

# NEHAWU

## *one public service, one union?*

In 1995 NEHAWU agreed on a realignment policy which would enable the union to meet the challenges of the new dispensation in the public service. The idea was to place the union on a 'professional footing' by building effective organisational structures and staff capacity. What was lacking was a strategic plan to implement the idea. The union's recent congress agreed on the building blocks of organisational renewal. The congress focussed on four areas:

- organisational development;
- professionalising the union;
- streamlining structures;
- strategically refocusing the union on sectors.

### **'Surgical overhaul'**

Described as a 'surgical overhaul' of union structures, the congress emerged with a comprehensive organisational plan designed to reposition the union for the new challenges of collective bargaining and transformation in the public service.

The core proposals are to:

- devolve power and responsibility for collective bargaining to sectors at provincial level;
- build efficient and focussed grassroots structures capable of engaging in transformation and workplace democratisation issues at the institutional level;
- streamline the sectoral focus of the

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*At its 5<sup>th</sup> National Congress held in April, NEHAWU adopted a new, sector-based structure, opening the way towards the formation of one union in the public sector. Malcolm Ray and Barbara Adair report.*

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union by decentralising the existing 200-strong national shopstewards committee and establishing smaller provincial committees;

- redeploy resources, professional expertise and specialist skills to branches and provinces.

The new union structure is in line with industry principles 'Sector specialisation' is the central strategic objective. Five designated sectors - tertiary education, private health, social welfare, public health and state administration - will constitute the organising and bargaining pillars of the union

### **History**

The congress resolution is the product of a long history. At its founding congress in 1985, COSATU adopted the ambitious slogan 'One country, one federation, one industry, one union'. This did not apply to the public sector, however. Historically, the

law has drawn a distinction between the private and public sectors. The old LRA (Act 28 of 1956) excluded the public sector. Unionisation proved difficult. The formation of unions like SAMWU, POTWA and NEHAWU in the late 1980s focussed almost exclusively on struggles to win recognition for black workers.

The gradual erosion of discriminatory laws in the 1990s - initially through the inclusion of black unions in the ambit of the Public Service Labour Relations Act (PSLRA), the Education Labour Relations Act (ELRC) and the police regulations - coincided with a number of interrelated factors. The rapid growth of unions like NEHAWU was matched by a corresponding increase in the complexity of membership. This did not apply to craft unions like SADTU and POPCRU, which organise a particular occupational class.

### **Collective bargaining**

Within NEHAWU, the organisation of professional workers compartmentalised union membership. This complicated the rationale for collective bargaining, exerting pressure on branches to bargain on behalf of a considerably more diverse membership. Within the public service as a whole, collective bargaining relationships with the state under the auspices of a number of bargaining councils for police, educators, health workers and public administrative staff was characterised by fierce competition among unions for a share of the budget vote.

Union organisation no longer automatically fitted the profile of union membership. It was, however, very slow to change. Collective bargaining arrangements reflected the constitution of state power. The Public Service Act (PSA) vested power and authority to determine the structure of management at the departmental and provincial level in a

central independent authority: the Public Service Commission (PSC) covered all public servants and determined wages and conditions. Departments and provincial administrations were tasked with the employment of workers and service delivery.

Unions like SADTU and POPCRU represented educators and police personnel employed by the national departments of education and safety and security respectively. Collective bargaining in both these sectors took place in central negotiating forums.

Educators and safety and security personnel who have their terms and conditions of employment determined by provincial administrations in terms of the Public Service Act are organised by NEHAWU. Most, if not all, collective bargaining has taken place at the central level. Rights disputes, for example retrenchments, took place in the departments and provincial administrations.

The structure of union organisation therefore provided for strong head offices in which leaderships were tasked with policy development. In the case of NEHAWU, provinces, which service the different departments and provincial administrations, played only a small role in collective bargaining.

### **Decentralisation**

By 1995, it was clear that the structure of the new public service would be reconfigured along federal lines. The Public Service Amendment Laws (1996) (which have yet to be implemented) give the Minister for Public Service and Administration all the powers that were previously vested in the PSA. The ministers and MECs will have the power to organise their respective departments, and employ and dismiss workers. The power and authority previously vested in the PSC has been transferred to Cabinet.

The state has now put forward proposals for the reorganisation of managerial powers in the public sector as a whole. The Public Service Management Bill, which has been approved by Cabinet for further consultation, covers workers employed in terms of the Public Service Act, Educators Labour Relations Act and the Police Services Act. Managerial authority will be vested in the heads of national and provincial departments

### One union

In accordance with the proposed reconstitution of the state, the new LRA made an attempt to harmonise industrial relations in the public service through the creation of the Central Bargaining Council (CBC). It also attempted to divide the public sphere into clearly differentiated sectors.

However, the reform of union organisation has lagged behind legislative and structural changes in the public service. In October last year, COSATU's 6<sup>th</sup> National Congress noted that while many affiliates have come close to achieving the goal of one union, one industry, the most significant failure has been in the public service. Despite a longstanding policy to merge NEHAWU and SAMWU, the congress noted that merger talks had collapsed

The urgency of reconstituting the structure and demarcation of public sector unions was placed squarely on the agenda. What was needed, according to the COSATU secretariat report, was a "political will to force the unions to merge", but with an added variable: whereas the initial resolution on industrial demarcations sought to merge SAMWU and NEHAWU, the congress resolved to extend this to include POPCRU and SADTU. The idea was to collapse 'compatible clusters' of industries into broadly defined sectors across the economy.

The congress decision was partially

influenced by the launch of the CBC late last year. It was argued that a single union in the public service will be better placed to transform the sector and engage in centralised collective bargaining processes under the new LRA.

It is now up to individual unions to decide the structure and constitution of the new organisation.

### Organisational plan

NEHAWU's plan is clearly intended to meet this organisational challenge.

Sector specialisation is seen as an organisational solution to problems of servicing and collective bargaining in a restructured state. There is a clear bargaining rationale for the structure:

- **Bargaining councils:** the old departmental bargaining councils which followed the constitution of the old Public Service Bargaining Council (PSBC) will be realigned with the constitution of the CBC. Under the old collective bargaining regime, institutional and departmental levels of bargaining resulted in different wage agreements, procedures and benefits within each sector.
- **Representativity:** the CBC provides for a second tier of bargaining at sector level. The definition of bargaining structures along sectoral lines will enable the union to achieve the numbers required in terms of the LRA to register sector bargaining councils. Under the old system, representativity at the institutional level was far more difficult to achieve.
- **Bargaining issues:** the emphasis on a 'co-ordinating' role for national union leadership and an 'interventionist' role for provinces and branches falls in line with the delineation of transverse (cross-sectoral) issues at the central bargaining level and sectoral issues in

bargaining councils at the sectoral level. Presumably, national leadership will monitor the implementation of framework agreements at the central level, leaving the actual terms of 'engagement' to lower structures.

## Devolving power

Provinces will be responsible for organising and transforming each sector. Responsibility for sector bargaining will be co-ordinated through newly created Provincial Sector

Shopstewards Councils (PSSCs). Central to this structure will be the establishment of provincial sector branches and regions. These structures are intended to do away with 'unitary' branches by sharpening their sectoral focus. A five-year 'implementation strategy' will focus on the following:

- build the resource capacity of provinces which will be turned into 'mini head offices'. Provinces are expected to become the 'engines' of change,
- establish 'teams' within sectors and across sectors at the provincial level to co-ordinate sector activities,
- employ provincial education officers with the task of organisational development at the regional and branch level,
- increase the decision-making power of provinces, branches and regions around policy issues,



PC Joe Lerema

*Lindelwa Dunjwa, national treasurer, celebrates her election.*

- redefine the work of provinces to fit the sectoral profile of the union

## Toward a cartel?

The NEHAWU structure is clearly grafted on the sectoral thrust of the CBC. In this scenario the COSATU public sector affiliates will evolve into 'sub-sectors' of a single organisation. The notion that union structure follows bargaining arrangements is an overarching consideration. How does the designation of sectors impact on the formation of a cartel in the public service?

The character of public sector unions in COSATU differ in fundamental ways:

- SADTU - represents teachers. It organises a single category of workers in the Department of Education. By definition, teachers are skilled, certified personnel with an interest in issues that are specific to professional and semi-professional groupings. The union

is reluctant to embrace a sectorally based cartel.

- POPCRU – represents police and prisons personnel and sections of middle management in the Department of Safety and Security. It is similar to SADTU in that its membership consists of an identifiable occupational group.
- NEHAWU – represents workers in public health, tertiary education, social welfare, private health and state departments. The occupational and skills base of NEHAWU members varies markedly from unskilled sweepers to middle management.
- SAMWU – represents local government employees. Like NEHAWU, the union organises across a range of occupational and skills categories. It is unique in so far as its scope is defined by the power and authority of local administrations. Bargaining relationships therefore fall outside the provincial and national budgets.

### Sector or craft?

Although the structure of the cartel has not been agreed amongst unions in COSATU, there is consensus that sectoral demarcations should form the basis for unity. Notwithstanding the industrial logic of a sector-based cartel, the proposed structure could have a dissembling effect on unions and occupational categories of workers in the public service. It is still not clear whether a sector-based cartel will strengthen or dilute the representation of distinctive traditions and the needs of different groupings of workers. Within

Fikile Majola was elected as general secretary, David Makhusa as deputy general secretary, Vusli Nhlapo as president, and Lulamile Sotaka and Noluthando Sibiya as 1st and 2nd vice-presidents respectively. Lindelwa Dunjwa is the first woman to be elected to the position of treasurer.

COSATU, the current constitution of the public service can be disaggregated into a number of components, each falling under the jurisdiction of separate union organisations. While unions with multi-layered constituencies stand to benefit from sectoral demarcations, unions with craft identities are likely to have problems with the concept. As things stand, it is questionable whether there is, in fact, an organisational logic to a cartel.

The difficult questions that need to be addressed are threefold:

- Should the way in which labour relations is managed be determined by the different laws that establish management authority in the public sector?
- Should labour relations be determined in accordance with the principles set out in the LRA?
- How do the public sector unions, which are organised in terms of the public sector management laws, manage the interests of different workers in a centrally organised industrial union?

The NEHAWU congress did not deliberate on these issues, preferring to focus on building the capacity of leadership and refocusing the work of provincial and regional structures. The congress was nevertheless a step in the right direction. As former general secretary, Makgane Thobejane, remarked in his address to congress, "The union has to get its house in order before taking on board the bigger picture. Our vision for the public service remains 'one union, one industry, one federation'." The industrial and bargaining implications of a sector-based cartel remains to be seen. ★

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