

Marikana massacre:

Year of contestation

The marikana massacre of 16 August 2012 is a defining moment in South African labour relations. **Crispen Chinguno** looks at what have been the implications so far on unions and employers.

One year has passed since the Marikana massacre and many things have transpired beyond imagination. It was clear that this would leave permanent marks on the socio-economic and political dynamics and especially on labour relations. This was part of an unprecedented strike wave which started at Impala Platinum in January 2012 and spread across the platinum mining belt like a veldt fire. It also affected the iron ore, gold and coal sectors. All the strikes in this wave were characterised by high levels of militancy and workers posing uncompromising demands outside the formal collective bargaining structures. Drawing from the history of labour relations in South Africa characterised by major shifts that are usually preceded by major clashes; this was expected to be a turning point in the post-apartheid labour relations regime. It is important to reflect on what has happened since then and the underlying dynamics, meanings and implications.

UNIONS

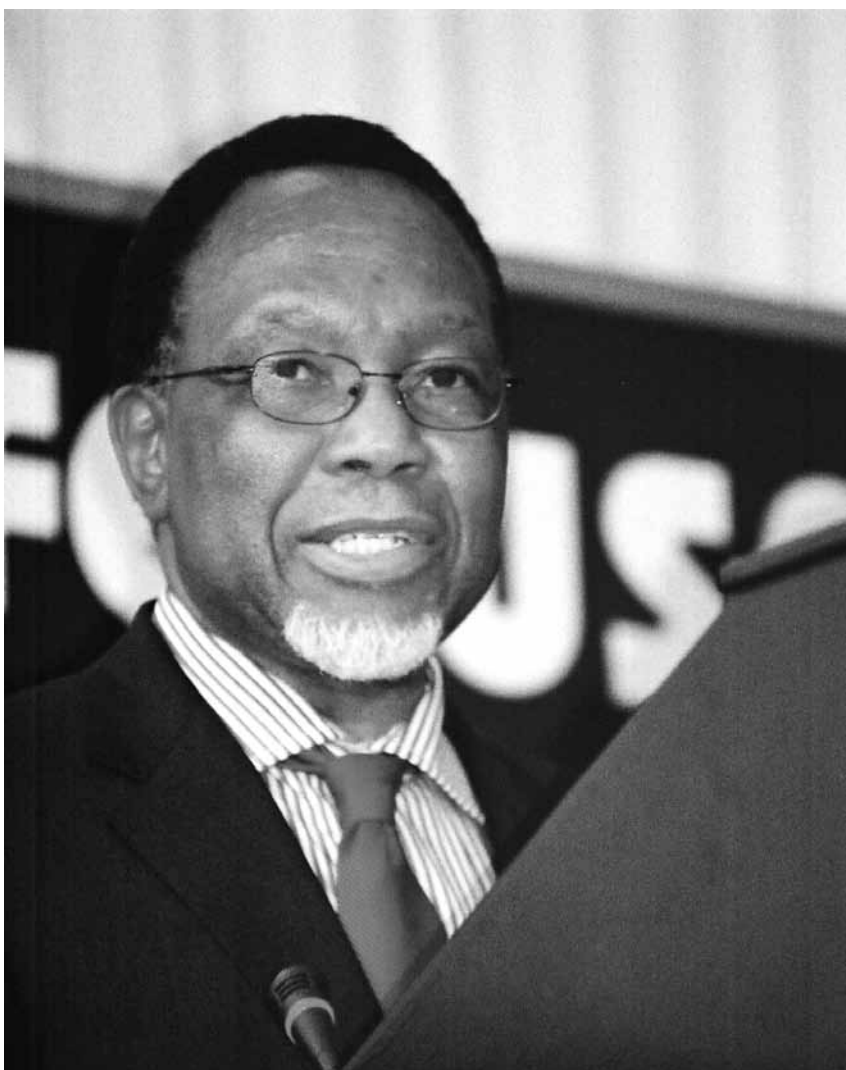
Mining in South Africa remains central in shaping the socio-economic and political dynamics despite its decline in recent years. It has the highest union density

and the biggest union in South Africa and Africa. Before the 2012 strike wave, union representation in the sector was dominated by the National Union of Mineworkers (NUM), which had recognition agreements with most of the big platinum mining houses. This guaranteed it a monopoly and an absolute majority at most of the workplaces, but undermined the chances for any competitor. The platinum belt strike wave and the Marikana massacre disturbed this order. The profile of trade union representation in platinum has since then been dramatically transformed.

At the three biggest platinum mining houses (Angloplats, Impala, Lonmin) NUM was the majority union organising at least 70% of the workforce. The common story from the workers interviewed is the claim that the NUM has been alienated from its membership and was compromised and captured by management. Some of the workers interviewed alleged corruption within the union and beyond by union officials. They argued that the shop stewards and the general union representatives have been disconnected from their daily reality as seen in the fact that most of them now live in affluent suburbs, have luxury

cars sometimes provided by management and work in air conditioned offices. These were given as some of the reasons explaining the massive defections from the NUM. The challenges faced by the NUM are indeed not surprising as they are typical problems that any trade union encounters as it becomes big and mature. Robert Michels has argued that as trade unions grow bigger they drift away from the interests of their membership and serve those of management. Sakhela Buhlungu draws from this theory and identifies challenges faced by trade unions post the democratic transition as a paradox of victory.

A number of studies have identified many of these problems. A study conducted by SWOP, at the University of the Witwatersrand in 2004 commissioned by the NUM identified many of the problems highlighted and affirmed by the workers interviewed during the 2012 strike wave. This includes the problems of union social distance and poor service delivery. Whilst research was able in time to identify the NUM challenges, it did not envisage the dramatic collapse of its size influence and power in platinum mining. Most of the studies identified and acknowledged the challenges the



Deputy President Kgalema Motlanthe is leading discussions to bring stability to the mining sector.

NUM was facing but remained optimistic on the persistence of its dominance. While it is apparent that the NUM supremacy in platinum has collapsed the big question is what is taking its place.

Platinum is now the biggest mining sector in South Africa in terms of the number of people employed. In 2012 it employed 194,979 when compared to the gold sector which had 145,561 workers. The Association of Mining and Construction Union (Amcu) is now dominant in platinum with an estimated membership of at least 60% of the workforce according to the employers. In gold it is still trailing the NUM with just over 17%. However, it is the most

popular union at South Africa's three major gold producers and this affirms its significance in mining.

Amcu is not a new union and has been in existence since 1998 but faced challenges in making headway in the big mining houses. At that time the NUM dominance seemed formidable. As a result, for much of its early years it only managed to make marginal gains in small mines and subcontracted firms simply because it was merely closing a gap where the NUM was absent. In a research conducted in 2008, in the construction sector, we observed that the NUM prioritises organising contractors employing at least 50 employees. This left a gap that was filled by Amcu.

The Marikana strike wave transformed this terrain and the NUM loss of membership apparently translated dramatically into a gain for Amcu. Many workers defected from NUM to Amcu. This move by the workers partly constituted a protest to the quality of service from the NUM but it also indicates the precariousness of union membership in the sector. Amcu now has an estimated membership of over 100,000 from less than 30,000 only 18 months ago.

Amcu has been portrayed and presented ideologically as apolitical, non-communist and not aligned to any political party. It claims that its mandate is to advance workers, bread-and-butter issues. However, in early 2012 when it faced retrenchments at Angloplats, for example, it advocated for the nationalisation of the mines.

Trade unions emerge to advance the interest of membership and this includes challenging the appropriation of surplus value, which is a self serving objective for the workers. As a result, all trade unions are by nature political. The claim that Amcu is apolitical is thus a misinterpretation. It is not apolitical but non-partisan.

FARLAM COMMISSION

The state set up the Farlam judicial commission soon after the Marikana massacre to investigate the causes and underlying dynamics. However, the massacre is part of a broad strike wave which followed a pattern across the platinum belt. As a result, it will be very complex for the commission to capture some of the underlying dynamics from just one of the many incidences. The commission is still sitting and is expected to finalise by October 2013.

Marikana brings to the fore the Marxian perspective on the state and its role as an agent of capital. Many have thus been sceptical of

the capacity of the commission to reprimand the state given that the state is not neutral, as shown by its response to the Marikana miners. Whilst the commission will expose what transpired around the massacre, its focus on the Marikana incident will likely blind it to the broader underlying dynamics that led to the stalemate and resultant massacre.

VIOLENCE AND ASSASSINATIONS

One year has passed and yet violence and assassinations remain entrenched as part of the organising order at Marikana. A number of shop stewards from the two rival sides have been assassinated. Dalevuyo Mbogo, the NUM branch secretary for Marikana was gunned down at his home at Wonderkop hostel family unit section. Steven Mawethu, the man credited for bringing Amcu and for its breakthrough on the platinum belt was also gunned down at a tavern near Marikana. These two killings represent at least 12 similar killings after the massacre including that of a *sangoma* consulted by the workers during the strike. It is clear that the violence and contestation is still raging.

How do we explain this violence and these assassinations? It is important to note that union-related assassinations are not new in the platinum belt. In the past this was usually due to the fight for power between different factions. In the last union elections at Lonmin before the massacre, the workers interviewed alleged that similar assassinations were executed. However, this was suspected to be as a result of inter-union rivalry. Currently it has shifted to intra-union violence. It is apparent that these assassinations are part of the repertoire or established way of dealing with conflict and may be a means of eliminating enemies by factions within and or across unions.

LABOUR RELATIONS & COLLECTIVE BARGAINING

It is undoubted that the platinum strike wave and the Marikana massacre is going to leave an indelible mark on SA labour relations. What is not clear currently is the extent to which this will affect labour relations. Before the strike, labour relations were characterised by a decentralised collective bargaining and a hegemonic union. Ironically the NUM had in the past advocated for centralised collective bargaining in platinum similar to the gold and coal sectors. However, employers shot down the NUM proposal. The refusal by the employers was centred on the claim that centralised collective bargaining would inhibit labour market flexibility, a position which shifted after Marikana.

Employers conceded to the proposal for centralised collective bargaining after the strike. Through the Chamber of Mines, they engaged the unions to set up a centralised collective bargaining forum as it was argued that this would rationalise labour relations in the sector and would have contained this crisis. All the other parties, including the NUM and the employers except Amcu agreed in principle to the idea. Amcu withdrew from the forum on the basis that collective bargaining must not be used 'to lock workers in poverty'. It argued that it differed on a matter of principle on how centralised bargaining should be introduced. Amcu proposed an overarching bargaining forum for the entire mining sector but did not clarify the feasibility.

The responses by the different parties are not surprising. For Amcu this apparently was more tactical as it would be absurd to change a winning strategy. Hence, the best is to buy more time and consolidate their position. On the other hand, for the NUM it's a matter of resorting to institutionalisation when you cannot face the ground.

Marikana raised debate on union organisational rights and recognition. A union that is 'sufficiently represented' has prescribed rights. However, the law does not specify what sufficient representation is, but 30% has been used as the benchmark. Furthermore, a bargaining council or union and employer may agree on the minimum threshold for recognition. Moreover, a union with at least 50% plus one membership may negotiate with the employer for absolute rights closing off competition similar to a closed shop agreement.

This was the position of the NUM at all the major platinum mines before the strike. The post-apartheid labour regime promotes majority unions. This is designed to advance big and strong unions. However, this constrains small unions and infringes on the constitutional rights to the freedom of association. In the past this has not been an issue as the majority unions have always maintained majority and legitimacy. However, this strike wave and the Marikana massacre questioned this.

After the NUM lost majority, the battle on the minimum thresholds took centre stage at all the major platinum mines. This culminated in the de-recognition of the NUM and subsequent recognition of Amcu. However, the recognition of AMCU was not uncontested. At Impala, NUM membership dropped from 70% to 13% according to the employer after the strike and this culminated in its de-recognition and displacement by Amcu. A similar development happened at Angloplats, but Amcu is less popular but still the majority with a 40% membership. It has nevertheless, been accorded recognition and has displaced the NUM.

At Lonmin, the NUM, according to the employer lost majority membership but recognition has not been smooth and is still being

contested. The employer intended to fast track the recognition of Amcu but that was challenged by the NUM which in terms of the agreement is entitled to at least three months to regain lost membership before it may be de-recognised. This contestation was marred by counter accusations by Amcu and NUM of fraudulently signing up of members.

The NUM took this case to the courts and contested its pending de-recognition claiming that Amcu fraudulently got some of its members. The employer then proposed a secret ballot to verify the majority union. This dispute indicates the level of uncertainty and volatility in the sector. The proposal by Lonmin to have a ballot to determine the majority union further raises the stakes and the contestation.

NUM made attempts to regain membership at Lonmin in an environment similar to a war zone. However, it is apparent that the NUM would not be able to overturn the tables in the short run given the context characterised by violence. In addition, its name is tainted that the workers have high expectation of Amcu, which they view as untainted.

The routine 2014 collective bargaining was threatened by this contestation between NUM and AMCU. The demands by these two unions clearly reflect strategies to outdo each other. Whilst the unions demanded over 60%, which translate to a minimum wage of R8,000 (NUM) and R12,500 (Amcu) in the gold sector, employers allege that the sector is in a severe crisis. It is clear that the two union demands are all informed by the previous platinum strike wave. At the same time the R12,500 by Amcu is the same with demands by workers at Marikana which became a symbol of the mineworkers, struggle. The struggle thus continues beyond Marikana.

NEW FRAMEWORK AGREEMENT FOR SUSTAINABLE MINING

Following a spate of unending volatility in the mining sector, President Jacob Zuma tasked Vice President Kgalema Motlanthe to lead negotiations to establish a framework to stabilise the sector. Negotiations for wages were delayed with hope that the new framework agreement would be approved by all parties. Amcu, as was expected, snubbed efforts to have all stakeholders sign the accord and requested more time to consult its members. Furthermore, it should not be surprising for its membership to disapprove of this accord. Amcu has the moral high ground amongst the ordinary workers as it condemned the massacre.

The workers interviewed see the effort by the government as not in the interest of the sector, but to salvage the NUM which the majority dislikes. The accord would not be of any substance without Amcu's signature. Nevertheless, it would not make any substantial difference even if it later approves it as it fails to address the underlying fundamental issues. The workers had expectations about their position in the new democracy which have been shattered. These unfulfilled expectations are tied to the current workers' demands, which go beyond collective bargaining.

CONCLUSION

The transformation of labour relations in the mining sector is still unfolding as highlighted by the contestations still prevalent in the platinum belt. The environment on the ground remains tense and volatile, and violence is entrenched as part of the organising order.

The dramatic loss of membership by the NUM, whilst coming not as a surprise, raises pertinent questions on its future in the labour regime. So far it seems Amcu has the moral high ground and got the most

from the NUM loss and is now the majority union in platinum. What implication does this have on labour relations? We have to reflect on the motive of the workers from the onset. When the strike wave started it was led by workers outside the union rejecting the status quo. They were challenging an order that short changed them. However, the strike seems to have ended with a shift of dominance from the NUM to Amcu. This raises doubt whether this represents a new order. Although Amcu has committed to do things differently what it represents from the preliminary observations may not be a reflection of a new order.

The contestation has shifted from a revolt against the current order by the workers to a contestation for space and dominance by two unions. In the short to medium term the industrial relations in platinum will most likely remain highly volatile and the risk for militant and violent strikes is very high. To resolve this impasse, the state and the employers need to swallow a bitter pill from the mistake made in the past which promoted union majoritarianism whilst suppressing democracy. We have to let this otherwise absurd course of majoritarianism take its full life cycle. This means accepting that Amcu for now has won the medal and is the new dominant union in platinum mining and accord it due recognition. After this, the state and the employers in collaboration with the unions may start working towards rationalising the system towards democratisation. However, this is a long-term project that does not take place overnight but demands time and planning. So far the state, the employers and some of the unions have been impatient and this may worsen the problem. ^{LB}

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