resignations from the labour force may diminish the redundancy problem considerably. Attrition may include no replacement of resignations and deaths.

• **Early retirement**
  Early retirement, especially during mass lay-offs, is the most widely used adjustment measure to avoid the negative social consequences of redundancy and worker displacement.
• **Redundancy payments**
One way to increase the attractiveness of leaving is to give financial incentives to workers on the condition that they quit voluntarily.

• **Conversion training**
The rationale of conversion-training measures is to provide training for workers made redundant in order to enable them to take up jobs elsewhere in the economy. Such training can consist in short-term update training or in long-term adaptation to a new profession.

• **Temporary wage-cost subsidies**
The subsidies (for a limited period) compensate for the income losses of displaced workers willing to take up lower-paid jobs. Well-designed, they could still be an instrument to consider for cushioning the impact of worker displacement.

• **Mobility aids**
Mobility grants have been used substantially for allowing relocation of displaced workers. The rationale for mobility grants is to allow workers to move geographically from areas of redundancy to areas with labour demand. They compensate for higher costs due to relocation.

• **Repatriation grants**
A special kind of mobility grant is the provision of repatriation aids for displaced foreign workers. The rationale is to allow foreign workers to move to their country of origin and provide them with means either to set up on their own or to start salaried work.

• **Enterprise creation**
The rationale here is to stimulate workers made redundant to set up on their own. Advice as well as the provision of business premises are but some of the elements of enterprise creation.

• **Intermediary organisation**
Intermediary organisations are separate entities that have taken over the task of placing workers made redundant into new jobs.
The above discussion demonstrates that South Africa’s situation is not unique. Other countries also have mechanisms in place similar to the South African Social Plan. This is an indication of the importance of a concept of such a social plan. The "Social Plan" mechanisms of Germany and United States of America (USA) are different to the South African mechanism. The difference is expected, however, as the environment of these countries is different. Both Germany and USA are first-world economies with an unemployment rate of less than 10%, whereas South Africa has a 27.5% unemployment rate as per the official definition. It is expected that individual organisations of different countries will have different strategies in applying such concepts.

3.10 SOCIAL PLAN: PERSPECTIVE OF SOUTH AFRICAN ORGANISATIONS

In the previous section the German and the USA ways of managing retrenchments were briefly discussed. It was noted that the mechanisms employed are different to the South African Social Plan. In this section the perspective of South African organisations will be briefly highlighted. The selected organisations are:

- Solidarity, a trade union;
- City of Klerksdorp, a Local Municipal Authority;
- Eskom Holdings, a power utility company; and
- Business Unity South Africa, a business federation.

The selection of the above organisation is not based on any scientific criteria but due to the recent involvement on issues relating to either the development of a Social Plan or implementation of Social Plan principles. The discussions below are not intended to be a case study but a process of understanding the views of these organisations on strategies or mechanisms to manage retrenchments. Case studies will be conducted in Chapter 4.
3.10.1 Trade Union Perspective

The views of NUM are well articulated in the “Social Plan Act” and for this reason a different trade union should be considered. Solidarity has been considered on the basis that it is not affiliated to the Congress of South African Trade Unions (COSATU) (www.solidarity.co.za) like NUM and therefore its views may not necessarily reflect the current Social Plan that was supported by COSATU. Solidarity is also predominantly a ‘white’ trade union in that its membership is mostly white.

In March 2005, Solidarity reported that about 18 293 employees are facing possible retrenchments (www.solidarity.co.za). Against this backdrop, Solidarity prepared a report to highlight “the retrenchment crisis in South Africa”. The report (Solidarity, 2005) makes recommendations on how to “limit retrenchments or minimise the negative consequences”. It is important to summarise the recommendations as they offer Solidarity’s perspective on the Social Plan. The recommendations are as follows:

3.10.1.1 Retraining of people so that they can be employed in other sectors of the economy. Training opportunities should therefore be made available for workers who have been retrenched and the training should focus on getting these people re-employed in economic sectors that exhibit growth.

3.10.1.2 Pressure must be brought to bear on companies to establish viable social plans to minimise the negative consequences of retrenchment. Companies must take responsibility for the people that they had laid off by establishing a social plan that addresses issues like:

- The retraining of workers;
- How workers and families will be supported dealing with the traumatic aspects of retrenchment;
Proper utilisation of severance packages;
• Re-setting of workers and the costs involved in the process;
• A policy in connection with preferential re-employment should posts become available at a future date;
• Where communities are affected, the steps that will be taken to support the community economically and socially.

The Social Plan should include:

i) Provision of a severance package to workers, to provide training as well.

ii) Making available additional time and funds to support the families of retrenched workers to become economically active.

iii) Finding alternative employment for at least 70% of the retrenched workers.

iv) Assistance in developing infrastructure, provide counselling and establish an HIV/AIDS programme.

v) Involvement of all role-players in the process.

3.10.1.3 Tax incentives for companies that create jobs or endeavour to retain workers.

3.10.1.4 Establishing an emergency fund to support families affected by retrenchments.

3.10.1.5 Assistance with resettling costs.

3.10.1.6 Projects to accommodate workers temporarily while being re-trained.

3.10.1.7 Standard training classification for the mining industry.

3.10.1.8 Issuing of certificates recognising prior learning to give people an opportunity to be re-employed in other sectors.
3.10.1.9 Supporting entrepreneurship and provision of capital incentives for companies to promote employment, either by tax rebates on initial capital or the ability to reclaim a portion of workers' salaries from tax over a period.

3.10.1.10 Focusing on non-core business and creating alternative job opportunities by employers.

3.10.1.11 Compel international companies to employ a minimum number of people and not to rely entirely on capital-intensive manufacturing methods.

3.10.1.12 Reconsideration of minimum wages in very specific circumstances.

3.10.1.13 Assistance in the utilisation of severance packages.

3.10.1.14 Encouraging savings in the economy. New legislation on retirement provisions.

3.10.1.15 Moratoriums on retrenchments. Companies should, as far as possible, negotiate a moratorium on retrenchments with trade unions in order to offer workers security.

3.10.1.16 Creating a retrenchment commission and tribunal.

3.10.1.17 Stimulate local production for local consumption.

3.10.1.18 Protect the South African market against subsidised imports.

3.10.1.19 Value the Rand realistically.

3.10.1.20 Reduce the exchange rate.

3.10.1.21 Cutting the salaries of top management by 30% to 50%.
3.10.2 Local Authority

The North West mining town of Stilfontein is on its knees following DRD-Gold's announcement that it is shutting down its two mines in the province, an action that will leave at least 6 000 miners unemployed (Star, 23 March 2005).

The local authority of Klerksdorp has been chosen because of the recent events, and as a city that is almost wholly dependent on one industry, the industry of mining. The city of Klerksdorp, in the North West Province, is surrounded by several mining towns including Stilfontein and Hartebeesfontein. The closure of the DRD-Gold Mine will have a devastating effect on the town of Stilfontein and its city, Klerksdorp. The job losses have had an impact on the individual employees, their families and the local economy.

As discussed in 3.9.3 above, the Social Plan caters for the re-engineering of the local economies. The City of Klerksdorp developed a plan (Rescue Plan), which has the characteristics of a Social Plan. The plan included a twin up approach with Mansfield, a British town that successfully revived its economy after mine closures in the early 1990s (Mashego, 24 March 2005).

The two towns seek to co-operate on:

- Technical assistance and advice to facilitate sustainable economic development within Klerksdorp;
- Sharing best practices and lessons learnt on investment and small business development policies and procedures;
- Exchanging information on potential opportunities for mutual trade and/or business relationship development in fields such as agriculture, mining, eco-tourism, biotechnology, information and telecommunications, and aviation development;
• Working together to form consortia of strategically aligned companies, agencies and educational institutions to pursue economic development projects;

• Jointly lobbying international financial institutions for financial assistance;

• Co-ordinating joint trade and investment seminars, missions and other events; and

• Providing logistical and personnel support to each other’s incoming trade and investment.

3.10.3 Organisation

Eskom Holdings is a parastatal (organisation wholly owned by the government of Republic of South Africa). Eskom Holdings employs approximately 30 000 staff. The organisation was chosen because of the fact that, despite the number of employees, it has experienced very few retrenchments. Despite the low number of retrenchments, the organisation chose to adopt a Social Plan and develop an internal process based on the Social Plan. According to Eskom Holdings the Social Plan (Social Plan Directive, 2004) aims to ensure that when change occurs through organisational restructuring and transformation, appropriate strategies and processes are put in place to deal with:

• The extent of change;

• The impact the change will have on employment numbers.

The key principles of the Social Plan include the following:

• Ensuring that job retention is a high priority for Eskom employees and separation will be a last resort;

• Enhancing people’s employability;

• Consulting with labour on all aspects of the Social Plan.
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3.10.4 Business Organisation

Business Unity of South Africa (BUSA) is a business federation that represents the interests of many business organisations in South Africa. In 2002, the Department of Labour commissioned Cheadle Thompson Haysom Inc. to prepare a report on the Social Plan, with a view to embarking on a review of the Social Plan approach. The Department of Labour has now decided to process the Report on the Social Plan and has referred this issue to a Task Team of the Nedlac Labour Market Chamber. Consequently, the Department of Labour requested both business and labour to submit written comments on the report.

BUSA prepared a written response, which is contained in SOCPOL (Social Policy) CIRCULAR, 2005. The summarised responses of BUSA are:
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a) The recommendations on future forums are so extensive that:

- They indicate that economic issues were not evaluated;
- They would necessitate an extensive bureaucracy;
- Management's opportunities to manage could be so restricted that it will no longer be able to take responsibility for the success of the enterprise;
- Business is largely relegated to being an implementer of government policy instead of an independent expert manager of its trade or enterprise;
- New investment could be severely curtailed;
- Job creation will be inhibited;
- More and more restrictive rules will be thrust onto the labour market with no investigation of likely consequences;

b) There is opposition on the legislation of the Social Plan since it is believed that it is contra-investment and that the labour market is already over-regulated.

All of the organisations either proactively implemented mechanisms, outside the statutory processes, to deal with retrenchments and/or are expressing support for such mechanisms. This is an indication of the willingness of South African organisations to manage retrenchments effectively even if it means to implement processes outside statutory requirements. This is no different to Germany and USA. The difference is the content of the mechanism.
3.11 CORPORATE SOCIAL INVESTMENT AND EMPLOYMENT RELATIONS STRATEGIES

It was pointed out in the previous discussions that the Social Plan Guidelines are not an Act of Parliament and therefore do not impose any legal obligations. In the discussion above it was evident that there are organisations that, despite the non-obligatory status of the Social Plan, have developed mechanisms to manage retrenchments. The question that arises is why these companies are engaging in such processes and not adhering to the statutory provisions only. The Social Plan is an assistance process to retrenched employees and the communities. This is an element of corporate social investment. The principle of the Social Plan Guidelines is that they attempt to ameliorate the social and economic impact on individuals, regions and economy (local economy in particular). It is therefore submitted that they are an element of corporate social investment.

The Social Plan Guidelines have another principle, which relates to the employment relations strategy. The principle deals with the prevention of job losses and decline in employment, promotes negotiations about the threats to employment security and potential measures to prevent a decline in employment.

The two Social Plan Guidelines have elements of corporate social investment and employment relations strategy respectively. It is not evident, however, that the principles were intended to relate to both the corporate social investment and employment relations strategy. It would seem that the relation is more by default than intention, as the Social Plan Guidelines do not make any mention to corporate social investments or employment relations strategies.

Given the above, it is worth reviewing whether the corporate social investments and employment relations strategies of some selected
organisations are in practical terms linked to the principles of the Social Plan Guidelines.

3.11.1 Corporate Social Investment

Corporate social investment in an organisation is a strategic contribution by an organisation through various programmes that include the development of communities (mostly in places where the organisation is situated or conducts its business in social and economic spheres).

The Social Plan principle that there must be an amelioration of the social and economic impact on individuals, regions and economy (local economy in particular) supports the objective of corporate social investment. Synergies between the Social Plan and corporate social investment strategies should be enhanced.

For the purposes of the study, five randomly selected large and diverse organisations will be used to check whether there is any integration between their corporate social investment and Social Plan, and if there is, what the synergies are.

i) Telkom South Africa (www.telkom.co.za)

According to Telkom's annual report 2005, Telkom's Corporate Social Investment includes the activities of the Telkom Foundation as well as sponsorships and the granting of bursaries. These activities reflect Telkom's commitment to model corporate citizenship and are crucial in promoting the company's values and reputation as a leading brand in South Africa.

The Telkom Foundation operates according to the following key principles:

- Developing and advancing South African society through ICT;
• A commitment to skills development and to working with stakeholders from previously disadvantaged communities and people with disabilities;
• The involvement of Telkom staff in ongoing social investment projects;
• Involvement in partnerships with credible organisations and corporation to maximise corporate social investment in community development programmes; and
• In line with Telkom's broader policy on Black Economic Empowerment (BEE), the commitment to involving previously disadvantaged individuals and BEE service providers in Telkom Foundation initiatives.

It is evident from the above that Telkom's corporate social investment strategy does not include a Social Plan. No mention is made of assistance to individual employees and the communities from which they come.

ii) Eskom Holdings (www.eskom.co.za)
According to the Eskom Development Foundation, corporate social investment programmes focus on social and economic development, particularly for women, the youth and people with disabilities, as well as on donations to philanthropic organisations.

The Development Foundation is committed to the following key developmental principles:
• Contributing towards employment creation;
• Helping in the fight against poverty;
• Contributing towards an increasingly democratised economy and the empowerment of the previously disadvantaged;
• Contributing towards education, health and environmental development.
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The Eskom Development Foundation’s developmental principles make mention of “contributing towards employment creation”. It is not clear whether this reference to employment creation refers to retrenched employees or the public in general. No mention is made of the Social Plan on how the principles link to the activities of the Foundation.

iii) DRD-Gold ([www.drd.co.za](http://www.drd.co.za))

DRD-Gold does not have a formal and co-ordinated corporate social investment programme. The current corporate social investment programme is more mine-specific and ad hoc.

The activities of DRD-Gold corporate social investment have taken the following form:

- The mine has donated facilities for the benefit of employees’ families and the broader community;
- The mine aims to encourage entrepreneurial skills and allows employees to operate suitable small businesses from home;
- Donations have been made to various school projects;
- Non-core activities, such as canteen and garden services, have been outsourced to former employees;
- There is a commitment to the broader socio-economic development of communities surrounding its mining operations;
- A range of agricultural projects has been established, which will provide viable employment after mining operations cease.

DRD-Gold’s corporate social investment does not specifically mention any links to a Social Plan – namely, to offer alternative employment (outsource non-core activities) to former employees and to ameliorate the social and economic impact on individuals, the region and the local economy (establishment of agricultural projects which will provide viable employment after mining operations cease).
DRD-Gold's corporate social investment supports the Social Plan in that it actively seeks to offer opportunities to former employees and recognises the impact that unemployment may have on the communities from which they draw their labour.

iv) Nedcor Group (www.nedbankgroup.co.za)
Corporate social investment is an integral part of the Nedcor Group’s business as it strives to strengthen the economy and better the lives of disadvantaged communities through projects that lead to job-creation, infrastructural development, enhanced human health, improved quality of life and ecosystem health. Nedcor founded more than 450 projects for the year. The projects included skills training and job-creation.

In 2004, the Nedcor Group retrenched 2,045 employees through voluntary and business-initiated retrenchments. Corporate social investment refers to skills training and job-creation. It is not stated whether the skills-training and job-creation initiatives were part of the programmes designed for retrenched employees. In fact, corporate social investment is silent on the Social Plan. The annual report is also silent on the measures taken by Nedcor Group to ameliorate the effects of retrenchments.

v) Mittal Steel South Africa (www.iscor.co.za)
Mittal Steel's corporate social investment involves the support of communities and organisations. It contributes to the social needs of communities, especially those in areas where its operations are located. The company’s social investment philosophy is focused on building capacity within the broader society with an emphasis on education and training initiatives. The funding also addresses unemployment initiatives, which trains, develops and assists unemployed persons.

Mittal Steel's corporate social investment makes mention of the initiatives to address unemployment. The initiatives are however directed to the
general public. The Social Plan or its principles are not mentioned in the corporate social investment initiatives.

3.12 EMPLOYMENT RELATIONS STRATEGY

Parker (1998) is of the view that industrial relations and human resources should be integrated and be managed collectively. The collective management of these fields is referred to as employment relationship. Parker concluded that the ultimate purpose or mission underlying employment relations management must reflect the fact that it is an inherent part of a company’s business plan, that it is pro-active and of long-term nature, that it is an important matter for management because it can have a major influence on the competitiveness of a company, and that it must not be confined to trade unions and lower-level employees making up its membership.

The Social Plan by its very nature is inclusive of both the element of industrial relations and human resources. Retrenchments and redundancy processes are more industrial relations in nature, whereas training and development are human resources-based.

Swanepoel (in Slabbert et al. 1998) referred to an employment relation’s policy as an integrative perspective of human resources management and industrial relations by schematically representing an employment relations policy.
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From Figure 3.5, industrial relations policies that have reference or relate to a Social Plan are consultative committees, relationships with unions and retrenchment / redundancies. In human resources management policies, there is training and development, termination procedures and corporate social investment.
A deduction can therefore be made that the integrative management of industrial relations and human resources management supports the Social Plan. Further, it means therefore that an employment relation's strategy must have an element of strategic management of the Social Plan.

3.13 CONCLUSION

The statistical information on employment in South Africa gives an indication of the status of employment in the country. Despite their differences, the information derived from the two definitions is worth taking into consideration. The information confirms that there are many people who are unemployed and therefore retrenchments should be managed effectively to avoid adding to the numbers of unemployment. The statistical information provides the basis for a case to use holistic mechanisms to manage retrenchments.

The LRA has presented a statutory framework on how retrenchments must be managed. The provisions are stringent but do not deter organisations from retrenching. The provisions are process-driven and not necessarily meant to re-engineer business processes to avoid or ameliorate the effects of retrenchment. The intention of the Social Plan Guideline is to introduce mechanisms over and above the statutory provisions.

In Germany and USA, despite the low unemployment rate and first-world economies, organisations employ special mechanisms to deal with retrenchments. The Social Plan mechanism is not a South African concept but an internationally applied concept.

In South Africa the concept of the Social Plan is debated and applied at various levels to varying degrees. The general perspective of some of South African organisations is positive. The organisations are debating and influencing social policies and others are developing and implementing customised versions of Social Plans.
The Social Plan Guidelines by their very nature are premised on the elements of corporate social investment principles and employment relations strategies. The integration of the concept is not evident from the unstructured review conducted. The concepts exist in silos and this may have an impact in enhancing the value that is intended to be derived from the implementation of the Social Plan Guidelines. Organisational strategies, especially those that aspire to become world class, must manage retrenchments in a manner that includes all the above aspects.
CHAPTER 4
CASE STUDIES

4.1 INTRODUCTION

The Social Plan Guidelines, by their very nature, require that various parties be actively involved in managing large-scale retrenchments. The Social Plan Guidelines state that their primary objective is to avoid job losses and employment decline wherever possible and to seek to actively manage retrenchments and to ameliorate their effects on individuals and local economies when large job losses are unavoidable. It was stated in Chapter 3 that to give effect to this primary objective various parties – namely, trade unions, companies, local authorities, the Department of Labour (DoL) and impacted individuals themselves – must actively take part in the initiatives of avoiding or ameliorating retrenchments.

The primary objective of this chapter is to conduct case studies to demonstrate in practical terms how some of these parties managed the process of retrenchments. Chapter 3 dealt mainly with the theoretical aspect of the Social Plan and Chapter 4 will deal with the practical aspect of the Social Plan.

For the purposes of the study, two case studies will be conducted. The first case study will be sub-divided into two parts, namely the perspective of the City Council of Matlosana and the role of Solidarity Trade Union. The second case study will focus on how Eskom Holdings and Telkom manage their surplus or redundant employees.

4.1.1 CASE STUDY 1

Part One:

• The case study will look at how the City was impacted by large-scale retrenchments (DRD-Gold retrenched 6 000 miners in March 2005); and
• How the City applied the principles of the Social Plan to ameliorate the effects of retrenchments.

Part Two:

• How a trade union (Solidarity) played a role in managing the retrenchments that impacted its members.

4.1.2 CASE STUDY 2

The second case study will look at how an organisation (Eskom Holdings) managed retrenchments prior to 1998 when the Social Plan concept was introduced and how it is presently managing surplus or redundant employees. Further, the case study will look at how Telkom managed a restructuring process in 2001/2.

Both case studies will highlight the impact on society (people and/or economy); number of employees involved; and the role played by trade unions and/or employees.

4.2 CASE STUDY 1 PART ONE: - THE CITY COUNCIL OF MATLOSANA

4.2.1 Background

The City Council of Matlosana area is situated in the southern portion of North West Province. The City Council area is made up of the following Local Authorities:

• Klerksdorp;

• Orkney Local Council (LC);

• Hartebeesfontien LC;

• Stilfontein LC; and
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- Surrounding rural area.

The City Council area is approximately 3 600 km$^2$ in size and Klerksdorp LC is the principal town within the City Council. The City Council is home to 550 000 people and accounts for 18% of North West Province's total Gross Domestic Product (GDP).

The following table indicates the sectors that contribute to the GDP of the City of Matlosana.

<table>
<thead>
<tr>
<th>Sector</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agriculture</td>
<td>20%</td>
</tr>
<tr>
<td>Civil Servants</td>
<td>5%</td>
</tr>
<tr>
<td>Manufacturing</td>
<td>10%</td>
</tr>
<tr>
<td>Mining</td>
<td>60%</td>
</tr>
<tr>
<td>Retail and others</td>
<td>5%</td>
</tr>
</tbody>
</table>

Table 4.1 shows that the mining industry is the biggest contributor to the GDP of the City Council. The area within the City Council is known as the mining area due to the fact that the towns within the City Council were established as a result of mining activities. In the 1800s gold was discovered in the area. This led to the establishments of towns with mining activities.

The case study, which is based on the mining employees, will show the impact that retrenchments had on the employment rate within the City Council area; the GDP of the City Council, the local communities and the individual employees. The case study will focus mainly on the strategies that the City Council put in place to ameliorate the impact of retrenchments on the City Council itself (GDP or economy of the area) and the affected employees and their families.
4.2.2 The Problem

The North West mining town of Stilfontein is on its knees following DRD-Gold's announcement that it is shutting down its two mines in the province – and leaving at least 6 000 miners unemployed.

"DRD-Gold applies for provisional liquidation of its Hartebeestfontein and Buffelsfontein mines yesterday, and shut the mine's gates" (Star, 23 March 2005).

In 4.2.1 a brief background of the City Council of Matlosane was discussed. From the discussion, it was mentioned that the City is a mining area due to many mining activities within the area. Further, it was also shown in Table 4.1 that mining accounts for 60% of the GDP of the City.

In Chapter 3 (Table 3.4, Employment Figures in Mining Industries), the review of the employment figures indicated that over a period of 10 years (1994 - 2004), the mining industry in South Africa lost 155 072 jobs. The average job loss in the mining industry is 15 507 per annum.

The City Council's problem is that its main contributor of GDP is severely under threat due to the decline of employment in that sector (mining). A review of the figures has shown that the loss of 6 000 miners' jobs in March 2005 is not an isolated incident but a trend that has been developing over years. The economic principles suggest that the decline of the main sector of the economy has a direct impact on other sectors. This implies that there is a loss of employment in these sectors. This means therefore that the 6 000 miners who lost their employment are not necessarily the only individuals who have lost their employment as a result of the closure of the mine. Other individuals in sectors that were directly dependent on the function of the mine have suffered and will probably also have to retrench.
The City Council's problems are therefore not confined to the miners but to the whole economy of the City Council that will, as a result of the closure of the mines, experience a decline in other sectors that contribute to the GDP.

In South Africa, an employee will on average have more than four dependants, who are directly dependent on the employee's income. The loss of employment of one employee will have a direct impact on the dependants. In this case, 6,000 miners x four dependants equals 24,000 people who have been affected by the closure of the mine. This figure does not take into consideration other people from other sectors that have lost their employment as a result of the closure of the mine.

DRD-Gold in Stilfontein does not have a social plan in place or any other initiative to ameliorate the effect of retrenchment of the 6,000 miners on their families/dependants. The problem of the City Council is how to ameliorate the effect of retrenchments to provide alternative job opportunities to unemployed residents of the City Council of Matlosana.

4.2.3 Recovery Programme

Following the decline in employment in the area of the City Council of Matlosana over years and more recently the retrenchment of 6,000 miners, the City Council has found itself in a situation where its economy is unable to offer alternative employment to individuals who have lost their employment.

In other words, the City Council was unable to meet the requirements of the Social Plan Guidelines. According to the Social Plan Guidelines, local economies must look at developments and opportunities for the rehabilitation of areas that have been negatively affected by large-scale retrenchments.

In 2002, the City Council had commissioned a study to undertake the necessary economic profiling and resources scans for the area to identify opportunities for development, to provide a strategic framework for area of
focus and effective investment resulting in local economic development and job-creation (Local Economic Regeneration Strategy Report, 2002). The findings of the City Council study and the large-scale retrenchments of 6,000 miners prompted the City Council to engage in a programme (Recovery Programme) to ameliorate the effect of retrenchments and at the same time implement a growth and development strategy for the City Council.

As part of its Recovery Programme, the City Council linked up with Mansfield City Council, a British town in the United Kingdom that successfully revived its economy after mine closures in the early 1990s. Mansfield City was identified as a perfect partner because, like the City Council of Matlosana, it was entirely dependent on mining. On the closure in the early 1990s, a number of derelict coal-mining sites were used to provide the basis for re-generation by attracting new industry and commerce (Mashego, 24 March 2005).

The Recovery Programme, as part of the broader Growth and Development Strategy of the City, will use the link-up with Mansfield City for the two cities to co-operate on:

- Technical assistance and advice to facilitate sustainable economic development within the City of Matlosana.
- Sharing best practices and lessons learnt on investment and small business development policies and procedures;
- Exchanging information on potential opportunities for mutual trade and/or business relationship development in fields such as agriculture, mining eco-tourism, bio-technology, information and telecommunications and aviation development;
- Working together to form consortia of strategically aligned companies, agencies and educational institutions to pursue economic development projects;
- Jointly lobbying international financial institutions for financial assistance;
• Co-ordinating joint trade and investment seminars, missions and other events;

• Providing logistical and personnel support to each other's incoming trade and investment missions; and

• Identification of companies to invest in economic sectors of both cities, and exchange technical and administrative knowledge in human resources development and administrative support systems.

The association of the two cities still continues and has shown some significant progress. Through the lessons learnt from the association and cooperation with Mansfield City and the findings of the Local Economic Regeneration Strategy, the City Council of Matlosana developed a Local Economic Development Programme. The Local Economic Development Programme has identified projects on social and labour issues to be implemented to stimulate job-creation, poverty-eradication and broader economic regeneration.
The adequacy of the current social plan to address retrenchment challenges in South Africa

Table 4.2

THE FOLLOWING IS A PRESENTATION OF THE PROJECTS THAT HAVE BEEN IDENTIFIED IN THE LOCAL ECONOMIC DEVELOPMENT PROGRAMME

<table>
<thead>
<tr>
<th>No</th>
<th>Item</th>
<th>Option</th>
<th>Beneficiary</th>
<th>Purpose</th>
<th>Plan</th>
<th>Commence Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Emerging Farmers: Rural Economic Development</td>
<td>Supply of poultry and vegetable to nearby Anglo Ashanti mines</td>
<td>Job creation opportunities for ex-miners, beneficiaries and broader community and nearby mine community areas</td>
<td>Assistance to emerging farmers</td>
<td>Funding for Costs re-building structures and water reticulation. Donation will be affected upon completion of current investigations into viability of land for agricultural area</td>
<td>2006</td>
</tr>
<tr>
<td>2</td>
<td>SMME Development</td>
<td>Planned Agricultural Production, for subsistence and marketing.</td>
<td>Job-creation and poverty-alleviation initiative for ex-miner beneficiaries and broader community and nearby mine community areas</td>
<td>Entrepreneurial Support Centre.</td>
<td>Donation of physical assets associated with mining operations as incubation centres</td>
<td>2006</td>
</tr>
<tr>
<td>3</td>
<td>Housing Initiatives</td>
<td>Housing in the KOSH area</td>
<td>Supports the municipal IDP, to prioritise efforts for the well being of communities</td>
<td>WESMAC</td>
<td>Borne by the mine. Commitment made to donation of hectares of land upon completion of subdivision.</td>
<td>2007</td>
</tr>
<tr>
<td>4</td>
<td>Disabled centres</td>
<td>Repair of wheelchairs by local people with disabilities</td>
<td>Supports job creation initiatives for people with disabilities.</td>
<td>Job creation</td>
<td>To donate premises to the project</td>
<td>2005</td>
</tr>
<tr>
<td>5</td>
<td>Hospice</td>
<td>Housing and care of abused women and children</td>
<td>Supports the municipal IDP, to prioritise efforts for the well being of abused women and children affected by AIDS</td>
<td>Social Investment</td>
<td>To donate premises to the project</td>
<td>Ongoing</td>
</tr>
<tr>
<td>No</td>
<td>Item</td>
<td>Option</td>
<td>Beneficiary</td>
<td>Purpose</td>
<td>Plan</td>
<td>Commence Date</td>
</tr>
<tr>
<td>----</td>
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<td>---------------</td>
</tr>
<tr>
<td>6</td>
<td>Youth Entrepreneur Society</td>
<td>School for the education of primary school learners in entrepreneurship</td>
<td>Supports Entrepreneurial educational projects</td>
<td>Self-employment</td>
<td>Creating more entrepreneurs</td>
<td>Ongoing</td>
</tr>
<tr>
<td>7</td>
<td>Control Room</td>
<td>Municipal court</td>
<td>Crime free society</td>
<td>Eradicating and prevention of crime</td>
<td>Public Safety</td>
<td>2005</td>
</tr>
<tr>
<td>8</td>
<td>Airport Development</td>
<td>Donation of additional land for extension of runway and building of warehouses</td>
<td>Support of alternative to mining business sector</td>
<td>Job-creation</td>
<td>Funding for the feasibility study and development of PC Pelser Airport</td>
<td>2005</td>
</tr>
<tr>
<td>9</td>
<td>N12 Development</td>
<td>Installation of Bulk Services e.g. electricity and sewer network</td>
<td>Job-creation</td>
<td>Attraction of alternative employers to mining</td>
<td>Funding for the bulk infrastructure supply</td>
<td>2006</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>Beneficiaries and broader community and nearby mine community areas</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>2010 Soccer</td>
<td>Tourism Promotion</td>
<td>Job-creation</td>
<td>Job-creation</td>
<td>Upgrading of stadia</td>
<td>2008</td>
</tr>
<tr>
<td>11</td>
<td>Taxi Rank Development</td>
<td>Integrated Transport Plan</td>
<td>Job-creation</td>
<td>Job-creation</td>
<td>Community &amp; Safety Transportation</td>
<td>2006</td>
</tr>
<tr>
<td>12</td>
<td>Shelter for Hawkers</td>
<td>Integrated Transport Plan</td>
<td>Job-creation</td>
<td>Job-creation</td>
<td>Community &amp; Safety Transportation</td>
<td>2008</td>
</tr>
<tr>
<td>13</td>
<td>Brownfield Development</td>
<td>Tourism Promotion</td>
<td>Job-creation</td>
<td>Job-creation</td>
<td>Utilisation of redundant mine properties</td>
<td>2008</td>
</tr>
<tr>
<td>14</td>
<td>Community Development Centre</td>
<td>One-stop shop for rural communities</td>
<td>Support for poverty alleviation in rural areas</td>
<td>Poverty alleviation</td>
<td>Funding for costs re: building structures and water structures and water reticulation Donation of land to a Trust still to be formed</td>
<td>2008</td>
</tr>
</tbody>
</table>
4.2.4 The Challenges of the Local Economic Development Programme

The Recovery Programme is an extensive and long-term programme involving various stakeholders. Its successful implementation depends on various factors, which do not necessarily reside with the City Council of Matlosana. The programme is dependent on the local community, the individual employees, the affected employers, trade unions and other employers in the area, to name but a few. The City Council listed the following challenges that it is / was faced with in planning and implementing the programme:

i) Government department /agencies lack of co-operation
The Department of Labour (DoL), according to the Guidelines of the Social Plan, should play a prominent role in programmes that are intended to revive the local community affected by large-scale retrenchments. The DoL did not play a role in influencing the programme or in mobilising other agencies such as the National Productivity Institute (NPI).

The NPI through its technical support facility should play a major role in assisting companies to save jobs and/or ameliorate the effect of loss of employment. The NPI, despite its mandate, did not play any role during the DRD-Gold retrenchments.

ii) Lack of Integrated Approach
The City Council of Matlosana area is a relatively small and poor area. Any major event such as the retrenchments experienced at DRD-Gold is bound to upset the social structure of the community. The City of Klerksdorp, the metropolitan area in which the City Council of Matlosana is situated, has experienced a huge influx of people seeking a better life.

The influx resulted in the mushrooming of informal settlements in and around Klerksdorp City. The response to the crisis at DRD-Gold required an approach that would address not only the re-training of the affected...
employees but a holistic and integrated approach that involves other social needs of both the employees and the community.

### iii) Skills Level within the Local Authorities
A programme such as the Recovery Programme requires people with entrepreneurial, business and project management competencies to plan and implement successfully. Local Authorities, by design, were never meant to plan and implement such programmes. Consequently, there is a lack of appropriate skills within the Local Authorities to drive and implement programmes of this nature.

### iv) Lack of Patriotism from other businesses
The main objective of the Local Economic Development Programme is to stimulate employment in various sectors of the local economy. The stimulation requires the buy-in and commitment from businesses in those sectors. The buy-in and the commitment of business might mean that businesses sacrifice some of their profits (in the short term) in order to stimulate growth and development. Businesses are reluctant to commit to activities that do not guarantee immediate financial gain.

As indicated above, the case study on the DRD-Gold retrenchments has two parts – the second part being the role of a trade union (Solidarity) during the retrenchments. The discussion that follows will be on the second part of the case study.

### 4.3 CASE STUDY I PART 2: TRADE UNION SOLIDARITY

#### 4.3.1 Background
Solidarity Union (formerly known as Mineworkers Solidarity Union) was established in 1907. The Union mainly organised in the mining sector / industry. The Union predominantly catered for a white membership and therefore it is not surprising that Solidarity is regarded as the largest trade union for skilled and highly skilled workers.
In 2003, the Union resolved to rename itself “Solidarity” due to the fact that it intended to diversify its membership. Currently Solidarity caters for all racial groups but with a strong focus on Afrikaans membership. Solidarity is now organising in various sectors such as telecommunications, chemical, electrical, education and individuals.

Solidarity has approximately 130 000 members and remains an independent trade union. It is not affiliated with any other organisation or any political party. It is worth noting that Solidarity had approximately 300 members at DRD-Gold. They were by far the minority union active at DRD-Gold immediately prior to the retrenchments of employees.

### 4.3.2 Solidarity Emergency Plan

Solidarity as one of the trade unions organising within DRD-Gold was directly affected by the liquidation of the company and the subsequent large-scale retrenchments that followed.

When the events occurred at DRD-Gold, DRD-Gold as an employer did not have a Social Plan in place and therefore there was no framework in place that the affected parties (trade unions, company and individual employees) could utilise to save job losses and ameliorate the effect of such.

Solidarity put an emergency plan (Solidarity Emergency Plan) in place to address the emergency situation at DRD-Gold. The Plan was both short-term and long-term in nature in that it sought to address immediate factors and factors that can be achieved in the long term.
The Emergency Plan has the following elements:

- Food Aid;
- Legal Assistance;
- Training and Development;
- Financial Advisory Service; and
- Work Placement Service.

4.3.3 Food Aid

Solidarity has a corporate social investment department referred to as "Helping Hand Fund". The Fund is not a charity fund but a benefit fund in that it seeks to assist and empower people, communities and charities in need. The main objective of the Fund is to reach out to people in need and to help and assist in cases of emergency.

As indicated above, the events at DRD-Gold were sudden and therefore not planned for. When the closure of the company occurred, the employees were not given prior notice and most had not budgeted for the sudden loss of income. The employees and their families were in dire straits: there was no money or sufficient food.

Part of the Plan was to assist in feeding the employees and their families. Solidarity mobilised some stakeholders, which included community leaders, churches, charities, social workers, the Rotary Society and the University of North West to form a committee. The committee was referred to as the Stilfontein Crisis Committee. The primary objective of the committee, amongst other things, was to organise the feeding process, facilitate the work of charities in the area and manage the donation funds. The Helping Hand Fund was the project co-ordinator of the feeding process. The Fund donated R100 000.00 and raised approximately R3 million in donations. The feeding process started in April 2005 until 1 November 2005 and assisted approximately 7 000 people (employees and their family members).
4.3.4 Legal Assistance

The retrenchments at DRD-Gold were as a result of an application for liquidation by DRD-Gold. The liquidation process itself was a subject of dispute between Solidarity and the DRD-Gold. Liquidation as a process is a complex matter that requires understanding of various legal aspects. The fact that it was disputed compounded the process.

When liquidators were appointed to be part of the process, Solidarity sought to appoint their liquidator to be part of the process. An application was brought before the High Court to effect the appointment. Solidarity argued that their liquidator would be in a better position to look after the interest of employees during the liquidation process. The application was rejected by the High Court.

Despite the court outcome, Solidarity appointed a liquidator as part of their negotiating team with the company and liquidators. The Solidarity liquidator advised on, amongst other things, liquidation process, turnaround strategy and the rights of employees.

The outcome of the liquidation process, which was largely influenced by Solidarity, resulted in the company being bought out. The conditions of the sale included a re-employment of approximately 3 000 employees.

4.3.5 Training and Development

Training and development of employees is essential to assist the affected employees to access employment opportunities in other sectors of the economy.

As indicated above, the events at DRD-Gold were sudden and this affected any medium- to long-term planning of initiatives such as training and development of affected employees. Solidarity had training and developments initiatives but these had not yielded any significant results. This is due to the
fact that by their very nature, training and development initiatives are medium-to long-term in nature.

4.3.6 Financial Advisory Service

Solidarity has a financial advisory service through its trade union; the company is called FIN-Q Financial Services. The company has products such as financial planning, investment and risk management.

The company was involved in advising affected employees on how best to look after retrenchment packages and pension fund payouts and how to access the Unemployment Insurance Benefits. The company was more involved in assisting employees to access pension benefits during the liquidation process. An external company administers the pension funds and therefore were not locked within the liquidation process.

4.3.7 Work Placements Services

Solidarity has two departments that deal with placement of employees. The departments are called Netmark and Solmark, and are structured and function like a recruitment agency and a labour broking service. These departments were engaged in assisting in placing affected employees with various other companies. Normally, the departments would charge a placement fee when services are engaged, but due to the nature of the situation at DRD-Gold dispensed with the placement fee. 200 employees were placed with various other companies.

The two case studies have highlighted the role of two stakeholders in attempting to address large-scale retrenchment. Both the City Council of Matlosana and Solidarity with different constituencies have a common goal of addressing the retrenchments as best as possible for the benefit of constituencies.
The adequacy of the current social plan to address retrenchment challenges in South Africa

The intention of this chapter is to understand the role played by both the City Council of Matlosana and Solidarity. The findings and lessons from the case study and the recommendations will be discussed in Chapter 6 and 7 respectively.

4.3.8 The Challenges of Solidarity Emergency Plan

The events at DRD-Gold were sudden and not planned for. The company did not issue any notices of its intention to apply for liquidation. Many stakeholders were therefore not contemplating such actions and this created undue problems. The Solidarity Emergency Plan inevitably experienced various challenges during its implementation. The following are some of the challenges encountered during implementation:

i) Lack of Consultation

The events that led to the liquidation of the company and subsequent retrenchment of 6,000 employees at DRD-Gold required a process of extensive consultation with trade unions as representatives of the employees. The trade union and/or the employees were never consulted on the procedural and substantive issues that were driving the closure of the company. It is trite law (employment law) that an employer must, when contemplating retrenchments, invite the representatives of the employees to consult on both procedural and substantive issues.

The lack of consultation left Solidarity with no adequate information to do proper planning. The Solidarity Emergency Plan was as a result planned or put together "as work in progress". It was difficult to forecast the required financial, human and other resources that would be required to drive such a programme. The very name of the Plan underpins the state of things at the time of planning.
ii) Lack of support from other trade unions
Solidarity had 5% of membership out of a total of 6 000 employees who were retrenched. Despite the small membership, Solidarity was the only union that had an emergency plan or a plan of any kind to assist the employees and their families. The plan did not discriminate against employees who belonged to other trade unions; it catered for all 6 000 employees. There was no support of any kind from other trade unions to assist the employees and their families.

iii) Lack of a Social Plan
The Solidarity Emergency Plan came into being as a result of the company’s failure to develop a comprehensive Social Plan. The lack of a Social Plan, which would have been the product of a thought-through process, led to a haphazard plan that was used to deal with the emergencies. Consequently, it was difficult to plan for any eventuality that might arise. The Solidarity Emergency Plan has demonstrated the kind of activities that one is faced with in such situations and therefore a well thought-through process is a pre-requisite.

4.4 CASE STUDY 2 (A): ESKOM HOLDINGS
DECOMMISSIONING AND COMMISSIONING OF POWER STATIONS
The previous case study dealt with a case where there was no Social Plan in place. This case study deals with the case where the employer (Eskom Holdings) has a mechanism to deal with retrenchments.

Eskom’s case study is sub-divided into two phases, namely a decommissioning phase and commissioning phase. Both phases had a huge impact on the employment of employees. The discussion on Eskom’s case study will focus on both phases but discuss them separately.
4.4.1 Background

Eskom Holdings is a power utility solely owned by the Government of the Republic of South Africa. Eskom’s primary function is to generate, transmit and distribute electricity/power. The electricity is mainly generated through coal-fired power stations but also through nuclear and water-pumped storage and run of river stations. Eskom is responsible for the supply of 97% of electricity in South Africa.

In the 1980s Eskom had approximately 50 000 employees but the number decreased gradually. Currently Eskom has approximately 30 000 employees.

4.4.2 De-commissioning Phase

In the 1980s South Africa experienced an economic boom, which led to huge investments in the country. The boom period had an impact on Eskom’s ability to supply adequate electricity. The electricity demand suddenly grew to levels that Eskom would not be able to meet through its current power stations.

A decision was taken to build more power stations to meet the demand of electricity. Three coal power stations were built, namely Matimba, Majuba and Kendal power stations. These stations have the capacity to generate 3 600 megawatts of electricity each.

In the early 1990s the economic boom suddenly stopped and this had a negative impact on the demand for electricity. There was an over-supply of electricity. It became very costly for Eskom to operate power plants with such a low demand of electricity. Some plants were operated at half their capacity but the maintenance and manpower costs remained very high. The revenue generated was less than the operational costs.

A decision was taken to de-commission or ‘mothball’ some of the power stations and utilise a few operating at full capacity. Three power stations were
mothballed, namely Camden, Komati and Grootvlei power stations. Two power stations, namely, Ingagane and Kragbron, were totally closed and dismantled.

4.4.3 The Impact of the Process

The process of mothballing and closing down some of the power stations had a negative impact on the continued employment of the employees at the power stations concerned. The process had a direct impact on approximately 4 000 employees and an indirect impact on the surrounding mines that were supplying coal to the power stations and thereby impacted the local communities.

4.4.4 Impact on Eskom Employees

As stated above, the process of mothballing and closing down affected approximately 4 000 employees. This led to tensions between Eskom and its trade unions. The trade unions challenged the process and viewed it as a strategy to manage the headcount down.

Consequently, NUM led a massive industrial action referred to as “Save Eskom Campaign”. After extensive engagements between Eskom and the trade unions, a task team was formed to develop a process to manage surplus or redundant employees. A model (see Figure 5.1) was developed jointly by the task team. The model was referred to as “Process Model to Manage Surplus Personnel as a Result of Organisational Change".
The adequacy of the current social plan to address retrenchment challenges in South Africa

Figure 4.1: Eskom Holdings Process Model to Manage Surplus Personnel
It should be noted that the model was developed in 1993. During that period the applicable labour law statute was the Labour Relations Act (Act 28 of 1956). The Act of 1956 did not provide for a process to manage retrenchments; neither were there any guidelines on how to manage retrenchments. The model was therefore an innovative product of the parties who participated in the development process.

The model as illustrated in Figure 4.1 has four fundamental pillars – namely, obligatory transfers, voluntary redeployment, voluntary retraining and voluntary separations.

4.4.5 Obligatory transfers

In the event where there is an organisational restructuring that will have a negative impact on the employment of employees, the impact is assessed with a view of transferring the employee. If it is found that the impact is high, alternative employment will be sought. When alternative employment is found, Eskom had a right to transfer the employee (obligatory transfer) without consent if the alternative employment was deemed to be the same or similar to the employee’s current employment.

Alternative employment was deemed to be the same or similar if:

a) No, or minimal, training is required;

b) The post grade is the same; and

c) The post is anticipated as being one of performance.

The employee was obliged to accept the obligatory transfer failing which the employee would be retrenched without retrenchment benefits (severance package).
4.4.6 Voluntary redeployment

If Eskom was unable to implement an obligatory transfer due to the fact that there was no similar alternative employment, the employee had the option to apply for voluntary redeployment. Voluntary redeployment means that the employee can be transferred (voluntarily) to any other available position that may be compatible with the employee's profile.

4.4.7 Separation

An employee who was not subject to obligatory transfer and did not choose either voluntary redeployment or voluntary re-training may choose separation. The separation is on the basis of either early retirement or resignation with separation benefits.

In the event where the employee was not subject to obligatory transfer and failed to choose the voluntary options or the separation, the employee would be obligatorily separated without any separation benefits.

Eskom utilised the model to deal with approximately 4 000 employees who were affected by the mothballing and closing of the power stations. At the completion of the process, the option spread of the employees was as follows:

<table>
<thead>
<tr>
<th>Option</th>
<th>%</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Obligatory transfer</td>
<td>25</td>
</tr>
<tr>
<td>2. Voluntary redeployment</td>
<td>25</td>
</tr>
<tr>
<td>3. Voluntary re-training</td>
<td>15</td>
</tr>
<tr>
<td>4. Separation</td>
<td>35</td>
</tr>
<tr>
<td>5. Obligatory separation</td>
<td>0</td>
</tr>
</tbody>
</table>

Table 4.3

THE OPTIONS (IN PERCENTAGE) OPTED FOR BY EMPLOYEES IN ESKOM
The process was designed in order to retain as many employees as possible within the organisation. The final option of obligatory separation was made unattractive (no separation benefits) to force employees to exercise choice on other options.

4.4.8 Impact on surrounding mines

As Eskom's coal-fired power stations are situated next to coal mines, the efficient transportation of coal to the power stations is assured. In some areas the very existence of the mines was dependent on Eskom's use of the mines' output.

The mothballing and closing down of Eskom power stations had a very negative impact on the continued employment of the mine staff. There were mines that were subsequently closed and others significantly reduced outputs. There is no data available on the extent of the loss of employment at the mines and what strategies were put in place to manage the large-scale retrenchments.

4.4.9 Impact on the local community

Grootvlei, Camden and Komati power stations are situated at Balfour and Ermelo respectively. Ingagane and Kragbron power stations were situated near Newcastle. The economic activity of a community is normally dependent on the local business activities. The closing down or reduction of business activities will therefore have a negative impact on local economy and cause further unemployment.

There is no available data on the extent of the impact suffered by the local communities.
4.4.10 Challenges of Eskom's Surplus Model

When Eskom applied the model during the mothballing and/or closing down of the said power stations, it experienced some challenges that are worth noting. The following are challenges that were experienced:

a) Lack of statutory guidelines
   It was indicated above that the model was developed in the early 1990s. The applicable statute at the time was the Labour Relations Act of 1956. The Act of 1956 did not contain any specific provisions dealing with retrenchments. The retrenchment provisions were procedural in nature and did not afford any alternatives. There were neither guidelines nor codes of good practice to guide the parties. This made it difficult for the parties to engage with one another as there was no framework to determine the boundaries of their engagement. Consequently, the process of engagement was long and exhausting.

b) The process of mothballing and/or closing down of power stations had an impact not only on Eskom employees but also on the surrounding mines’ employees. Despite their common situation, the parties failed to join efforts to leverage on each other’s resources. Each party was left to find its way out of the situation.

c) In 1993 there were few, if any, centres or agencies that offered psychological, financial and/or entrepreneurial support. Consequently, those who opted for voluntary separation had no such support. It was difficult for these employees to manage finances. This resulted in many employees squandering finances.

d) Proliferation of trade unions
   In the early 1990s Eskom had nine trade unions organising within its workplace. The engagements with trade unions were not easily manageable and the process was in most cases long and drawn out.
1 400 employees were not affected or impacted by the mothballing process as they had to remain at the mothballed power stations to maintain them.

4.5 ESKOM HOLDINGS RETURN TO SERVICE OF POWER STATIONS (COMMISSIONING PHASE)

Following a discussion of part two – the decommissioning phase of the Eskom Case study – the commissioning phase, which is referred to as return to service of power stations, will now be discussed.

4.5.1 Background: Return to Service

It was mentioned above that the economic downturn in the early 1990s had a negative impact on the demand for electricity. This led to a decision to mothball and close down some of the power stations. In 2004, almost eleven years later, the economy of South Africa suddenly peaked. The economy had peaked to an extent that the demand for electricity supply suddenly increased. Eskom did an impact assessment study to determine the electricity capacity needed to meet the demand. It found that in the event of the economy growing between 4% and 5% annually, Eskom would run out of capacity to supply by year 2007. A decision was taken that the mothballed power stations – namely, Camden, Grootvlei and Komati – would be returned to service. The power stations would be refurbished and be fitted with the latest technology to operate efficiently and reliably.

It should be noted that there were 1 400 employees who remained to maintain these stations during the non-operational period. The return to service of these power stations had a negative impact on maintenance employees due to the fact that new technology would drive the power stations.
4.5.2 The Impact of Return to Service Process on Employees

The business model to operate the power stations required that all non-core activities be outsourced. The outsourcing of non-core activities included activities such as security, cleaning and horticulture. The bulk of the remaining employees were engaged in these activities. In the eleven-year period of maintenance, Eskom adopted an approach of not replacing any employee who left the power stations due to natural attrition (death, request for separation, resignation and retirement). Consequently, when the decision to return to service was taken, only 350 employees remained.

The outsourcing of non-core activities impacted all remaining employees. The employees were all engaged in activities that were to be outsourced. Eskom has a Social Plan Policy in place (see Figure 3.4 in Chapter 3) that was utilised to address the impact on employees.

4.5.3 Eskom’s Social Plan Policy

Eskom developed and put in place a Social Plan Policy that would be used in the event of organisational restructuring. The policy is aligned with the Department of Labour’s Guidelines on Social Plan. The key principle of the policy is to ensure that job retention is a high priority for Eskom employees and separation will be a last resort; to enhance people’s employability; and to consult with labour on all aspects of the social plan.

The Human Resources Division within Eskom manages the Social Plan Policy. The Social Plan Policy is general known as a policy but the details within the social plan itself are relatively unknown. The Social Plan Policy does not make provision for pro-active interaction with external stakeholders such as the Provincial and Local authorities and Department of Labour. The only interaction between Eskom and the Department of Labour is when Eskom advises the DoL of the impending retrenchments and how many employees are likely to be retrenched.
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The Social Plan Policy is meant to be used in the event of an organisational restructuring caused by a restructuring of the industry; an enhancement of business efficiency; outsourcing of non-core businesses; and structural and operational changes.

Employees would be negatively affected by organisational restructuring if:

- The job content has changed to such an extent that the individual could not reasonably be expected to adapt;
- The work currently being done is simply no longer necessary; and
- The work performed is not required to be performed in its present form.

The objectives of the Social Plan Policy are to:

- Assist in the management and provision of strategies for dealing with affected employees, who, because of organisational restructuring, become affected;
- Guide management in an appropriate response in cases of large-scale job losses which require engagement with government and its appointed agencies;
- Assist all Eskom divisions in the effective implementation of the Social Plan Policy and its processes;
- Ensure that the management of affected employees is carried out in a responsible and integrated manner across Eskom; and
- Facilitate assistance for the employees to sustain themselves upon separation from Eskom.

The Social Plan Policy has four fundamental pillars – namely, redeployment, re-training and development, separation and counselling:
4.5.4 Retraining and development

Unlike its predecessor (Process Model to Manage Surplus Personnel), the Social Plan Policy not only focuses on Eskom’s business requirements but also trains affected employees to enter the broader labour market.

Eskom believes that the broader labour market may require skills that are not necessarily required by Eskom and therefore employees must be trained in areas of preference and will at the same time be used where there is a skills shortage. The training to enter the broader labour market is biased towards entrepreneurship and SMME development.

4.5.5 Re-deployment

A division within Eskom that is engaged in a process of re-structuring which results in redundancies gives preference to redundant employees when filling vacant positions. Vacant positions within that particular division are not advertised but offered to suitably qualified employees who are affected by the organisational re-structuring. Cross-divisional recruitment is conducted through advertising but affected employees are given preference during the selection process.

4.5.6 Separation

Affected employees may be separated from the organisation either through separation with benefits or separation without benefits. The latter is applicable in situations where an employee has declined offers of suitable continued employment by a way of re-deployment or re-training. The former is applicable where all retention options have been exhausted and the employee cannot be re-trained or re-deployed.
4.5.7 Counselling

Eskom has a contract with a service provider for the Employee Assistance Programme (EAP). In times of organisational restructuring the change normally has an impact on the employees, on family life and on finances. The policy provides for emotional, psychological, career and financial counselling.

Eskom applied its policy to manage the employees affected by the return to service process. When the return to service process started there were 350 employees affected. At the end of the process there were 120 employees who had not been placed and were facing retrenchment. Eskom took a decision not to retrench the employees but to absorb them as overheads in other areas of Eskom business.

4.5.8 Challenges Faced by Eskom in Applying the Social Plan Policy

When Eskom applied the Social Plan Policy during the organisational restructuring process of return to service, it experienced some challenges that are worth noting. The following are challenges that were experienced:

a) Challenges of relocation

Eskom's business operations are spread throughout the country. It therefore becomes difficult to redeploy employees to various areas of the business. This is more so when the affected employees are nearing retirement age and are lowly skilled.

b) Lack of entrepreneurial skills

The new operating business model for the return to service power stations required that non-core activities be outsourced. The business model created an opportunity for entrepreneurship especially for employees who were affected by the process. The opportunity was presented but there was no interest shown or declared.
c) Business Efficiencies and Social Responsibility

For redeployment and absorption of employees within Eskom to be effective, business efficiency principles must be relaxed to a certain extent. Other business units must be prepared as part of their social responsibility to carry some overheads. There were business units within Eskom that refused to absorb affected employees, citing business efficiency.

4.6 CASE STUDY 2 (B): MANAGEMENT OF STAFF NUMBERS IN TELKOM

4.6.1 Background

In the year 2001/2, Telkom engaged in a restructuring process in preparation for listing on the stock exchange as a public company. Telkom was faced with a challenge of re-engineering its business to be efficient and globally competitive. Consequently, Telkom had to review its staff numbers to achieve the competitiveness and efficiency that it had hoped to achieve.

The rationale for the management of staff numbers was premised on:

- Drive to improve efficiency, maximise productivity and cost-effectiveness;
- Achievement of a "balanced" skills mix;
- Lowering the impact of staff costs on operating expenses; and
- Re-balancing of staff (surpluses versus shortages).

Telkom’s skills mix was skewed towards a high number of support and administrative staff but there was a scarcity of technical and business skills. Consequently, the staff costs accounted for 50 cents in every Rand in value creation. There were positions that did not add value to the company’s objectives and positions that were redundant due to surplus staff, duplication of functions and automation of processes.
4.6.2 Management of Staff Number Process

Telkom shared the process on condition that the exact staff numbers impacted by the process were not disclosed. As part of the process, Telkom commissioned a study (Demand Forecasting) to establish the current status and to forecast what the status will be after the process is completed. The study revealed that 33% of employees were going to be impacted by the process.

Telkom developed a process that they would follow in driving the management of staff. The process included various steps to be undertaken to avoid, minimise and/or ameliorate the effects of retrenchments. The process is represented schematically in Figure 4.2 as follows.

![Figure 4.2: Telkom Management of Staff Process](image-url)
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The above process presented three options to the employees who are impacted by the restructuring process, namely:

- Redeployment within Telkom;
- Voluntary early retirement package (for employees who are 50 years and older); and
- Voluntary severance packages.

Ultimately if the impacted employees fail to exercise the above options or if they are not re-deployable, then employees will be retrenched. Employees who opted for voluntary severance package, voluntary early retirement and/or retrenchment qualified for access to Telkom’s Social Plan.

The redeployment option was only available to affected employees who:

- Have the right mix of skills, qualifications and experience; and
- Can be re-skilled and re-trained within a reasonable period.

The employees would be given first preference to apply for similar vacancies for a period of 12 months after the last day of service (re-deployment).

4.6.3 Telkom Social Plan Process

As stated above, some employees impacted by the re-structuring would qualify for the access of Social Plan benefits. The Telkom Social Plan Process lists the following as functions that are provided by the Social Plan:

- Safety net to support affected employees;
- Wellness Centres – counselling services;
- Options workshops and “Coping” workshops;
- Manage finances (packages – investments);
- Career Transition Centres (Photostat machines, fax machines, telephone, PC facilities with e-mail/internet access);
• Career counselling services;
• Centre for Learning (courses);
• Curriculum Vitae (CV) on internet;
• Preparation of a CV;
• Use of telephone / letter writing;
• How to conduct yourself in a job interview;
• Job search skills;
• Employment Agencies;
• Unemployment Insurance Fund (UIF);
• Certificate of Service;
• Pension Fund matters; and
• Receiver of Revenue matters.

Counselling services:
• Personal counselling;
• Financial planning course;
• Coping with retrenchment; and
• Career counselling.

The Telkom Social Plan Process (Wellness Outplacement Process Flow) has various steps within the process that are used to manage employees who have been impacted by restructuring. Figure 4.3 offers a schematic representation of the process steps:
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Figure 4.3: Telkom Social Plan Process

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From Figure 4.3, the process flow, two main themes emerge. These deal with preparation of impacted employees for external (outside Telkom) opportunities, namely Centre for Learning and Job Creation Programme.

### 4.6.4 Centre for Learning

The Centre for Learning offers courses such as:

- Driver training;
- Business skills;
- Computer training;
- Electrical and auto;
- Welding;
- Mechanical and auto; and
- Building.

Since its inception in the year 2000, the centre has offered courses to 5,470 employees at a cost of R26.5 million.

### 4.6.5 Job-creation Programme

The job-creation programme focuses on three areas, namely:

i) **Job-creation opportunities project**
   - Small business development; and
   - Job placements (leveraging suppliers).

ii) **Reservation of Contracts**
   - Contracts were reserved in specific services and products for retrenched employees (e.g. cleaning services, gardening services, logistic distribution, pest control, waste control);
• Ex-employees must hold at least 70% of the shares and blacks must hold at least 50% of shares for the company to qualify for the reservation of contracts.

iii) Regional Committees
a. The creation of regional committees with trade union involvement to co-ordinate processes and activities.

The programme has since reserved and awarded contracts to the value of R27,13 million. The programme has also created 1 173 jobs (ex-employees 993 and non-employees 180) within a period of three years.

4.6.6 Lessons learnt from Managing Staff Numbers

As stated, Telkom did not provide all the information related to the restructuring process due to the fact that it was viewed as confidential and privileged information.

Notwithstanding the non-disclosure of information, Telkom listed the following as lessons that have been learnt when managing the staff numbers:

• Conduct comprehensive exit interviews (obtain forwarding address, contact telephone numbers, complete all relevant forms, etc);
• Conduct medical tests for employees in high-risk functions;
• Ensure availability of U.I.F. cards;
• Support programme for "stayers / survivors";
• Market social plan activities more aggressively (R8 600.00 for training courses + R2 000.00 for equipment/tools);
• Prepare line managers more thoroughly on how to brief affected employees;
• Provide more time for workshops;
• Secure more suitable venues for workshops;
• Make attendance to social plan workshops mandatory for affected employee;
• Clarify pension/retirement benefits;
• Clarify severance package element; and
• Advise on tax matters.

4.7 CONCLUSION
As discussed in the previous chapters, the Social Plan Guidelines refer to the roles of various parties involved when dealing with large-scale retrenchments. The Guidelines refers to the Local Authorities, employers, trade unions, NPI and Department of Labour. The case studies above highlight the roles of some of the parties when faced with retrenchments. The case studies highlight the experiences of the Local Authority (City Council of Matlosana), a trade union (Solidarity) and an employer (Eskom Holdings).

The case studies are intended to highlight the practicalities facing various parties when undertaking retrenchments and how they respond to the challenges that are posed by the retrenchment process itself and the parties themselves.

The City Council of Matlosana experienced large-scale retrenchments at the time that the City Council was faced with the challenge of reviving the local economy (which is a long-term strategy) and addressing retrenchments, which are normally not issues that are synonymous with the operational functions of local authorities.

Solidarity's experience highlighted the roles of other parties that are not necessarily provided for by the Social Plan Guidelines – e.g. churches and non-profit organisations. The response of Solidarity to the retrenchments
highlighted the interplay of company law (liquidation process), labour law (retrenchments) and social responsibility (Solidarity's Emergency Plan).

Eskom's experience highlighted how it dealt with retrenchments prior to and after the enactment of the LRA 65 of 1995 and the Social Plan Guidelines. Eskom dealt with large-scale retrenchments in 1993 through a Process Model to Manage Surplus Staff and in 2005 through the Social Plan Policy. The two processes dealt with the retrenchments differently while enforcing the purposes and objectives as reflected in the Social Plan Guidelines.

Telkom's experience highlighted how to manage retrenchments for efficiency of the company, and not because the company was in financial difficulties, but for competitiveness.

The intention of this chapter was to highlight the various experiences of the various parties when faced with retrenchments but not discuss the findings. The findings will be debated in Chapter 6 and the recommendations relating to these findings will be discussed in Chapter 7.
CHAPTER 5
RESEARCH METHODOLOGY

5.1 INTRODUCTION

Research can be described as a systematic and organised effort to investigate a specific problem that needs a solution. It is a series of steps designed and followed, with the goal of finding answers to the issues that are of concern to people in the work environment. This means that the first step in research is to know where the problem areas are in the organisation and to identify as clearly and specifically as possible the problems that need to be studied and rectified (Sekaran, 1992). In every research project that is undertaken there is a methodology that is utilised to conduct the research in a systematic manner. Prior to outlining the methodology that is utilised in this study, it is important that the definition of “methodology” is highlighted (without being reviewed or criticised).

Lather (1992) defined methodology as "a research model employed by a researcher in a particular project, including basic knowledge related to the subject and research methods in question and the framework employed in a particular context. In this sense, every investigation has a distinct methodology and every researcher employs her/his methodology, which might vary from study to study". Sarantakos (1993) defines methodology “as a process that is supposed to offer research principles related closely to a distinct paradigm translated clearly and accurately, down to guidelines on acceptable research practices. Methodology is determined not by the research model but rather by principles”. Mouton and Marais (1996) define methodology as a “study of the research process in all its broadness and complexity, the various methods and techniques that are employed, the rationale that underlies the use of such methods, the limitations of each technique, the role of assumptions and pre-suppositions in selecting methods and techniques, the influence of methodological preferences on the types of data analyses employed and the subsequent interpretation of findings".
These are extreme definitions of "methodology". The importance of these definitions is to highlight the fact that, in research, methodology is not necessarily fixed, but depends on several variables, the most important variable being that research is planned.

In this chapter the methodology of this study or how this study was planned and executed will be discussed. The discussion will be on definition of the problem, selection of methodology and research design. The process can be represented schematically as follows:

![Figure 5.1: Schematic representation of the research methodology](image)

5.2 DEFINITION OF THE RESEARCH PROBLEM

Kumar (1999) is of the opinion that "the formulation of the research problem is the first and most important step of the research process. It is like identification of a destination before undertaking a journey. As in the absence of a destination, it is impossible to identify the shortest or any route, in the absence of a clear research problem, a clear and economical plan is impossible. A research problem is like the foundation of a building. The type and design of the building is dependent upon the foundation. If the foundation is well designed and strong, so will the building be. The research problem serves as the foundation of a research study, if it is well formulated, a good study can be expected".
In Chapter 1 prior to the definition of the problem, the background or setting of the problem was discussed. The purpose of the discussion was to give background information that led to the problem to be researched. In summary, it was noted that retrenchments or job losses in South Africa are a reality. These retrenchments and job losses have serious implications for individuals, families, society and the economy at large. Retrenchments as a risk factor should therefore be effectively managed. The effective management of retrenchments requires strategies that will positively and effectively manage the challenges of globalisation and other challenges. In South Africa there is a Social Plan Guidelines Framework that has been put in place to address the challenges of retrenchments.

Following from the discussion, a research problem was stated / defined. The research problem of the study is “Are the current Social Plan Guidelines, as a retrenchment strategy, able to address retrenchment challenges?”

After the definition of the research problem, the necessity of the study was motivated. A trend showed that many South African organisations and industries/sectors are affected by retrenchments. Further, various recent articles were quoted acknowledging the challenges of retrenchments which are facing South Africa.

5.3 SELECTION OF METHODOLOGY

5.3.1 Selection

Mouton and Marais (1996) explain the importance of selecting a methodology for research. They are of the view that a selection provides a broad indication of what researchers wish to attain in their research. What is the aim of the research? The methodology selected must address or indicate what the aim of the research is.
The Social Plan Guidelines were gazetted in 1999. Prior to this date, there was no mechanism to effectively manage retrenchments beyond the statutory provisions of LRA. The Social Plan Guidelines are not a statute, but a guideline, and are therefore voluntary by nature. This led to little attention being paid to the effective management of retrenchments through Social Plan Guidelines. Consequently, there is limited research on this subject. When the research proposal was prepared, a thorough literature search was conducted on the subject of the Social Plan and retrenchment strategies. There was limited research found on the subject. The literature review conducted in Chapter 2 and 3 outlines the limited academic research that is available on this subject (the motivation for this study is to add to the body of work on the topic).

As a result of the limited academic research on this subject, an Exploratory Methodology was selected. Hussey and Hussey (1997) describe exploratory research as research that is conducted when there are very few or no earlier studies to which one can refer for information about the issue. Sarantakos (1999) confirms Hussey and Hussey's description by stating that most frequently exploratory studies are carried out when there is insufficient information on a topic.

5.3.2 Exploratory research

Mouton and Marais (1996) and Sarantakos (1993) refer to three types of exploratory research, namely:

- Review of available literature;
- Expert survey; and
- Analysis of case studies.

These types are employed separately in research design. Sarantakos (1993), however, is of the view that most projects/researches employ more than one
type of exploratory study, with literature research being predominant. In this study, a combination of all three types of exploratory research was employed.

5.3.3 Research Design

A research design is an exposition or plan of how the researcher decided to execute the formulated research problem. The objective of the research design is to plan, structure and execute the project concerned in such a way that the validity of the findings is maximised (Mouton and Marais, 1996).

Once the problem has been clearly formulated, the researcher must develop an overall plan or framework for the investigation. To do this, the researcher must, in effect, anticipate all of the subsequent stages of the research project. Preliminary decisions have to be made about what sort of observations are needed to solve the research problem or to provide an adequate test of the hypothesis. The researcher must then select an appropriate strategy for making the observations-experiment, survey, field research, or use of available data (Singleton J R et al. 1988).

In this study, the research problem has been clearly formulated and articulated in Chapter 1 and Chapter 5. The methodology to be used in this study is exploratory research and the rationale for the selection was articulated in para 5.3.1 above.

The overall research design of this study includes:

- Data Collection;
- Sampling;
- Reliability;
- Validity; and
- Analysis (identification) and interpretation.
5.3.4 Data Collection

The research methodology (exploratory research) used in this study consists of three methods, namely:

- Literature reviews;
- Analysis of case studies; and
- Expert surveys / interviews.

All three methods of exploratory research were employed.

5.3.5 Review of available literature

Literature reviews were undertaken in Chapter 2 and 3. In Chapter 2, an extensive literature review on the concept of globalisation was undertaken. It is imperative for the study that an understanding of the concept is gained. It is submitted that globalisation plays a significant part/role in the current state of retrenchments or job losses. The literature review on the concept of globalisation concentrated on the following subjects:

- Definitions of globalisation;
- Historical development of globalisation as a concept;
- The understanding of different views on the effect of globalisation;
- Concept of "world-class status";
- The effects of globalisation in South Africa at a macro level; and
- The impact of globalisation on employment.

In Chapter 3 further literature review was conducted. The literature review was about the management of retrenchments in South Africa. The literature review looked at the following subjects:

- Statistical information on employment in South Africa;
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- The statutory provisions of management of retrenchments;
- Social Plan Guidelines from its proposal to adoption stage;
- Evaluation of various large companies' social responsibility initiatives to determine the extent to which they incorporate the element of the Social Plan; and
- Employment relations strategy of a company ascending to world-class status to determine the extent to which it caters for a Social Plan.

The literature review places the whole concept of a Social Plan in perspective because the review considered almost all the aspects that have an influence on the management of retrenchments. The limitation of the reviews that was conducted on academic literature is that the academic literature on this subject is limited.

5.3.6 Analysis of case studies

Selltiz et al. (1976), when writing about this type of exploratory studies, referred to "insight-stimulating examples" and were cautious about distinguishing between this type of exploration and case studies in general. When literature reviews and expert surveys provide insufficient information or when qualitative research is utilised, researchers collect first-hand information through case-study research. Single cases relevant to the issue are selected and studied in order to collect information for the main study. It must be noted that case studies as a concept can be a research model as well as a method of data collection. In this study, the case studies are used as a method of data collection.

In this study, data was collected through the analysis of two case studies that were each sub-divided into two parts, namely:
• Case Study 1

Part one: The case study looked at how the City Council of Matlosana was impacted by large-scale retrenchments (DRD-Gold retrenched 6 000 miners in March 2005) and how the City Council applied the principles of the Social Plan to ameliorate the effects of retrenchments.

Part two: How a trade union (Solidarity) that had minority members in DRD-Gold played a role in managing the retrenchments that impacted its members.

• Case Study 2

Part One: How an organisation (Eskom Holdings) managed retrenchments prior to 1998 (prior to the introduction of a Social Plan concept) and how Eskom Holdings presently manages retrenchments.

Part Two: How an organisation (Telkom) managed a restructuring process in the year 2001/2.

5.3.7 Expert surveys / interviews

Expert surveys involve interviews with experts who have substantial knowledge and experience in the research area, although their findings might not yet have been published. This unpublished information is quite often very relevant to the research object and can only be obtained through such interviews (Sarantakos, 1993).

In this study, interviews were conducted with people who were intimately involved in the cases when they unfolded. These people have practical experience in the field. The study opted to include interviews as part of data collection due to the fact that the documentation relating to the case studies is not academically drafted and therefore there are gaps in the documentary data. The purpose of the interviews was to close the gaps in the information provided.
Three interviews were conducted with the following persons:

- Mr Alison Khuzwayo, Chief of Local Economic Development City of Matlosane;
- Mr Fantie Loots, HR Manager (Generation Division), Eskom Holdings;
- Mr Reint Dykema, Union Official, Solidarity Trade Union.

The interview was an in-person interview but unstructured. It was unstructured due to the fact that the information required is dependent on the gaps in particular case studies' information. It is therefore not possible to have a structured and standardised questionnaire.

### 5.4 SAMPLING

There are two main methods of sampling: probability and non-probability sampling. Probability random sampling refers to a situation in which every individual or object in the population of interest has an equal chance of being chosen for study. Non-probability sampling approaches are used when an approach is not judged to be necessary (Blaxter et al, 1999).

In this study the non-probability sampling approach was employed. A probabilistic approach is not necessary. The population was simply based on those organisations which had experienced large-scale retrenchments and use some of the principles of Social Plan Guidelines.

### 5.5 VALIDITY

In Chapter 1 the validity factor of this study was discussed. It was concluded that due to the nature of the exploratory study, theoretical or conceptual validation would be employed. It is not possible to employ empirical validation because of the nature of the study.
5.6 RELIABILITY

The reliability of a measure indicates the stability and consistency with which the instrument measures the concept and helps to assess the "goodness" of a measure (Sekaran, 1992). In an exploratory research it is not possible to achieve reliability through production of consistent results. The study intends to achieve reliability through precision and objectivity when gathering data; analyses and interpretation of data and presentation of findings.

5.7 ANALYSIS (IDENTIFICATION) AND INTERPRETATION

The study is exploratory research and therefore there is no measuring instrument that can give or produce consistent results. The analysis and interpretation of the information gathered would be identified and interpreted according to themes that emerge from the information. The themes will be merged or clustered to manageable clusters that can be interpreted. The clustering will be based on commonalities of various factors within the themes.

5.8 CONCLUSION

This chapter is a blueprint of this study. It gives an indication of how this study was constructed from the methodology to conclusions and recommendations. The blueprint indicates various stages within the study. It indicated how the stages were managed and explains the rationale for the choice of these various stages. In summarising the various stages, the blueprint can be schematically represented as follows:
RESEARCH METHODOLOGY

DEFINITION OF RESEARCH PROBLEM

"Are the current Social Plan Guidelines, as a retrenchment strategy, able to address retrenchment challenges?"

SELECTION OF METHODOLOGY

Exploratory Research

- Data Collection
  - Literature Review
  - Expert Survey/
    - Interviews
  - Case Studies
- Sampling
- Reliability
- Validity
- Analysis
  (identification/interpretation)

RESEARCH DESIGN

Figure 5.2: Schematic representation of the research blueprint of the study
CHAPTER 6
RESEARCH FINDINGS: IDENTIFICATION AND INTERPRETATION OF CHALLENGES

6.1 INTRODUCTION
In Chapter 1, the study introduced the research question that the study will be focusing on. The key focus of the study is to evaluate the current Social Plan as retrenchment strategy in order to determine whether it is able to address retrenchment challenges. Various literature (Chapters 2 and 3), including international literature, was reviewed. Further, the study reviewed case studies. The purpose of the case studies was to demonstrate, in practical terms, how the process of retrenchments was handled.

The research question of the study was defined in Chapter 1. The research question was defined as: "Is the current Social Plan as a retrenchment strategy able to address retrenchment challenges?" To address and answer the question posed by the research question, literature and case studies were reviewed. The process highlighted various aspects on the management of retrenchments. The aspects included the rationale that was advanced to motivate for the establishment of a Social Plan, the debates that ensued between various role-players / stakeholders that were or likely to be affected by the final product of the Social Plan.

The case studies and the literature review presented the practical and the theoretical demonstration of the management of Social Plan respectively. Having considered or reviewed both the practical and the theoretical aspects of managing large-scale retrenchments through a Social Plan and in some cases without the Social Plan, this chapter will focus on the research findings.

This chapter will identify (from the literature review undertaken in Chapters 2 and 3) and interpret the research findings that were highlighted by the review process.
Further, this chapter will highlight the challenges that have been identified by a report commissioned by the Department of Labour (Cheadle, Thompson and Haysom Attorneys, 2005). The primary focus of this chapter is therefore to present current limitations that have been identified as inhibitors to a Social Plan to address retrenchment challenges.

6.2 IDENTIFICATION AND INTERPRETATION OF CHALLENGES

As indicated above, theoretical (literature reviews) and practical (case studies) reviews were conducted. The review process highlighted various aspects (some positive and some negative) on how retrenchments are being managed. The following limitations (negative aspects) are identifiable from the literature reviews:

6.3 LACK OF BUY-IN BY OTHER SECTORS' EMPLOYERS

In the early 1990s (Table 3.4 Employment Figures in the Mining Industries), the mining industry experienced large-scale retrenchments. NUM advocated the introduction of a Social Plan. In 1995, NUM submitted its proposal to Nedlac for negotiations. The proposal was in the form of a "Social Plan Act" (Social Plan Act, 1995). The proposal was debated at Nedlac and it was agreed that a task team comprising various stakeholders would be formed to investigate and develop a framework on Social Plans. The findings of the task team were debated and ratified by all stakeholders at the Presidential Job Summit.

It must be noted that the Presidential Job Summit was convened as a result of large-scale retrenchments in the country but the industry mainly affected was the mining industry. Consequently, the best-represented industry at the summit was mining (both employers and trade unions). The summit was not truly representative of the various economic sectors.
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The ratification of the task team's findings was therefore supported by the mining industry. The other sectors' employers were not represented and hence there was a lack of support for the Social Plan. There are very few organisations that have embraced the Social Plan. The number is even more disturbing outside the mining sector, government departments and parastatals.

The lack of support or buy-in of the Social Plan seems to stem from the manner in which the Social Plan was introduced in South Africa. It was pitched as a response to the large-scale retrenchments that were at the time rampant in the mining industry. The Social Plan is a guideline document and therefore many employers who did not participate in the formation of the Social Plan have no allegiance to the document – hence the lack of adoption. This is a challenge to the very existence of a Social Plan as a guiding document in managing large-scale retrenchments.

6.4 LEGAL STATUS OF THE SOCIAL PLAN

In 6.1 above it was indicated how the Social Plan came about. What is worth noting is that the Social Plan was gazetted as a "guideline" and not as an "Act of Parliament". There is a difference between a guideline and an Act of Parliament. The literal meaning of a "guideline" is a principle used to direct actions (Little Pocket English Oxford Dictionary, 1998). It is not prescriptive. Generally, it therefore means that a Social Plan as a guideline document is a set of principles that may be used to direct the actions of employers in managing large-scale retrenchments. On the other hand, an Act of Parliament is prescriptive and has legal consequences should organisations fail to adhere to its provisions. The status of the Social Plan as a guideline as opposed to an Act of Parliament suggests that the employers may choose whether to adopt the Social Plan or whether to simply ignore it. This has led to the low adoption rate of the Social Plan as a document to manage large-scale retrenchments.
Further, the lack of legal status of the Social Plan has to a large extent disempowered trade unions in situations of retrenchment. Trade unions will be forced to bargain with employers to adopt Social Plans. The Social Plans will then transform from being a mere guideline to a collective agreement between the employer and trade unions. The advantage of collective agreements is that they are legally enforceable (Section 23, Labour Relations Act 66 of 1995).

The process of transforming the Social Plan from a guideline into a collective bargaining process through collective bargaining raises fundamental questions about the very existence of a Social Plan as a guideline.

A side but significant challenge of the legal status of the Social Plan is that it does not assist a vulnerable segment of employees that it was intended to assist. Employees who do not belong to trade unions and have an employer that does not adopt a Social Plan will not have the means of engaging effectively in the collective bargaining process.

6.5 DEFINITION OF LARGE-SCALE RETRENCHMENTS

The Social Plan has principles that are generally referred to us as "trigger provisions". They are referred to as such due to the fact that the Social Plan will only be applicable once the provision or principle is met. One of the "trigger provisions" defines what is meant by large-scale retrenchments. The Social Plan principle provides that "the Social Plan applies in the event of threatening large-scale retrenchments (500 people or 10% of the labour force of an organisation)" (Social Plan volume 409, 1999a). Large-scale retrenchments are therefore defined as retrenchments or potential retrenchments that affect or may affect 500 employees or 10% of the labour force of an organisation.

The definition poses various challenges to the effective management of retrenchments.
6.5.1 Exclusion of small-scale retrenchments

Retrenchments, irrespective of size, arguably have the same impact on the individual. Whether the individual was part of a large group or small group, the impact on the individual is the same (in the absence of a Social Plan).

The definition of large-scale retrenchments explicitly excludes other retrenchments, which do not meet the threshold. The Social Plan fails to give an alternative to retrenchments that do not meet the requirements.

6.5.2 Accumulative effect of small-scale retrenchments

To demonstrate the accumulative effect of small-scale retrenchments two hypothetical examples will be considered.

- Example 1
  In company A, there is a total labour force of 10,000. The company having experienced financial difficulties embarks on a retrenchment process. The company plans to retrench 400 employees per annum for a period of three years.

  According to the definition of large-scale retrenchments, the company does not fall within the provisions of the Social Plan because 400 employees are less than 500 and they amount to 4% of the total labour force. The cumulative effect of this is that (400 x 3 p.a.) 1200 employees were not covered by the Social Plan. The accumulative effect is huge but, given the definition of large-scale retrenchments, they were excluded.

  Further, this example presumes that the company has adopted the Social Plan as a document to manage large-scale retrenchments but, because of the definition, they did not invoke it. It should be noted that in para 6.2 it was pointed out that, irrespective of the number of employees facing retrenchments, the company has a choice in adopting the Social Plan or not due to its "guideline" status.
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- **Example 2**
  Taking the same set of facts but using companies of similar size (in terms of labour force) within a particular industry contemplating retrenching 400 or less employees per annum, this would give an average of 300 employees in three organisations. It would mean that 2 700 employees (300 employees x 3 p.a. x 3 organisations) would be retrenched in one industry in the next three years.

  Given the definition of large-scale retrenchments, the individual organisations in their own rights do not have to invoke the Social Plan provisions.

6.6 **REACTIVE APPROACH OF DEPARTMENT OF LABOUR**

According to the Social Plan, any organisation contemplating large-scale retrenchments (as per definition) within a period of a year should notify the DoL as soon as possible and will offer the following services:

- Group Counselling;
- Registration as job-seeker and claiming unemployment insurance;
- Provide information (labour market opportunities);
- Provide information pack on how to cope with retrenchments;
- Placement services; and
- Training and re-training of retrenched employees.

The services offered by the DoL suggest (by their nature) that the DoL does not engage pro-actively with employers. The services suggest that the DoL manages the retrenchment phase (e.g. Unemployment Insurance). An insurance fund can only be claimed when a person is unemployed (Unemployment Insurance Fund Act No. 63 of 2001)
The Social Plan provides that the DoL will provide training and re-training for retrenched employees. The DoL's training and/or re-training initiatives do not complement the provisions of the Skills Development Act No 97 of 1998. The Skills Development Act's purpose is to:

a) Develop the skills of the South African workforce:

   I. Improving the quality of life of workers, their prospects of work and labour skills;
   II. Improving productivity in the workplace and the competitiveness of employers;
   III. Promoting self-employment; and
   IV. Promoting the delivery of social services.

b) Increase the levels of investment in education and training in labour market to improve the return of that investment.

c) Encourage employers to:

   Use the workplace as an active learning environment;

   I. Provide employees with the opportunities to acquire new skills;
   II. Provide opportunities for new entrants to the labour market to gain work experience; and
   III. Employ persons who find it difficult to be employed.

d) Encourage workers to participate in learnerships and other training programmes.

e) Improve the employment prospects of persons previously disadvantaged by unfair discrimination and to re-dress those disadvantages through training and education.

f) Ensure the quality of education and training in and for the workplace.

g) Assist:

   I. Worker-seekers to find work.
   II. Retrenched workers to re-enter the labour market.
   III. Employers to find qualified employees.
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The Skills Development Act initiatives are (as is evident from their purpose) designed to be managed proactively as part of an organisation's business operations. The Social Plan does not even make mention of the Skills Development Act. The Skills Development Act also does not refer to the Social Plan. This is despite the fact that both documents refer to:

- Training and re-training of person (employees and ex-employees);
- Promoting self-employment;
- Assisting retrenched workers to re-enter the labour market forces.

It is evident that the two documents (Social Plan and Skills Development Act) do not complement one another; as a result there are no comprehensive synergistic approaches in the management of training and/or re-training of employees impacted by retrenchments.

6.7 THE ROLE OF FUTURE FORUMS AND TECHNICAL SUPPORT FACILITY

The Social Plan proposes on-going discussions between worker representatives and employers to set up "early-warning systems" to identify possible retrenchments. It proposes the establishment of Future Forum, whether separately or as part of existing bargaining forums, involving employees and their representatives and management (Jackson, 1999).

6.7.1 Future Forums

The main objectives of the Future Forum are to:

- Promote discussions between the company and employees or their representatives and other relevant parties in respect of any problems and challenges experienced by either of the parties in respect of or relating to possible retrenchments;
- Jointly debate possible solutions;
- Jointly engage in strategic planning;
- Initiate turnaround and/or redeployment or other appropriate strategies to prevent job losses whilst promoting business competitiveness and viability;
- Jointly structure and implement solutions to prevent job losses and retrenchments.

The existence of Future Forums and their objectives poses challenges to the collective bargaining processes or arrangements within the organisation, statutory requirements (Section 189 and 189A of LRA) and the co-determination approach, which is suggested by the Future Forum.

Section 189 (1) of LRA provides that "when an employer contemplates dismissing one or more employees for reasons based on the employer’s operational requirements, the employer must consult...". "Consultation" as contemplated by section 189 (1) means that the employer will engage with the other party in an attempt to reach consensus; however, the final decision rests with the employer. The Social Plan defines the objectives of Future Forums by consistently using the word "jointly"—e.g. jointly engage in strategic planning.

The word "jointly" suggests a co-determination approach, meaning that the final decision rests with both the representatives of Future Forums i.e. employer and trade unions. This difference creates a fundamental contradiction. In Germany (Chapter 3) the economic committees, which are the equivalent of Future Forums, do not deal with or manage retrenchments. Their function is to advise the Work’s Council (equivalent of workplace forums) about the economic and financial status of the company.

6.7.2 Technical Support Facility

The Social Plan provides assistance through Social Plan’s Technical Support Facility (SPTSF), which aims to prevent job losses and employment decline where possible. The SPTSF was established under the auspices of the
National Productivity Institute (NPI). The NPI is being used to give infrastructure assistance to the SPTSF and to provide resources for technical and advisory services. The SPTSF is a facility designed to provide technical assistance and support to Future Forums. The aims and objectives of SPTSF are to:

- Develop criteria and prioritise sectors or industries that are in decline and conduct three in-depth sector or industry studies per annum to analyse problems and recommend solutions for troubled sectors or industries;
- Develop sector or industry programmes to provide meaningful assistance to the prioritised sectors or industries;
- Provide individual companies and sectors that are not in decline with desk studies to analyse problems and recommend solutions.

The SPTSF under the auspices of NPI (it would seem) moves from a premise or premises that:

- Large-scale retrenchments only happen within a sector or industry;
- Large-scale retrenchments only happen when a sector or industry is in decline; and
- Companies do not have the skills to do analysis or commission analysis.

It is evident from the objectives of the SPTSF that it conducts studies when a sector or industry is in decline. The SPTSF's approach poses a challenge. It is incorrect to assume that large-scale retrenchments happen only within a sector or industry. Large-scale retrenchments can occur within a particular company or within various companies from various industries or sectors.

Further, large-scale retrenchments do not happen only when a sector or industry is in decline; in fact, the opposite has proved to be true. Large-scale retrenchments do occur in industries or sectors that are flourishing e.g. as a result of a merger/take-over or as a strategy to maximise profits.
Browne (2006) wrote an article to illustrate the interplay between security of employment and the Competition Act:

"... The Labour Relations Act provides, under section 197, that the contracts of employment of employees must be transferred from the seller of a business to the purchaser of that business. Mergers often result in there being surplus employees in the merged entity because of the operation of section 197.

Employers have a right to dismiss employees for operational reasons subject to the procedures set out in section 189, which is designed to ensure that employees are not dismissed unfairly and that those who are dismissed are adequately consulted and compensated.

Dismissals for operational requirements have become highly topical in the context of competition law. The Competition Act requires the competition authorities to consider the effect of a merger on employment, and the parties to a merger are obliged to complete a schedule outlining the effects.

The competition commission requires that the parties provide details of the 'worst case scenario'. Having received these details, the competition authorities have increasingly been inclined to impose conditions preventing the parties from implementing their worst case scenario, or to ensure that they do not exceed their worst case scenario.

In a merger between two internet service providers earlier this year, the proposed merged entity and the employees reached an agreement on the number of employees and the time period for the retrenchments resulting from the transaction.
The competition tribunal judged that the agreement adequately addressed the public interest's concerns arising from the merger.

In its hostile take-over bid for Gold Fields, Harmony anticipated there would be between 1 000 and 1 500 retrenchments as a result of the rationalisation of production and support facilities and the flattening of management structures.

The commission accepted Harmony's offer to limit job losses to 1 500 employees in so-called supervisory positions. The tribunal, however, went a step further by lowering the number of merger-specific retrenchments to 1 000 jobs.

The tribunal imposed as a condition Harmony's undertaking that the retrenchments would affect staff occupying posts, because these employees could find new employment as they had marketable skills.

In a recent case, a target firm was on the brink of failing, putting 1 500 jobs in jeopardy. A competitor proposed buying it and shedding up to 400 jobs, but the commission recommended that there be a moratorium on the maximum number of categories of employees that could be retrenched. The merger parties were required to offer alternative skills training to the affected employees for six months from the date of the retrenchment notice and to provide accommodation and two meals a day for the duration of the training. If parties plan retrenchments due to a merger, it is likely that the merged entity may face a conditional approval and a delay in the merger clearance process.

In the case of Fry's Metal (2003), the court accepted a possibility that dismissals in the situation where employees are unwilling to accept a change to conditions of employment can be justified on the basis of the operational requirements. In General Food Industries Ltd (2004) the court confirmed that
an employer was entitled to dismiss employees in order to increase profits and not only to ensure its survival.

In Enterprise Foods (Pty) Ltd (2004), the court also confirmed that an employer was entitled to cut costs and to increase profits in the context of an increasingly competitive environment and a merger between two companies.

Large organisations (which are most likely to be affected by large-scale retrenchments as defined) have internal functions / portfolios whose duty it is to conduct analyses as the SPTSF. The aims and objectives of the SPTSF as they stand suggest that companies do not have such expertise and, if they do, they are not competent enough to conduct such analyses. The aims and objectives of the SPTSF refer to large-scale retrenchments but they reflect a position that is most likely to be encountered by very small companies that may not even be covered by the large-scale definition.

6.8 LACK OF INTEGRATION

Retrenchments are statutorily regulated by section 189 and section 189A of the LRA (See Chapter 3). The statutory provisions are supported by a Code of Good Practice, which is attached to the LRA. Section 189 deals with retrenchments where the employer contemplates dismissing for operational requirements less than 10% of its total workforce within a period of a year. Section 189A applies when more than 10% of the workplace is likely to be dismissed within a period of a year. The Code of Good Practice should be applied in conjunction with any retrenchment process, either section 189 or section 189A. The Code is used as a guideline to assist during a retrenchment process.

The Social Plan Guidelines, on the other hand, are applicable in the event where it is contemplated that more than 500 employees or 10% of the total workforce may face dismissals. Further, in terms of the LRA, parties (employer and trade unions) may bargain collectively and agree on various
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collective agreements. The collective agreements may include a process to be used by the parties to supplement the statutory process of retrenchments.

It is evident from the above that there are four (4) possible processes that can individually and/or collectively be used to manage the process of retrenchments. There are various challenges that are posed by the existence or rather co-existence of these processes.

6.8.1 Statutory Provisions vs Guidelines

In 6.2 above, the legal status of the Social Plan Guidelines was discussed. It is however necessary to discuss the same point again to illustrate the lack of integration of the process. The LRA does not make mention of the Social Plan but it does make mention of possible collective agreements. The Code of Good Practice makes mention of statutory provision but it does not make mention of the Code of Good Practice or the statutory provisions. This is despite the fact that all these processes are intended to manage retrenchments. How does an employer choose which process to adopt?

Further, the statutory provision in conjunction with the Code of Good Practice is to an extent limited to the legal process, which is inwardly / internally focused. The internal focus is evident from the fact that attempts to minimise and/or find alternatives to retrenchments are limited to internal processes such as re-training and redeployment. The statutory provision does not suggest or make statutory provisions for external focus. The external focus if undertaken by an employer is more through its initiative rather than a statutory obligation.

The Social Plan on the other hand is more externally focused. It seeks to look at external opportunities to re-integrate the impacted employees into the labour market. The challenge is that these processes are not aligned.
6.9 RETRENCHMENT QUOTAS

The application of sections 189, 189A and Social Plan Guidelines is subject to the quota of employees likely to be affected by the retrenchments. Section A is applicable when "an employer contemplates dismissing by reason of the employer's operational requirement" at least 10% of the employer's total workforce calculated as follows:

I. 10 employees, if the employer employs up to 200 employees.
II. 20 employees, if the employer employs more than 200, but not more than 300 employees.
III. 30 employees, if the employer employs more than 300, but not more than 400 employees.
IV. 40 employees, if the employer employs more than 400, but not more than 500 employees or
V. 50 employees, if the employer employs more than 500 employees; and the number of employees that the employer contemplates dismissing together with the number of employees that have been dismissed by reason of the employer's operational requirements in the 12 months prior to the employer issuing a notice is equal to, or exceeds the relevant number specified above.

Section 189A is applicable to employers employing more than 50 employees only. The Social Plan Guidelines are applicable when the employer contemplates retrenching more than 50 employees or 10% of the workforce. Both section 189A and the Social Plan Guidelines are intended to manage large-scale retrenchments, but the definitions for applicability are different. For example, in a situation where an employer employs 50 employees and it contemplates retrenching five employees, the Social Plan Guidelines will be applicable but section 189A will not. The employees impacted are equal to 10% of the total workforce; therefore they meet the Social Plan Guidelines, but the employees in total do not exceed 50 in number and therefore do not meet the requirements of section 189A.
The definition further poses challenges in that five employees can hardly be regarded as large-scale retrenchments but are covered by a process (Social Plan Guidelines) meant for large-scale retrenchments.

6.9.1 Cooperation within Sector/Industry

In Chapter 4, the principles of the Social Plan Guidelines were discussed. The principles indicated, among other things, two areas that are intended to be addressed by Social Plan, namely:

- Large-scale retrenchments may have an adverse impact on a sector, region or national interest; and
- The Social Plan aims to ameliorate the social and economic impact on individuals, regions and the economy.

It is evident that the Social Plan encourages sectoral and industry cooperation. Sectoral cooperation in this context means organisations within the same sector (business areas) such as manufacturing. Industry cooperation means cross-sectoral or all businesses within a particular region or nationally.

The Social Plan is very explicit in its intention to ameliorate retrenchments both at sectoral and industry level. The intention suggests that co-operation agreements or memoranda of understanding at various levels (both sector and industry) should be entered into. The intention, however, remains simply that, since the Social Plan Guidelines do not explain how the co-operation can be sought and enhanced. Despite the noble intention, the Social Plan Guidelines unequivocally provide for co-operation at organisational level. The establishment of future forums at sectoral and industry level can be formed. Any formation of co-operation at sectoral and/or industry level is therefore by default and not by practical design.

The lack of guidance on how to forge forums at sectoral and industry level defeats the objectives or, in part, the very existence of the Social Plan.
Guidelines. The objectives of ameliorating large-scale retrenchments across sectors and industries is therefore hampered or seriously challenged by the lack of framework to forge such forums.

6.9.2 Law of Insolvency and Social Plan Guidelines

In terms of the Insolvency Act and the Companies' Act, there are forms of insolvency/liquidation/winding up that have a direct impact on the continued employment of the employees. There is voluntary winding up and compulsory winding up. In both instances, the repercussions to the employees are dire, as the company is closing down.

Until recently, employees whose services were terminated as a result of any form of winding up were not protected in terms of the LRA. Consequently, employees would forfeit their severance packages as other preferred and secured creditors must be settled prior to severance packages. In the case of South African Agricultural Plantation of Allied Workers Union (SAAPAWU) (1999) versus Hall and Sons Group Services Ltd and others, the court opined: “As far as the present Labour Relations Act is concerned, I do not think that there is any conflict between it and the Insolvency Act. The Labour Relations Act is silent on the termination of an employment contract on the grounds of insolvency. It does not deal with the fairness of such a termination”.

In the case of the National Union of Leather Workers versus Banard and Another, (2001), the Labour Appeal Court distinguished in this regard between involuntary/compulsory winding up and voluntary winding up. The court drew attention to the difference between the procedure leading to a compulsory winding up of a company, in which a court has a discretion as to whether to grant such an order and a voluntary winding up, where the court cannot interfere with the right which the Companies Act gives to a requisite majority of shareholders to effect a winding up once the proper procedure has been followed. The court held that in the case of voluntary winding up, it is the requisite resolution by the majority which causes the termination. As a result of voluntary winding up employees are deemed to have been dismissed. The
employees are entitled to be consulted in accordance with the requirements of section 189 of the LRA.

This position poses various challenges to employees facing retrenchments when companies are being wound up. The following are some of the notable challenges:

6.9.2.1 Compulsory Winding Up

It has been stated above that the LRA, and more specifically section 189 and section 189A, is not applicable in cases of compulsory winding up. The Social Plan Guidelines are not even mentioned. This is a challenge because compulsory winding up affects all the employees of that company and therefore it is highly likely that the impacted employees would be regarded as large-scale. Employees are not consulted nor will they benefit from a Social Plan Programme in this case. Further, the employees are not regarded as secured creditors. This may result in employees being left without severance packages.

6.9.2.2 Liquidation Process

When the liquidator is appointed in terms of the Companies Act to wind up a company, the liquidator assumes the role of managing the company. In terms of the liquidation process, the liquidator must consult with employees or trade union representatives. In terms of a compulsory winding up, the liquidator does not have to consult or invite the employees or trade unions to be part of the winding up process. Consequently, the interest of employees is not enhanced. This was evident in the case study of Solidarity trade union in Chapter 4.

6.10 SECURITY OF PERMANENT WORKERS

There is a developing trend for organisations in South Africa to “casualise” their workforces. Casualisation means that organisations employ staff on a contract basis. The employment differs from a fixed-term contract to working a
limited number of hours or days in a week. The employee services can be terminated (whether for operational requirements or not) by serving notice.

Employees are employed in this manner for many years. This deprives employees of any social security benefits. When the employees’ services are terminated, they have no accrued benefits to rely on.

The Social Plan Guidelines and the LRA do not cater for casual workers in that the employer is merely required to serve notice. When the employer contemplates shedding employment for operational reasons, permanent employees are spared. The process affects casual employees. Casual employees may be impacted in thousands, but due to their casual status, the same protection as with permanent employees is not afforded. In fact organisations when consulting with trade unions on ways to minimise or avoid retrenchments, included in the strategies, are that casual workers must be retrenched first. In a labour market that is becoming characterised by casualisation, the current Social Plan Guidelines pose a serious challenge to ameliorating the effects of employment loss.

6.11 CORPORATE SOCIAL INVESTMENTS

In Chapter 4, a literature review of Corporate Social Investments was conducted. It became evident that the objectives of the Social Plan Guidelines and Corporate Social Investments strategies do not include any integration with the Social Plan Guidelines.

As part of corporate governance, Corporate Social Investments are normally managed as “companies not for gain”/section 21 companies. They are managed through a board of directors. For the future forums to be effective, sums of money must be allocated for use. The future forums do not have to report their activities through financial reports. There is no statutory accountability for future forums as compared to Corporate Social Investments.
6.12 PROVINCIAL AND LOCAL AUTHORITIES

According to the Social Plan Guidelines, the Department of Provincial and Local Government is responsible for stimulating job-creation for provincial and local authorities. When a local authority has been affected by large-scale retrenchments of a company that was within its geographical area, it must access a Social Plan Fund. The Social Plan Fund provides financial assistance in the form of a R50 000,00 grant to local authorities to undertake local economic re-generation studies.

These provisions create various challenges. The fundamental challenge for this provision is that the R50 000,00 grant is insignificant by any standards to finance economic re-generation studies. Further, it is not clear whether the local authorities will have the skills and capabilities to deliver on the mandate. The local authorities have challenges of non-delivery of basic services and this added function might compound the problems of non-service delivery that already exist.

The Social Plan Guidelines assume that retrenchments will happen within one geographical area. They are silent on large-scale retrenchments that as a whole are large-scale but geographically spread. The Social Plan Guidelines are also silent on co-operation between different municipalities. The challenge is further compounded if there are cross-border municipalities.

6.13 LACK OF DATA

The primary objectives of the Social Plan are to minimise and avoid retrenchments, or, where retrenchments cannot be minimised or avoided, to ameliorate the effect of large-scale retrenchments. The Social Plan came into being as a result of large-scale retrenchments that were taking place at the time. The Social Plan Guidelines came into operation in 1999 (Government Gazette, 1999).
Since the commencement of the Social Plan Guidelines, there has been no database available that can provide information on the application of the Social Plan. There is a lack of information on issues such as:

- The job losses that have been avoided as a result of the application of the Social Plan;
- The impact of the application of the Social Plan on employment in South Africa;
- The financial assistance to Local Authorities by the Social Plan Fund;
- Documented case studies on how to manage retrenchments through a Social Plan;
- Functional future forums and their challenges.

6.13.1 Lack of Expertise

The Social Plan Guidelines provided that local economies (Provincial and Local Authorities) should look at developments and opportunities in the local and/or provincial economies. The local Authorities are tasked by the Municipal Systems Act to provide basic services to their communities. Immediately prior to the South African local elections that were held on 1 March 2006, various people including the President raised concerns about the ability of the Local Authorities to deliver basic services. One of the major reasons identified as contributing to the lack of service delivery, was the lack of skills and expertise within the Local Authorities.

The provisions of the Social Plan Guidelines present the Local Authorities with extra functions, which require specialised skills. One of the challenges that was raised by the City Council of Matlosana was the lack of skills at the City Council in managing this function. It is therefore a challenge to expect Local Authorities who are failing to deliver basic services due to lack of skills to perform an extra function which requires specialised skills.
6.14 CHALLENGES IDENTIFIED FOR THE DEPARTMENT OF LABOUR

In 2002, the Department of Labour (DoL) commissioned Cheadle Thompson Haysom Inc. to prepare a report on the Social Plan, with a view to embarking on a review of the Social Plan Approach. Cheadle Thompson Haysom Inc. interviewed various stakeholders and called for submissions during the process of preparing a report. In 2005 Cheadle Thompson Haysom Inc. presented a draft report (Cheadle Thompson Haysom Inc, 2005) for comment and discussion with the DoL.

The report noted that there were numerous problems and constraints associated with the Social Plan that were identified by stakeholders. The report listed the following key overall problems/challenges:

- The lack of awareness of the Social Plan and its content;
- The lack of commitment of the parties to the Social Plan;
- The lack of focus with regard to the implementation of the Social Plan;
- The phases of the Social Plan Guidelines are applied sequentially;
- The responsibilities assigned to parties with regard to the implementation of the Social Plan do not foster a co-ordinated approach; and
- The structures envisaged by the Social Plan are not universally applicable to all sectors.

6.14.1 The Lack of Awareness of the Social Plan and its Content

Many persons and organisations do not seem to know about the Social Plan. Knowledge about the Social Plan seems to be concentrated in the mining sector, and even there it does not seem to have any impact upon small and medium-size mines. Many businesses do not seem to know about the Social Plan details. For example, many businesses and trade unions do not seem to
know about the registration of technical experts developed by the SPTSF that may assist the parties in analysing the problems and identifying possible solutions.

The DoL has begun initiatives to market the Social Plan, but the effectiveness of the marketing cannot be evaluated. A conclusion has been drawn that without the benefit of any scientific survey relating to the awareness in the labour market of the Social Plan, it is believed that the Social Plan is not well known amongst employers and unions.

6.15 THE LACK OF COMMITMENT OF THE PARTIES TO THE SOCIAL PLAN

During the consultation process with stakeholders, parties accused each other of not being committed to the implementation of the Social Plan. The reasons for employers' lack of commitment, or at least perceived lack of commitment to the Social Plan, seem to include the following:

- The Social Plan is voluntary in nature. It does not oblige compliance from the employer;
- Some employees perceive the Social Plan to be of no benefit to them. Instead employers perceive it to be another constraint before engaging in retrenchment; and
- Some employers perceive the Social Plan to be an issue between Labour and Government, and merely a drain on the employer's resources.

The trade unions were also accused of lacking commitment. The following are the reasons given for the lack, or perceived lack, of commitment (Cheadle Thompson Haysom Inc, 2005):

- During the negotiations leading to the conclusion of the Social Plan in Nedlac, NUM spearheaded discussions on the trade union side. Very few other unions participated in the process;
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- The structure and processes provided for in the Social Plan seem to cater for large trade unions and large employers. It is sometimes difficult to see how the Social Plan applies to other sectors and industries where the mining pattern of operations and employment is not replicated;

- The trade union's lack of enthusiasm for co-determinist models such as workplace forums, especially where the process envisaged is consultative instead of joint decision-making, is also a significant factor.

In essence, the Future Forums provided for in the Social Plan are a co-determinative model akin to that of the workplace forum. The numbers of Future Forums that have been established are pitifully few.

6.16 THE LACK OF FOCUS WITH REGARD TO THE IMPLEMENTATION OF THE SOCIAL PLAN

When a large retrenchment is imminent, the amount of antagonism and mistrust between the parties is substantial. In this context, it is difficult to negotiate about long-term issues relating to the economic rejuvenation of a community or training of workers who are to lose their current employment. In most cases, workers who are about to be retrenched often want to get severance packages and close this painful chapter as soon as possible. Workers are not interested in long-term plans that may or may not have immediate impact.

Due to the fact that most energy is spent in managing retrenchments, the focus of the Social Plan is inevitably on retrenched workers. Very little attention is therefore paid to the unemployed generally, and the recently unemployed, those that have not been employed yet or the community as a whole. This is a very restrictive approach to the issue of job-creation and economic re-generation of areas affected by large-scale retrenchments (Cheadle Thompson Haysom Inc, 2005).
6.17 THE PHASES OF THE PLAN ARE APPLIED SEQUENTIALLY

The Social Plan has been analysed into three distinct phases. Phase 1 is about preventative measures, phase 2 about assisting retrenched workers and phase 3 about ways to assist retrenched workers and communities affected by large-scale retrenchments. The delineation is only helpful for the purposes of analysis; however, it does not mean that phase 2 only happens after phase 1 and before phase 3.

6.17.1 The responsibilities assigned to parties with regard to implementation of the Social Plan do not foster a co-ordinated approach

Ostensibly because the Social Plan has been divided into three distinct phases, departments were assigned responsibility for the implementation of the Social Plan. Phase 1 was assigned to the DoL, but was outsourced to the NPI. Phase 2 was assigned to the DoL. Phase 3 was assigned to the Department of Provincial and Local Government. The assignment of responsibilities without any effective structure to co-ordinate the implementation of the Social Plan creates problems of co-ordination of the government’s activities associated with the Social Plan and the integration of the various phases.

6.17.2 The structures envisaged by the Plan are not universally applicable to all sectors

Reading the Social Plan Guidelines, it is evident that the drafters of the Social Plan had one sector in mind, namely the mining sector. It is easy to see how the Social Plan is applicable to this sector, which generally has large employers and where the future of mining operations is often predictable. The concern is that the processes envisaged are not necessarily applicable to other sectors of the economy.
6.18 CONCLUSION

The challenges that have been identified in this chapter reveal a fundamental issue that can be clustered into various themes and categories. The challenges reveal a correlation and inter-dependencies between these challenges. The challenges that have been identified can be clustered under the following categories:

- Roles;
- Purpose;
- Support;
- Information Management;
- Statutory integration/legal framework;
- Human Resources;
- Financial Resources; and
- Strategic Alignment.

6.18.1 Roles

The challenges have shown that there are various stakeholders that are required to play a role in the effective management of a Social Plan as it stands currently. Stakeholders such as trade unions, communities, the DoL, NPI, Provincial and Local Authorities, impacted employees, Future Forum and many others were identified. The Social Plan Guidelines attempt to define and clarify some of the rules of these stakeholders. The definition and clarification, however, failed to indicate and manage the overlaps or inter-dependencies of these roles.
6.18.2 Purpose
The Social Plan, like any other programme, exists for a certain purpose. It exists because it aims to prevent job losses and a decline in employment; promotes alternative solutions to threatening job security and potential measures to prevent a decline in employment; and ameliorates the social and economic impact on individuals, regions and the economy. A challenge such as the definition of large-scale retrenchments negatively affects the very purpose it seeks to address. The definition excludes employees, who irrespective of the impact of retrenchments on them and their local economies, happen not to meet a 10% or 500 threshold. Further, it excludes the cumulative effect of small-scale retrenchments.

6.18.3 Support
In 6.1 and 6.2 above, it was indicated that there is little support for the Social Plan as a programme whose aim it is to address job losses. The challenge is identified and explained. There are various explanations given that lead to the lack of support. When there is no support and commitment, the effectiveness of the programme is challenged.

6.19 INFORMATION MANAGEMENT
In 6.10 and 6.1 above, it was indicated that one of the challenges of the Social Plan is the lack of information management. There is little or no information available in any form that records the management of a Social Plan as a retrenchment strategy. The report to the DoL has identified lack of awareness as a challenge for the Social Plan.

6.20 STATUTORY INTEGRATION / LEGAL FRAMEWORK
Generally, the management of employment relations and, more specifically, of retrenchments is very complex. There are many regulations and statutory provisions that must be considered when managing retrenchments. The lack
of integration of various pieces of legislation and other regulatory provisions was identified. The following areas of legislation and regulatory provisions were identified:

- Law of insolvency;
- Companies Act;
- LRA;
- Corporate Social Investment;
- Code of Good Practice;
- Competition Law; and
- Municipal Systems Act.

This legislation and regulatory provisions require integration for the effective management of the Social Plan. The challenge identified in this regard is that the Social Plan Guidelines either fail to align with these provisions or simply do not make reference to the said provisions. This results in conflict and/or interpretational challenges, which affect the very existence of the Social Plan or its application.

6.21 HUMAN RESOURCES

The roles of the various stakeholders that are involved in the application and management of the Social Plan must be performed by people. A challenge identified was that within the Local Authorities there are no skills to perform these roles effectively. It is questionable whether trade unions have the correct and adequate human resources to perform such functions either.

6.21.1 Financial Resources

The application and management of the Social Plan creates various activities, and some of them are accompanied by formation of structures. The activities and the functioning of the structures must be supported financially. It becomes difficult for a company under financial strain to finance these activities and
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structures. Further, the R50 000,00 grant to the Local Authorities to generate the economy is a very small amount to support such a need. If R50 000,00 is divided by 500 employees (minimum threshold), it means that R100,00 is spent per employee to re-generate the economy.

It is evident that the Social Plan faces many challenges. Some of the challenges are fundamental to the very existence of the Social Plan, not to mention its effectiveness. Further, it is evident that in its current form, the Social Plan is very ineffective and therefore not adequate to address retrenchment challenges.
CHAPTER 7
CONCLUSIONS AND RECOMMENDATIONS

7.1 INTRODUCTION

The study set out to investigate or determine the adequacy of the current Social Plan Guidelines to address the management of retrenchment challenges in South Africa. The study sought to determine whether the Social Plan can manage what it meant to or purported to achieve. The Social Plan aims to prevent job losses where possible or ameliorate the effects of retrenchments on individuals and local economies in the event of large-scale retrenchments.

In Chapter 1 the study gave a background or set the problem that the study sought to address. The problem was defined and a motivation was given as to why the study should be undertaken. The motivation included, amongst other factors, the value of the study (the theoretical and practical contribution). Further, the research approach or design of the study, outlining the process that the study will follow, was discussed.

In Chapter 2, the concept of globalisation was discussed. The discussions centred on the various definitions of globalisation that are available and the historical development of the concept of globalisation. Further, the discussions highlighted the effects of globalisation in South Africa at the macro level and the impact of globalisation on employment.

The management of retrenchments was discussed in Chapter 3. The chapter discussed statistical information on employment in South Africa; the statutory provisions that deal with the management of retrenchments; the history of the Social Plan Guidelines and the evaluation of various companies' social responsibility initiatives. The employment relations strategies of the companies that are ascending to world-class status were evaluated to determine the extent to which they cater for a Social Plan.
In Chapter 4 various case studies were reviewed. The case studies dealt with the practical approach of companies and a Local Authority in managing retrenchments. The chapter sought to indicate in practical terms the application (or lack thereof) of the Social Plan principles. Chapter 5 outlines the process that the study followed in undertaking the research and serves as a road map to the academic approach of the study.

Chapter 6 deals with the identification and interpretation of challenges that were highlighted by the review process that was undertaken in Chapters 3 and 4. Chapter 6 focuses on presenting gaps that have been identified as inhibitors to a Social Plan to address retrenchment challenges.

Chapter 7 will deal with the conclusions that are drawn from the research study. Once the conclusions have been made, the chapter will turn to recommendations that can be implemented to enhance the process of managing retrenchments.

7.2 CONCLUSIONS

Various challenges have been identified and interpreted in the previous chapter regarding the current Social Plan. The challenges are diverse yet interrelated in that they can be categorised into various groups, but are still dependent on each other. There are five significant categories into which the challenges fall:

- Institutions / Structures;
- Corporate Social Responsibility;
- Employment Relations Strategy;
- Legal Framework; and
- General.
For the purposes of this chapter, the challenges will be discussed under these categories and will be referred to as themes.

Each and every theme has individual challenges that fall under it. The themes and their individual challenges can be diagrammatically represented as follows:

![Diagram of Social Plan with categories and themes]

**Figure 7.1: The categorisation of challenges under themes**
7.2.1 Institutions / Structures

Institutions and/or structures of any model are the base and foundation of that model. They are the pillars of the model, without which the model cannot be operationalised. The Social Plan too has institutions and/or structures whose primary focus was to operationalise the Social Plan Guidelines and make them effective.

Discussions on each of the individual challenges that are listed under the theme of institutions/structures were discussed in detail in Chapter 6. It was pointed out in relation to all the individual challenges that these challenges have an impact on the effective management of the Social Plan. The highlighted challenges suggest that the management of a Social Plan is negatively impacted. Either the challenges do not add value and are bureaucratic, or they simply do not achieve what they were intended to do. In some cases, they have unintended consequences. These conclusions are drawn for the debate or discussions that occurred in the previous chapter. For ease of reference the main points of the discussion will be highlighted against each challenge.

i) NPI (SPTSF)

- The SPTSF moves from a premise that retrenchments only happen within a sector or industry. It (by implication) negates the fact that large-scale retrenchments can also happen within a particular company;
- The SPTSF further moves from a premise that retrenchments only happen when a sector or industry is in decline. It has been shown through various examples that large-scale retrenchments do occur in industries or sectors that are flourishing and that companies can retrench in order to increase profits (and not only to survive).
ii) DoL

- The services offered by the DoL suggest that the Department does not engage with employers pro-actively, but takes a reactive approach.
- The DoL manages both the Skills Development Act and the Social Plan. Both deal with training and development, but there are no synergies between the two.

iii) Future Forums

- The existence of Future Forums and their objectives poses challenges to the collective bargaining process or arrangements within the organisation, statutory requirements and the co-determination approach, which is suggested by the Future Forum.

iv) Provincial and Local Authority

- The R50 000,00 grant is insignificant by any standards to finance economic re-generation studies;
- The Social Plan is silent on large-scale retrenchments that as a whole are large-scale but geographically spread;
- The lack of skills has been identified.

Given the challenges that have been highlighted, it can be concluded that the base or foundation of the Social Plan is impacting the management of the Social Plan negatively. The effect makes the Social Plan largely irrelevant and means that it does not achieve what it was intended to. The structured and/or institutional aspect of the Social Plan is fundamentally flawed. In its current form the structure or institutional aspect of the Social Plan does not have a scope of applicability.

7.2.2 Legal Framework

The Social Plan is a process that provides guidelines and not legal rights and duties. Parties (employers and trade unions) can choose whether to use it or
not. Failure to use it in circumstances in which it is applicable does not attract any legal penalties / sanction.

The provisions of the Social Plan have a bearing on other statutory areas. In particular, the Social Plan has a bearing on the following:

- Insolvency Act;
- Companies Act;
- Labour Relations Act;
- Competitions Act; and
- Municipal Systems Act.

The Social Plan and the above-mentioned Acts operate, in one way or the other, within the same space. Inevitably this leads to contradictions and/or duplications of processes. Sometimes the Social Plan creates extra functions for institutions established under a particular Act e.g. Local and Provincial Authorities. The fact that the Social Plan is a guideline means that it cannot supersede any statutory provisions. The management of retrenchments through a Social Plan creates for employers an extra function, which is not, strictly speaking, required by an Act. The employers, as discussed in Chapter 6, are reluctant to embrace a process that is not a legal requirement when there are legal requirements from other Acts who seek to address the same issues.

It can therefore be concluded that, in its current form, the Social Plan's existence does not bring anything new that can be enforced to manage retrenchments effectively. Even if the Social Plan could be made an Act (an approach that is not supported), in its current form it will cause more contradictions and confusion. For a guideline to be effective, it must supplement and complement an Act that operates within that particular area. Currently the Social Plan does not. Consequently the existence of the Social Plan, in its current form, is not desirable.
7.2.3 Employment Relations

In Chapter 3 (Employment Relations Strategy) a deduction was made that integrative management of industrial relations and human resources management support the Social Plan. It means therefore that an employment relations strategy must have an element of strategic management of the Social Plan.

From this deduction it is evident that the objectives of a Social Plan can be (should be) managed within the Employment Relations Strategy rather as an independent process. The management of a Social Plan as a separate process creates duplication and conflict with Redundancy Procedures established by collective bargaining processes, Employee Assistance Programme (EAP) and the training and development initiatives that normally reside under Employee Relations Management.

It was argued in 7.2 that the existence of the Social Plan, in its current form, is not desirable. The objectives of a Social Plan do not have to exist in isolation; they can be accommodated and addressed through an Employment Relations Strategy. Consequently, it can be concluded that the Social Plan does not have to exist as a separate concept if its objectives can be addressed through existing company policies such as employment relations management.

7.2.4 Corporate Social Responsibility

In Chapter 3 (Corporate Social Investment) it was stated that the Social Plan principle must be an amelioration of the social and economic impact on individuals, regions and economy (local economy in particular) and support the objective of corporate social investment. Synergies between the Social Plan and corporate social investment strategies should be enhanced.
The enhancement of synergies may be done in various ways, including but not limited to the co-existence of the two processes. The co-existence of the two processes is not desired. In 7.2 and 7.3 it was argued that the existence of the Social Plan in its current form and/or as a separate process is not necessary. Taking the same line of argument, the Social Plan does not need to exist because its objectives can also be catered for through established processes such as corporate social investment initiatives. Companies have long-standing corporate social investment initiatives that they engage in voluntarily and that are also not in contradiction with other statutory provisions.

Corporate Social Investments initiatives are an integral part of the strategies of companies. Many companies have to establish non-profit subsidiaries to manage their corporate social investments. This addresses the point raised in 7.2 about inadequacies of the institutions/structures that are meant to operationalise the Social Plan. The subsidiaries are structures that exist, are internally managed and therefore more likely to achieve their mandate than many un-coordinated institutions.

Many companies report their corporate social investments initiatives in their financial reports. This enhances the corporate citizenship of companies. It therefore stands to reason that if the Social Plan objectives are incorporated into and managed under the corporate social investment initiatives, they are more likely to be addressed adequately.

7.2.5 General

The challenges listed under the general theme are dependent on the other four themes: the inadequacy of the institutions/structures, the contradiction and duplication of processes through a legal framework, and the lack of synergy between the employment relations theme and corporate social investment theme. These challenges can be addressed only by addressing the challenges of the other four themes.
In summary, the conclusions that have been reached above are that:

I. The Social Plan does not have to exist in its current form due to the inadequacies caused by the institutional / structural theme challenges.

II. The Social Plan fails to complement and supplement existing legislation that operates within the same area with it. It causes unnecessary duplication and contradiction with legal processes and therefore its existence is not desirable.

III. The objectives of the Social Plan can be addressed through an employment relations strategy and therefore the Social Plan does not have to exist as a separate concept.

IV. The objectives of the Social Plan can be addressed through established processes such as corporate social investment and therefore the Social Plan does not have to exist as a separate concept.

It can therefore be concluded that the Social Plan is not an adequate concept to address retrenchment (large- or small-scale) challenges in South Africa.

7.3 RECOMMENDATIONS

7.3.1 New Model of Managing Retrenchments

It has been concluded that the Social Plan is not an adequate concept to address retrenchment challenges in South Africa. The conclusion was made after the identification and interpretation of challenges, which were categorised into four themes. It became evident that two of the four themes, namely institutions/structure and legal framework, are the problematic themes. It was concluded that the Social Plan objectives can be achieved through the other two themes, namely employment relations and corporate social investment.

In order to construct a model that would address the objectives of the Social Plan in a different concept, the base of the model should be constructed with
the two themes (employment relations and corporate social investment). The diagram below illustrates the detachment of the two themes to be used as a base of constructing a new model of addressing retrenchments.

Figure 7.2: The construction of a base for a new model of addressing retrenchments
In Chapter 3 (Employment Relations Strategy), Parker (1999) was quoted as saying that the management of employment relations must reflect the fact that it is an inherent part of a company’s business plan, that it is pro-active and of a long-term nature, that it is an important matter for management because the model of addressing retrenchment challenges must have as a base or flow from a company’s business plan.

The management of retrenchments by its very nature involves employees. The employees are involved while they are still employed and when they are exiting the company through retrenchments. The participation of employees in matters that affect them and their company is important. Parker (1999) discussed the concept of Participative Performance-Driven Governance. This concept is the foundation of the involvement of employees in companies that are ascending to world-class status.

The management of retrenchments involves employees and the company and therefore it makes sense to apply the concept of Participative Performance-Driven Governance to the management of retrenchments. The concept allows for joint participation of both management and employees to focus on the business results. Business results, in this context, refer to the financial viability of the organisation while effective measures to avoid and/or minimise retrenchments are put in place. In the absence of effective measures, that includes training and development and entrepreneurial skills. The activities of this concept are formed by the company’s business plan. (See Figure 7.3.)
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Figure 7.3: Participative Performance-Driven Governance

The discussions on the construction of the new model of managing retrenchments above were premised on the following concepts:

- The concept that employment relations and corporate social investment can address the objective of managing retrenchments;
- The concept that employment relations (and corporate social investment in its own right) must be managed inherently as part of a company’s business plan;
- The world-class concepts that management and employees jointly drive performance (participative performance-driven governance).
The combination of these three concepts creates a new model of managing retrenchments, namely World-Class Management of Retrenchment Model developed by the author (Figure 7.4).

The operational aspect of the Social Plan objectives, it is submitted, should be depicted in the middle of the model found in Chapter 4 (4.4.3) Eskom Holdings Social Plan Process.
The operational aspect of the Social Plan objectives, as depicted in Figure 7.4 above, it is submitted that it represents the process depicted in Figure 3.4 (Eskom Holdings Social Plan Directive).

7.3.2 Advantages / benefits of the World-Class Management of Retrenchment Model

The principal benefits or advantages that are presented by the new model are the following:

i. The model is based on a company's business plan and therefore financial and human resources will be easier to make available.

ii. Both management and employees (either by themselves and/or through a trade union) participate jointly in operational implementation of the model.

iii. The model is linked to corporate social investment and therefore the company will be obliged to report on the management of retrenchments in their financial report when reporting on corporate social investment initiatives.

iv. The model is internally driven and therefore flexible.

v. The model does not create contradictions with other statutory provisions.

vi. The model processes will not create new obligatory internal structures. The existing structures of the company may be adapted accordingly to manage the process.

vii. The application of the model will not be quota-based but part of day-to-day operations of the company business.

viii. Integration of resources and operations within the company will be enhanced.
7.3.3 Disadvantages of the World-Class Management of Retrenchment Model

The model does present some disadvantages depending on the level at which the model is placed. The following are some of the disadvantages.

i. The model does not address industry co-operation. It is not the intention of the model to create "forced marriages". Parties must join forces voluntarily, having considered mutual benefits and potential synergies.

ii. Smaller companies may not necessarily have corporate social investment functions. Retrenchments can still be managed through employment relations only.

7.4 CONCLUSION

The concept of world-class organisations, as discussed in previous chapters, accepts that globalisation is a reality. It accepts that globalisation may have a negative impact on employment. It accepts that to be competitive there may be a need for organisations to reduce their workforces. It means therefore that an organisation that is ascending to world-class status must put world-class measures in place to manage the effects of retrenchments. The measures must adequately address the challenges of retrenchments. A world-class organisation is an organisation that is conscious of business results while promoting the participation of employees to achieve the same. The proposed model, Figure 7.4, to manage retrenchments reflects the characteristics of the concept of a world-class organisation. The base is the company's business plan driven by both the employees and management. The parties are developing strategies (employment relations strategy and corporate social investment strategy) that address the objectives of retrenchments (that would have normally been found in a Social Plan). In order for a Social Plan to be effective the objectives of retrenchments should be central to the business
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plan of the company, the employment relations management and the corporate social investment.

The model presented in Figure 7.4 replaces the Social Plan Guidelines. It is submitted that organisations that adopt and implement the proposed model will achieve more than they would have under the Social Plan. The model allows the organisations to align strategies with their business plan. It also allows flexibility, focus and pro-activeness in managing retrenchments. It will be possible to define roles internally, and deliverables that will be measurable. The most important factor is that the strategies and deliverables are reported through financial reports under the corporate social investment initiatives. Consequently, the management of retrenchments in an organisation becomes public information.

It is submitted that the current Social Plan Guidelines should be abolished and be replaced by a model that is organisation-based and controlled, a model that is integrated with business plans and managed as part of the day-to-day business operations of the organisation. The model developed in this research promotes the inclusions of the Social Plan guidelines into the business plan of organisations.

7.5 RECOMMENDATION FOR FURTHER RESEARCH

The purpose of this study was, among other things, to develop a model to manage retrenchments effectively. The model proposed in Figure 7.4 has been developed, but not been tested in practice in order to ascertain how effectively the model can be applied. It would therefore be beneficial if an empirical study were conducted on an organisation that has managed a retrenchment process having adopted the model.
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ANNEXURE A

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GENERAL NOTICE

Notice 1590 of 1999

DEPARTMENT OF LABOUR

SOCIAL PLAN

I, Membathisi Mphumzi Shepard Mdladlana, Minister of Labour, hereby publish for
general information the undermentioned Social Plan which flowed from the
Presidential Job Summit.

M.M.S. MDLADLANA
Minister of Labour

FOREWORD BY THE MINISTER OF LABOUR

South Africa is currently reeling from the news that several employers are planning to
retrench large numbers of workers. The combined effect of all of these retrenchments,
if they take place, is an alarming increase in unemployment and poverty. Whatever
the underlying economic reasons, the effect on affected individuals and regions is
severe, particularly in a context where unemployment is already way too high,

The Social Plan is an agreement concluded at the Presidential Job Summit last year. It
seeks to put in place three sets of measures: the first set of interventions seek to
prevent retrenchments taking place at all; the second seek to ensure that where they
are unavoidable then they are managed humanely; and thirdly where large scale
retrenchments have taken place then measures to assist the affected individuals and
communities to find alternative forms of employment or sustainable livelihoods are in
place.

Implementation of the agreement has already commenced: the National Productivity
Institute is in the process of establishing the Social Plan Technical Support Facility.
We intend to

more actively promote the establishment of Future Forums so that employers and
workers can together anticipate crises and plan more constructive alternatives to
retrenchment.

If retrenchments are unavoidable, my Department has already commenced with the of
retrenchment services and firms facing large scale retrenchments (over 500) are
invited to contact the provincial Department of Labour offices for assistance in this
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regard. Over and above this, we have begun to work together with other agencies—particularly local authorities in areas affected by large-scale retrenchment—to assist individuals and communities to develop alternative forms of employment.

The success of the Social Plan depends on all of the social partners working together. Unless we do, we shall fail to assist affected individuals and regions and our society will suffer the consequences. The time to implement the spirit as well as the letter of this, is NOW.

M M S MDLADLANA

MINISTER OF LABOUR
ANNEXURE B

Labour Market and Human Resource Development for
Job Creation

Social Plan

1. Introduction

1.1 A proposal on a Social Plan Act was tabled by labour on 12 October 1995 in the
Trade and Industry chamber of the National Economic Development and Labour
Council (NEDLAC). It was agreed by the Management Committee of NEDLAC on
13 October 1995 to establish a task team comprising of delegates from the Trade and
Industry and Labour Market chambers.

1.2 The task team has been meeting for over two years and has reached agreement on
the framework to guide affected parties on the ways of dealing with large
retrenchments in all sectors and includes a broad proposal on the implementation of
the framework agreement.

2. Objectives

Noting that:

2.1 Growth and job creation are urgent priorities, the social plan approach aims to
avoid job losses and employment decline wherever possible. There would
nevertheless be instances where large job losses are unavoidable. In such cases the
social plan approach will seek to actively manage retrenchments and to ameliorate
their effects on individuals and local economies.

It is agreed that:

2.2 The social partners accept that the burden of employment decline should not be
borne by the affected individuals and regions alone. Rather a social plan approach
should be adopted which helps to reintegrate retrenched people into the economy, and
which helps to revitalise affected local economies.

2.3 The NEDLAC parties support the promotion of policies designed to ameliorate the
consequences of employment decline and to manage the process of down-scaling.

3. Principles

3.1 The NEDLAC parties have committed themselves to the following principles
which define the social plan approach:

3.1.1 A social plan approach is applicable where there is a threat of
large scale retrenchments which impact on sectoral, regional or
national interests.

3.1.2 The social plan approach aims to ameliorate the social and
economic impact for individuals, regions and the economy.
3.1.3 A social plan approach promotes negotiation about threats to employment security and measures which can be taken to avoid employment decline.
3.1.4 A social plan approach is essential in cases where there is a reasonable possibility that alternatives could be developed to save jobs.

3.2 The nature of the social plan approach

3.2.1 A social plan comprises a basket of instruments characterised by focused programmes directed at achieving short, medium and long term goals.
3.2.2 A social plan approach requires the participation of labour, government and business and will involve interventions at various levels.
3.2.3 The social plan approach is subject to the Labour Relations Act, 1995, and the Code of Good Practice on Dismissals for Operational Requirements.
3.2.4 While the social plan approach will assist parties with appropriate measures and in obtaining government assistance, it does not prevent them from pursuing alliterative strategies to achieve the same goals.

4. The Establishment of Future Forums

4.1 A social plan approach is most effective when it arises from timeous analysis of problems in a particular sector or company, because this makes it possible to explore appropriate solutions and to implement these in a properly planned way.

4.2 If attempts at developing a social plan wait until a retrenchment proposal is tabled, then there are often serious time limitations on the process, and the options available are therefore far more limited.

4.3 NEDLAC parties should therefore promote ongoing discussions between workers' representatives and employers about the future of their industries, and enterprises, and set up 'early warning systems' that can identify problems timeously.

4.4 The establishment of future forums, whether separately or part of existing bargaining forums, is therefore proposed. These forums will involve employees and their representatives and management, to look ahead at problems, challenges and possible solutions.

5. Social Plan Technical Support Facility (SPTSF)

5.1 The Terms of Reference for the SPTSF

5.1.1 It is agreed that the Productivity Advisory Council will be renamed as the Social Plan and Productivity Advisory Council (SPPAC).
5.1.2 The Department of Labour will establish a Social Plan Technical Support Facility (SPTSF), under the auspices of the SPPAC.
5.1.3 In consultation with the SPPAC and after approval by the Minister, the SPTSF shall publish the rules of operation and the criteria for assistance which will be based on the principles of the Social Plan framework.
5.1.4 Future forums may agree to approach the proposed SPTSF for technical assistance in the careful analysis of problems and solutions facing the sector or enterprise.

5.1.5 Subject to the agreed criteria and availability of resources, the SPTSF may provide or commission the expertise necessary to provide technical or advisory services to the parties as required. Resources available at the National Productivity Institute (NPI) will also be accessed where appropriate, and the NPI will be used to give infrastructure assistance to the SPTSF. The terms of reference would need to be agreed with the parties.

5.1.6 The implementation of proposals arising from the SPTSF process would need to be agreed to by the employer and worker parties affected.

5.1.7 The SPTSF process will operate within the requirements of the law dealing with fair retrenchment procedures.

.2 Functions of the SPTSF

5.2.1 Services available to all companies and unions:

a. The SPTSF will provide a 'one stop shop' through which companies and unions can access information about government assistance programmes.

b. The SPTSF will develop a register of technical experts that may assist the parties where jointly requested in an analysis of problems and an identification of possible solutions.

5.2.2 Services available to "troubled" sectors or industries:

a. The Social Plan will prioritise sectors or industries that are in decline, and resources will be targeted at providing meaningful assistance to troubled sectors or industries.

b. To be defined as a "troubled" sector or industry both representative unions and employers should jointly apply to the Productivity and Social Plan Advisory Council, which will be tasked with prioritising sectors or industries for social plan services.

c. The SPTSF will meet with sectors or industries prioritised as above, to agree on a programme to identify and/or address the problems. The SPTSF will provide or access the following standard services:

i. An in-depth sectoral or industry study to analyse the underlying reasons for the threat and to recommend proposed solutions. All employers and unions in the sector can request a copy of the study.

ii. The SPTSF will facilitate access to government assistance programmes for the implementation of agreed solutions where jointly requested by the parties.
(d) In addition, the SPTSF will provide or secure the following additional services on a shared cost basis:

iii. Desk studies for individual companies within the sector, where jointly requested to analyse the problem and identify possible solutions.

iv. Where the desk study indicates that the prognosis for saving jobs is good, the SPTSF will develop more in-depth proposals in this regard when jointly requested.

5.2.3 Services available to companies outside the "troubled sectors"

a. It is recognised that companies outside of the prioritised sectors may face large-scale job loss. A limited facility is therefore made available to address such situations.

b. In such situations the company represented by management and the representative union/employees would apply to the Social Plan and Productivity Advisory Council or its delegated authority for assistance when faced with large-scale retrenchments.

c. The SPTSF would provide or secure the following services, on a shared cost basis, to successful applicants:

i. Desk studies to analyse the problem and identify possible solutions where requested by unions and employers, jointly.

ii. (Where the desk study, indicates that the prognosis for saying jobs is good, the SPTSF will develop more in-depth proposals in this regard where jointly requested;

iii. (The SPTSF will facilitate access to government assistance programmes for the implementation of agreed solutions where jointly requested.

5.2.4 Notwithstanding clauses 5.2.2 and 5.2.3, the parties are free to seek alternative remedies.

6. Ministerial Notification and Department of Labour Services

6.1 In the event that a retrenchment in excess of 500 people or 10% of the labour force of a company (whichever is the greater) is proposed, within a one year period, the Minister of Labour must be notified by the employer.

6.2 Where the Labour Relations Act procedures and codes have been followed, and large scale retrenchments are anticipated, assistance may be requested from the Department of Labour.

7. Services Offered by the Department of Labour
7.1 When a large scale retrenchment is unavoidable, the retrenching enterprise may approach the Department of Labour's provincial offices for assistance. The provision of various services will aim to assist in easing the process of retrenchment. This assistance will include offering information and delivering services to retrenched workers and employers to promote reabsorption of retrenched workers into the labour market. To maximise the potential benefit of the services the parties are encouraged to jointly approach the Department of Labour.

7.2 The services which will be provided by the Department of Labour are divided into two separate categories, namely:

7.2.1 Standard generic services offered, as set out in 7.4, across the board to employers, groups and individuals without charge.
7.2.2 Additional services offered, as set out in 7.5, by agreement only and which will probably require payment.

7.3 Delivery of Services:

7.3.1 When requested by an enterprise facing retrenchments of 5 00 workers or 10% of the workforce, whichever is greater, the Department of Labour will:

a. Set up a Retrenchment Response Team (RRT) competent in employment services, human resource development and the unemployment insurance fund (UIF). Where necessary services linked to Labour Relations and Occupational Health and Safety will also be included. The RRT will liaise with the enterprise at the request of the workers and employers. The Department of Labour, with both workers' representatives and employers, will form a committee to determine:

i. The type of standard and additional services to be provided to the retrenches.

ii. The financial resources needed to cover additional services where agreed upon and the extent of resource allocation from each partner.

iii. The time and people needed to offer these services.

iv. The technical resources needed to deliver an effective service.
v. Mechanisms on how to inform retrenched employees about the purpose of the Job Advice Centre (see below).

b. A Job Advice Centre (JAC) will be opened on or close to the premises of the enterprise. It is the responsibility of the employers of the enterprise and/or worker representative to find a suitable venue for the JAC as well as for any group meetings which may be agreed, if the enterprise's own premises are not available. Depending on the number of retrenched employees and any negotiated agreement between workers, employers and the Department of Labour, the JAC will offer the selected choice of services preferably 5-10 working days before retrenched employees leave the service of the enterprise. Standard as well as additional services will be offered during this time period provided it is practical.

7.3.2 Where there is a large scale retrenchment which affects fewer than 500 workers, either party may approach the Department of Labour's provincial office or Labour Centre for standard services outlined in 7.4 below. These services will be provided at the Department of Labour's offices. Additional services may be provided on agreement between the parties and on condition that resources are available.

7.4 Standard services to be offered

7.4.1 A set of information packs in preferred official languages will be made available to workers who are facing retrenchment and to managers planning retrenchments. The information packs will consist of comprehensive information and support measures available to retrenched employees on such issues as UIF benefits, financial management, training and job seeking skills.

7.4.2 The Department of Labour will be responsible for the registration of workseekers.

7.4.3 Where available, information would be disseminated on the labour market, local economic development possibilities (in collaboration with Department of Constitutional Development) and on skills required in the area or in the workers' home area to assist workers in identifying other employment opportunities.

7.5 Additional services to be offered as agreed in point 7.3.2 above

7.5.1 In addition, the Department of Labour will be able to offer further services on the basis of specific agreements between the Department, employers and the workers' representatives at the enterprise.

7.5.2 Funding of additional services will have to be agreed to between the parties. These services may require contracting professional
consultants. In which case a reasonable notice period may be necessary. The additional services may include:

a. Group and individual counselling to assist workers in dealing with the emotional impact and adjust to the new conditions.

b. Skills assessment and certification of prior learning to facilitate new employment through awarding of formal qualifications where appropriate.

c. Assessment of potential and development of a career plan in order to help workers to identify their options and assist them in the choices they have to make between further skills training, small, micro and medium enterprise (SMME) training and/or finding new employment.

d. Training and retraining of workers, in line with the Skills Development Strategy, to facilitate the channelling of retrenched workers into new employment.

e. Placement service.

8. Support to Small, Micro and Medium Size Enterprises (SMMEs)

There may be people affected by down-scaling operations who are keen to start their own enterprise. In this context, the following options may be considered jointly by workers' representatives and enterprises:

8.1 Facilitation of links with a Local Business Service Centre or other appropriate support institutions.

8.2 Delivery of business support services to workers while they are still at work and can explore the options.

8.3 Assistance and mentoring in feasibility studies and the development of business plans.

8.4 Inclusion of business and technical training for self-employment in the range of the Department of Labour's services.

8.5 Provision of time-off so that workers can undergo such training before they leave their workplace.

8.6 Identification by the company of opportunities to supply it with goods or services.
The adequacy of the current social plan to address retrenchment challenges in South Africa

8.7 Development of a joint workers' representative and enterprise programme to assist employees to open bank accounts.  

8.8 Engagement with the banks and other lending institutions to explore and facilitate arrangements for workers who want to use all or part of their retrenchment packages as collateral security for business loans.  

8.9 Approaching of Ntsika, the Department of Trade and Industry's (DTPs) SMME support agency, to look at specific provisions for training and support from Local Business Service Centres to retrenched.  

9. Regenerating Local Economies  

9.1 General Approach  

9.1.1 Once a large scale retrenchment which impacts on a region or local area becomes unavoidable, the process of social planning needs to start to 'look outside the enterprise to developments and opportunities in the local or provincial economy.  

9.1.2 The parties support the call for the formulation and implementation of plans for the rehabilitation of areas that are being negatively affected by large scale retrenchments.  

9.1.3 Government is committed to providing support to communities that take the initiative to drive economic development in their areas. Government support for such initiatives will need to be co-ordinated and be consistent with other economic and employment strategies in the area.  

9.1.4 The Department of Provincial Affairs and Constitutional Development will provide a co-ordinating mechanism for communities seeking assistance in the context of large scale retrenchments.  

9.2 Developing employment alternatives (stage one)  

9.2.1 As soon as a company or sector realises that there will be large scale retrenchments which will negatively affect a local economy the following process should be followed:  

a. The affected parties, employers and/or workers, should inform the local or provincial government about forthcoming retrenchments.  

b. The relevant local or provincial authority may initiate a process that begins with a study to identify alternative opportunities in the area. The study should inform the development of a plan to ameliorate the impact of the retrenchment. The plan should build on existing information and strategies for local economic development.
9.2.2 Government is committed to providing support to this planning process by means of a centrally co-ordinated fund.

9.3 Implementing plans for alternative employment (stage two)

9.3.1 Once a local or provincial government has developed a plan, it will be advised by the co-ordinating government department, as to possible sources of assistance for the implementation of this plan. The sources will include existing and new support measures available from various government departments.

9.3.2 Such measures will include the following:

   a. The supply-side measures of the DTI and activities of the Industrial Development Corporation, Khula and the Small Businesses Development Corporation (SBDC).

   b. The Department of Constitutional Development's measures to support local government in local economic development.

   c. Project support measures from the Department of Public Works.

   d. Project support measures from the Department of Water Affairs.

10. Social Plan Funds

10.1 The social partners note the establishment of enterprise level social plan funds and agree that these should be encouraged to assist, inter alia, the funding of programmes to save jobs and social development programmes.

10.2 The social partners accept that government funds will not be centralised in one social plan fund at this stage but will be channelled through the relevant implementing agencies including the Departments of Labour, Trade and Industry and Constitutional Development.

11. Investigation of Additional Forms of Financial Assistance

Government undertakes, within the first six months of the implementation of the national framework agreement on the social plan, to investigate the feasibility of providing additional forms of financial assistance for the development and implementation of social plans, the delivery of the Department of Labour services and for regional economic development initiatives as outlined above provided that such support:

   11.1 Is justified within the context of a broader employment strategy.

   11.2 Takes due account of the cost of job loss in respect of taxes to be lost and insurance to be paid.
11.3 Does not subsidise activities which the parties should normally undertake anyway.

11.4 Resources are available.

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1 Where these are not already provided internally.
2 Retrenchees are often unable to open bank accounts without proof of employment. Parties, employers and/or workers, should inform the local or provincial government about forthcoming retrenchments.