

# The Millennium Labour Council

**R**ecently, leaders of the trade union federations and big business reached an agreement on the government's proposed labour law amendments at the Millennium Labour Council (MLC). The proposed compromise package agreed at the MLC was supported by the Minister of Labour and subject to ratification by the parties' constituencies by mid-March.

This 'baptism of fire' of the MLC has given trade unions and workers a foretaste of what is likely to emerge at a fairly rapid pace in the near future – a stronger commitment on the part of the trade union leadership to co-determining with monopoly-capitalists the solutions to South Africa's economic crisis. This economic crisis has resulted in the job-losses of an estimated 1 million workers over the past decade, exacerbating the plight of the already poverty-stricken black working class.

## **MLC – origin and purpose**

The development of the MLC can be traced back to a study tour to The Netherlands and Ireland undertaken by the top leaders of business and labour during January 1999. It was facilitated by the International Labour Organisation (ILO) in the form of Charles Nupen, former director of the Independent Mediation Services of South Africa (IMSSA) and later the CCMA. Both countries visited

*Martin Jansen questions how trade unions reached agreement on the government's proposed labour law amendments and concludes that unions are undermining the foundations on which they were built.*

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were experiencing significant economic growth at the time. The ILO views the historic partnerships between labour and capital in these countries as positive models for industrial relations and, despite the vast differences between them and South Africa, nevertheless worth emulating.

The founding agreement of the MLC, dated 7 July 2000, details its main objective 'to develop a shared analysis of the crisis and potential solutions to be pursued with government and Nedlac, as appropriate'. It ostensibly commits the parties (leaders of business and labour) to address unemployment, job-losses, job-security and the current levels of poverty. The MLC consists of 12 leaders each from business and labour and 'will be associated with Nedlac as a bilateral council and will operate with full policy autonomy'.



At the time of its launch the MLC members were exclusively men and business representatives notably including black empowerment leaders with ANC/COSATU connections, such as Cyril Ramaphosa (Molope Group) and Saki Macozoma (Transnet).

In the introduction to his speech at the launch of the MLC, Zwelinzima Vavi, COSATU general secretary and MLC co-chair, emphasised that the MLC 'signals a break with the past of adversarialism and heralds a new era in bilateral relations between business and labour'. The leaders of business and labour are clear that the adversarialism, that has characterised the labour movement over the last two decades is something of the past and has to give way to social dialogue 'and the need to find a better combination between the imperatives of growth and those of social equity'. (Zwelinzima Vavi at the launch of the Millennium Labour Council, 7 July 2000)

### **Implications for unions and workers**

The existence of the MLC, its objectives and operations, together with its proposed agreement on labour law amendments raises serious questions regarding the continued adherence by the trade union movement to the three universal trade union principles: unity, democratic methods and independence. This article assesses each trade union principle in turn in relation to the implications of the existence of the MLC as a project of class collaboration, and its first major product – the proposed deal on labour law amendments

### **Trade union independence**

'If an organisation is to serve the needs of its members, it must be controlled by the members themselves, for who but they

themselves can best define and guard their own interests?

If a union intends to truly achieve the principles and objectives upon which it was founded, it should not allow itself to be dominated or controlled by external interests, be it government, employers, political parties, religious, communal or fraternal organisations, or individual persons' (IUF Training Booklet introducing the foundations of trade unionism)

Whilst the trade union leaders party to the MLC would correctly insist that in a formal sense they have never compromised their organisational independence, upon closer scrutiny of the unmandated agreement struck recently, they do appear to be compromising their political independence. That is, by accepting the stated mission of the MLC, do they continue to serve the interests of their members and the broader working class or have they taken on board the agenda of monopoly-capital? The draft document containing the proposed compromises on the labour law amendments is introduced by a joint vision statement.

This vision statement serves as a near conclusion to the post-apartheid economic policy problem that COSATU trade unionists were debating nearly a decade ago. The dominant trade union position at the time was captured in the Keynesian slogan 'Growth through distribution' as opposed to those in business and later in the ANC's call for 'Distribution through growth'. This 'debate' was effectively settled when the new government adopted its neo-liberal economic policy, Gear in 1996, as opposed to the labour movement's Social Equity, Job-creation and Redistribution

If the trade union movement accepts the vision statement, along with the compromise package of clauses, it will



effectively mean its acceptance of the capitalist neo-liberal agenda as the solution to South Africa's socio-economic woes. Joining hands with the state and capital to compete for foreign investment, means that the trade union leaders are willingly participating in lowering the employment and living standards of their members and hundreds of thousands of marginalised workers. Only in this way can 'a competitive social and individual return on capital' be ensured by our trade union leaders. According to this perspective, the independent trade union agenda of fighting for job-security, job-creation, higher wages and improved working conditions is now meant to be

achieved on the basis of the capitalist agenda of actually doing the exact opposite - lowering wages, job-losses and worsening working conditions. How else will 'we' compete with the likes of China, Indonesia and Vietnam for 'leading emerging market' status?

This acceptance of the capitalists' agenda intertwined with the co-determinist approach can be traced back to the early 1990s, from the National Economic Forum (NEF) and involvement in the National Manpower Commission from 1992 onwards to the formation of Nedlac in 1994. It developed almost concomitantly with the unfolding political developments, negotiations that led to the conclusion of a political settlement at Codesa in 1993.

During 1990 the Laboria minute was signed between the De Klerk government, business and labour, concluding nearly two years of bitter struggle by the labour movement (the anti-LRA campaign) against anti-trade union amendments to the LRA. The labour movement was victorious in that all the contentious amendments were withdrawn. The agreement was a watershed development in that it also included provisions for the parties to negotiate the restructuring of the economy. It signalled a shift away from the broad struggle for democracy and socialism to 'strategic unionism'.

Sam Shilowa, the then COSATU general secretary, in an interview during late 1991 expressed the perspective of the trade union leaders at the time, '... during that period when we, government and business were fighting one another, we began to find, meeting with this or that business-person, that we did share some common ideas'. In the same interview when asked about the prospects of a social accord, Shilowa responded, 'A social accord is not something that we should rule out, but it is

### Joint vision

Business, labour and government commit to the growth of the South African economy and to raise living standards for all.

Growth of the economy is one important means of addressing the jobs crisis in the country.

To this end, we agree to act together, and build confidence in the economy, in order to make South Africa the leading emerging market, and the destination of first choice for both domestic and foreign investment.

In order to make South Africa a destination of first choice for investment (domestic and foreign), the parties agree that it is necessary to:

- ☐ have a competitive social and individual return on capital, measured over an appropriate time horizon (the individual return on investment refers to returns for investors and companies);
- ☐ have an environment where investments are secure;
- ☐ build the social infrastructure and skills base of the economy and the society in order to improve living standards and sustainable social stability;
- ☐ build an inclusive society committed to poverty elimination.



something for which the climate does not exist at present. If business wants us to move in that particular direction, then they will have to create a climate conducive for us to move with them on that particular route.' Since then, the past ten years have witnessed the worst attacks on workers by business in the form of retrenchments, outsourcing and various other forms of restructuring. On the other hand, many South African companies have reported record increases in profits, have had significant increases in productivity and have invested in

foreign countries. This is the 'climate' in which the MLC was created and the deal struck on amendments to labour laws.

Ironically, the political independence of the labour movement that is being sacrificed and adapted to the neo-liberal dogma is exactly what is required in this period to defend trade union members and the broader working class.

### **Trade union unity**

Trade union unity has historically been the fundamental political weapon of workers in opposing the ravages of capitalism. The capitalist system structurally facilitates workers' unity and organisation by virtue of its labour and organisational requirements to ensure profitable production. Certain sectors of the South African economy, like mining, engineering and clothing have historically been labour intensive, requiring large numbers of workers in mines and plants. These labour intensive sectors have also tended to be



*Are trade union unity and militancy being undermined?*

the low wage sectors, and this factor together with high concentrations of workers has meant workers are more readily organised into trade unions. Conversely in sectors like domestic, farm workers and small businesses, unions have struggled to organise and are consequently weak.

The evolution of capitalism has also been accompanied by increased concentration of ownership and control of companies in fewer and fewer hands (monopoly-capital). This common ownership pressurises trade unions to organise and bargain centrally to match the power of employers. The trend during this phase of neo-liberal capitalism has been to deliberately divide the labour market to advance attempts to cheapen the cost of labour.

Capital has resorted to new methods of cheapening and dividing labour such as outsourcing and sub-contracting. These methods have also had the political effect



of dividing workers and undermining collective bargaining. Unions have struggled, albeit sometimes reluctantly, with only partial success, to organise these new sections of workers, so ensuring a greater division amongst workers and consequently the strengthening of employers' collective bargaining power.

Labour legislation in the post-apartheid era, the products of corporatist co-determination, have increasingly promoted a two-tier labour market in the guise of 'regulated flexibility' with provisions such as averaging of working hours, a compressed working week (BCEA) and favourable provisions for small business (the LRA and BCEA).

Within the context of high unemployment and low wage extremes, some would argue that we already have a well-established two-tier labour market. The recent proposed compromise agreement on labour law amendments that emerged from the MLC contains the most far-reaching provisions for entrenching a two-tiered labour market in legislation. It provides for distinctly different rights and remuneration for workers dependant on numerical thresholds in the following areas:

### ***Retrenchments***

In companies consisting of 50 or more workers, if the proposed retrenchments are intended to affect 10% or 50 workers (whichever is less), the parties are required to 'interact meaningfully' and will have the assistance of a CCMA facilitator. These workers will also have the right to strike and secondary strike support around retrenchments, together with numerous other protective rights such as measures to avoid and mitigate retrenchment and disclosure of information. Effectively workplaces with less than 50 workers will not have these rights.

### ***Payment for Sunday work***

In companies having workforces less than 30 employees and where there is no agreement stipulating payment for Sunday work, a payment rate of 1,5 will apply for Sunday work as opposed to the current double payment (x 2) as contained in the BCEA.

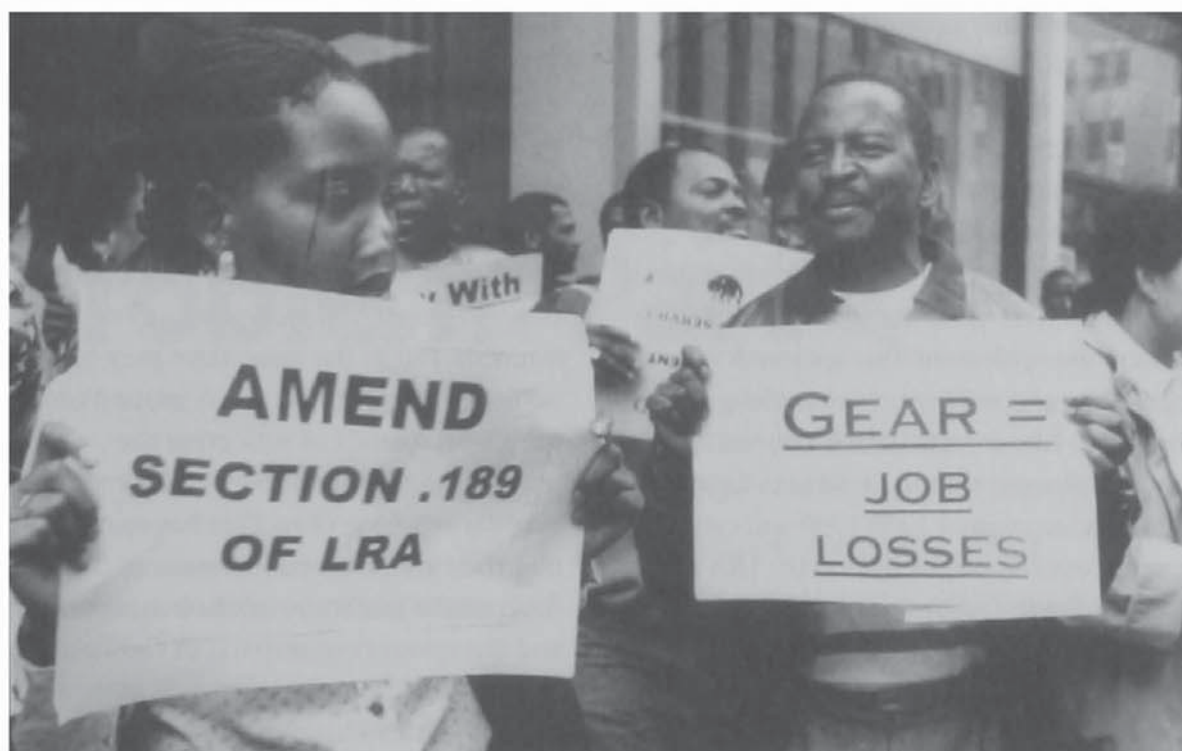
### ***Workers on Probation***

The parties agreed to 'narrower test of compliance with fairness' for dismissing workers on probation.

The trade union leaders party to the MLC are promoting a discriminatory two-tiered labour market, further cheapening the cost of labour for capital and lowering the living standards and protection for the most vulnerable workers, those working for small businesses, contract workers, part-timers and casuals. This larger and legally entrenched two-tiered labour market will encourage further retrenchments and outsourcing as opposed to the stated aims of the MLC and the good intentions of the trade union negotiators to ensure job-creation. Just as important, as a negative political consequence for the labour movement, is the structural divisions amongst workers that undermine trade union unity, organisation and collective bargaining power so critical for defending workers against the current attacks on their job-security and living standards.

Interestingly, the ANC government, in the form of President Thabo Mbeki, has warmly encouraged the formation and aims of the MLC. This the government now readily does despite the earlier complete disregard for labour's views and deliberate exclusion of the labour movement from having any impact on its economic policy, Gear. The relationship, expressed in the form of the tripartite alliance between the trade union leaders, particularly that of the more





*Labour has been vocal in its opposition to sections of the LRA*

powerful federation, COSATU, and the ruling party has also contributed significantly to the shift to a sharing of monopoly-capital's agenda for the economy and labour-market. The class collaboration and incrementally emerging social accord is also lubricated by the historical political and social relationships between the trade union leaders and those in government. It is no accident that the senior positions in the labour ministry, right up to the Minister of Labour himself, are occupied by former trade unionists drawn from the ranks of COSATU. Now business too has added weight to this tendency, in the form of Cyril Ramaphosa, the former general secretary of NUM and arguably the most powerful South African trade union leader during the 1980s.

### **Trade union democracy**

The section on the structure and operation in the MLC's operational guidelines stipulates that 'Discussions in the Council will be confidential and

agreements will be made public'. Even though the last decade has experienced a gradual erosion of internal democracy within the progressive trade union movement in South Africa, this is probably the first explicit commitment on the part of trade union leaders to undemocratic practices, invoking confidentiality for unmandated discussion with business leaders. The MLC also consists of 'members' and not delegates or formal constituency representatives, as structures of this nature required previously in keeping with democratic practices of mandating and accountability. This effectively undermines the principle of worker control that most progressive trade unions have tried to adhere to since the mid-1970s. What is also remarkable is that the rationale of the MLC's existence in relation to Nedlac has never fully been explained. The MLC's founding documents refers to Nedlac for the purposes of obtaining 'a regular subsidy from Nedlac to help defray the cost of its operation'. The



MLC Millennium Agreement also states that the MLC 'will be associated with Nedlac as a bilateral council and will operate with full policy autonomy'.

The proposed settlement on labour law amendments emerged from the MLC and not Nedlac. Affiliates of the three trade union federations were given less than a month to endorse the settlement. This approach to negotiating and settling on far-reaching changes to labour legislation is unusual and contrasts sharply with the militant, vibrant anti-LRA campaign of 1988-1990 and even more recent campaigns around the LRA and BCEA during the mid to late 1990s. The latest negotiations within the MLC excluded several senior trade union leaders, let alone shop stewards and ordinary members. Very little time was provided for the 'mandating' process to endorse the settlement, leaving little space for trade unions to propose informed alternative positions for negotiations.

The democratic input of members to what is eventually agreed between the negotiators is inextricably tied up with the extent of and basis upon which they are drawn into the issues. The involvement of ordinary workers on the basis of campaigning in support of their demands not only strengthens the democratic processes, but also ensures that the negotiators bargain from a basis of strength. We have already seen how the operations of the MLC excludes ordinary trade union members from inputting meaningfully into the negotiations despite their being most affected by it. When the proposed amendments were first released last year, COSATU general secretary, Zwelinzima Vavi, threatened 'blood on the streets'. The undemocratic nature of the agreement reached at the MLC and its concrete implications, if agreed, will shift this bleeding to thousands of workers in South African sweatshops.

## Conclusion

The trade union leaders might console themselves with their good intentions on the one hand and the fact that unlike the pre-democracy era in South Africa, monopoly-capital and the state appear to be taking them seriously by meaningfully engaging around issues of common interests. But at the same time they have willingly given up too much ground on their own agenda of reflecting the interests of their members and the broader working class. This has ensured that they are involved in weak co-determinist imitations of their Australian and European counterparts in Germany and Sweden.

In South Africa, it has resulted in co-determination in form but capitalist neo-liberal policies in content with devastating consequences for workers. What our trade union leaders do have in common with their European counterparts though, is that by setting up and participating in the MLC and other co-determinist arrangements, as opposed to traditional 'adversarial' collective bargaining, they are sacrificing fundamental universal trade union principles of independence, unity and democracy for the sake of 'good intentions'. This has and will continue to undermine the very foundations and gains of the progressive trade union movement in South Africa that was started during the early 1970s and set us apart from the passive trade unionism of post 2<sup>nd</sup> World War Europe.

The historical irony is that this development comes at a time when we are experiencing the worst structural attacks on jobs and living standards ★

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