

# LRA negotiations

## *Looking for agreement*

Labour's mass action campaign, mobilised to back up its negotiating position on the new Labour Relations Act (LRA) has been a resounding success.

The mass campaign has given the labour negotiators in NEDLAC – and the government – a powerful mandate for change from the hundreds of thousands of workers whose lives are governed by the current industrial relations system. It has also signalled a quite unprecedented unity between the three major labour federations.

During the 1980s COSATU and parts of NACTU engaged in joint action against the amended LRA. In 1991 FEDSAL played a prominent role in the anti-VAT coalition spearheaded by COSATU, but stopped short of participating in the stayaway. However, this year not only have FEDSAL, NACTU and COSATU put forward a common position on what they want to see in the new LRA, but the former two have come out in support of the mass action campaign initiated by COSATU.

The marches, demonstrations and stayaways gained a large part of their momentum from the collective bargaining disputes current in major sectors – metal, chemical and mining. Placards carried by protesting workers showed the wide range of their concerns: from immediate wage demands and centralised bargaining to general slogans such as “away with the LRA!”

### **Militancy**

There is a surge of militancy among

*The heated deadlock in negotiating a new Labour Relations Act has been marked by mass action, threats to walk out, and government intervention.*

*Karl von Holdt comments.*

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shopstewards and union members on the ground. This is partly because COSATU affiliates have re-focused their energies on collective bargaining programmes after three or four years of intense political activity. But militancy is also being driven by concern about the gap between the grassroots and the leadership.

The involvement of union and federation leaders in increasingly complex interactions and negotiations in industry forums, NEDLAC and other institutions has widened this gap and produced a sense of disempowerment at the base. Grassroots activists are keen to assert their militancy and their demands. The mass action campaign, for example, was initiated by the Wits region of COSATU, and then taken up in the Central Executive Committee. For leadership, the campaign provides an opportunity to forge stronger links to their mass base, demonstrating their willingness to engage in struggle.

Impatience and scepticism about the



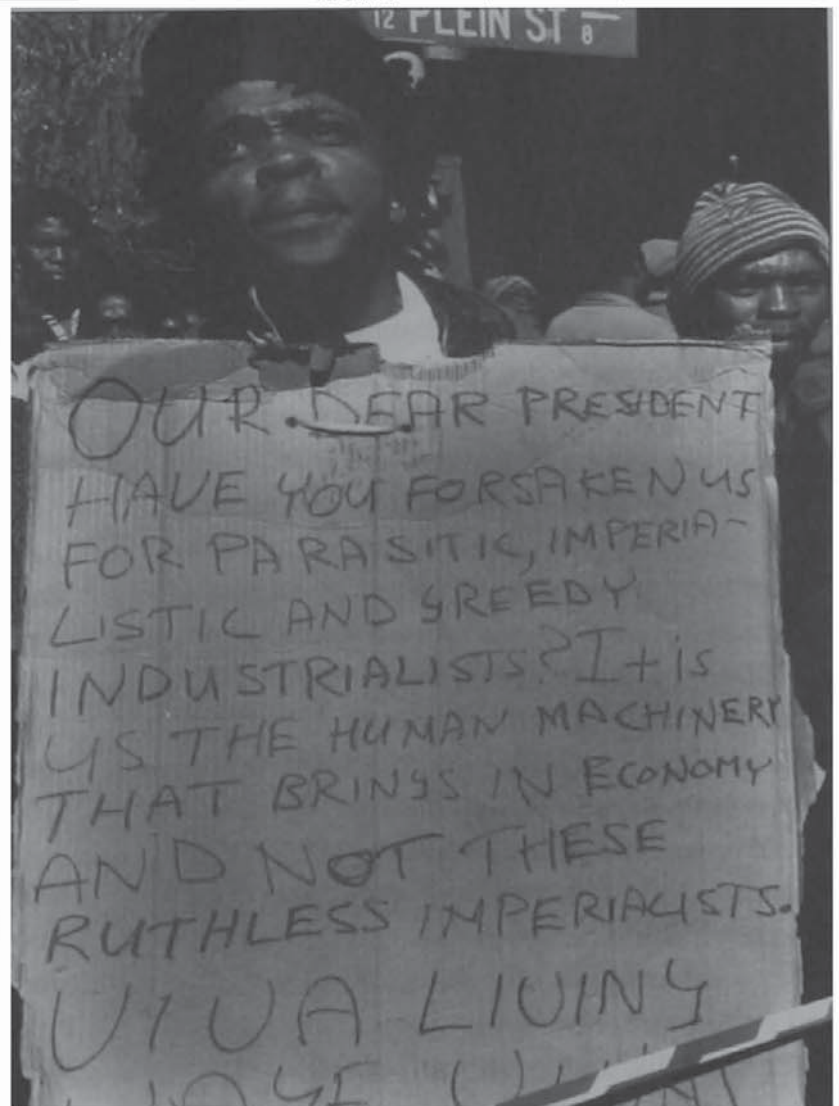
intentions of the ANC-led government have also fuelled militancy at the base. This coincides with leadership's concern to assert the independent significance of the labour movement as a social actor, after some years of focusing on ANC agendas such as the multi-party negotiations and last year's election campaign. Now is the moment to drive forward labour's agenda, so as to lay the basis for strong, independent and pro-active unionism in the future.

### Relations with the ANC

The success of the mass action campaign has obviously strengthened the labour movement's bargaining position, and put the negotiations under some pressure. It has also introduced a new dynamism into the relationship between COSATU and the ANC.

Joining the unionists who led the march in Johannesburg were ANC deputy secretary general Cheryl Carolus, as well as the SACP's Jeremy Cronin. In a surprise move President Nelson Mandela addressed the marchers and pledged his support for their right to demonstrate. Carolus promised that ANC MPs supported their demands. This came after COSATU general secretary Sam Shilowa had addressed the ANC parliamentary caucus.

This may, of course, be dismissed as the opportunism of politicians anxious to prove their credentials to a powerful constituency. Enthusiasm about ANC support for labour's demands was tempered some days before the march by Godfrey Olifant, chairperson of the parliamentary labour committee and former COSATU vice president, when he remarked that the federation should not take it for granted that former unionists in parliament would put COSATU's interests before national interests.



*LRA march, Johannesburg, June 1995.*

Nonetheless, large sections of the ANC share a common background in militant mass action with trade union activists, and share a similar concern for redistribution of wealth and power. At the very least, a mass action campaign such as COSATU's serves to galvanise these elements within the ANC, and provide a focus for agendas of far-reaching reform. This may be seen as an example of the strategy of radical or revolutionary reform advocated by Boris Kagarlitsky (see p 72), where mass activism outside the political institutions supports the programme of institutional reform initiated by activists within those institutions.

The test in South Africa will be whether mass pressure from labour succeeds in galvanising ANC MPs, ministers and



specifically Tito Mboweni to ensure centralised bargaining, strong workplace forums, and so on. The Cabinet response to COSATU's announcement of mass action – that it supports the need for centralised bargaining – was an encouraging sign. More recently, the parliamentary speeches of ANC MPs (many former COSATU activists) in support of labour's demands was similarly encouraging.

### The limits of consensus?

Underlying the differences between the labour movement and employers in the negotiations over a new Labour Relations Act at NEDLAC are deeply differing views on the place of trade unions in our future.

Essentially, the trade unions want to entrench their role as the collective voice of employees. They want to ensure that collective bargaining will set wages and conditions for all workers. They want the right to influence the way industries develop and restructure, how employees are trained and gain skills, and how small business is encouraged. They want to protect their members from negative consequences of industrial restructuring, such as retrenchments. They can only do these things through centralised bargaining.

At the company level the trade unions want a democratic right to participate in decision-making about how work is to be done, and about the strategic direction of the company. This means making inroads into managerial prerogatives in these areas. Hence labour support for strong workplace forums.

In order to facilitate the emergence of a smaller number of large and well-resourced unions, the labour caucus supports majoritarianism. And to back up their organisational strength, the unions want to extend the right to strike beyond what is set out in the draft Bill.

By contrast, the employer proposals at NEDLAC suggest a desire to limit the power

of trade unions. They seek to preserve or enlarge the space within which they can make business and production decisions without interference from unions, whether at industry level or in the workplace.

This they do by proposing that the principle of 'voluntarism' apply to centralised bargaining forums and to workplace forums. This means that such forums should only be established through the mutual agreement of the parties concerned, rather than imposed by legislation.

At the same time, employers argue that the right to strike should be subject to more limitations than it is in the draft Bill. They also oppose the principle of majoritarianism, which tends to favour a smaller number of large unions, and argue for the principle of 'sufficient representivity', which tends to favour a greater number of smaller unions.

### Voluntarism

'Voluntarism' sounds mutually beneficial, but since trade unions and workers in a free enterprise economy are structurally far weaker than employers, it means employers will generally be able to reject union demands for centralised bargaining or workplace co-operation. The package of employer proposals at NEDLAC would tend to produce a weaker, more fragmented labour movement with limited powers to influence industrial policy or workplace change.

The long-run trend would be a declining and defensive trade union movement. Such a union movement, shut out of co-operative forums based on union power, would be driven to plant-based oppositional unionism.

The labour movement proposals, on the other hand, are designed to facilitate the emergence of big, centralised unions with a high level of social and economic involvement. It is no coincidence that the three biggest and most sophisticated unions – NUM, NUMSA and SAFTWU – have emerged in the sectors with strong centralised bargaining institutions. These are also the



unions with the greatest internal educational, research and policy formulation capacity. They are able to contemplate more co-operative relations with employers because they have the resources and capacities to do so

The rapidity with which the negotiations have reached dispute stage at NEDLAC is partly due to the deep differences between the two perspectives outlined above. But an additional factor also comes into play.

### Change is urgent

The union proposals add up to a call for far-reaching reform of the current industrial relations system. The employer proposals are much more cautious, and do not move very far from the current system. The unions suspect that employers are not too concerned if negotiations are drawn out, since that will leave the current system intact for longer

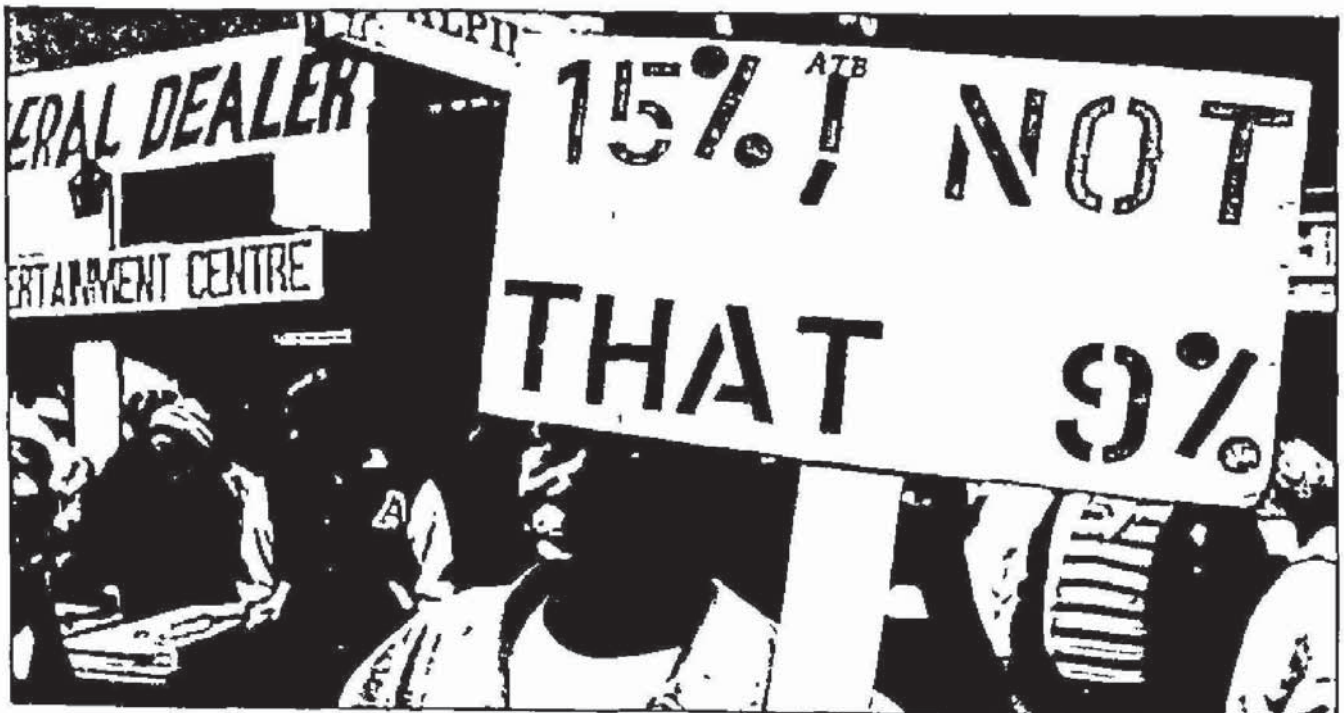
Union suspicions are strengthened by the fact that employers were unable to submit their views in written form – in sharp contrast to labour – and seem to have difficulty in obtaining clear mandates. The employers appear to lack a vision for a new industrial relations order and, the unions believe, are

unwilling to accept far-reaching change. Business' threat to pull out of NEDLAC suggests an unwillingness to negotiate change if negotiation is not on their terms

The labour ministry has – through the draft Bill and through other policy statements – made clear its preference for a strong trade union movement along the lines proposed by labour. Minister Mboweni has also signalled government's concern over the urgency of reform. At the same time, it would prefer to persuade rather than coerce employers, and it is mindful of developmental needs such as the concerns of small business.

### Implications for NEDLAC

We may be seeing the limits of the consensus that tripartism can deliver in South Africa. The mass action that COSATU has called for may be interpreted as a normal part of the bargaining process, and indeed there is room for compromise on both sides. Government's response to the deadlock has been to intensify its interventionist role *within* the arena of NEDLAC, stepping up its efforts to actively broker a compromise that would leave the draft Bill pretty much intact.



Placards carried by workers during the LRA action expressed a wide range of concerns.



However, mass action may also be the first signal of the limits of the ability of employers and labour to reach agreement over fundamental reform. If that is the case, the ball will be firmly back in government's court. Such an outcome should not be regarded as the end of tripartism. Ironically, if tripartism is to work it will have to rest on the very foundations proposed by labour – strong, big centralised unions. Without such foundations tripartism can only be a sham talk-shop with no power to make far-reaching agreements. Government action to secure its foundations may ensure the success of tripartism in the future.

### Process

Was the process of drafting the 'negotiating document' Bill misconceived? There have been strong criticisms that Minister Mboweni jumped the gun by appointing the Cheadle drafting team without first appointing a commission to investigate current labour law, hear public submissions and draw up proposals for change (see Brand and Brassey, 'Jumping the gun: problems in the drafting of the new LRA', *SA Labour Bulletin* Vol 19 No 2). No doubt such a process would have stimulated debate within and between employer and labour organisations – and in the general public domain – and so identified more clearly areas of convergence and difference. Negotiation may have been more tempered and rational without the heat of Mboweni's deadlines and rapid deadlock.

On the other hand, the current industrial relations system is clearly in crisis and the need for change is urgent. It is likely, too, that however long, drawn out and rational the debate, it would have culminated in similarly sharp disagreements. Employees and labour have deep differences over the future role of labour, and government intervention to set the terms of debate is unavoidable. The ultimate test of the process will be whether the Bill succeeds in replacing the current system with one that actually works.

### Mobilisation and negotiation

Finally, what does labour's mass action campaign tell us about the trade union movement's ability to link mass mobilisation with negotiations on complex technical issues? We noted above the gap between unionists on the ground and the union leadership negotiating in NEDLAC. Indeed, one of the criticisms from a left perspective of corporatist institutions such as NEDLAC is that they encourage the formation of a bureaucratic leadership, thus widening and solidifying that gap.

The mass action campaign shows that COSATU is still a dynamic movement able to mobilise its base and respond to its grievances. The mass campaign has symbolically reunited the leadership and the base, recalling the mass campaigns of the past: the anti-LRA campaign, the anti-VAT (and pro-NEF) campaign, the 'rolling mass action' campaign to unlock political negotiations. In mobilising these traditions, the campaign has undoubtedly strengthened the hand of the negotiators, reclaimed the role of labour as a central social actor, and reinvigorated trade union organisation.

But at another level the gap between NEDLAC and the ground has barely been bridged. The slogans at the demonstrations – for a living wage, down with the LRA – bear little relation to the complexities, trade-offs and compromises that will have to be brokered in NEDLAC. Mass mobilisation will not solve the weaknesses of internal information flow, communication and training in the unions. The 'interpretation gap' remains very great: the rank-and-file will continue to be dependent on leadership's interpretation and judgement of the outcome of negotiations on a new LRA. This gap may create new tensions and continue to work against the re-invigoration unleashed by the mass campaign. These will remain the central dilemmas for the trade union movement in the 1990s. ★