

In general terms there is a hardening of management attitudes to strike action. Mass dismissals and selective re-employment programmes/agreements are likely to increase. This trend coincides with NUMSA's analysis of capital's response to the current accumulation crisis which, for various reasons, was not able to find resolution in the expansion of markets and had to turn inwards instead - towards increasing productivity in the workplace.

This process, it was suggested, would involve capital intensification/retrenchments and efforts by management to increase the ambit of unfettered decision-making over the labour process.

So much for the statement by SACCOLA and even ASSOCOM that there should be greater acknowledgement of workers' right to strike.

## Conclusions

The LRA with its recent amendments, rather than promoting the peaceful resolution of disputes has in fact increased labour unrest and strike action. The wholesale interference by the industrial court in industrial relations, mainly through section 17(11)a orders, has also not stopped strike action.

NUMSA's Wits region in particular is to be congratulated for the campaign against section 79(2) which has turned this provision against the bosses and forced them now to support its being abolished from the legislation.

## References

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# Weakness of the Anti-LRA campaign

MARTIN JANSEN argues that the anti-LRA campaign has been weakened by lack of a clear strategy. He argues that a new approach is needed - campaigning against the state rather than focussing on negotiations with SACCOLA.

SACCOLA withdrew from negotiations on the LRA in late September arguing that the labour front was guilty of bad faith conduct. They said they were not prepared to continue "co-operating" with the labour front, while being squeezed by an overtime ban and consumer boycott. Yet it is SACCOLA's members who are using the new provisions of the LRA to lock out strikers, interdict strikes, threaten to sue unions, and retrench workers.



SACCOLA's actions have contrasted strongly with its purported anti-LRA statements, which still remain deliberately unclear and ambiguous. Although SACCOLA returned to the talks a week later, its actions and those of its members pose serious questions about the direction of the anti-LRA campaign.

### **SACCOLA has not shifted**

The labour front's good faith negotiations for over a year have therefore counted for nothing. A hard look at SACCOLA's arguments shows that:

- SACCOLA objects to legalising sympathy strikes and solidarity action.
- SACCOLA rejects including all workers under one labour law. SACCOLA is prepared to accommodate reactionary and racist farmers, by arguing against including farm-workers under the LRA. It also refuses to agree that the LRA should be extended to protect workers in the Bantustans.
- SACCOLA is also still committed to opposing the principle of majoritarianism. Ironically it is the majority principle (50% + 1 representation requirement) which was traditionally used by bosses to avoid recognising non-racial progressive unions.
- SACCOLA continues to argue that issues like job-security, maternity benefits and disinvestment are best left to individual employers and unions to deal with around the

**Note: Martin Jansen is Western Cape branch secretary of the Chemical Workers Industrial Union (CWIU). The views expressed here are his own, not those of CWIU.**

negotiating table. SACCOLA therefore refuses to acknowledge the duty of the state to enshrine basic rights for workers in law.

### **No hope of agreement**

Even where there is apparently agreement between SACCOLA and the labour front, the agreement is very shallow. For example, when unions like NUMSA refused to play a mediating role in wildcat strikes, bosses began to fear an uncontrollable spate of wild-cat strikes. As a result SACCOLA has now urged the state to review Section 79(2) of the LRA. This is the section which makes it easy for the bosses to sue the unions. But SACCOLA is not calling for the same changes as the union movement. The unions are calling for the clause to be totally scrapped, while SACCOLA only wants the wording to be changed so that the employer has to prove in court that the union was responsible for the loss of production during an illegal strike. This is far from having the clause scrapped completely.

It is clear that there has been no progress in the negotiations with SACCOLA. There is in fact no hope of an agreement. The state of the campaign calls for an assessment. All unions must discuss ways and means of tak-

ing the campaign forward.

## An assessment of the campaign

Having tied our hands to fruitless negotiations with SACCOLA, we were unable to take the struggle against the LRA much further after the 3-day stayaway last year (6, 7 and 8 June 1988). Both worker summits gave new life to the Anti-LRA campaign, just when it was losing its momentum. The Third National Congress of COSATU, and subsequently the Second Workers Summit, recognised that the LRA can only be smashed through sustained action. By then the limitations of once-off actions such as the 1988 stayaway had been realised. In the Second Workers Summit the following plan of action was adopted:

- 2-hour stoppages and demonstrations on 1 September
- a 2 day stayaway on 5 and 6 September
- a month-long consumer boycott against white shops as from 13 September to 13 October
- An indefinite overtime ban to be reviewed on a monthly basis.

The summit also accepted that the discussions between the labour front and SACCOLA should continue. This was despite the fact that SACCOLA continued to drag its heels and failed to meet the deadline before the second summit.

One of the weaknesses of the programme of action against the LRA is the lack of a clear focus. The summit

did not clarify how the overtime ban and consumer boycott is linked to the talks with SACCOLA. Instead of giving in to the demands of the unions, SACCOLA opted for pulling out of the talks. Tactically it was a good move on their part. It temporarily gave them the 'moral high ground' with statements of "bad faith bargaining" on the part of the unions.



## Action not co-ordinated

They also recognised that the labour movement was not able to co-ordinate sustained action. September 1, the anniversary of the amended LRA, was the day on which the action was supposed to commence. But the labour movement failed to act strongly on the call for a two-hour work-stoppage.

The Western Cape was the only region which displayed widespread support for the call. Here thousands of workers marched in the industrial areas. Their massive demonstration was broken up by police using tear-gas, batons, sjamboks and water canons. A number of workers had to receive medical treatment.

In the Eastern Cape only six unions participated in the action. The only other regions which had co-ordinated action, albeit sporadic, were the Highveld and Western Transvaal. In other regions individual unions organised demonstrations, but these were not co-ordinated with other unions. NACTU's participation in the demonstration was minimal.



## Workers question stayaway

Even the two-day stayaway was not as successful as we had anticipated. The alleged confusion around the dates is in itself a sign of major weakness. The failure to successfully co-ordinate a 2-day stayaway says a lot for our ability to organise the future society. The fact that the stayaway call on 6 September experienced greater success, does not mean that we are organisationally strong and militant.

We have also drawn comfort from the fact that there were very few dismissals resulting from the stayaway (especially if we compare it to the 1988 stayaway). But we should be under no illusions. Many union members have received final written warnings which makes them very vulnerable to dismissal during similar occurrences in future. The labour movement should not make the same mistake as with last year's dismissals where no defensive action was planned.

This weakness has serious implications. Workers are seeing that the unions are not adequately defending victimised workers after stayaway action, and many are questioning whether the action is worthwhile in the light of very little progress in the



*Worker march against the LRA - militancy but lack of clear strategy*

*Photo: Zubeida Vallie/Afrapix*

campaign. It is important to put our slogan, 'An injury to one is an injury to all' into practice. We cannot sit back with our arms folded while bosses are attacking our comrades. We must defend our fellow workers. This must become a standard item on the agenda of every union meeting.

The consumer boycott should also be assessed. There are definite problems with this action. Firstly, the boycott only affects consumer goods and consequently it is the commercial

sector capitalists which are mostly affected by it. The important sectors like manufacturing and banking are not directly affected.

The fact that the start of the consumer boycott had to be postponed until 22 September, already showed the masses were reluctant to support such a call. In the past consumer boycotts were successful with strict monitoring committees in the townships and strong organisations. With many organisations not functioning in the community, the chances of a widespread, successful consumer boycott were slim.

### **Overtime ban fragments workers**

The overtime ban has given rise to even more problems than the consumer boycott. Unity, a key factor to any struggle or campaign, is difficult to build around an overtime ban. It is 'invisible' behind the factory gates, so it is difficult for workers to see each other united in this action. This isolates and weakens the workers in different plants. Unlike strikes, factory occupations and stayaways, the overtime ban is a fragmented form of action.

It is even more fragmented because not all workers are required to work overtime. Even within a particular factory, overtime might only be confined to certain sections or departments. When isolated groups of workers embark on an action they can easily be victimised by bosses.

Even with the decision of the appel-

late division which upheld the right of FAWU workers at S A Breweries (SAB) to refuse to work overtime, the bosses have continued to harass workers and unions. Many employers have threatened to cancel their recognition agreements. Some have refused to deal with the representative union or even suspended workers. Bosses and their lawyers are still looking for ways of undermining the SAB decision of the appeal court.



Despite the flaws of the overtime ban effort by the unions, it has still provoked the wrath of employers. It has touched a nerve-point. However, the problem remains the difficulty of monitoring and generalising the overtime ban because of its fragmented nature.

### **Is the campaign dead?**

What do all these problems mean for the campaign? Does it mean that the campaign is dead, and therefore to be buried? Not at all! The issue of a LRA is not temporary. It will confront workers and their unions continuously. Avoiding the LRA by negotiating agreements which by-pass the LRA is no solution. It only addresses the problem in a very piecemeal manner, and undermines a sustained campaign by the whole labour movement, including those not covered by the LRA (farm workers, domestic workers and public sector employees). This tactic prevents a united working class resistance to the LRA.



## **Direct the campaign against the state**

One of the problems of the campaign is that it was not directed against the state. Many in COSATU were not convinced that it would be a good idea to do so. This could be because many in struggle adhere to broad frontist politics, attempting to win sections of capital over to the 'Anti-apartheid Camp' or convince them by negotiations of the moral injustice of the LRA.

We must stop toying around with this politically dangerous notion of reaching an agreement with bosses on fundamental trade union rights like the right to strike, sympathy strikes, majoritarianism, etc. These rights themselves have been born out of de-

acades of struggle and will only be maintained and protected by struggle itself.

SACCOLA has repeatedly thrown down the gauntlet to the labour movement. Having come to an agreement with the unions on six clauses that were deemed to be "offensive", the bosses, after the promulgation of the LRA, went ahead to implement the very same clauses which they had acknowledged as being "offensive". For more than a year they have been using the provisions of the LRA to retrench, dismiss, lock-out and threaten to sue workers.

## **Negotiations cul-de-sac**

Even after the bosses had shown their support for the law, the unions



*Unions vs SACCOLA - rather target the state*

*Photo: The Star*



foolishly pursued the strategy of negotiating with SACCOLA. Workers did endorse the strategy as they thought there was a possibility of a forced deal with the bosses. Suspicions of the apartheid government also made the idea of directing the campaign to the state unpopular with workers.

However, the negotiations with SACCOLA have made no progress. Only the state has the power to change the LRA. As a result the campaign is in a cul-de-sac. In addition, the campaign is weak on the ground and many union leaders are taking no initiative. These factors force us to look closer at realistic options, like redirecting the campaign towards the state.

The strategy of focusing the campaign on SACCOLA aimed ultimately at pressurising SACCOLA to make joint recommendations, together with the unions, for changes to the law. This simply means that even after agreement with the bosses, we still would have to force the state to change the law.

This we failed to make clear to workers. Many workers are under the false impression that, if SACCOLA agrees, the struggle against the LRA is won. The two-stage nature of this strategy was never made clear to workers.

There is nothing wrong in principal in having discussions with SACCOLA. This tactic should not be ruled out. What should be opposed is the dogged pursuit of this strategy when clearly there are no gains, and the very negotiators on the other side are

implementing the "offensive" clauses.

## The campaign and the State

Our anti-LRA campaign is definitely having an impact on the state. In the last few months:

- the National Manpower Commission (NMC) has been given the brief to reconsider section 79(2) (the section which gives the employers more power to sue unions). The NMC has been authorised to circumvent lengthy procedures so that the section can be changed quickly.
- New Manpower Minister, Eli Louw, has announced that the NMC will re-examine the entire LRA - but this will take two years!
- Louw has also appointed a private advocate to investigate allegations that the Industrial Court is no longer fair.
- Louw is also to appoint a commission of parliamentarians and farmers to consider the question of trade union rights for farm-workers. On the question of farm-workers the composition of the commission shows that the view of organised agriculture and the farming industry are paramount. On this SACCOLA and Louw have agreement. They both say that granting trade union rights to farm-workers will destroy the agricultural sector. They also fear that granting trade union rights to farm-workers will drive farmers into the hands of the Conservative Party and



the AWB.

Louw has also stated that any changes to the LRA will not mean a complete overhauling of labour legislation in South Africa. He stated that most of the clauses in the Act will remain, which means he will merely tinker with the LRA.

Just as it would be foolish to applaud the state's sudden open attitude as a victory for workers, it would be equally wrong to dismiss these announcements as cosmetic and of no relevance. The latter position would completely ignore the fierce battles by unions in the last two years to have the LRA changed.

Otherwise why don't we have the state showing a soft spot in other matters like housing, transport, etc? The 'verligte' announcements of the state on the LRA is a direct result of the labour movement's campaign against it. The fact that at this stage the state is only prepared to tinker with the LRA, is a reflection of the relatively weak push we have given the state so far.

## Resist implementation of LRA

To date we have been unable to make the LRA unworkable. The campaign has been far too removed from other sections of the working class. This has forced organised workers to fight the campaign alone. We have also failed to resist the actual implementation of the LRA. Instead we have focused on legalistic struggles on paper, far removed from the day to

day realities of of the working class.

Our fight against the LRA should centre around militant united action against bosses attacks like lock-outs, dismissals, retrenchments and the suing of unions. In this way the anti-LRA struggle becomes a living struggle of the masses, as opposed to wrangling with SACCOLA over legal clauses at posh hotels.

Despite our propaganda that the LRA is an attack on the struggle for a living wage, we failed to make the links between the Living Wage Campaign and the Anti-LRA Campaign in united action. Increasingly we see individual unions succumbing to the attacks contained in the LRA.

All this has had an impact on workers. Workers are beginning to doubt their ability to smash the LRA. They know that they stayed away successfully last year and again this year. They have participated widely in the campaign against the LRA. But the LRA remains unchanged. These doubts certainly are reflected in the poor attendance at campaign co-ordinating meetings at all levels. Any way forward has to take cognisance of these factors.

By redirecting the campaign towards the state we will be giving it a new focus. However, a new focus without the eagerness of workers to take the campaign forward is meaningless. Admittedly, at this stage the union movement does not have the capacity to force the state to change the LRA. *We need to build this strength again!* A new plan on how to fight the LRA is needed.



## Towards a new plan

### 1. Test the state's 'liberalism' and the words of Eli Louw

A delegation representing the union movement, armed with a memorandum of our demands, should be sent to meet Eli Louw. We should also inform him that we will give him until the next parliamentary session (February - May 1990) to change the LRA. Any attempts to convince us of the lengthy bureaucratic procedures of the state machinery must be rejected. The delegation which puts our demands to the state must be more representative - it should include regional representatives who are directly accountable to campaign structures.

### 2. Render the LRA ungovernable through Living Wage struggles

Our wage demands must be put and fought for in a militant manner. We must support them by go-slows, overtime bans and placard demonstrations. The procedures of the LRA should be defied. Threats of lock-outs should be countered by sleep-in strikes. Most important is the open defence with solidarity action by all workers and unions for those who are under attack from the bosses or the state. We should enforce our living wage demands. For example, all workers restrict their work to a 40-hour week.

### 3. Launch the campaign for a Workers Charter as an alternative to the LRA

### 4. Convene the 3rd Workers Sum-

mit in March 1990.

This summit should assess the campaign. It should note the response of the state and our capacity to fight on, and plot the way forward. ☆



## Interviews: Wiehahn and Ehlers

There has been some controversy in government, industrial court and academic circles over the Labour Relations Amendment Act. *Labour Bulletin* interviewed Professor Nicholas Wiehahn, architect of the more liberal 1979 labour law, and Dr. Danie Ehlers, former president of the Industrial Court.

**Labour Bulletin:** *Prof. Wiehahn, why do you think the Labour Relations Act was amended in 1988?*

**Wiehahn:** It was a direct result of pressure from the employers. They tried for years and years to get the Minister to change the law. During the first 5 or 6 years after the Industrial Court was established the trade unions won a lot of cases because they had good cases and good legal advice. Employers felt that strikes were