NATIONAL LABOUR & ECONOMIC DEVELOPMENT INSTITUTE

"Saving government from itself": Trade union engagement with the restructuring of Spoornet

Karl von Holdt
NALEDI

Paper produced for the NALEDI/SWOP Seminar on workplace transition
25- 6th June, 2003 [1]

In 2000 the Department of Public Enterprises (DPE) of the South African government announced its plan to break Spoornet into separate businesses and concession them to the private-sector. Two years later, after more than eight months engagement with the railway trade unions, government accepted that this plan made no developmental, business or financial sense. What persuaded government to change its view? Why did it adopt such a flawed plan in the first place? What enabled the trade unions to engage so successfully in this case?

This paper attempts to answer these questions through a detailed account of the engagement process and an assessment of the various forces at play. The author was, and continues to be, a NALEDI adviser to the trade unions[2] in their engagement with the government and management. The paper therefore constitutes an insider account, based on a 'participant observation' methodology.

Government's restructuring strategy

Spoornet forms the long-distance rail division of the state owned transport corporation, Transnet. Spoornet's main business is freight transport, but it includes passenger transport as well. It consists of five business units: the General Freight Business (GFB) which is the biggest, the two bulk heavy-haul units, CoalLink and Orex, the long distance passenger services, Shosholoza Meyl, and the luxury Blue Train business which caters mostly for the upper end of the tourist market. The GFB transports some 90 million tonnes of freight per annum, while together CoalLink and

---

[1] Earlier versions of this paper were drafted for an FES Seminar held in October 2002, and for the SA Labour Bulletin published in a December 2002 (Volume 26 No. 6).
[2] NALEDI is a research and policy institute established by COSATU. Although NALEDI has a high degree of autonomy, its primary role is to provide advice and research analysis for trade unions.

Orex carry about 100 million tonnes of coal and iron ore. Spoornet employs about 33,000 workers.

It is important to understand the differences between the dedicated heavy-haul mineral operators, CoalLink and Orex, and the General Freight Business. The heavy-haul operators are relatively simple businesses, focused on moving high volumes of a single commodity as fast and as consistently as possible from the inland mining fields to the ports where it is loaded onto ships for export. CoalLink moves coal from the Mpumalanga coalfields to Richards Bay, while Orex moves iron ore from Sishen to Saldanah Bay. They used extremely powerful locomotives, heavy load wagons, and railway track built to carry such loads. While the margins are low on these mineral commodities, the high volumes and dedicated operations generate high profits. CoalLink and Orex are regarded as world-class operations.

The General Freight Business is a very different kind of operation. It carries everything from high-volume commodities such as mineral ores and cement, through to scrap iron, agricultural products such as timber, grain and fruit, and small volume high value products moved in containers. It transports this freight both on regional and rural light density lines, as well as on high-density corridors such as the Johannesburg - Durban route. While some of this business is relatively high-volume and can be moved by dedicated block trains, much of it is low-volume business carried in mixed freight trains which assemble freight from a number of different sources and transport it to a variety of end users. Assembling such trains is a complex business requiring a lot of shunting, substantially increasing costs. The general rule of thumb for rail business is that high-volume freight is profitable while low-volume freight is not. Indeed, the only profitable line in GFB is the Johannesburg - Durban corridor. Furthermore, the lack of flexibility in rail transport means there is a tendency for smaller-scale customers to turn towards road transport.

Worldwide, these transport realities mean that general freight businesses tend to require some form of subsidisation. In many cases the general freight operations are required to be self financing, while infrastructure upgrading and investment is provided by the state. In those countries which have high volume mineral exporters, the profitable heavy-haul lines form the anchor business of rail freight operations, cross-subsidising the unprofitable general freight operations.

Prior to restructuring Spoornet was afflicted by a range of business problems. GFB was regarded as an inefficiently run business, which had a negative impact both on its financial sustainability and on customer satisfaction. The high level of customer dissatisfaction, together with deregulation of road transport in the mid-1980s, meant that Spoornet was losing freight traffic to the road hauliers. The highly profitable CoalLink and Orex operations were cross-subsidising the ailing GFB, with the R1.8bn annual loss of the latter financed by the R1.8bn profit of the former. While the net result was a financial break-even, this was at the expense of spending on maintenance and investment in infrastructure and rolling stock, with serious long-term implications. (Rothschild 1999,2000)

The ANC government was predisposed towards addressing these problems through one or other form of privatisation. Although the ANC and the mass movements associated with it were generally located within left-wing political traditions, the transition to democracy confronted it with new challenges and pressures, which were reinforced by processes of black elite formation, and by 1994 when it assumed power after the first democratic elections in South Africa's history its leadership was already leaning towards economic orthodoxy. This shift was confirmed in 1996 with the adoption of the Gear macro-economic policy in the midst of a currency crisis. Gear committed the government to a privatisation programme, and the Department of Public Enterprises (DPE) became government's lead department in driving this programme. In 2000 the DPE Policy Framework was unveiled; this extolled the importance of private sector expertise and capital, and market competition, in reviving the efficiency and competitiveness of public enterprises and thereby creating a more dynamic and internationally competitive economy. (DPE 2000) This general orientation shaped government's approach to the restructuring of Spoornet specifically.

In 1999 Spoornet management employed an international consulting company, Mercer, to develop a turnaround strategy. This advocated a strategy which included closing unprofitable lines and business activities and retrenching 17,000 workers. Government rejected this option and began the process of developing its own restructuring strategy. A British-based merchant banker and privatisation specialist, Rothschild, was hired by DPE to do this. Rothschild proposed that Spoornet be split into six separate companies, most of them to be concessioned. It recommended that the highly profitable CoalLink and Orex lines, and the potentially profitable Blue Train, should be concessioned immediately. Shosholoza Meyl should be concessioned with a government subsidy. The unprofitable light density lines and branch lines in GFB should be transferred to a new entity, Link Rail, which would bundle them into viable parcels and concession them to private-sector operators where possible, and close those that could not be concessioned. GFB, shorn of its revenue streams from CoalLink and Orex and of the burden of operating the light density lines, should be given three years to implement a turnaround strategy and become profitable, and should then itself be concessioned. The general principle was that the internal cross-subsidisation of unprofitable by profitable operations should cease. (Rothschild 1999,2000)

Government accepted these proposals, with the modification that after the three-year turnaround, rather than concessioning GFB, an equity stake in it should be sold to a strategic equity partner. These decisions were recorded in DPE 's Framework policy document and announced to the media and in Parliament towards the end of 2000. (DPE 2000)

Thus by the time the Spoornet trade unions began to engage in a focused way with the restructuring of Spoornet, government's policy already consisted of what I call a *policy juggernaut*: a dense cluster of institutional, personal and economic interests which coalesces around a particular policy decision or set of decisions, has an overwhelming momentum of its own, and is relatively impervious to rational dialogue or debate over alternative policy options. In this case the officials who oversaw the consultants and formulated DPE' s position, and made recommendations to the minister, had a personal stake. The Department and the minister had an institutional stake in successful privatisation, while the consultants and potential private-sector operators had financial interests in the outcome. These specific personal and institutional interests were supported by more general institutional and economic interests in favour of privatisation

Trade union responses

The SA Transport and Allied Workers Union (SATAWU), affiliated to COSATU, is the majority union at Spoornet and represents most of the black workers. Two smaller unions affiliated to FEDUSA, UTATU and SALSTAFF, have their roots among the more skilled, supervisory and administrative white employees at Spoornet: artisans, supervisors, train drivers and white collar employees. Trade union constituencies and divisions have, therefore, been shaped by the racial division of labour characteristic of apartheid.

All three of the trade unions opposed the restructuring plan adopted by government. In general, COSATU and its affiliates have been hostile to privatisation on the grounds that it holds social and economic development hostage to market forces, reducing the potential of the state for intervening in the economy. In 1995, when then vice-president Thabo Mbeki announced that the South African Airways was to be sold off, railway and airport workers organised by the SA Railway and Harbour Workers Union (which merged with the Transport and General Workers' Union in 2000. to form SATAWU) launched a national wildcat strike; the ensuing negotiations between government and COSATU produced the National Framework Agreement (NFA) on the restructuring of state enterprises, which prescribes a process of consultation between labour and government on the "restructuring" of state enterprises on a case-by-case basis.

In relation to government's plan for the restructuring of Spoornet, the main concern of the three trade unions was that concessioning as a form of privatisation would undermine the state's ability to ensure the provision of cheap, efficient transport to meet socio-economic needs, that the future of rail would be placed in jeopardy, and that high levels of retrenchment would result. SATAWU commissioned the National Labour and Economic Development Institute (NALEDI), the COSATU-linked policy and research institute, to assist in developing a strategic response. The union policy officer, NALEDI advisers and Spoornet shopstewards worked together to develop a critical analysis of operational problems and workplace inefficiency. UTATU and SALSTAFF then joined the process and enriched the union proposals. The trade union proposal that emerged from this process was based on three points: that Spoornet could be made more efficient in the public sector without privatising it; that the union would co-operate with efficiency improvements on this basis and as long as they precluded retrenchment; and that the role of rail transport in socio-economic development could only be secured through continued state ownership. (Joint Labour, 2000) Engagement with management, and particularly government, would proceed on this basis.

The process of engagement

The main argument put forward by the trade unions in opposing the privatisation of Spoornet was that private-sector operators would concentrate on profitable business, closing unprofitable lines and shedding unprofitable customers. The economically weaker provinces would be worst affected. This outcome would amount to the destruction of rail infrastructure and would increase road freight volumes, imposing significant additional costs on the state and on road users, both in the form of additional road infrastructure maintenance and in the form of other externalities such as traffic congestion and accidents, pollution, the balance of payments impact of increased petrol consumption, etc. The unions argued that Spoornet management was already moving in this direction - partly under government pressure to transform the company into a profitable business and partly motivated by its own business ambitions - by down-scaling marketing and customer service on light density lines and running these lines down.

In contrast, the unions argued that the fundamental business strategy of Spoornet should be to expand volumes in order to take pressure off the road network, to make optimal use of the rail infrastructure and assets, and to facilitate local and regional economic development. Internal cross-subsidisation of unprofitable by profitable lines and customers, should continue. The freight operations of CoalLink and Orex, they argued, should remain integrated with GFB in order to continue taking advantage of operational and technological synergies. Splitting them would generate separation costs as well as ongoing additional operational costs. The disastrous break-up of British Rail provided ample warning of the hazards of fragmenting rail operations. (Joint Labour, 2000; Von Holdt 2001)

In late 2000 and early 2001 SATAWU began taking these arguments into the public arena, using the press and TV, and making presentations to parliamentary portfolio committees as well as to the Minister of Transport. Simultaneously, COSATU mobilised for a two-day anti-privatisation strike, and SATAWU mobilised its members to participate in the International Transport Workers' Federation international day of protest against the undermining of rail transport. These activities clearly had an impact. In early March 2001 the ministers of transport and public enterprises met with the leadership of the three unions and proposed the formation of a joint labour - government task team to investigate restructuring options for Spoornet. They declared that, previous public statements to the contrary by the Minister of Public Enterprises notwithstanding, their minds were open as to what the most appropriate restructuring options would be.

As the process of engagement unfolded, it became clear that the range of forces contesting restructuring was more complex than had appeared. Spoornet management was virulently opposed to government's restructuring model. They agreed that the unprofitable light density lines should be spun off and closed or concessioned, but they argued that a stand-alone GFB was inherently unsustainable, and that Orex and CoalLink should be retained together with GFB to create a highly profitable, integrated freight transport mega-company which should be privatised through a sell-off in the stock market. This, they argued would generate much greater returns for government than a fragmented concessioning strategy. Senior managers, it appeared, were also motivated by their personal ambition to run such a company. Spoornet management had made its views known to DPE officials, to the relevant ministers, and to the press, but to no avail: the policy juggernaut rolled on.

It also became clear that government itself was not monolithic: the new Minister of Transport and his department officials had their doubts about the Spoornet proposals. However, his departmental capacity had been decimated by his predecessor, an ardent privatiser, and the peculiarities of Cabinet portfolios gave his department control of national passenger rail transport and national road transport, but not rail freight transport: in relation to rail freight and Spoornet, DPE was the lead department. Nonetheless, this difference of views was significant, as Transport remained a stakeholder department and was represented on the task team together with DPE. Indeed, as the engagement process continued, significant fracture lines emerged within DPE itself.

It became clear that for both management and the DOT, labour had played an important role in re-opening the door to influencing the policy juggernaut in DPE. Although management was not formally part of the task team, it played an important role, making presentations and providing information on Spoornet and rail transport. This process facilitated a newly-found mutual respect between management and the trade unions.

On the labour front, the frosty relations between SATAWU and the two smaller white-dominated unions thawed. The shared opposition of all three unions to fragmentation and concessioning fostered good working relations, and the two non-COSATU unions accepted NALEDI as adviser to joint labour. This was a vitally important relationship for SATAWU and NALEDI, as the other two unions often had a deeper technical and operational insight because of the specific location of their members in the company.

Two themes dominated the deliberations of the task team: the socio-economic role of rail transport, and the business sustainability of Spoornet and of GFB specifically. Considerable attention was devoted to the light density lines (LDLs). Labour argued that the narrow commercial focus of the consultants on the financial viability of individual lines was deeply misleading: while they focused on the bottom line implications for Spoornet, they ignored the contribution of such lines to the volumes on the high-density lines and externalities such as the cost of additional road infrastructure to the state, as well as broader socio-economic developmental issues. NALEDI unearthed research which demonstrated that closure of eight specific branch lines in the KwaZulu Natal province would save Spoornet in the region of R 30 million per annum, but generate additional road maintenance costs of some R130 million per annum. No line should be closed, labour argued, until a full cost-benefit analysis had been concluded. At the end of this discussion government and labour agreed that the situation of the light density lines was more complex than initially thought, that over-hasty closure would contradict government's stated policy of shifting freight traffic from road to rail, and that consideration should be given to establishing a specific management structure within Spoornet to concentrate on reviving and establishing the viability of light density lines.

After some two months of intensive engagement, government and labour were therefore able to reach agreement on the light density lines, as well as in three other areas: labour conceded that the Blue Train could be concessioned, while government conceded that both GFB and Shosholoza Meyl should be retained in state ownership as strategic transport assets. The feasibility of removing the latter from Spoornet and merging it with the state owned commuter rail transport company, Metrorail, would be investigated.

The real sticking point was the future of CoalLink and Orex. Government persisted in arguing that concessioning CoalLink and Orex would have business benefits for Spoornet as well as financial spin-offs for government. Government acknowledged that CoalLink and Orex were world-class operations, and that the new private sector concessionaires were not expected to substantially improve efficiency. The motivation was entirely financial.

It argued that an integrated Spoornet consisting of GFB, CoalLink and Orex would generate insufficient cashflow to finance the turnaround required of GFB or the additional capex required in CoalLink and Orex. Up front concession fees would provide the capital to invest in GFB, while the private sector concessionaires would be responsible for investment in CoalLink and Orex. With this investment, there should be no obstacle to a GFB turnaround. Moreover, removing the CoalLink and Orex cash cows would compel an insufficiently focused Spoornet management to concentrate on inefficiencies in GFB. Finally, removing CoalLink and Orex would have negligible impact on the operations or costs of GFB.

Labour contested all these assertions. It requested evidence for government's financial claims based on projected cash flows and capital investment requirements, evidence which neither government nor Rothschild were able to provide. Labour pointed out that Spoornet management was convinced that an integrated Spoornet would be able to generate sufficient cash flow to meet the investment requirements of all business units. Furthermore, both labour and management believed that a stand-alone GFB was not sustainable, especially if the light density lines were to be retained as agreed by government. Labour argued that the government proposal made no business sense, amounted to handing over world-class assets to foreign companies, leaving South African management with the unsustainable rump of GFB.

At this point, there was an intense pressure on government officials to deliver a workable compromise. Government had invested considerable time in the process of engagement, and ministers were anxious to avoid ongoing conflict with labour over Spoornet. Moreover, in labour's estimation government's ability to argue credibly for the concessioning had been weakened: the trade unions now had access to a wealth of detailed information and were asking probing and critical questions to which government had no clear answer. Perhaps more important were the fracture lines in government and within DPE itself. While the DPE officials with direct responsibility for Spoornet continued to act as convinced agents for their policy juggernaut, other influential officials in the department, some of whom were closer to black management and more concerned with the formation of a viable "patriotic bourgeoisie", had become increasingly sceptical of the policy juggernaut. All of these factors constrained DPE from simply forging ahead.

DPE tried to break the deadlock by suggesting focusing on innovative strategies for job retention and retraining for redundant workers, in exchange for labour's acceptance of its concessioning proposals. The trade unions responded that the central issue for them at this stage was ensuring the business sustainability of

Spoornet/GFB, rather than seeking trade-offs on the threat of job loss. Finally, the task team was able to reach agreement on drafting an interim report for the two ministers and recommending the establishment of a technical working group which would include Spoornet management, as well as Rothschild, and would focus on the issues of the business and financial sustainability of the two models - an integrated Spoornet including CoalLink and Orex, versus a stand-alone GFB. (The Joint Labour/Government Task Team, 2001)

The technical working group was duly established and spent two months developing 20 year projections of cash flows and investment requirements over four scenarios with varying freight volumes and network sizes. Most of this work was done by management, as the only participant with sufficient information and capacity; however, the assumptions, data and outcomes were rigorously interrogated and contested by the other participants, primarily labour, Rothschild, and Spoornet' s own turnaround consultants, the UK-based Halcrow rail. The final results were unambiguous: in all four scenarios a stand-alone GFB proved unsustainable, while the integrated Spoornet was fully sustainable and able to meet its own investment requirements over a 20 period. (Technical Working Group, 2001)

All of the scenarios incorporated assumptions and projections for a substantial turnaround of GFB. The key components of this turnaround were based on a Halcrow report, and consisted of business reorganisation, operational and train scheduling changes that would reduce the number of locomotives and wagons required and therefore of maintenance and servicing depots, and technological changes, particularly in track maintenance and new locomotives. The turnaround period would be extended from three years to five years, and would entail the reduction of jobs by roughly 11000, involving attrition as well as retrenchments of about 8900 over the period.

The first presentation of the scenario results to government produced consternation. DPE insisted on a further period to scrutinise the scenario results more closely. The assumptions and figures were sufficiently robust to withstand this scrutiny, and were presented six weeks later to a plenary session which included the executive management of Spoornet and Transnet and the general secretaries of the three trade unions. This meeting ended in chaos as Spoornet management and labour demanded that government acknowledge that the results of the technical working group indicated fatal flaws in the government restructuring plan, while the DPE officials present insisted that they had no mandate to respond. In informal discussions officials indicated that it was unreasonable for labour to hold out for a complete retreat from the privatisation proposals, and that a possible compromise would be agreement on the concessioning of the smaller heavy haul line, Orex, in exchange for the integration of CoalLink and GFB.

Labour's response was that the process had been a technical one, and there was no technical evidence to support such a compromise. If DPE wanted serious consideration of such a proposal it should be tabled and subjected to technical analysis. The fractiousness of these interactions, characterised by extreme levels of tension, are suggestive of the durability and momentum of the policy juggernaut even in the face of overwhelming contrary evidence and the resistance of powerful stakeholders. Of course, a key element in this durability was the fact that government had already announced its intention to privatise Spoornet, and free market forces domestically and internationally had succeeded in casting privatisation as the acid test of the ANC government's commitment to pro-market economic policies.

Finally, after ministerial intervention, government officials indicated that they accepted the results of the technical working group process, and the final report was jointly drafted by government and labour. Government, no doubt piqued by management's support for labour's views, excluded management from the final drafting process. Government also reserved its position on Orex. The final report advocated the continued integration of GFB and CoalLink within Spoornet under government ownership, the retention of the light density lines under a new management structure, concessioning of the Blue Train and investigating the integration of Shosholoza Meyl with Metrorail. It also recorded the difference of opinion over Orex. At the beginning of 2002, after a delay of some three months, cabinet finally announced its new restructuring plan for Spoornet, which constituted a full endorsement of the technical working group report.

Publicly, government presented the agreement as a victory for engagement with labour, and claimed that the trade unions had been successfully "brought on board" restructuring of Spoornet. However, the truth is that, but for the concessioning of the Blue Train, the entirety of government's initial plan had been jettisoned.

After the agreement: contestation continues

While this outcome constituted a quite extraordinary triumph for labour's engagement, it has become clear that the implementation of the agreement will be subject to ongoing contestation.

Implementation of the agreement required the following:

- Spoornet to adopt a new mandate based on the "high-volume extended network" scenario, in which the company would facilitate a modal shift of freight from road to rail as well as regional economic development. This mandate would entail retaining the cross-subsidisation of unprofitable lines and customers.
- A strong focus on the turnaround of Spoornet through improving efficiency, customer service and commercial results.
- Establishing a joint government-management-labour task team to conduct a line-by-line investigation of the light density lines, and consider the form of a new management structure for these lines.
- Establishing a joint job loss mitigation task team.
- Forming task teams to investigate the restructuring of Shosholoza Meyl, and to negotiate issues connected with the privatisation of the Blue Train.

By August 2002 implementation had been paralysed by different perspectives. Management had drawn up a comprehensive plan for the concessioning or leasing of light density lines to the private sector. Its approach to lines, customers and tariffs appeared to labour to be informed by a rationale of "full cost recovery" and a drive for GFB to achieve financial break-even, ignoring the principle of cross-subsidisation in support of the broader goals embodied in the agreement. Labour concluded that management had not internalised the agreement or its new mandate.

Several factors may have contributed to this: breakdown of relations between DPE and management in the last stages of finalising the agreement, ambiguous signals from government about the relative importance of profitability and broader socio-economic goals, the aggressively business-minded ethos of some of the new black managers ambitious to prove themselves in the corporate world, and a leadership vacuum after the suspension and dismissal of the CEO, Zandile Jakavula, earlier in the year for improper conduct concerning the purchase of a house.

DPE, on the other hand, appeared to be committed to the agreement, defending it vigorously in public (*Financial Mail 23/8/02*), and in meetings articulating a strategic vision very similar to that of labour. The two DPE officials most involved in the privatisation policy juggernaut had resigned, and new officials have replaced them. DPE does, however, experience severe capacity constraints, and there were inordinate delays in convening meetings or taking measures to resolve the impasse.

For most of 2002 the agreement therefore remained stalled as the three parties sought consensus over the meaning of the agreement and the mandate to Spoornet. The stalemate was finally resolved at a meeting between labour and the Spoornet executive committee, where the trade unions raised their concerns and both parties explicitly committed themselves to the agreement. Since then as a series of fruitful meetings has been held to work on establishing a dedicated management structure for the LDLs in order to avert their decline.

Particularly interesting is an initiative by the Eastern Cape provincial government to revive the East London - Umtata branch line with the aim of stimulating social and economic development, since it epitomises the kind of approach that the trade unions had advocated the from the beginning of its engagement with the restructuring of Spoornet. In response to declining volumes Spoornet had reduced its services, and the line has effectively been out of use for some five years. As a consequence infrastructure has deteriorated significantly. The result has been further economic decline in Umtata and Butterworth, and increased pressure on an already poor road infrastructure.

The provincial government initiative - with which SATAWU has been involved since its inception - was based on the view that the railway transport infrastructure was an asset with the potential to stimulate social and economic development in one of the most impoverished regions of South Africa. As one of the provincial transport officials put it, "We started from the question, *how* do we make the line viable, rather than asking *whether* it is viable." A feasibility study was commissioned, which concluded that maturing timber plantations near Umtata would provide a base load of 1.4 million tonnes per annum. There is also potential for a long term large-scale expansion of forestry in the region. In addition, access to the East London market would provide a stimulus to small-scale crop and stock farming, which could generate further traffic of 2 million tonnes per annum of grain, fertiliser, fuel and lime, 5 million tons of wool and half-a- million tons of red meat. Reduction of the travelling time between Umtata and East London from the current 12 hours would also enable railway passenger services to compete with road transport.

Initial refurbishment of the line to enable it to run regular freight trains will cost in the region of R85 million. The full project to realign the railway track to allow for faster traffic would cost between R 1.9 and R2.5 bn and reduce travelling time to between four-and-a-half and three hours, depending on the options chosen.

From the perspective of provincial government this kind of expenditure makes sense, as it will stimulate socio-economic development, creating a projected 28,000 jobs, and reduce the cost of road building and maintenance, and together with the National Department of Transport it is already funding the initial refurbishment phase. From the more commercial perspective of Spoornet, there is a great deal of scepticism about whether the project is (financially) viable. For the LDL Task Team, it provides a good test case for a more developmental approach to LDLs driven by local and regional needs and based on a partnership between Spoornet and local and national stakeholders.

In contrast to the LDL Task Team, the job loss mitigation task team has met infrequently. There is little sense of urgency as management does not have immediate plans to retrench, and indeed has indicated that total retrenchments are likely to be a less than projected in the technical working group report.

This itself may be a sign of a loss of direction in relation to the broader efficiency initiatives required of Spoornet. There appear to be high levels of dissatisfaction among major customers, and this has sparked accusations that Spoornet is damaging South Africa's export drive (*Financial Mail* 23/7/02, 18/10/02). If Spoornet is unable to improve efficiency and customer service, it may fail to generate the revenues projected in the technical working groups scenarios, on the basis of which the task team concluded that Spoornet could finance its own investment requirements. If this is so, and if customer complaints continue, it could undermine the credibility of the restructuring agreement and of the trade unions' role in shaping it, in turn generating renewed pressure for privatisation.

Indeed, labour envisages a comprehensive participation in and engagement with the efficiency and turnaround strategy, with the aim of monitoring broad operational efficiencies, protecting members' interests, improving workers' quality of working life and making a contribution to workplace efficiency. However, management has not yet made a clear commitment to meaningful consultation.

The protracted and difficult process of implementation to date indicates that contestation did not cease with the signing of the agreement - on the contrary different forces seek to pursue their interests by reinterpreting its meaning and attempting to shape its implementation. For the trade unions, the fear is that this process could mean a renegotiation of the agreement by attrition, and the dilution of its terms - or worse still, a failure to successfully implement it leading to a renewed pressure for privatisation.

Concluding discussion

The government plan and the nature of the engagement

The process of engagement revealed that the privatisation plan adopted by government was fundamentally flawed. The plan was premised on certain assumptions regarding investment requirements, cashflows and business viability, but neither the consultants nor government had done any financial projections to test these assumptions. If the plan had been implemented, the result would have been a fundamentally unviable GFB. In addition, the plan was not linked to the broader socio-economic objectives of government - most glaringly the policy to encourage a modal shift of freight from road to rail. How did government come to adopt such a bizarre plan?

The general orientation of DPE towards economic orthodoxy and private sector solutions obviously predisposed its officials to seek a solution for Spoornet' s problems through privatisation. In other words, the restructuring plan was the outcome of an *ideological choice* rather than one based on serious analysis. The ethos of DPE itself is quite similar to that of consulting organisations, which reinforces this predisposition. DPE lacked either the expertise or the will to rigorously interrogate the proposals or manage the consultants. Indeed, the ideological nature of the choice meant there was little need to interrogate the proposals in any depth.

Moreover, the contract with the consultants appears to have been inappropriate. It is generally believed by those involved in the process that Rothschild was contracted both to develop the restructuring proposals and to act as transaction adviser - which is where the real money is made - thereby constituting a clear conflict of interest. Thus, the greater the number of transactions or the value of the transactions, the more Rothschild would benefit - a calculation unlikely not to have influenced its restructuring proposals.

Once the officials in charge of the restructuring of Spoornet had endorsed the proposals and advised the minister accordingly, the restructuring plan became embedded in a policy juggernaut relatively impervious to further discussion or influence.

This had an impact on the nature of the engagement between labour and government. The tone was extremely conflictual and tense - it was clear to all participants that there were two contending positions. The process could not therefore be characterised as an open discussion or a process of problem-solving. Nonetheless, the presentation of detailed information by management and experts did help both parties to rethink aspects of their positions - which was evident in the first compromise of the task team. But compromise on the core issue of concessioning CoalLink and Orex would have involved abandoning the policy juggernaut altogether, which the responsible officials were unable to do. The breakdown of those meetings where the presentations demonstrated the unviability of the government plan, illustrated this.

However, while the officials directly involved in the Spoornet plan were unable to compromise, considered more broadly government showed itself able to assimilate the evidence and change its position. Other officials and ministerial advisers in DPE came to recognise the disastrous implications of the plan for the GFB, for its new black management, and for broader developmental issues. The Department of

Transport - which unlike DPE was focused on the transport implications of restructuring - had always been external to the policy juggernaut, and was empowered by the process of labour-government engagement to make its concerns felt.

Can this sort of engagement be replicated, or was it a unique outcome produced by the surprise factor as the process ran beyond government control, and by divisions within government? Will the agents of the privatisation juggernaut in future prove more impervious to labour interventions? The current dispute over the concessioning of port operations may provide a useful indicator. In this case, the policy juggernaut has rolled even further with minimal consultation with labour. However, worker protests and credible threats of strike action in the ports have forced government to establish a joint task team, as in the Spoornet engagement. The results will prove interesting, particularly as the same three trade unions are involved and they now have considerable experience of engaging with government over enterprise restructuring.

The nature of the South African transition

The forces of globalising capitalism were clearly a key factor in the Spoornet case. The pressure on government to adopt neo-liberal policies, the growing predisposition in government and particularly in DPE towards privatisation, and the role played by international privatisation consultants, are all manifestations of this.

On the other hand, the national dynamic of post-colonial reconstruction - the need to overcome the legacy of apartheid through the transformation and reconstruction of economic and social institutions - also shaped the process of engagement and defined its outcome. The trade unions were able to approach the issue of Spoornet restructuring with a broad perspective focusing on its socioeconomic role. Government too, despite the capture of its policy by the privatisation juggernaut, was concerned with the broader issues of reconstruction. Indeed, privatisation was couched in such terms, emphasising its developmental potential. The common concern with issues of reconstruction created the scope for serious engagement - for a process of "negotiated reconstruction" (von Holdt 2002). The tripartite alliance, as well as the National Framework Agreement - which is without international precedent - reflects this reality and provided an important context for the process of engagement.

A further factor, integral to the post-colonial dynamic of reconstruction, is the rapid and forceful emergence of a new black managerial and bourgeois class with its own concerns and ambitions, and political support for it from within government. Spoornet management opposed government's concessioning plan, because it would have been left with the unviable rump of GFB, but it did have its own ambitions for a different form of privatisation. While it was unable on its own to derail the government plan, it was able in partnership with the trade unions to unravel the privatisation juggernaut. Spoornet management continues to pursue its own interests in contesting the future of Spoornet.

Thus the process of contesting and engaging over the restructuring of Spoornet reveals the transition to be a terrain of contending forces and contradictory dynamics. Globalising capitalism makes itself felt in the form of neo-liberal ideology, external pressures on government, internal predispositions, and international actors such as privatisation consultants and the emergence of international railway operators. But these forces do not have an unrestricted field of action. The dynamics of reconstruction and the pressing problems of socio-economic development also have their advocates inside and outside of government. An assertive trade union movement with a strong interest in reconstruction, and the new black managerial and capitalist classes, also constitute powerful agents, with interests distinct from those of globalising capital, contending over the transition.

The complexity of the transition affords the trade union movement the scope to engage and struggle for negotiated reconstruction, as the Spoornet case demonstrates. However, the same complexity means that negotiated reconstruction does not come to a conclusion with the signing of an agreement; its implementation will be subject to an ongoing contestation between the many forces that contend over the shape of our emerging South African society.

Requirements for successful trade union engagement

The process of engagement took a highly technical form and was played out in small meeting rooms far from the sites of trade union organisation. However, the context of a relatively strong, organised and assertive trade union movement was critical in shaping the balance of forces. The NFA, which defined the procedures of engagement, was itself the product of a mass strike by railway workers. COSATU and SATAWU's ongoing campaign against privatisation described above contributed to Government's willingness to engage. The unity of the three trade unions across racial and occupational divisions was also clearly important. Likewise, high-profile intervention by the trade unions in public debate was an important factor in creating the conditions for engagement.

The technical and intensive nature of the process placed difficult demands on the trade unions. They had to dedicate sufficient staff time, and secure the support and expertise of labour advisers from NALEDI, to actively participate and refine their views over an eight-month period. This was particularly important in order to make the shift from more general arguments to detailed analysis of the new information and of the process of interaction itself. At a technical level, the participation of Spoornet management in the process was indispensable, as neither government nor labour had the kind of information, experience and expertise that was necessary for evaluating various restructuring options.

Alliance building was also important. In the first place, the alliance between the three trade unions strengthened labour's hand. Divisions within the state - between DPE and DOT, between DPE and management, and divisions within DPE itself - were important factors in strengthening the trade union case and undermining the privatisation policy juggernaut.

Finally, the process of engagement entailed an extremely difficult compromise. The trade off for engaging with the issues of restructuring, was that the trade unions had to accept that efficient operations would be necessary if Spoornet was to be saved from privatisation, and this would mean accepting job losses. This was an extremely painful conclusion, but privatisation would have meant much greater and more rapid retrenchments of 17,000 workers. It is important to note that the agreement does not mean that the trade unions accept the figure of 8,000 job losses, which was a broad figure derived from the scenario projections. During the phase of implementation their attention will turn to engaging with operational and efficiency improvements in order to save as many jobs as possible. In addition, the agreement provides for a job loss mitigation task team to investigate creative ways of reducing job loss and creating new avenues for employment.

Without these four elements - assertive mass organisation, the dedication of time and expertise to the process, trade union unity and division within the state, and the willingness to consider compromises - the trade unions could not have succeeded as they did. In the event, they are justified in claiming that they saved government from itself.

References

Department of Public Enterprises (2000): An accelerated agenda towards restructuring of State Owned Enterprises: Policy Framework (August 2000)

Halcrow report

Joint Labour: Reconstructing Spoornet (2000): Joint Labour's proposals as developed by its members of the Operational Efficiency Committee (OEC): for presentation to Spoornet Human-Resources and Turnaround Management (Johannesburg 14th September at 2000)

Joint Labour/Government Task Team (2001): Report of the joint Labour/Government Task Team on the Spoornet restructuring (17 May 2001)

NM Rothschild & Sons Ltd (1999): Concept Document prepared for Transnet on potential restructuring options for Spoornet (July 1999)

------------------- (2000): Restructuring Spoornet: a presentation to Labour (22nd March, 2000)

Technical Working Group (2001): Report of the Technical Working Group on the Spoornet restructuring (14 September to 2001)

Von Holdt, Karl (2001): Spoornet memorandum 2: public ownership, privatisation and the financing of Spoornet (April 2001)