

Unsatisfactory strike outcome

Public service agreement

The long and painful public sector dispute is over. But says **Ebrahim-Khalil Hassen** it will not be over for long as there are too many elements in the agreement and in the process of coming to an agreement that indicate further strife is on the cards.

In this follow up to the previous article in *SALB 34.4* 'Public Sector strike: Irresistible force meets immovable object', I contended that haggling in the public service has created conditions for an even more deeply divided bargaining council and that it has opened processes that will have far reaching consequences over the next decade.

South Africa waited with baited breath with the question in every heart: 'Will an agreement be reached?' As a society born out of hard-won agreements, we are conditioned to value the process of reaching an agreement, as much as the actual outcome. Yet, in the pressure cooker following a final offer by government and a successful three-week strike by labour, an agreement has been forged that is likely to deepen an already divided bargaining council. It has also lessened the prospects for an historic agreement on improving public services.

ELEMENTS OF AGREEMENT

The power play is evident in the agreement, which consists of four major elements.

The first element is the *salary* agreement of an across-the-board 7.5% increase backdated to April 2010. This is an unusual agreement as it means that

government somehow managed to increase the finances available for bargaining, as it had always proposed an implementation date of either June or July.

Moreover, government has committed to implementation dates in the future of May 2011 and April 2012, thus making a major concession to trade unions.

The second element of the agreement was *bargaining timelines*. The parties committed to finalising bargaining by 31 July each year, thus allowing time to align the bargaining process with budgets. Optimistically, the agreement further commits parties to conclude negotiations for 2011 by the end of October 2010, a target which has already not been met.

The third element is the *minimum service agreement*. Trade unionists have argued that the agreement provides for a major commitment on finalising minimum service agreements for essential service workers. The text of the agreement however provides a more modest process agreement that commits parties to finalising minimum agreements by the end of 2010.

The final element is *benefits*. The agreement provides for an increased housing allowance of R800. However, government and

unions have signed an agreement that opens up negotiations on all the major benefits in the public service. This has been achieved through cross-referencing of this year's salary agreement with older agreements signed in the Public Sector Bargaining Council, as well as agreements to introduce a new housing subsidy and equalise benefits across medical aids.

POWER DIMENSION

Resolution 4 of 2010, the 2010 salary agreement, was signed by government, and over 60% of union representatives. As such, the agreement passed the legal requirements for a valid and binding agreement. The agreement was forged through major concessions from both government and labour as described below.

Government conceded in several areas. The public's understanding of government sticking to a 7.5% increase and R800 for a housing allowance does not tell the complete story. Government has opened up negotiations in a range of areas, including housing, medical aid and minimum service agreements. In so doing, it has provided unions with a renewed commitment to finalise and possibly expand worker rights. This concession was central to



many unions opting to sign the agreement.

Unions agreed that contentious issues such as medical aid, housing allowance and minimum service agreements could be referred to processes in the bargaining council. In a sense, unions opted to strengthen processes in the areas of benefits and minimum services, rather than force demands in these areas. As such, it offered the proverbial 'way out' for government to reach an agreement, without increasing costs in these areas.

The agreement reached is however fragile and likely to deepen adversarial bargaining in the council. The most prominent indicator is that two of the larger unions representing professional staff did not sign the agreement. The South African Democratic Teachers Union (Sadtu) and Hospersa in not signing the agreement, indicates divisions in both the Cosatu (Congress of South African Trade Unions) aligned unions, and other unions operating under the umbrella of the Independent Labour Caucus.

In government as well, there is dissent on the signing of the agreement. Most visibly, it relates to the impact that the agreement has on the national budget. However, there is a deeper questioning of signing an agreement at all costs. The argument is that government through unilaterally implementing salaries in 2010, failed to enhance the conditions for reaching a wider 'developmental agreement. In other words, short-term 'peace'

in labour relations provided an escape valve, and thus postponed a process of social dialogue.

The parties that signed the agreement present a two-fold argument to support the agreement reached.

First, neither government nor labour benefited from an agreement being reached. Unions in this regard were acutely aware that their members needed to see tangible gains after a long and bitter strike. More to the point, there was a reluctant admission that a stalemate had been reached, and it was better to negotiate the details of a settlement and lessen the discretion and free hand of government.

Government, for its part, required an agreement to bolster its legitimacy, and to quell growing militancy amongst public service workers. There was in negotiator's speak a 'real politik' element to the deal.

Second, the agreement lays the foundation for a longer term deal. Both parties to the bargaining council acknowledge that many agreements still need to be implemented, and that through dealing with these matters, especially benefits, a clean slate to discuss performance and productivity would be created.

Taken together the various criticisms and motivations for the agreement suggest an uneasy and fragile stalemate. Whilst time will tell which interpretation is correct, the context suggests a deeper conflict is looming. This is evident through the details of the agreement reached.

DEVELOPMENTAL OUTCOMES

The agreement sets an overly ambitious bargaining agenda over the next 12 months that will heighten conflict in the public service. This is due to the complexity of the agreements that are envisaged. But more importantly it is that government does not as yet have a clear mandate on a range of issues that it has agreed to discuss and reach agreement on within specified timeframes.

However, a deeper reason to predict increased strife in the public service is that the underlying policy to guide public service reforms is not a major agenda item, nor is productivity and performance. Sadly, this means that the import labour absorbing role of the public service will not frame negotiations.

It has become old hat to speak of visions and indeed the focus needs to be on mechanisms. The central failing in this negotiation round is that in searching for any agreement, both unions and government, have created a bargaining agenda that is delinked from wider service delivery concerns, and a set of targets that are unlikely to be achieved. The outlook then is of continued strife.

Yet, there are building blocks that parties must use to refocus bargaining. The Public Service Summit, for instance, offers a useful starting point to widen the bargaining agenda. However, it is from the Department of Public Service and Administration that a set of clearly defined mechanisms and options must emerge. Without government playing this leadership role, important and needed reforms in the public service are unlikely to be achieved. ¹⁸

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