

Contract cleaning at ORT

Contract cleaning workers at Oliver Reginald Tambo (ORT) International Airport work under precarious conditions as they do not enjoy same rights, benefits and pay as permanent workers writes **Rob Rees**.

Contract cleaning workers working at the OR Tambo International Airport perform work previously performed by permanent workers. They do not have the same organisational rights as full time indefinitely contracted aviation workers. For example, the right to meet in or access the workplace is always subject to approval from the client. Contract cleaning workers do not have the same access to their health and safety rights and they earn lower wages with fewer benefits than workers who are permanently employed at ORT. Yet both contract and permanent workers work at the same workplace: the OR Tambo International Airport. Employers have divided and weakened workers and whilst Satawu organises sector by sector and even company by company within a sector, it will have to organise differently if it is to win rights for more vulnerable workers. It will need to develop a workplace strategy and consciously build workplace structures.

According to the Airport Company of South Africa (ACSA) an estimated 20 000 people come to work daily at the ORT. At least 12 different contract cleaning companies (seven of which employ 1 500 workers) and five security companies operate in this workplace; and there are numerous

aviation, freight, retail, and food and hospitality companies. Each of the contract cleaning companies has a contract with a client (for example an airline), and each of these clients, in order to operate at the ORT, would have to have a contract with ACSA. ACSA, as a state-owned enterprise, with the Department of Transport as its majority shareholder owns and operates South African airports, including the ORT.

The project worked with Satawu shop stewards from the three Satawu organised cleaning companies at ORT: Morena, Menzies and Bidair (Grooming) along with a security shop steward from Reshebile and some South African Airways (SAA) shop stewards. Morena and Bidair have contracts (amongst others) with SAA, whilst Menzies has a contract with SA Express. Both SAA and SA Express are state owned enterprises.

INVESTIGATING THE WORKPLACE

Part of developing union strategy involves gathering information about the workplace and about other workers in the workplace. The Satawu contract cleaning shop stewards did not have a comprehensive map of the wages, working conditions and number of workers employed in the unorganised contract cleaning companies operating at the airport.

This reflects poor planning and strategising in recruiting and organising other contract cleaning workers in the same workplace. It also showed a pre-occupation with issues in their own company and a focus on individual cases. This was despite the fact that conditions contributing to these cases and the obstacles in the way of elected worker representatives addressing them often required understanding competition between contract cleaning companies, the client's role in this as well as how the client restricts organisational access, communication or other rights required to solve the cases.

The Satawu contract cleaning shop stewards also did not have a proper sense of how the wages, benefits and conditions of the full time permanent workers directly employed by the employer/clients at the workplace (SAA and SA Express for example) or in other parts of their company (like baggage handlers in Menzies or Bidair) compared to those of the contract cleaning workers. This exposes how the Satawu sector organising strategy contributes to a silo view where union information and organisational strength amongst aviation workers is not used to advance the organisational rights and the needs of members in the contract



cleaning sector, even as they work in the same workplace.

The investigation by the project participants began to reveal some of these workplace divisions and the reinforcement of these divisions by union organising and bargaining strategies. Sometimes the investigation led to action. After embarking on separate wage strikes without prior co-ordination or knowledge of these, Menzies cleaning shop stewards discovered they had 'the same problems' as Menzies Aviation workers (ramp handling, passenger handling, baggage and those working at Cargo) and began to explore holding joint workplace meetings.

Project participants were also asked to find information about their cleaning companies' contract with the client so as to clarify which employer was responsible and in what way, for health and safety issues. Participants did not find it important to investigate and demand this information and other policies for their different companies.

FRAGMENTED ORGANISATION

In the first part of 2012 Satawu had at least 74 shop stewards working in the ORT workplace from four different Satawu organised companies. This included 21 contract cleaning shop stewards from Bidair, Morena and Menzies and 53 SAA shop stewards. There are actually many more Satawu shop stewards, including representatives from security companies (Reshebile, G4S and Bocassa); aviation (Air Chefs, Bidair Ramp, Menzies Ramp, Swissport and others) and from freight companies. Other unions also have a presence with representatives – such as the National Education Health and Allied Workers Union (Nehawu) and South African Commercial Catering and Allied Workers Union (Saccawu) (Cosatu affiliated) and the Aviation Union of South Africa (AUSA).

Despite this significant organised presence of Satawu shop stewards and organised workers, Satawu shop

stewards from ORT have never sat together in one room to share their problems and map a way forward for the workplace; to establish a set of minimum conditions, standard policies and a forum with the client so as to collectively bargain for how all contracts could make provision for these standards and to reach agreement on monitoring them. Beyond meetings between company shop stewards, shop stewards meet if they attend the Kempton Park local (together with other workplaces) or at local sector structures. Even the Satawu local did not seem to have consolidated information about the ORT shop stewards.

Confronted with this, project participants recommended the formation of an OR Tambo International Airport shop steward council as a platform to build unity amongst all workers at the workplace by planning and negotiating around workers' common problems. This would create the space for workers' representatives to share their problems and provide important strength to more vulnerable sections of the workforce. In particular a Satawu workplace shop steward council could explore winning equal organisational rights and rights to participate at the workplace (for example around health and safety) for all sections of workers, regardless of employment status, sector or company.

ORGANISATIONAL RIGHTS

Implementing organisational rights to elect shop stewards, organise general meetings, engage members and gather information can support bargaining and the monitoring of employer compliance with the law. Contract cleaning workers, however, face real limits in exercising organisational rights as compared to full time permanent workers directly employed by the employer/client.

The Labour Relations Act provides for unions to exercise organisational rights at the workplace of their employer but contract cleaning

workers actually work in the client's workplace. So although contract cleaning workers have rights, the challenge is how to use them in the client's workplace? The Satawu model recognition agreement provides limited help because it targets a single employer who directly employs all workers in one workplace - not today's fragmented workplace of many subcontractors and employers.

The project heard of workplaces where contract cleaners lost their jobs if a client told the cleaning company that it no longer wanted them. Whilst the affected worker can challenge their employer for an unfair dismissal, the law does not assist them to challenge the employer/client. Without job security, the ability to exercise other organisational rights is undermined.

ACSA, as the owner and operator of the airport, controls workplace access. Restricted access to certain areas of the workplace limits the possibility for contract cleaning shop stewards to interact with and recruit membership. It can also lengthen the distance that workers and stewards travel to meet each other. ACSA also restricts union communication by limiting the use of cell phones to certain parts of the workplace and it randomly searches workers' lockers. In support of the airport as a national strategic point stewards say that 'when we strike, they bring police and remove you.' These and other policies, which no-one had seen, are implemented without consulting workers; and when they are imposed on workers, 'we did not challenge this.'

Union and company recognition agreements sometimes explicitly reflect the power of the client. One specifically references the company's agreement with ACSA which will determine how it operates, while another state that access for union officials is governed by 'ACSA's regulations.' Yet the union has neither the company's agreement with ACSA nor its regulations.

These examples illustrate how ACSA controls the way that subcontracted workers are able to exercise their organisational rights. However the union does not engage with ACSA or the other employer/clients directly so as to shape these workplace organisational rights. The challenge is how to extend workers' organisational rights so as to cover the client who has decision-making power over the workplace where these rights have to be exercised. Extending the rights of vulnerable workers points to the importance of organised contract cleaning workers finding ways to engage directly with the employer/client (e.g. ACSA) and not only with the contract cleaning employer.

USING HEALTH AND SAFETY TO ACCESS RIGHTS

Organisational rights under the LRA are heavily underpinned by the assumption that these are exercised in the employer's workplace. The Occupational Health and Safety Act (OHSA) however is clear that workers and their organisation have rights which can be exercised in the workplace (place where they work) even when this is the employer client's workplace. In doing so, it offers the possibility for unions to explore using OHSA rights to win organisational rights for vulnerable workers and to establish common minimum standards across the workplace.

To exercise their health and safety rights, workers and their union need to exercise other kinds of rights as well as have knowledge about existing minimum standards (such as the Contract Cleaning Sectoral Determination) and knowledge about the client's workplace. If contract cleaning workers and their union are to investigate the workplace to identify the health and safety problems that workers face, assess the steps if any that the employer and the client have taken to reduce or limit exposure to these workplace hazards; and monitor the employer's

compliance with the OHSA in general, they will need to exercise certain kinds of organisational rights. Their health and safety representatives (which workers have the right to elect) or their shop stewards might need:

- Access to the client's workplace and its different sections or departments in order to meet and engage workers individually and collectively;
- Access to workers outside 'their' bargaining unit, company or sector if the work processes and activities of other workers in the workplace impact on the health and safety of contract cleaning workers;
- Information from their employer and from the employer/client.
- Information about who exactly is responsible for health and safety (the employer, the employer/client/another?) their health and safety plans, procedures and practices. This includes relevant information from the commercial contract.

Occupational health and safety (OH&S) issues can be used as a common starting point to build worker unity and organisation as it affects all workers in a workplace. OH&S issues might impact specific groups of workers differently in terms of their jobs and exposure to hazards but at the same time, OH&S issues impact workers in similar ways, in that they all share the single right to work in a workplace where the employer is responsible to prevent occupational injury and disease and to make the workplace healthy and safe. Together with LRA section 14(4), which gives shop stewards the right to monitor employer compliance with the law, these legal tools provide workers with a means to unite and focus attention on the client.

Clients often shift the responsibility for the health and safety of contract cleaning employees onto the contract cleaning company. They do this not because they want to raise health and safety standards but in order

to reduce their own legal liability for OH&S problems. They do this using section 37(2) of the OHSA. Clients shift this responsibility to the contract cleaning employers under circumstances in which the cleaning companies cannot control or properly understand OH&S problems (as this is not the contractors' workplace).

In contrast, the Construction Regulations of the OHSA lay out the legal requirements for operating on a construction site. The regulations acknowledge that many subcontractors on a construction site contribute to making the planning, implementation, co-ordination and monitoring of health and safety between different employers and different operations/contracts, very difficult. These regulations therefore compel the client to take certain steps to make the workplace healthy and safe for all workers working there. The client has to draft health and safety specifications for the job and the sub-contractor must then draft a health and safety plan to address these specifications. This ensures that health and safety costs are included as part of a subcontractor's tender. The steps include procedures to monitor health and safety. Although the various contractors are held responsible for health and safety; it is the client (the core business) who retains principle responsibility.

The Construction Regulations could act as a model to be used and extended, through negotiation, to other workplaces where many subcontractors operate, like the airport. They could also be extended so that the specifications include minimum standards (wages and conditions) and organisational rights, with the client retaining principle responsibility to monitor and ensure compliance with these standards and rights. The expansion of workers' organisational rights would facilitate greater involvement by contract (and other) workers in monitoring employer compliance with the law (including compliance by the client).

CONCLUSION

The project facilitated an exchange of experiences between aviation and contract cleaning shop stewards in the ORT workplace around health and safety issues. This led some SAA shop stewards to make important changes. Whereas previously cleaning workers were invisible to them, they now expressed concern for and solidarity with them. Project participants recommended setting up a shop steward council for the OR Tambo International Airport as a place to unite workers, to share experiences and to plan how to overcome health and safety problems in the workplace, and in the case of contract cleaning workers to develop the demand for permanent jobs.

The shop stewards council would be a structure to plan negotiations with ACSA and other employers about their policies and for organisational rights (and standards) to cover every worker in the workplace. Such a process in turn would contribute to a more relevant model organisational rights agreement which could, for example, provide for a joint general meeting of all workers in a workplace (regardless of company or contract).

A workplace strategy shifts the union's organising and bargaining strategy towards finding measures that unite permanent and contract workers, concentrating attention on the client as the key workplace decision-maker. Worker unity is crucial for challenging workers' vulnerability. Health and safety issues offer a possibility to build the basis for workers unity, drawing on organisational rights linked to the OHS Act, and through engagement with the client, making the client ultimately responsible for preventing exposure to and controlling the hazards that all workers face in that workplace. ¹⁸

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