

How central is centralised bargaining?

For years unions fought to entrench centralised collective bargaining. Having achieved this objective, **Ian Macun** explores what progress has been made in this regard and the challenges facing such bargaining arrangements.

Collective bargaining in an inclusive, non-discriminatory statutory system has a relatively short history in South Africa. It was only after the Report of the Wiehahn Commission of Inquiry in 1979 that participation in the industrial council system became a possibility for the progressive, independent unions. Fosatu affiliates were the first to join industrial councils in the textile and metal sectors during the early 1980s. After the formation of Cosatu in 1985 and in the wake of the rapid growth of the independent unions, there was a push for more

centralised bargaining with Cosatu advocating the formation of national, industry wide councils as forums for centralised bargaining.

The passage of the Labour Relations Act (LRA) in the mid-1990s resulted in a confirmation of the voluntarism that had characterised the statutory framework for centralised bargaining. Employer organisations and trade unions have to agree to centralised bargaining through bargaining councils with representivity of the parties being an important factor in sustaining the bargaining arrangement. The Minister of Labour has discretion to extend agreements to non-parties thereby maintaining an important regulatory role for government in relation to centralised collective bargaining.

The framework for bargaining put in place by the LRA leaves centralised bargaining vulnerable to a number of pressures – the particular interests of the parties in centralised bargaining through a council, the strength of organised business and labour in particular sectors and the ability of bargaining councils to provide an effective institution for sustaining and supporting agreements by parties. Despite these pressures, centralised bargaining can play an important role in improving conditions of employment and contributing to industrial development and labour stability in the sectors in which it works well. It has also been argued that highly centralised or very decentralised bargaining arrangements can contribute to a country's economic development.

INSTITUTIONAL CHANGE

The number of bargaining councils has declined from about 104 in 1983 to 87 in 1995 to approximately 50 in late 2007. This decline can be explained by a number of factors including changes to the environment in which employer organisations and unions operate that make it less attractive for them to engage in centralised bargaining. The decline is also explained by factors internal to the system of bargaining, mainly to a process of amalgamation of councils. A more important point is that despite the decline, bargaining council coverage has increased over the past decade. As a percentage of formal sector employment, bargaining council coverage has increased from roughly 15% in 1995 to 25% at present. This is not a high coverage, but it should be evaluated in the context of a voluntary system that combines both plant level and sector and/or industry level bargaining arrangements.

Many councils remain small and limited in their scope of coverage, for example, the Hairdressing Councils in Cape Town, Durban and Pretoria. Between them they cover just over 7 000 workers and close to 2 200 employers, all of them small, medium and micro employers (SMMEs). The national councils are also quite varied with some, for example, metal and clothing, covering an industry nationally while others have a national presence but only cover one or a few companies in a specific sub-sector. Examples of the national, company or sub-sector specific councils would be the Transnet



Bargaining Council and the New Tyre Council. The latter brings together four large companies and 87% of all workers in this sub-sector. The larger unions affiliated to Cosatu tend to be parties to the national councils, in many cases, together with a number of unions affiliated to the other major federations or unaffiliated. The smaller councils still tend to comprise independent or unaffiliated unions.

A very important change has been the growth of bargaining councils and centralised bargaining in the public sector from the mid 1990s to the present. There is today a much more even spread of collective bargaining across public and private sectors, although private sector bargaining council coverage may well have declined slightly over the past ten to twelve years. Recent research suggests a decline of about 1% in private sector bargaining coverage.

Has there been any change in the level of bargaining? This is difficult to judge accurately in the absence of relevant research on levels of bargaining, but it is very likely that the private sector has retained its mix of centralised and plant level

bargaining while there has clearly been a growth of centralisation in the public sector. The level of bargaining has also come under pressure in a number of sectors. This is often a consequence of the particular dynamics in these sectors, for example, in building where it remains difficult to consolidate and extend bargaining council coverage. The main pressure remains that of decentralisation of bargaining to the enterprise level due to intensified competition and the need for flexibility in companies.

A significant change has been in the dispute resolution function of councils. Under the old dispensation, industrial councils were said to have 'produced a miserable dispute settling performance.' The settlement rate for councils was below 30%. Today bargaining councils are reporting settlement rates in the region of 50% to 60%, although there are still a number that perform poorly in this area. Some councils have contracted out their dispute resolution function to private agencies such as Tokiso. This function has come under the spotlight in the wake of the 2007

strikes, particularly in the public sector. The public sector dispute served to highlight the complex nature of negotiations and dispute resolution in highly centralised bargaining arrangements that have developed over a relatively short period of time.

WAGES, CONDITIONS OF EMPLOYMENT AND ECONOMIC DEVELOPMENT

What has happened to wage setting? Wage settlement rates in South Africa have tended to track the consumer price index (CPIX - which excludes interest rates on mortgage bonds) by staying in a band of roughly 1-2% above inflation. This trend has been consistent since at least 2000, although average settlements have been slightly higher than CPIX plus 2% in the period 2003 to 2006. Up until September 2007, average wage settlements were 6.8% - only 1.1% above the inflation rate.

Wage agreements reached through the bargaining councils during 2007 also averaged 6.8% although increases have been slightly higher for less skilled workers (7.2%) compared to semi (6.9%) and skilled workers (6.4%).



Many councils do have agreements that seek to affect wage differentials, although some agreements would also make provision for wage premiums for more skilled workers to allow for some flexibility in the context of scarce skills.

The public sector wage agreement negotiated in 2004 made provision for a 6.2% wage increase in 2004/05 and CPIX plus 0.4% for 2005 and 2006. The 2007 settlement was 7.5% - with CPIX plus 1% for 2008/09. Until 2007, public sector settlements were below those reached in the private sector.

Overall, the wage settlement rate suggests modest wage growth through the collective bargaining process during 2007. Productivity growth has outstripped wage growth for some time and research has indicated that average real wages in South Africa have been stable or have decreased slightly between 1995 and 2005. Estimates show a decrease of about 10% in average real wages over this period. Given the relatively low increases in wage agreements in 2007, falling real wages are likely to have continued. This trend may begin to

change as inflation and prices continue to increase and unions reconsider their position on wage moderation.

An important function of bargaining councils is to establish and administer benefit schemes (provident, pension, medical aid and others). There has been substantial growth in this area with at least 27 councils currently having at least one fund. Altogether these funds cover roughly 800 000 workers with close to 50 000 participating employers.

Despite the growth in benefit schemes and the additional protection these provide to workers, the focus of centralised bargaining has remained on the core functions of wage setting, extension of benefits and, in most cases, dispute resolution services. In the transition to the LRA there were expectations that councils may play a broader economic and policy role, but examples of this have been few and far between. A clause introduced through the 2002 amendments to the LRA made reference to the extension of bargaining council services and functions to the informal sector and home workers and it is

probably only in the clothing sector where attempts have been made in this direction.

CHALLENGES FOR CENTRALISED BARGAINING

Inclusive, participatory centralised bargaining is still only in its third decade of existence. For much of this time, it has operated within an environment of accelerated exposure to global market forces and pressures for deregulation of labour market policies. And there have clearly been a series of stresses in the system of bargaining that have to do with the difficulty of maintaining representivity of parties in the face of different kinds of pressures - competitive pressure on employers, more flexible employment arrangements making membership retention and growth difficult for unions and so on. There are also a number of pressures on bargaining councils as institutions which give rise to challenges to their daily functioning. Some of these relate to:

- Challenges of ensuring compliance with collective agreements in ways that do not disadvantage small and emerging businesses.
- Problems of capacity to deal with enforcement of collective agreements and dispute resolution.
- Difficulties in collecting contributions to social security schemes.
- Dealing with a high number of unfair dismissal cases.
- Problematic thresholds for admitting new parties to a bargaining council which threaten to undermine representivity.
- The difficulty of playing an effective role in relation to sector policies and development where there are multiple

initiatives and forums.

From a longer-term perspective, however, there are broader challenges that would need to be considered if the bargaining council system is to remain stable and, hopefully, to grow in coverage. At the broadest level, centralised bargaining will need to be evaluated and debated in relation to its role in facilitating an equitable distribution of income. Some would argue that collective bargaining institutions have a negative impact on income equality through negotiating mark-ups or premiums on wages that create greater inequality between unionised and non-unionised workers. To date, there has been little evidence of this in South Africa. If centralised bargaining arrangements can sustain more equal income distribution and extend wage agreements to more vulnerable workers without putting jobs at risk, it is likely to gain in legitimacy and contribute to stability. The contribution to greater wage equality is not only a matter of wage settlements at particular levels, but also relates to how wage increases are coordinated between sectors. The challenge of ensuring greater income equality may well become increasingly tied to a need for linkages across the economy through the role of employer and trade union organisations that can coordinate the level of wage settlements. And this kind of coordination does not necessarily depend on highly centralised or peak level agreements. The coordinating mechanism may take different forms, but its impact lies in the extent to which it plays a conscious coordinating role that seeks to achieve particular goals. To some extent, the public sector negotiations during 2007 acted as a 'lead bargainer' that set the trend

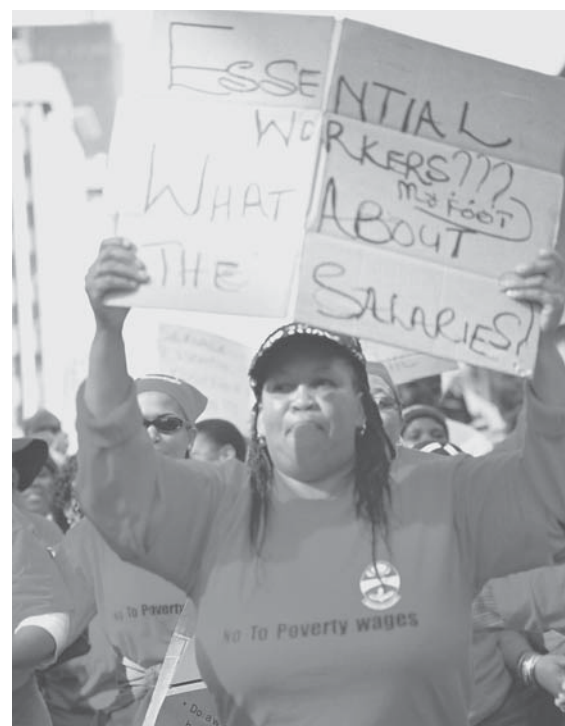
for other sectors, although it did so more with regard to the militant stance adopted in negotiations and less with regard to the actual content of negotiations.

An issue that will need to be settled in South Africa is the appropriate level of centralisation in bargaining arrangements. It seems very likely that an intermediate level of centralisation at industry level will continue to characterise collective bargaining as it has done for the past few decades. This would be in line with international trends where centralised bargaining has shown considerable stability with moderate decentralisation from central to industry level arrangements. The challenges associated with our intermediate level of centralised bargaining relates to the appropriate degree of coverage required to have an impact on conditions of employment and labour relations stability in sectors.

Is a national coverage of 25% by the bargaining councils going to contribute sufficiently to income distribution and labour stability or is a 35% coverage required? What are the prospects for the formation of bargaining councils in economically important and/or growth sectors of the economy? Are there sectors where the amalgamation of councils may provide greater economies of scale and hence improved service? These are some questions that relate to the strengthening and stabilisation of centralised bargaining that could be usefully explored and debated by the actors in the collective bargaining arena and other stakeholders.

Finally, there are some enabling factors that are clearly important to the prospect of centralised bargaining arrangements gaining in

legitimacy and stability in South Africa. The first of these relates to the relationship between the parties that engage in bargaining. Strong bargaining partners are more likely to secure binding and sustainable agreements. And this requires parties that are representative, it requires good preparation and training, post-negotiation relationship building and skilled negotiators and mediators. Secondly, the conduct during strikes will need reconsideration if collective



bargaining and legitimate industrial conflict is to continue to play a constructive role. And, finally, far more information, research and debate is required to inform the parties about options, strategies and the challenges that face centralised bargaining now and in the future.

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