

Farewell to innocence!

Dilemmas and turning points for Cosatu

Recent events at the Congress of South African Trade Unions (Cosatu) show that there is nothing unique about the federation anymore. After Marikana and having to deal with unhappy workers, as well as organisational stress, unions and their leaders face the same problem as everybody else, writes **Sakhela Buhlungu**.

Over the last 14 months developments within the Congress of South African Trade Unions (Cosatu) have exposed the weaknesses of trade unions in post-apartheid South Africa. Although there is no consensus on the long-term implications of these events, it is possible to identify some of the most dramatic among them. In this article I focus on three of which can safely be regarded as turning points for the federation, its affiliates and members. All three marked different stages in the slow-motion implosion of trade union organisation. I explain this assertion and the long-term implications of the developments.

WORKER DISCONTENT IN THE PLATINUM BELT

The first is the collapse of National Union of Mineworkers (NUM) organisation on the platinum belt and the subsequent contestation that ended in the Lonmin Marikana massacre of mineworkers by the police. Most accounts of events on the NUM crisis in the region focus on the Marikana killings and this is understandable given the traumatic events of 16 August 2012. However, the real issue about these events is the collapse of NUM organisation

in platinum following the large-scale rejection of the union by its members. The killings showed the contestation between the NUM and its former members and the backlash by forces that feared the emergence of independent unionism outside the influence of the tripartite alliance of the African National Congress (ANC), Cosatu and the South African Communist Party (SACP).

An important issue that is often missing in discussions on Marikana is the fact that workers at the other big producers, Anglo American Platinum and Impala Platinum, had recently engaged in militant strike action undertaken under the leadership of elected workers' committees. The strike at Impala earlier in 2012 was no less intense than the one at Lonmin in August. Indeed, striking Impala workers engaged in clashes with the police and looted and burnt down businesses owned by foreign traders, mainly Somalis and Chinese. Not even police installations were safe from the strikers' wrath. During a visit to the Rustenburg area in May 2012 we came across an informal settlement satellite police station that had been torched by marching workers.

The intensity of the conflict of the Impala strikes could have resulted in Marikana-style killings. The difference is that with Marikana, the full extent of the defection from the NUM and, by extension, the Tripartite Alliance had become clear to all and sundry and the stakes were therefore extremely high for both the workers, on the one hand, and the NUM, Lonmin and the ANC government, on the other. The other difference is that on 16 August the atmosphere was already poisoned following the killing of 10 people, including two police officers, a few days earlier. What remains unclear, and hopefully the Farlam Commission will shed light on this, is whether the police were motivated by revenge and whether or not their actions were authorised from the top levels of the government.

DIVISIONS AND THE PALACE COUP

The second development involved the emergence of damaging divisions within the federation. Once again, the suspension of general secretary, Zwelinzima Vavi, following the office sex scandal involving a junior union official was a symptom rather than a cause of the division. As we saw in the leadership contestation in the lead-



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Why would a union be taken to court by its members: Fawu members in a Cosatu march.

up to the 11th National Congress in 2012 and the investigation into allegations of financial, administrative and leadership impropriety against Vavi launched earlier in 2013, the divisions were there long before the current leadership stand-off.

There is no doubt that the current divisions are a spill-over from those in the ANC and the broader Tripartite Alliance as union leaders took sides either in favour or against ANC president, Jacob Zuma. A pattern had been set by the dishonourable dismissal of then Cosatu president, Willie Madisha who sided with Mbeki during the latter's tussle with Zuma before and after Polokwane. Ironically, Vavi led the charge against Madisha and curiously, an enquiry led by lawyer Charles Nupen was used to give legitimacy to the palace coup. (Nupen is back in business as part of an enquiry into the administrative and political conduct of Vavi!)

Indications are that the Vavi saga has and will continue to spiral out of control and way beyond what both sides expected. The mode used in the contestation bears close similarity to that used in Cosatu's Alliance partners - the leaking to the media of compromising

information about opponents, revelations about embarrassing intimate relations, allegations of financial impropriety and accusations of political disloyalty. Although Vavi may survive the contestation, there is little doubt that the accusations have severely dented his credibility and diminished his moral authority as a leader. But even more important is the damage that has been suffered by the federation at a time when the ANC has lost the trust of many citizens and when many were looking up to Cosatu and its leaders as beacons of hope and moral uprightness.

It is unclear which way the contestation will go. At the planned Cosatu national congress Vavi supporters are determined to use it to reinstate him and oust his opponents led by federation president, Sidumo Dlamini. Vavi's enemies have not let up the pressure either. They have leaked new allegations of financial corruption against Kopano ke Matla, Cosatu's investment company, with insinuations that Vavi knew about them but shielded those involved because they were his allies. What is certain in all of this is that Cosatu will never be the same after this gruelling contestation. It

will be a weaker and more divided organisation which no longer occupies the moral high ground on worker issues and politics in general.

UNIONS IN THE DOCK

The final development I discuss is a court case where workers sued their union all the way to the Constitutional Court and won. On 9 October 2013 the Constitutional Court handed down judgment in the case in which two dismissed members of the Food and Allied Workers Union (Fawu) sued the union for failing to take up their dismissal case at the Labour Court. The case goes back to 2002 when Mandla Ndlela (who has since died) and Michael Mkhize were dismissed by Nestlé. The union represented the workers at the Commission for Conciliation Mediation and Arbitration (CCMA), but the CCMA issued a certificate of non-resolution, clearing the way for the case to be taken to the Labour Court. But the 90 days referral period lapsed before the union could act. Meantime it kept telling the workers that the case was in process. After about a year the workers discovered the truth and sued the union at the High Court for damages (for failing to defend their jobs) and they won the case.

Significantly, in passing judgment the High Court said that had the case been brought before the Labour Court their dismissal would have been found to have been 'procedurally and substantively unfair'. The union appealed the judgment at the Supreme Court of Appeal and they lost again. Fawu then took the matter to the Constitutional Court arguing that because members were not required to pay for legal services and because union officials are generally not legally qualified, it had to act on behalf of its members as a collective, and not just on behalf of individual members. It also invoked the Labour Relations Act (section 200) and argued that, as an organisation, a union had the power to act in its own interests, even if such actions may go against the interests of individual members.

The Fawu case is not the first lawsuit by members against their own union and, given the poor handling of workers' issues in many unions; it may not be the last. Cases such as these are a serious indictment on unions and a clear illustration of organisational dysfunction or weakness.

Organisational stresses

These three developments represent turning points in South African trade unionism today. Each turning point resulted from a build-up of organisational stresses caused by years of neglect of organisation-building and internal union education and training. Meantime, the unions were in denial of the weaknesses and continued believing their militant rhetoric. In the end when the organisation could no longer carry the stresses we saw the eruptions discussed above. Marikana resulted from long-standing frustrations by members after years of neglect by the union. The leadership squabbles are a result of years of failure to face up to the contradictions of union relations with a former liberation movement-turned ruling party. In the same way, union members do not decide lightly that they want to sue the union. They only do it as a last resort and such was the case in the Fawu court case.

IMPLICATIONS FOR THE FUTURE

The developments discussed above demonstrate clearly that trade unions are undergoing fundamental

transformation at present. Existing unions and federations are being forced to re-examine notions of unity, solidarity, demarcation of sectors and so on. Union members are beginning to assert themselves and this means that past contribution or history alone is no longer sufficient to keep the loyalty of members. Those unions such as the NUM which have up to now enjoyed a near-monopoly of representativeness are going to have to re-learn organising strategies and tactics or face humiliating defeat at the hands of new or splinter unions.

But the challenge also faces new unions, such as the Association of Mining and Construction Union (Amcu) which has benefitted handsomely from the implosion of the NUM in platinum. Unless they do things differently and address the issues that made mineworkers unhappy to leave the NUM, they could very easily find themselves facing another grassroots revolt.

One of the areas of disgruntlement among workers is the so-called social distance between workers and leaders, including shop stewards, which



Calm before the storm: Cosatu national office bearers at a press conference. From left: Zwelinzima Vavi (General Secretary), Sidumo Dlamini (President), Zingiswa Losi (Second Deputy President) and Tyotyo James (First Deputy President).

was highlighted at the 2012 Cosatu Congress. Unfortunately, the issue has been narrowly defined to only mean that workers are far-removed from leaders. But the biggest issue is the vast gap between lifestyles and outlooks between the leaders and the led. The problem arises when you have members earning about R8,000 per month led by people who earn more than R70,000 per month, as is the case with the NUM. The situation of union leaders who draw huge fees for sitting on boards of directors of state and other bodies such as Sector Education and Training Authorities (Setas) is also a recipe for membership revolt such as those seen in the mining industry.

ELECTIONS 2014: WHAT NOW

For nearly two decades Cosatu has served as a cog in the ANC's election machine and always managed to do this without causing major tensions within their ranks. However, 2014 could be different as unions such as the National Union of Metalworkers of South Africa (Numsa) threaten not to support the ANC if the National Development Plan (NDP), a document they consider to be neo-liberal, forms the basis of the ruling party's election manifesto. Moreover, failure to resolve the leadership stand-off could cause severe problems for the ANC's 2014 election campaign. There are other potential problems such as the Nkandla scandal and the Gupta Waterkloof airbase saga. But at this stage it is not clear how strongly workers feel about these issues.

RIVAL UNIONS

Nearly all sectors of the economy have had more than one union organising their workers. Furthermore, splinter unions have been a common phenomenon even under the democratic dispensation. But none of them has gained sufficient traction or support until recently. Even Amcu,

the most successful of splinter unions in recent decades, took more than 10 years to make a name for itself. But since Amcu burst onto the scene just before and during the Lonmin Marikana strike, it has demonstrated the existence of vast opportunities for new unions to succeed at the expense of their much larger rivals who have enjoyed a near monopoly of worker, management and state support.

The Amcu story is instructive in several respects, particularly because it was handled extremely badly by those who stood to lose from its successes. The most glaring aspect was the open bias shown by employers, the Tripartite Alliance, the Minister of Labour and other ministers towards the NUM. The demonisation of Amcu by the SACP general secretary, Blade Nzimande, as a vigilante union is an example of this crude bias by leading politicians.

FAREWELL TO INNOCENCE!

Most of the unions represented by Cosatu trace their lineage to the dark days of apartheid, particularly during the 1970s when black workers defied all odds and formed militant unions. Since those days they have been in the frontline of resistance, a stance that they maintained constructively after 1994 to achieve the reconstruction of society. Over the years many South Africans have looked up to unions as a progressive force in post-apartheid society. Even when unions made mistakes, many were willing to excuse and forgive them because of their struggle track record. In recent years Zwelinzima Vavi's vocal opposition to authoritarian tendencies and corruption characterised the virtues and lofty ideals that the movement stood for.

But the three turning points discussed in this article demonstrate beyond doubt that

the federation, its leaders and its members have lost their innocence. The union federation and its leaders have shown that they, like all human organisations and their leaders, are imperfect. They can make mistakes, some are corruptible, and they sometimes succumb to the abuse of power and the temptations of life in a society dominated by materialism and individualism. Union members too have shown that blind loyalty to organisations, leaders and political traditions have limits.

The signs have been there all along. But many have ignored them and buried their heads in the sand. In our recent book titled *Cosatu's Contested Legacy* (HSRC 2012) Malehoko Tshoaei and I argue that the legacy of the federation is contested by various forces within and outside it. 'While some emphasise the resistance dimension of the legacy in the form of militant action and "ungovernability" to achieve their objectives, there are also those who prioritise engagement in formal institutions of the new democracy and therefore frown upon militant action. This tension is often brought into sharp relief in leadership contests within Cosatu and its affiliates, during collective bargaining disputes and strikes and during debates within the Tripartite Alliance made up of Cosatu, the ANC and the SACP'.

In this context, it is time for all members and leaders of Cosatu to say farewell to innocence. They have now arrived at the same stage as unions throughout the world and so are not immune to the problems and dilemmas that face their counterparts. It is time for South Africans to realise that there is nothing unique about their workers, their unions, their leaders and their institutions. ^{LB}

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