

World Cup 2010

Militant construction workers challenge trade unions

The majority of workers on 2010 construction sites are not permanent and have no benefits. **Crispen Chinguno** describes the different groups of workers many of whom organised themselves and formed a major challenge to ineffective traditional unions.

The construction industry has some of the worst employers and employment conditions in South Africa. The insecure and temporary nature of construction work means that unions are weak, and most workers have no organisation to represent them. The construction of World Cup stadiums has created a boom in the construction industry, providing new opportunities for unions to organise.

This article investigates working conditions, union organisation and industrial action at three World Cup construction sites: Green Point in Cape Town, Mbombela in Nelspruit, and Soccer City in Johannesburg.

GREEN POINT STADIUM

The project was designated as a building engineering project with the terms and conditions of employment governed by the Building Industry Bargaining Council of Good Hope.

This council is sector and area specific. All employers and employees must register with the council but are given a 60 day window. Many employers abuse this by employing casual workers for less than the prescribed period. This creates a variation in conditions and pushes many workers outside the jurisdiction of the council.

The two main trade unions, National Union of Mineworkers (NUM) and Building, Construction and Allied Workers Union (Bcawu) organised at the site but unionisation levels were low at around 20%. The unions were not given access to workers and had to give two weeks notice which sometimes was unreasonably declined. One union organiser was even proscribed from the site by the main contractors.

MBOMBELA

This was one of the most volatile projects. It was first designated as a building engineering project. There is no bargaining council in the area so the main contractor adopted Gauteng voluntary bargaining council rates. This created disparities with other sites that were using civil engineering rates, which were higher. The workers challenged this through a spate of strikes that forced the employer to adopt civil engineering rates. The civil engineering sector is governed by a sectoral determination.

In addition employers, represented by the South African Federation of Civil Engineers (Safcec), and the workers, represented by NUM and Bcawu, negotiated a national agreement which governs their conditions of employment but is only binding on their members. The

determination only prescribes minimum conditions. The majority of workers however were not union members and were employed by brokers and subcontractors who were not Safcec members.

SOCCER CITY

At Soccer City the main contractors and the union negotiated a recognition agreement which was binding on all contractors including brokers. It outlined terms and conditions for all workers.

The agreement included an agency shop and full-time shop stewards. As a result most workers joined the union and unionisation levels were unusually high, over 60%, and harmonious industrial relations were attained.

One shop steward remarked "We do not have any problems with any contractor. We do not talk even if a problem arises but just refer to the recognition agreement. It defines everything making our job easy." Thus the site only recorded a four-hour work stoppage.

FRAGMENTATION OF WORKERS

The nature of the construction industry and globalisation have created new and fragmented forms of employment which unions have not been successful in organising. Four categories of employment have

evolved with different rights and privileges.

The first is permanent full-time (core) workers who are entitled to benefits such as transport, housing, medical and pension. They usually are semi- or skilled workers such as drivers and grader operators. They form the base of unions as the majority are members. They are privileged as they enjoy benefits despite being a minority.

In the second category are limited duration contract workers (LDC). They are engaged for a specific duration and usually have no benefits. At Soccer City and Cape Town and others they were not entitled to benefits. One shop stated, "We organise them but with very limited success. They are employed for a specific duration... and see no reason to join unions. We try but unfortunately we are losing the war."

In the third category are subcontracted workers who work for a third party engaged to perform a particular task. Traditionally

subcontractors are hired to perform specialised functions but on the 2010 projects it was because of the need for flexibility. These workers have very limited benefits.

In the last category are labour brokered workers provided by a third party. The broker stands in as the employer.

Through this arrangement, the main contractors can evade labour legislation. Workers enjoy no benefits and few are union members.

Subcontractors and labour brokers make it difficult for unions to organise. One employee said, "I will lose my job if my employer discovers that I have joined a union." Unions tried to organise them but faced severe challenges. Commented a shop steward "We try to organise them but their employers just make it impossible. Recently I contacted three subcontracted workers and educated them on the benefits to belong to the union and convinced two of them. The one who declined reported to their employer that his

colleagues had joined the union. The following day the two who had joined the union disappeared and only to realise they have been replaced by two new guys."

The construction industry is segmented comprising many separate role players performing different functions. In the 2010 projects there was an average of 30 employers (subcontractors, labour brokers, and main contractors) at each site. The majority, about 60% of workers, were employed by brokers and subcontractors. This raised questions about the term 'main contractor' which is inaccurate as it was more just project managers and consultants. An employee described them as "managers of subcontractors".

UNION RESPONSES

There are over five unions organising in construction. However, in the 2010 projects only the big unions, NUM and Bcawu were organising much membership. Nevertheless, the



Soccer City where an early recognition agreement binding on all contractors and brokers led to few disputes.

Chrispen Chinguno

SUMMARY OF ACTIONS IN NELSPRUIT AND CAPE TOWN 2007-2008

Date and Site	Cause(s)	Remarks
29-30 Nov 2007 Nelspruit	Wage rates, transport, travelling and living allowances, violation of BCEA and project bonus.	Unprotected strike. Strike successful, agreement on project bonus and other issues facilitated by CCMA.
11-15 Feb 2008 Nelspruit	Demand for civil engineering rates.	Unprotected strike. Strike not successful, resulted in further strike.
2-7 April 2008 Nelspruit	Wage disparity with other sites.	Unprotected strike. Strike not successful, resulted in further strike.
2-7 April 2008 Nelspruit	Wage disparity with other sites.	Unprotected strike very successful. Contractors agreed to pay civil rates after local authority intervened and CCMA mediation.
11 April 2008 Nelspruit	Land dispute with local authority.	Unprotected strike. Strike successful at putting pressure on local authority.
24 April 2008 Nelspruit	Land dispute.	Unprotected strike. Strike successful at putting pressure on local authority.
6 May 2008 Nelspruit	Subcontracted employees not paid.	Unprotected strike. Sympathy strike. Successful as workers finally paid.
9 June 2008 Nelspruit	Land dispute.	Unprotected strike. Strike successful at putting pressure on local authority and issue later resolved by court.
July 2008 Nelspruit	Performance bonus.	Unprotected. Violence and damage to property. Struck for three weeks, 400 dismissed then reinstated. Strike successful as paid demand on bonus.
27-29 Aug 2007 Cape Town	Transport arrangements and allowance.	Unprotected strike. Organised by workers' committee. Intervention Cosatu, Bcawu, NUM - partially successful but problem resurfaced.
18-25 Sep 2007 Cape Town	Transport arrangements and allowance.	Unprotected. Organised by workers' committee. Violence and damage to property. Strike successful, agreement on transport arrangements and extra R8 transport allowance

unionisation levels were low compared to other sectors. At first it was around 4% and peaked at around 20% (except Soccer City which peaked at 60%).

The fragmentation of workers into categories with different benefits and privileges is used by employers to divide and control workers. Unions are somehow oblivious to this as they reproduce these divisions in their day-to-day policies and practices.

In most projects only permanent workers were eligible to be shop stewards and union meetings concentrated on permanent workers' issues. The industry is dominated by migrants, labour brokered, subcontracted and LDC workers' but the unions seem to have no strategies to organise such vulnerable workers.

Unions in the construction industry are in a crisis and require rejuvenation. But they adopt a conservative 'business as usual' stance. Their approach was entrenched in their policies and practices as they portrayed themselves as guilds for elite permanent workers. They did however make some attempts to organise non-core workers but the cyclic nature of the industry, fragmentation of workers and employer practices made this almost impossible.

At Soccer City any institutionalised relationship between the union and the contractors however made a difference. As a result industrial harmony prevailed.

STRIKES

Industrial action was common at all 2010 projects despite differences in organisational culture, contractors and industrial relations regimes. They ranged from the Soccer City four-hour stoppage to the violent and protracted three-week Nelspruit strike.

The causes were varied but most issues related to low wages, bonuses, and health and safety. Only two

strikes, Durban and Port Elizabeth, were protected. All other strikes were contravened labour laws. The majority of strikes were spearheaded by workers outside the unions. It is difficult to measure the success of a strike but most workers felt they were successful. The Table on the previous page gives a summary of actions in Nelspruit and Cape Town.

NELSPRUIT IS A TYPICAL CASE STUDY

The workers at first organised outside the unions as LDC workers from the community. The site was part of a land dispute after the local authority annexed part of the land which had been restored to the Matsefeni farm community as part of land restitution. The community, from where most workers were drawn, organised a pressure group to challenge this. They harmonised community and workplace struggles and organised at least three strikes over the land dispute.

The unions were initially reluctant to take up community issues as the majority of members, including the shop steward, were core staff from outside the community. The workers challenged the unions' domination by a minority. They won and the shop steward was replaced by an LDC worker from the community who was also the pressure group chair.

A worker commented, "We could not be led by people from Johannesburg who did not understand our community problems. We are not only workers but also members of the community. So we wanted someone with an intimate understanding of our community problems." These workers, with the community, organised demonstrations against dismissals and deplorable working conditions when the President visited the area.

In Cape Town most strikes were spearheaded by an elected workers' committee organised outside the unions. A worker

remarked: "Most of our strikes were not organised by the unions but by the workers' committee and were over issues affecting us all as workers. The unions usually hijacked the strikes in an attempt to resolve the issues."

The purpose of the committee was to handle collective grievances and to act as a channel of communication between management and workers. According to one worker, "The workers' committee was better positioned and more representatives to articulate our position compared to the unions, which represented the minority."

CONCLUSION

Despite entrenched divisions workers found a means to create new solidarity.

In Nelspruit workers found solidarity by organising around community issues and later 'took over' union structures. In Cape Town they forged a new identity by seeing themselves as workers first, despite divisions. The unions however, usually reproduced divisions amongst workers. This forced workers, for example in Cape Town and Nelspruit, to organise from outside.

There is a perception that vulnerable workers such as labour brokered, subcontracted and LDC are not organisable or are difficult to organise due to their insecure status. This article challenges this assertion by showing that they are able to organise themselves collectively and lead strong and effective strikes even when unions fail them. They are prepared to become union members and if given a chance are ready to lead and become the change agent. ^{LB}

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