

# Public sector strike

## Irresistible force meets immovable object

Bargaining was conducted in an optimistic spirit so why did things go wrong?

**Ebrahim-Khalil Hassen** analyses the background and causes for the negotiation breakdown which led to a prolonged and bitter trial of strength in the public sector.

**W**hat happens when an irresistible force meets an immovable object? This contradictory idiom made popular in the run-up to sporting events, is usually followed by a shrug and aside 'Something has to give!' Whilst public service collective bargaining elicits equal levels of emotions, suggesting equal power for government on the one hand, and trade unions on the other, it cannot simply be settled with a shrug and aside.

The implications of the strike are profound not only for labour relations in the public service, but more fundamentally about the role of the public service.

### TIGHT FISCAL ENVIRONMENT

The public service unions entered the first major salary negotiations under the Jacob Zuma administration buoyed by developments at a political level, and a relatively easy conclusion to salary adjustments in 2009.

At a policy level, the African National Congress manifesto is clear on the need to both expand public service employment, and to rapidly increase salaries. The manifesto explicitly matches personnel numbers to need, through a variety of measures, including filling vacant posts. The manifesto commits the ANC government further to

'improvements in working conditions and provision of decent wages for workers'.

Like most election manifestos the challenges and trade-offs in meeting such a wide range of demands were not adequately explored. However, the message of a growing public service with better working conditions quickly embedded itself as a working premise for public service unions. In adopting this broad principled agreement, unions failed to recognise that the agreement on increased employment covered both the public and private sectors and that the tension between increased employment and fiscal policy remained in place.

During 2009, unions concluded a generous agreement. *The Financial Mail* in September indicated that Minister Richard Baloyi had signed the agreement without Cabinet consensus, and that the agreement was unaffordable. At the same time, government and unions were concluding 'occupation specific dispensations' (OSD) at the sector councils for health, education and safety and security.

The much needed review of salaries for teachers and nurses however had financial costs. It remains unclear whether the Zuma Cabinet signed off on the costs for these salary reviews, or if line ministers were mandated to

conclude agreements. Taken together the salary adjustment together with the OSD provided for higher than anticipated salary increases and new career paths and salary grades for public service workers.

The full extent of these agreements only became apparent in the 2010/11 budget with Minister Pravin Gordhan indicating that the salary bill had significantly exceeded National Treasury estimates. The official estimates are that an additional R14 billion was allocated to OSD until the 2012/13 budget. Unofficially, the increase in the budget to implement the OSD might be higher as provinces were tasked with finding additional resources should allocations not be adequate.

Consequently, from a budget perspective the 2010 negotiations were set in a tight fiscal environment, deepened by the effects of the global economic crises.

### WHY THE BREAKDOWN?

Unions and government were conscious of this tension, even in the context of the ANC manifesto. They engaged in a process of social dialogue known in the bargaining chamber as 'Birchwood One' and 'Birchwood Two' after the conference centre where the parties met.

They dealt with complex issues such as the non-implementation of previous agreements, as well as linking coordination of public service salary negotiations with the national budget process. This was followed up with a 'Public Service Summit' that brought together parties in a national process that dealt with issues such as resourcing in the public service, public-private partnerships and the work environment. The summit marked the implementation of an agreement signed in 2007 after a massive public service strike.

In other words, parties took part in several processes of social dialogue to 'find each other'. Importantly, each of these processes resulted in a resolution of the bargaining council, and as such, legally binding.

This background explains the 'stop-start' nature of salary negotiations during 2010. The union and government were both optimistic for differing reasons that they would reach an agreement.

For unions, their experience a few months back indicated that government could find money to

meet demands even under tight conditions. Government on the other hand hoped that the process of social dialogue and the introduction of the OSD would place a dampener on salary demands. As parties negotiated they found themselves within 1-2% of each other on salaries, and within striking range of a settlement on the housing subsidy.

What then explains the sudden breakdown in negotiations dissolving into a drawn out, bitter process leading to a protracted strike?

First, public service unions were buoyed by their 2007 strike success and were confident of holding out for at least two weeks. The 2007 strike shifted the paradigm for public service salary negotiations, including both government and union tactics.

In particular, unions were aware that public sentiment remained broadly on their side. Anecdotal evidence suggests that government commissioned a study that indicated that public sympathy remained stronger for unions. The study has not been published but the tactics of 'holding the strike together' including

intimidation were part of the 2007 strike.

Although union leaders never issued a directive to intimidate other workers, strikers in institutions adopted strategies to 'close down public service institutions'. The legitimisation of these tactics was part of the radicalisation of public service workers.

Second, government adopted a negotiations strategy of attempting to divide unions. The strategy worked with the independent Public Service Association (PSA) declaring a dispute earlier than the Congress of Trade Unions affiliates and their counterparts in the Independent Labour Caucus (ILC). Surprisingly, both Cosatu and other unions in the ILC continued with negotiations without the PSA.

There are broader ethical issues of unions continuing to bargain when one of their bargaining partners has declared a dispute which heightened tensions. The PSA dispute was declared after four to five months of negotiations so it seemed a reasonable action. Unions recognised their mistake, which made a strike inevitable in order to restore 'unity in action' amongst the public service unions.

Third, the strike moved quickly from a dispute about 1% to one of principle as the acting director general of the Department of Public Service and Administration, Kenny Govender, followed a political instruction and signed government's 'final offer'. Government was saying that regardless of the capacity of the unions to strike it would implement its offer. This coincided with the start of the strike and heightened union's dissatisfaction with government.

Shop stewards thus mobilised as in 2007 not only on the issue of salary increases, but on wider representational rights. This spoke at once to members of public service unions, especially older members,

William Matlala



Foot march in Pretoria during the strike by Public Sector Association workers on 30 July.



Public sector workers, with teachers in the forefront, march down Church Street in Pretoria on route to the Union Buildings in August to make their demands very visible.

who remembered struggles over representational rights. The blunder from government was monumental.

Fourth, the broader political context played a role.

Unionists have lambasted the 'caviar lifestyle' of Cabinet ministers. Whilst there are some thrifty politicians, a million rand car or spending R500 000 on a hotel stay is clearly wrong. Coupled with the focus on 'tenderpreneurship' and some cases of corrupt access to government tenders by political leaders, it led to resentment at the distribution of rents as well as feeding into a deeper and more principled realisation that any semblance of the developmental state is under attack from a corrupt few.

Workers' motivations thus ranged from a realisation that 'we deserve more than fat cat politicians' to a more principled commitment to protecting and building 'quality public services'.

Government's actions tell health workers and police that their rights as workers and as professionals might be trampled upon, without them having recourse to any action. Workers are prepared to risk possible dismissal in order to widen

representational rights, especially if there are wider political issues at stake.

In such a volatile context, the absence of minimum service agreements, added grist to the mill. The absence of such agreements reflects a political context in which government attempts to utilise this absence as a power play with workers interpreting this as a threat of dismissal as their strike could be considered illegal.

Fifth, government has had a haphazard approach to negotiations. This is most visible in signing a 'final offer' at the start of the strike, but also as one labour commentator put it in announcing five 'final offers'.

The strategy from government can also be criticised at deeper levels.

For instance, leaks to the media always preceded announcements to revised offers from government, but were usually higher than in the actual proposal. As such, worker leaders were left asking questions like 'What happened to the other half a percent?'. This was most notable when Reuters indicated that government had revised its offer to 8%, and then tabled a 7.5% revised offer.

Ultimately though government should have decided earlier that it was in dispute with the unions, when instead it continued to suggest the possibilities of a settlement. In so doing, it acted in bad faith, and engaged in 'cowboy bargaining'.

Within such a context, the promise of social dialogue to provide quality public services was squashed. The project of creating a more equal society in South Africa and a society that benefits the poor, will require leadership in public service bargaining. This will place significant challenges on how unions craft their strategies to improve public services.

For government, the challenge is equally profound - how does a developmental state create a social compact with workers in its public service? The starting point is in reclaiming public service negotiations from those who see their roles as 'immovable objects' and 'irresistible forces'. LB

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