

'Amalungelo wethu'

Woolworths 'flexis' strike for rights

Each time a strike happens in retail, casual workers become more determined and militant.

Claire Ceruti and **Bridget Kenny** chart the recent Woolworths strike and assert that this could be the turning point for union recognition at the store.

“**T**he main reason we are on strike is not that difficult to understand. We want a union... I don't understand the fuss. Woolworths is a big company... Most of the big companies do have them. I think it's our right. For them not to allow it, to deny us our rights, it's unfair.” Others agreed, “How can we call this a democratic country when they don't recognise that.” “Even the smallest company respects recognition... Woolies is a national company and they can't grant us recognition.”

On September 22 more than 5 000 workers, many 'flexi-time', came out on a significant strike which lasted more than a month. It could well be the turning point for workers who have been fighting for union recognition for years at this national chain.

The strike pivoted around a dispute over the right of Saccawu (SA Commercial Catering & Allied Workers Union) to access Woolworths' premises and stop-order facilities. This strike over organisational rights highlights important issues in current labour regulation, including the ongoing flexibilisation of work, union contestation over the definition of 'sufficiently representative', and the company's strategy of avoiding historical forms of worker representation.

BACKGROUND

In the late 1990s, Woolworths like other retailers deliberately increased casual and 'flexi-time' employment to make working time more flexible. In 1999, the company derecognised Saccawu. It argued that the bargaining unit had more than 70% casuals, and these were not Saccawu members. The union contested the derecognition on the terms of the collective agreement, but the dispute became mired in legal delays.

In the early 1980s, Saccawu (then Ccawusa) won recognition at Woolworths through militant mobilisation. These were the days when independent unions paid no heed to procedural rules about majority membership. The union had a presence in the workplace and the political will to force the employer to the table.

In the processes of casualisation in retail in the 1990s Saccawu has had to fight on multiple terrains against these labour market changes. It also had to come to terms with organising different kinds of employees. Since the derecognition, the union continued with the legal dispute while it considered how to best organise the new workforce.

The company had its own plans. In 2002, Woolworths underwent a casual conversion exercise. It ended casual contracts and rehired most of the staff as 'permanent' flexi-timers,

on different part-time rosters. It did this because a Sectoral Determination was about to change the law, eliminating 'casual' employment from retailing.

At this point, it became clear that Woolworths was contemplating flexi-time employment for all staff. Thus, while Saccawu focused on contesting derecognition, the company was moving ahead aggressively to change employment relations.

Woolworths relied on branch level 'communication forums' to replace union structures to gain worker buy-in for changes. Workers say that the communication forum “doesn't work... There are no changes that happen through the communication forum.”

In 2004, the Commission for Conciliation Mediation & Arbitration (CCMA) held a conciliation hearing for the initial dispute over recognition, which ended in a settlement. However, the union was unable to meet the terms of the settlement. Thus, the current strike emerges from a longer history in which Saccawu had difficulties organising precarious workers and fighting for a presence in the company.

Saccawu persisted, however, and this strike suggests that the union is making interesting arguments about the threshold around which the organisational rights of access and



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Woolworths' Eastgate strikers picket the store in September this year

stop-order facilities should be granted. This is an important move.

SUFFICIENTLY REPRESENTATIVE

The strike centred on union access and stop-order facilities for signed-up members. These rights assist unions in gaining recognition, and they emerged out of 1980s union struggles. The Labour Relations Act states that union recognition requires majority membership (50+1%), but that a union must be 'sufficiently representative' to win access and stop-orders. There have been many decisions on what constitutes 'sufficiently representative', but technically there is no definitive figure.

Woolworths argued that the union had to show 30% representivity for access and 25% representivity for stop-order facilities. People often understand 30% as a precedent, but there is no hard and fast threshold.

Saccawu made the argument that decisions around representivity must take into consideration current conditions where most of the workforce is precarious. It argues that under conditions where membership has been substantially eroded that a 15% threshold is 'sufficient'.

Woolworths also disputed who constitutes a union member. Saccawu argued that a member is someone who is fully paid up while the

company refused to accept members who had signed up earlier than three months prior to the strike. They wanted Saccawu to re-sign these members. When the conciliation hearing deadlocked, the union applied for a protected strike.

The strike was meant to force the company to return to the negotiating table. Indeed the settlement refers the matter to the CCMA for a joint verification exercise to establish the number of members, and mediation around the process.

It is very likely however that through the strike, Saccawu has managed to sign up a significant new membership.

WHY A UNION?

For the strikers, union recognition is a first step. "I mean we've got too much problems. It's not only to recognise our union. The minute we win this my life will be changed. Even if we are not striking, I get paid today and the following day my money is finished." Another striker said, "We want a union because we are getting exploited. We don't have any representative."

Pay was a key issue. "We are striking so that we can get a union – we want money. I earn one point six (R1 600) a month... We are doing so much to make the company grow but they pay us peanuts."

But unfair dismissals were equally

worrying for strikers: "These unfair dismissals – people are fired like dogs. Even if they take you to a hearing... just think you are gone from here because you are not represented. You go to a hearing, that's the end of you."

This worker estimated that "about 100 people had been dismissed in the past six months" within the chain. "Seriously, Woolworths have been doing this kind of thing for too long. Now those are the kind of things we really have to fight. We can't just stand and watch." He went on. "This is the new generation – we are not going to let that go. We are going to fight to the end."

It seems he is not wrong about the new generation. A number of strikers we spoke with had worked less than three years at Woolworths. And workers confirmed that young people came out on strike.

It is also a generation fighting back against insecure work. Woolworths uses the term 'Flexi 28' to refer to employees who work a maximum shift of 28 hours per week in variable shifts, including extended trading hours. This is the most recent example of the flexibilisation of retail employment: "I'm expected to do an extra mile but we don't even get paid overtime. We work three Sundays a month, and all the holidays. For holidays we are paid double but for

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Sundays we just get a normal day.”

Flexi-time was a complaint that many workers raised: “Flexi is running the store,” said one man, who believes Woolworths has a conscious strategy to employ casual labour. “... they made sure they cut the permanents, we’ve got few permanents. People on the ground, till operators, floor assistants, most of the shop is Flexis. I still think that most of them [full-timers] left not because they wanted to but because they were pushed.”

The disruptive effects of such work conditions were poignantly illustrated by one woman, a single mother who had worked for seven years at Woolworths. She took us aside, ashamed to let the other strikers hear about her personal life, and told us how one of her sons was in prison and the other, she feared, heading the same way. Her teenage daughter was starting to “run around” with older men, and she worries that she will end up pregnant. Because of her work hours as a Flexi-28 she was not home during the evenings to spend time with her children. Management then

accused her of having a “bad attitude” when she showed signs of stress at work. Workers agreed that one of the “biggest issues now was the exploitation of flexi-time workers”.

Workers also complained about work intensification: “The thing is they want to save money. They say Woolworths does not have money. If they fire one, they don’t replace... That means everyone is going to work double. Workload is too much.”

Workers felt that they had to bear the brunt of maintaining company profit rates: “Now they are working us like slaves... on a day-to-day basis, [you will see] two or three full, big trucks – horses and trailers. But the following day, all their stock is sold. Then someone comes to you and says Woolworths does not have money. Maybe other shops but here I’m definitely sure we are making a killing.”

Workers on strike chanted, “Speak for us as abasebenzi. Stop casualisation. Stop exploitation. Stop unfair dismissals. We need a union as our rights. We demand a union. We will die until the union comes back.

We are not going back to work. Amalungelo wethu. It is our right”.

CONCLUSION

The Woolworths strike reminds us again that it is crucial to organise and represent precarious workers. In a context of economic downturn, unions will face increasing employer assaults against the norms of bargaining. As one worker understood the company’s refusal to recognise the union, “they know, the minute you agree immediately after we sign – the demands [will come], they know.”

One worker said bluntly, “a union is a human right”. But what this strike suggests, however, is that organisational rights are contestable, and still depend on the political will and proactive strategy of unions to enforce them. LB

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Picketing rights

The right to picket remains a contentious issue in retail. Mall managements and Woolworths insist on picketing 20 metres from the entrance to the mall. Strikers were cordoned off in areas at the far end of parking lots, not close enough to entrances to explain what the consumer boycott was about. One worker said, “... you can see we are like cows – where in the world have you seen this? Seriously! I think the way they are doing they are trying to break the spirit.”

Centre management told workers that it would call the police if they broke picketing rules.

A worker from a small Woolworths branch in a mall said she was one of only three workers on strike at her branch, but picketing rules stipulated that she had to picket elsewhere. She could neither join other pickets, nor could her comrades join her.