

# Re-thinking company & sectoral bargaining strategies



As collective bargaining gets into full swing unions should relook at strategies that work for workers, such as centralised bargaining, writes **Karl Cloete**.

**T**rade unions are and must remain mandate-based and mandate-driven organisations. Similarly, collective bargaining must start, continue under and end with democracy. Demands must be endorsed by members, and where research is used, which is recommended, it must begin almost after an agreement is signed. Such research must study both its impact vis-à-vis members' conditions on a constant basis until a point where it must be renegotiated. Constant feedback and report backs must be given to members for them to engage. Involving members in research as participants, and not only as subjects, is even more advantageous.

Changes to mandates, and settlement agreements must be

sanctioned only by members who are strengthened by thorough trade union education and capacity building. Union decision-making structures must be aligned with these principles.

## RE-THINKING RELATIONSHIPS

In *Collective Bargaining Negotiations* published in 1996 by the International Labour Organisation's (ILO's) Bureau for Employers' Activities, Sriyan de Silva makes the following observation.

'Originally collective bargaining at the national or the industry level was viewed by employers as a means of reducing competition based on labour costs through standardized wage rates. Employers no longer view collective bargaining from this perspective.

Instead, centralized and industry level negotiation is considered as depriving enterprises of the needed flexibility to compete on the basis of adjustments at the level of the enterprise in relation to pay, working hours and conditions, work organization, manpower utilization and so on. The efficiency gains are considerably greater - and more easily realizable - when negotiations take place at the enterprise level. Therefore, the major thrust in all countries where the pattern hitherto was national or industry level bargaining, towards increased enterprise-level bargaining, has been by employers. Not all unions favour this trend; their power position can be automatically eroded by this trend, just as it is enhanced through centralised or industry level bargaining.'

## NUMSA EXPERIENCE

From a number of recent developments relating to industry or sectoral collective bargaining in South Africa some aspects from this observation can be confirmed. In the Metals and Engineering Industries Bargaining Council (MEIBC), the National Employers' Association of South Africa (NEASA) has been engaged in several challenges to the MEIBC, one of them being the extension to non-parties of the industry collective bargaining agreement concluded in 2011.

However, some variation exists. The Steel and Engineering Industries Federation of South Africa (SEIFSA) was opposed to NEASA, supporting both industry bargaining and the extension of industry agreement to non-parties. There are many factors accounting for differences in approach between the two employer organisations.

From Silva's observation SEIFSA can be considered to be still viewing industry or centralised bargaining with the extension of agreements to non-parties 'as a means of reducing competition based on labour costs through standardised wage rates'. In contrast, NEASA sees this as 'depriving enterprises of the needed flexibility to compete on the basis of adjustments at the level of the enterprise in relation to pay, working hours and conditions, work organization, manpower utilisation and so on'.

NEASA is not alone. Employers in the platinum mining and other sectors who stand opposed to moves towards industry or centralised bargaining think along the same lines. In addition, the media reported that another right-wing organisation, the Free Market Foundation, is challenging the constitutionality of the Labour Relations Act especially its provision for the extension of industry or centralised bargaining

agreements to non-parties.

Could Silva be right then, that for those employers who have turned against industry or centralised bargaining or who are opposed to it see enterprise-based bargaining as offering them greater efficiency gains and making those gains realisable while, in contrast, for unions enterprise-based bargaining can automatically erode their power position 'just as it is enhanced through centralised or industry level bargaining'? This is one of the important questions for us in re-thinking the relationship between company and sectoral bargaining strategies, noting that at the last Congress of South African Trade Unions (Cosatu) national congress the Secretariat Report strongly recommended centralised bargaining.

It is also important to keep our eyes on the ball with regards to our fundamental principles such as class interests as trade unions represented workers' interests. Silva observes that employers and trade unions inform their approaches to collective bargaining based on whether that will lead to an enabling environment for the achievement of the class interests they represent. Other union principles that should be followed are the 'one industry one trade union' principle that is linked to 'one country one trade union federation' and 'equal pay for work of equal value', otherwise equal pay for one and the same or a similar job or occupation. Whether the momentary and immediate class interests that trade unions represent can be achieved through collective bargaining among others partly depends on its organisation and how it explains itself.

For instance, unlike industry or centralised bargaining door-to-door bargaining (enterprise-based bargaining) is more unlikely to be

effective towards the principle of equal pay for work of equal value in an industry that is made up of many employers. In addition, door-to-door bargaining can have the effect of contributing towards trade unions multiplying through the mushrooming of smaller trade unions that do not have a national or industry footing or do not meet related thresholds.

In that way door-to-door bargaining can thereby act negatively towards the achievement of the principle of one industry one trade union. In some instances it could actually be one of the contributory factors towards trade union break-up because of the ease of entry in door-to-door bargaining compared to industry or centralised bargaining. Similarly, differences in conditions and wage rates/levels as a result of door-to-door bargaining can destabilise and weaken trade unions as members seek equal treatment.

The above observations can be extended to monopoly industries with regards to the relationship between plant-based and company-wide-based bargaining. The latter represents centralised bargaining and the former decentralised bargaining where both are not linked but isolated.

## CENTRALISED VERSUS PLANT

A review of centralised bargaining in South Africa and other countries shows that most often than not centralised (i.e. industry-wide or sectoral) bargaining agreements do not cover every aspect of the employment relationship and working conditions. They mainly cover core, cross-cutting and industry-level issues as well as broad principles on company - specific issues - which are often referred to the company for negotiation and agreement at that level. This leads to a two-tier/level bargaining as a particular form of a

relationship between sectoral and company bargaining strategies.

The weakness with this two-tier/level model arises when those company-level negotiations are regulated by provisions (set out in industry or centralised bargaining agreements) that tend to include compromise (for example, labour 'peace' or 'stability' clauses) the use of industrial action to enforce workers' demands.

For the company-tier/level to be effective those provisions must be reviewed. Also important under the circumstances is the need to adopt governing principles for engagement at each tier/level and clearly specify what issues are designated to each tier/level.

By providing space for extended bargaining at the company-level on issues that are referred to the company-level from or on issues that are not covered in centralised bargaining agreements, this model rectifies a particular weakness – the potential or actual immobilisation or organisational inactivity at the company-level in between centralised bargaining cycles. However, it is important to define the roles of both centralised and extended (i.e. company-level) bargaining in this two tier/level bargaining model.

Does the centralised bargaining tier/level establish minimum conditions and wage rates from which company-level bargaining can improve or does it set out actual conditions and wage rates? An analysis of collective bargaining in South Africa shows that there are more cases where employers treat minimum conditions and wage rates as maximum and by so doing resist any improvements of the minimum.

In some of our sectors, employers do this by subjecting temporary workers or workers who are still employed under labour brokers to minimum conditions and wage rates while

the actual conditions and wage rates for permanent workers are relatively, albeit slightly, better and higher. But more and more the idea to set minimums through centralised bargaining with the intention that they can be improved through company-level bargaining does not work out. Any continuation of this idea must therefore be more carefully thought out and backed by a compelling motivation, which is more difficult to find than it seems.

In general, only in monopoly industries – industries where there is only one company such as Eskom and Transnet in the sector where they operate – can company-wide bargaining strategy work more or less in the same way as the two-tier/level centralised bargaining strategy in sectors with many companies.

#### FALLING NATIONAL INCOME

Adcorp is celebrating that, according to their figures, the wage share is the lowest (and the profit the highest) in 50 years in South Africa and also that return on capital is the highest in the world. This provides an interesting background to collective bargaining this year.

Adcorp says that a more in-depth analysis of the country's state of employment for February 2013 found that the wage share – labour's participation in national income – fell to the lowest level in 50 years.

Labour economist for Adcorp, Loane Sharpe, said the 'wage share' – the proportion of national income that is attributable to workers – is an indicator of the distribution of income between capital and labour.

'Wages are the remuneration received by labour; profits and other owner income is the remuneration received by capital. The implication of the dropped wage share was that South Africa's

profit share rose to a 50-year high.'

Reasons for this trend, Sharpe said, could be attributed to South African companies, as reflected by profits, being in exceptionally good shape. 'A recent study showed that the real risk-adjusted return on capital of South African listed businesses is currently 10% – the highest in the world.'

This is the clearest attack on the livelihood of workers in general and the working class in particular.

#### WHAT TO DO GOING FORWARD

The following should be avoided:

- Low levels of accountability and weakening of worker control, collapse of constituency – based representation, leadership accountability that replaces membership accountability, poor general meeting attendance and losing contact with members. Furthermore, unions should be careful about preferring one section of members over another. We should ensure that our involvement is about members first and growing the organisation, that office bearers, shop stewards and officials get out of their comfort zones, and that in small establishments members feel the union is their shield and their spear. We should also go back to the shop-floor, and take up bread-and-butter issues that affect workers and prepare for an assault on trade unions by the bosses/capital who want to reduce union power. Not forgetting the offensive of state entities such as the National Planning Commission. <sup>LB</sup>

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