

Undoing 1924

bargaining in the mining industry

You would have to go back to the 1922 miners' strike to trace the roots of centralised bargaining in the mining industry. The strike led to the Industrial Conciliation Act of 1924, which introduced centralised industrial councils to promote dispute resolution.

Since the 1980s, bargaining levels have been a major issue in local labour relations. Most unions want centralised bargaining, while most employers insist on decentralised bargaining. This is the story of one union's move to decentralised bargaining.

Fight for centralised bargaining

In the early 1980s the independent trade unions were suspicious of industrial councils, seeing them as part of the apartheid system.

These unions were new and recognised that they were not powerful enough to negotiate in industrial councils. They preferred to first face employers individually and gain recognition and negotiating rights at decentralised or company level. Management, however, insisted the unions join industrial councils.

As the unions grew, they could reap the benefits of industrial councils and so started negotiating there. Many employers reacted to the strength of the unions by trying to withdraw or withdrawing from

Etienne Vlok finds out why UASA is moving to decentralised bargaining for its official and supervisory level members and assesses the implications of this move.

industrial councils, choosing to negotiate at decentralised level.

When the ANC came to power, it promulgated the LRA of 1995, which reinforces centralised bargaining. This law provides for bargaining councils - a development from the old industrial council system.

A bargaining council consists of registered trade unions and employer organisations, adopts a constitution and registers with the Department of Labour. Bargaining councils:

- negotiate collective agreements concerning wages and working conditions;
- administer and enforce these agreements;
- prevent and resolve disputes;
- establish training schemes.

At its 2000 congress, COSATU resolved to 'continue to advance its objective on centralised bargaining, and commit to wage a relentless struggle until bargaining

councils are established in all sectors of the economy'.

Why centralised?

Parties want to bargain at the level where they are the strongest. For strong unions that level is central. But what are the advantages of centralised bargaining? Trade unions claim it:

- protects non-unionised workers;
- stops standards being lowered;
- allows them to use their skilled negotiators better;
- sets common conditions for an industry such as a minimum wage.

Employers criticise centralised bargaining as it establishes minimum wages and conditions. They believe it stops them from competing internationally as they cannot adapt wages and conditions of employment to their organisations' needs, or link pay and productivity.

In 1996 Finnemore and van der Merwe predicted that the state would provide legislation in favour of decentralised bargaining if it regarded bargaining councils as hampering economic growth and small businesses. This may happen now.

The proposed labour law amendments mean that bargaining council agreements may not be extended to non-parties as easily as before.

The mining industry

The mining industry has been bargaining centrally since 1924. As it does not have a bargaining council, parties negotiate based on convention and practice under the auspices of the Chamber of Mines. As the employers' organisation, the Chamber bargains for employers.

Anglogold's head of labour relations, Abe Bardin, explains the absence of a bargaining council: "The process has worked so well that there has been no

need to formalise it into a bargaining council."

The mining companies and unions negotiate in three bargaining units:

- category 2-8, which is for labourers;
- union men unit, which is for artisans, technicians and miners;
- officials unit, which is for officials and supervisors.

NUM is the dominant union in category 2-8, the National Employees Trade Union (NETU) and the Mineworkers Union (MWU) are dominant in the union men unit and UASA in the officials unit. UASA is the second strongest mining union after NUM with about 33 000 active members.

UASA, traditionally a union for supervisory levels, is the only union recognised for collective bargaining purposes in all three units. UASA bargained in the union men unit and category 2-8 for the first time in 1999 when the parties signed a two-year agreement at the Chamber. UASA is recognised in category 2-8 as some NUM members at Buffelsfontein Mine apparently defected to UASA.

Although category 2-8 and the union men unit still bargain centrally, 1997 was the last year that the officials unit did so. When the officials unit's three-year agreement ended this year, UASA negotiated directly with the individual mining groups. So the mining industry negotiated wages at decentralised level for the first time.

Decentralised bargaining

In December 1999, UASA informed the Chamber of Mines that it agreed to negotiate with each mining group separately.

The Chamber and the mining houses agreed and so decentralised negotiations started in March 2000. UASA's divisional

manager, north, Tim Kruger, cannot contain his excitement: 'We are leading the rest of the unions into a new era. We chose the decentralised route, as centralised bargaining is not successful anymore. The poorer companies cannot afford the increases of Anglo and Goldfields. Yet they have no choice. Soon they will retrench our members.'

Kruger admits that decentralised bargaining is a huge process concerning human resources and time, especially for himself and Manie de Kock, the divisional manager: south, who attended 95 wage negotiation meetings. 'We developed our own process. Each branch nominated three members to serve on a mandating committee for each mining group. The mandating committee then nominated a negotiating team to join de Kock, the regional manager and myself,' explains Kruger.

Kruger and de Kock met with the mandating committee who got mandates from members. From this the mandating committee drew up a single mandate for each mining group.

After negotiating, the negotiators reported back to the mandating committee or to members. If necessary, the mandating committee got alternative mandates and returned to the negotiating team.

Kruger is proud of this process: 'The information we, as negotiators, received from the mandating committees was first-hand, not second-hand. Members knew what was happening and that they could influence the process. So, as negotiator, what I agreed on, was always what the majority of members wanted.'



NUM's deputy general secretary, Archie Pelane.

An employer's response

Why did the employers agree to decentralised bargaining for the officials unit? Bardin explains: 'The merits of collective bargaining through the Chamber are no longer evident. The industry has changed with coal and gold going through difficult times and small mines and empowerment groups entering the Chamber. The unity at central level on bargaining issues has disappeared. Different employers have different agendas. Some smaller mines do not necessarily believe in the same things as AngloGold does. We are not only cost-driven. We have socioeconomic objectives too.'

AngloGold proposed decentralised

bargaining as it wants to individualise the officials' contracts, adds Bardin. 'Collective bargaining means only doing the best deal on average for the lowest paid. It mitigates the possibility of looking at each official individually. We want to award them with merit-based increases and can only do it by considering the individual.' AngloGold also regards decentralised bargaining as providing flexibility on wages and organisational issues, which one does not get at central level. Decentralised bargaining will mean a better deal for everybody,' proclaims Bardin. 'We believe that if AngloGold makes a profit everybody will receive fair wage increases and will be happy.'

The results

At the gold mines where UASA negotiated they received wage increases of between 8 and 9% with mostly one year and some multi-year agreements. At the coal mines the increases ranged from 6 to 7% with mostly two year agreements.

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In UASA's newspaper, Kruger and de Kock analysed the results: 'With each group we have had to weigh cost increases against the possibility of further retrenchments. The results have therefore been relatively conservative in monetary terms but healthy when job security and inflation are taken into account. In the long term the new system will reflect positively on productivity, job retention and earnings.'

According to Bardin, the decentralised negotiations with UASA went well. Both sides put realistic wage offers on the table and managed to restructure the wage package. He describes decentralised negotiations as more efficient, quicker and without bunfights.

The implications

Centralised bargaining only involved Chamber and trade union officials, according to Kruger. It meant poor mandating and no involvement of individual mines. 'However,' claims Kruger, 'with decentralised negotiations people from the ground level participated and got exposed to negotiations and acquired new skills and experience.'

UASA believes members will benefit from decentralised bargaining as it only addresses issues specific to each group. This translates into realistic wage increases. It also means negotiators can address operation-specific issues such as remuneration structures or medical schemes, which would never get a hearing at central level. Parties can also address the differences between gold and coal, which have lower profit levels.

NUM's deputy general secretary, Archie Pelane, believes centralised bargaining will address remuneration structures and benefits if the industry moves to a package system: 'We bought into the idea of a package system, as recommended by UASA. It means all allowances and benefits increase by the same percentage as wages.'

So is UASA not concerned about losing the benefits of centralised bargaining? 'Not at all,' says Kruger. 'See it in this light: we are sole agents in the officials unit. The union men unit, however, has five unions. If we negotiated at decentralised level, we would lose collective power.'

2001 sees negotiations for the union men

unit and category 2-8. UASA must decide what to do if the other unions stick with centralised bargaining. If NUM chooses centralised bargaining in category 2-8, UASA will not negotiate at company level. Yet, if UASA and the management of a mine where it has sole recognition decide to negotiate at company level, the LRA allows them to do it. In such a case, other unions might urge UASA to stay if they have some members there. 'We will not fall for that,' says Kruger, 'because the LRA allows us, as the majority union at those operations, to decide.'

Anglogold would prefer the other two units to bargain at decentralised level also, as it would be more efficient. Bardin realises that the chance of that happening is small. 'Those units are different. NUM will not allow it and the smaller mines might also want to stay in the Chamber.'

NUM does not foresee the union men unit or category 2-8 bargaining at company level. Pelane explains: 'We bargain for all members. It does not make sense to have different forums and demand 8% in one and 6% in another. If management wanted to create conflict, they just have to offer different percentages to different groups.'

Bardin believes UASA wants to bargain at company level in the other units also because it is in a difficult situation. It fears being swallowed up by the bigger NUM. 'NUM is like a big frog sitting patiently, waiting for the bug. The smaller unions' concerns are not addressed and NUM's agenda prevails. UASA does not even feature as NUM brings 70 delegates.'

NUM also cites a move to individual contracts as a danger of decentralised



UASA's divisional manager; north, Tim Kruger.

bargaining. 'As a global player, we see mining moving that way. We see it in Rio Tinto. The local situation differs but with mechanisation increasing we could be moving to individual bargaining.'

Pelane sees UASA's move as temporary as it will not influence industry policy by negotiating separately. He does not agree with UASA that decentralised bargaining will save mines and lessen retrenchments. 'In the mining industry companies retrench based on economic, not financial reasons like wage demands. The industry can afford wage increases.'

A bargaining council

At its congress, NUM decided on a bargaining council. It believes the industry

still represents an old style of operations. NUM sees a bargaining council:

- shaping the industry in terms of policy and minimum standards;
- enabling the industry to influence legislation, productivity and investments;
- providing a more co-operative approach.

The proposed bargaining council will consist of an industry chamber that deals with policy and minimum standards. Below it will be sector chambers for the different minerals. These can improve on the industry standards if possible. Mines who can improve even further on the sector chambers will have their own negotiations. The bargaining council will consist of only one bargaining forum binding everyone from officials to category 2. 'We want to see centralised bargaining in the true sense, not based on past practices,' says Pelane.

With only one bargaining forum, a bargaining council will ensure that management cannot divide the workers by offering different wage increases to different unions. Or that different unions settle with different mining houses, which means unions lose the solidarity element.

A bargaining council can focus also on health and safety and training. It will recognise training across the industry and ensure workers are not disadvantaged when transferred. A council will also deal with issues that the unions and individual mining companies should discuss but do not always do, such as housing and the restructuring of hostels. Pelane believes only strict rules will stop mining houses doing as they please.

NUM has lobbied on the bargaining council and reports that the principle has been well accepted by the different parties. However, the practicalities and the

setting-up of it will be difficult. Pelane warns: 'Our members will fight for it as it is more positive than the Chamber of Mines.' He only expects to have a bargaining council in place in two years as the industry cannot tamper with the current two-year agreements.

Pelane believes that if the industry can sort out the practicalities of a bargaining council it will silence the fears of unions who want to bargain at company level. NUM has negotiated with UASA who voiced their support for a bargaining council. 'We need to bring them on board. Such a council will address UASA's fears of being unable to address specific issues with each mining group,' continues Pelane.

Stay or go?

Clearly UASA is not happy negotiating at the Chamber. It feels decentralised bargaining will secure its members' jobs and allow them to address specific issues with specific companies. It has pointed to a strategic decision to bargain at decentralised level for its 'more' skilled workers in supervisory positions. It has also pointed to improved democratic practices being developed with new ways of negotiating. Yet decentralised bargaining holds dangers. As AngloGold suggests, mining houses would want to move to individualised contracts. Maybe it is acceptable to UASA's members, who are mostly in supervisory positions, but it could also mean the end of the union as they know it.

So, can a bargaining council address UASA's problems? From what NUM says, it seems so. A bargaining council can ensure parties address specifics, such as the restructuring of hostels or medical schemes. By helping establish a bargaining council UASA could ensure the bargaining council addresses its fears. The chance of UASA surviving intact might be better. ★