

# **NATIONAL COLLECTIVE BARGAINING WORKSHOP**

16 -17 May 2007

Elijah Barayi Training Centre,  
Yeoville,  
Johannesburg

## **REPORT**

**By Simon Kimani Ndungu<sup>1</sup>**

**NALEDI**

**13 July 2007**

### **INTRODUCTION**

---

<sup>1</sup> We would like to extend our gratitude to the Friedrich Ebert Stiftung for their generous funding of this workshop.

Coming on the eve of the largest public sector strike in post-apartheid South Africa, the National Labour & Economic Development Institute's (NALEDI) collective bargaining workshop attracted a wide variety of debates about working conditions and the struggle to advance workers' interests in a world economy dominated by forces of global capital and free marketism.

South Africa is fundamentally a free market economy with state participation largely limited to regulation. This is despite the fact that the ruling African National Congress (ANC) characterises the state as 'developmental' and goes on to argue that the state must play a central and interventionist role in the bid to temper the harsh excesses of the market (ANC, 2007). While the state has embarked on an expansionary budget with increased infrastructural and social spending since 2001, from the mid 90s, state ownership of industries and other means of production declined significantly through privatization and restructuring of public enterprises. This trend only slowed down in the early 2000s but it has not stopped entirely.

Between 1994 and 2001, the economy was largely stagnant and massive job losses occurred in the public sector as a result of rapid privatization, reduction in infrastructural investment and cuts in social spending to meet the structural adjustment target requirements of the macro-economic framework; the Growth Employment and Redistribution (GEAR) strategy. The private sector did not fare any better either.

However, positive economic growth in the last five years has resulted in the growth of many jobs and between September 2002 and 2006, there was a total of 1,6 million new jobs created. Unfortunately, this economic growth has done little to dent the high rate of unemployment in the country which stands at approximately 25, 5% (using the official or narrow definition of unemployment) and 36,2% (using the unofficial or expanded definition of unemployment) of South Africa's labour force of 17, 2 million people (LFS, March 2007). In statistical terms, this means there is anything between four and eight million unemployed South Africans.

Opinion differs over whether most of the new jobs are in the formal or informal sector but there is growing consensus that the majority of them are temporary, low paid and offer few if any benefits. As the Congress of South African Trade Unions (COSATU) pointed

out recently, the predominant feature of these jobs is that they are “*survivalist ...and insecure*” (COSATU, 2006). With the increase in these new forms of employment, it means that workers and unions have few options but to develop better strategies in order to respond to what some have christened ‘the era of triumphant capitalism’.

Fundamental to the question of improving union capacity to bargain collectively should be the acknowledgement that the changing nature of workplace relations has resulted in the weakening of centralised bargaining. Since the mid 1980s, bargaining councils in South Africa have been on the decline and in the ten year period between 1995 and 2005, the number of councils dropped from 80 to 57. Presently, only a quarter of South Africa’s labour force is covered by bargaining council agreements (DOL, 2005) meaning that 75% of employees are covered by Ministerial Sectoral Determinations and the Basic Conditions of Employment Act. The latter two statutory interventions merely offer workers the most basic minimum levels of protection.

This workshop sought to use recent trends and experiences in collective bargaining to interrogate a number of themes and fundamentally, to establish:

- How the economy has impacted on workers in light of its positive growth;
- Whether wage settlements in the last few years have been in favour of workers;
- What realistic wage increases for workers should be;
- Whether the labour market institutions established to protect and advance the rights and interests of workers, (Labour Court, Council for Conciliation, Mediation and Arbitration and Bargaining Councils) are effective; and finally
- The kind of strategies unions should adopt in order to better advance collective bargaining.

To engage with these themes, the workshop was structured along three key focal areas: the economy and world of work, wage settlements and industrial action, and labour market institutions. Five presentations were made by experts invited to speak on each of

the focal areas and on the second day of the workshop, participants, were divided into two commissions which discussed respectively; challenges and strategies for collective bargaining, and challenges of organising workers.

A total of 41 participants representing 13 of COSATU's 21 affiliates attended the workshop as follows: South African Democratic Nurses Union, Democratic Nursing Organisation of South Africa, National Union of Mineworkers, South African Transport and Allied Workers Union, Police and Prisons Civil Rights Union, South African Democratic Teachers Union, Creative Workers Union of South Africa, Communications Workers Union, National Health and Allied Workers Union, South African State and Allied Workers Union, South African Society of Banking Officials, and South African Municipal Workers Union. The accompanying transcript captures the debates and discussions held during the two days of deliberations.

In his opening address, Zwelinzima Vavi, General Secretary of COSATU, emphasises that workers have not made much economic gains during South Africa's first decade of democracy. In economic terms, he characterizes this as 'the decade of capital' and argues strongly that *"the second decade of democracy must belong to the workers"*. He says this decade should entail *"sufficient job creation to reverse the current trend [of poverty and] to break the backbone of unemployment in the country"*.

Vavi observes that casualisation has become the bane of workers while the apartheid created income disparity continues to define the wage relationship between workers and executives in both the public and private sectors. He calls on unions to bolster COSATU's Living Wage Campaign so that wage stagnation and increasing poverty are reversed. Finally, Vavi challenges the participants to take the workshop's key findings and conclusions from 'the boardroom' to the masses and be conscious in the process to link these debates to the daily struggles of the poor people.

Following on Vavi's observations, Oupa Bodibe from NALEDI analyses South Africa's economic trajectory since 1994 and looks specifically at how the economy has impacted on workers. He points out that in the last few years; the economy has averaged a growth of between 4-5% a trend driven by a multiplicity of factors but primarily, the commodity

price and consumer booms, increased government spending and rising investment in both the public and private sectors.

Despite this boom however, workers have gained very few benefits from the economy. Bodibe says unemployment remains stubbornly high with over 25% (officially) and almost 40% (unofficially) of the country's work force effectively shut out of the labour market. Furthermore, there has been a rapid growth of non-standard jobs in vulnerable sectors such as construction and security, workers share of the national income has declined since 1998, and the majority of workers earn what are in real terms poverty wages.

Bodibe concludes by raising a number of critical ideas for debate such as the kind of policy changes that need to take place in order to spur employment creation and reduce poverty, whether the growth sectors (largely construction and services) can continue their current trajectory, and the sort of changes needed in the structure of the economy in order to shift South Africa from its historical dependence on primary commodities to manufactures and services.

The third input by Professor Eddie Webster of the University of Witwatersrand's Sociology of Work Project examines the changing nature of work in post-apartheid South Africa. Drawing on arguments from his and Karl Von Holdt's highly acclaimed publication: "Beyond the apartheid workplace: Studies in transition" (NALEDI, 2005), Webster underlines the changes that have occurred in the workplace as a result of wide ranging corporate restructuring. He says studies have shown that the modern South African world of work can be categorized into three 'asymmetrically interdependent zones': an inner core zone of stable employment, a non-core zone of insecure, casualised and externalized work, and a periphery zone of informal work and unemployment.

Webster argues that at the workplace, race is being continuously reconfigured through what he terms the "informal race colour bars" or an "upward floating colour bar". He points out that employment is not what it used to be and says there has been a tendentious shift from the archetypal standard employment relationship to non-standard or atypical forms of employment. Summarising his input, Webster observes that there

has been a reduction of workplace autonomy as a result of globalization, the changes taking place are a mix of complex and contradictory processes, and that these changes have led to a deepening of poverty and economic exclusion for many households.

Wage settlements and industrial action was the second of the three key focal areas of the workshop. Three inputs were made in this case beginning with Guy Slingsby's analysis of collective bargaining and settlement trends in the public sector. Slingsby who is researcher at the National Health and Allied Workers Union begins by identifying three phases of transformation in the public service. The first phase, he says, occurred between 1994 and 1996 when government policy focused on ending racial discrimination and creating a single, unified public service for the country.

1996-1999 marked the second phase of transformation but rather than expand the public service, government instead put into practice the prescriptions of GEAR which led to massive cut backs in personnel expenditure, the outsourcing of services, the freezing of vacant posts, the privatization of state assets, and below inflation wage increases for public servants. Some of the gains achieved during the first phase of transformation were consequently rolled back.

The third phase took place between 2001 and 2004 and was marked by a mild expansionary fiscal policy with a degree of emphasis by government on the need to strengthen the state and build capacity to deliver services.

Slingsby also deals with working conditions in the public sector and among other things; he argues that the wage gap has increased from 20:1 in 1996, to 27:1 a decade later. Whereas there are a number of positive gains experienced by public servants, Slingsby argues that wage increases continue to be stunted by the restrictive policy of inflation targeting by the national treasury, while personnel expenditure as a total percentage of overall government spending continues to decline. He concludes by citing a number of strategic wage and non wage demands for public servants in the current period such as a wage increase of 12%, reducing the gap between management and workers, career progression and the filling of vacant posts.

While similar in many ways with the public sector, the private sector has its own set of collective bargaining challenges, and this is the topic of discussion by Simon Kimani Ndungu, a researcher at NALEDI. Kimani examines collective bargaining trends and notes that bargaining councils have been on the decline since at least the mid 1980s. He next looks at wage settlements and argues that generally, wage increases in the private sector have on average been below 6% and vulnerable sectors such as clothing and textiles, agriculture and security continue to experience the lowest minimum wages.

Kimani challenges unions and workers to rethink the use of the Consumer Price Index (excluding mortgage bonds) (CPIX) as a tool for negotiating wage increases saying that this strategy discriminates against low paid workers as they are hit harder by inflation, and also bearing in mind that the bulk of household income for poor people is consumed in basic necessities such as food, shelter, transport and medical care. These commodities often experience a higher rate of inflation than the national average.

Further, Kimani compares workers' earnings with executive pay and cites research suggesting that as the economy has grown, so has the wage gap between employers and employees. He concludes by posing a number of questions for further discussion such as the kind of minimum percentage wage increases that workers should settle for during negotiations, specific strategies that can be adopted on non wage issues (medical aid, leave and allowances), and whether unions and workers should opt for annual or multi-year wage agreements.

Coincidentally and further developing a point made earlier by Guy Slingsby that *"negotiations cannot be won on the table alone but must be backed up with mobilization and campaigns"*, Liesl Orr, a researcher at NALEDI analyses recent trends in industrial action in the areas of bargaining, organising and strikes. Orr emphasizes the need to establish centralised bargaining forums in all sectors and highlights the dilemma of multi-year agreements. She also emphasises the conflict existing between the non consultative ministerial sectoral determinations (promulgated by the labour minister) and the wider, more representative process of collective agreements through formal bargaining structures.

Organising challenges for unions have become more pronounced particularly in those sectors with low unionization density (e.g. agriculture) while the ability of workers to strike has increasingly come under strain. Orr believes that solidarity during strikes has been on the wane and unions seem not to be *“using the opportunities of strikes to deepen working class consciousness through formal and informal education”*. She further interrogates the legal limitations imposed against essential services workers not to participate in strikes, the difficulties workers face when seeking to hold pickets in shopping malls, the banning of demonstrations by local authorities and the use of scab labour and private security firms (e.g. the Red Ants) during strikes.

In Orr’s opinion, employers have gradually become more arrogant as evidenced by the pro-longed Shoprite and Karan beef strikes in 2006, while the state appears to favour employers rather than workers during industrial disputes. As she asks in conclusion, *“what are the prospects for labour-friendly state interventions during strikes?”*

The last presentation by Rudi Dicks, coordinator of COSATU’s labour market desk, looks at the labour market institutions created post 1994 and addresses the question of whether it is time for reform. He says that prior to the radical changes in industrial relations brought about by the Labour Relations Act in 1995, collective bargaining agreements favoured manufacturing and mining over services, agriculture and other vulnerable sectors. He argues that South Africa’s new labour regime has brought with it uniformity in the application of the country’s labour law to all sectors, and also led to the establishment of key labour market institutions such as the National Economic Development and Labour Council, the Council for Conciliation, Mediation and Arbitration (CCMA), Labour Courts and Sectoral Education and Training Authorities.

While these institutions have improved labour matters tremendously, they have nevertheless faced a multiplicity of challenges including in the case of the CCMA, the lack of jurisprudential interaction between its commissioners and judges of the labour court. On bargaining councils, Dicks says there has been declining numbers of representivity, resistance by employers to the formation of councils and poor support by the Department of Labour. He calls for a mandatory approach to sectoral bargaining and a review of threshold levels for purposes of union representivity in the councils. Lastly, Dicks sees the need to give more powers to bargaining councils to regulate labour

brokers and other forms of atypical (non-standard) employment as well as the imposition of a council levy for both party and non-party employers and employees.

In the first part of the commission discussions, participants call for a re-examination of CPIX as a tool for negotiating wage increases and make a strong call that workers should struggle for a living wage. Similarly, a degree of flexibility should be adopted regarding the duration of collective bargaining agreements and their terms should be dictated by the nature of demands made by workers. In essence, there should be no standardized approach about the appropriate length for collective agreements.

In the second part of the discussions, it is argued that union organising is inevitably a matter of education, recruitment and servicing. Building working class power should always be the overriding objective of unions and workers and this aim is facing increasing pressure due to the shift in emphasis by many workers, from broader workers' interests to personal benefits. It is pointed out that part of the problem lies in the current culture of overt consumerism in South Africa. Participants also mention the problem of 'trade union legalism' as a serious challenge and argue that many unions seem to favour the legal route when seeking to defend workers interests rather than embark on mass action.

The question of recruiting new workers is also tackled and suggestions are made that unions need to go to sites of recruitment (e.g. new workplaces) and recruit more members. In addition, the training of shopstewards, and education and research for unions, should be increased.

### **References**

1. African National Congress. (2007). Strategy and Tactics of the ANC.
2. Congress of South African Trade Unions, (2006). Employment Statistics. COSATU Press, 28 September 2006.
3. Godfrey, S. Maree, J. & Theron, T. (2005). Conditions of Employment and small business: coverage, compliance and exemptions. Research paper for the Department of Labour.

4. Statistics South Africa, (2007). Labour Force Survey, March 2007. Pretoria, Government Printer.
5. Webster, E. & Von Holdt, K. (eds). (2005). Beyond the apartheid workplace: Studies in transition. Kwazulu-Natal Press.



- Guy Slingsby, I'm a researcher in NEHAWU in Collective Bargaining and Organising.
- Oupa Bodibe, Naledi.
- Vukile Pambo, Policy and Civil Rights Union, POPCRU.
- Eddie Webster from Wits University.
- Liesl Orr from Naledi.
- Bethuel Maserumule from FES.
- Eric Dlangamandla from NUM.
- Betty Makwakwa from NUM.
- Johnson Gamede, SATAWU.
- Nce Ndongeni from the Democratic Teacher's Union.
- I'm Varaaz Moreothata from SADTU.
- Dr Mohosho, SADTU.
- Deidre Davids from DENOSA.

**FACILITATOR:** And the comrades at the back, the technicians and engineers?

- I'm Brian Sikhosana from L&B Recordings.
- Bongani Msimango from L&B Recordings.

**FACILITATOR:** Okay, thank you very much, comrades. We are still expecting many, many more comrades so we will assume that they are on the way. For now, before I invite the presenters for this session in the morning, I want us to quickly have a look at some of the key objectives for this workshop. And as we can see there, we aim to achieve a number of things, given that this is the season once again of collective bargaining and the season of entering into what often turns out to be very protracted struggles with employers.

So we want to hopefully try and achieve the objective of looking at what the impact of the economy has been on workers in terms of our understanding. There's a lot of talk all around that the economy has been good; the key question is, has this benefited workers? Now again, looking at the last few years, asking ourselves, if we look at all the rounds of bargaining that we have, whether annual or multi-year bargaining rounds, the settlements that we've come up with, have these been in favour of workers?

Thirdly, we want to have a look at what a realistic wage increase should be in this country. And I

think that's very contemporary and very pertinent, given the strike that is looming, as government says, all the struggle that we have now between our comrades in Public Service and the state.

We also want to look at the labour market institutions, because these are part of the broader arsenal, the broader arsenal of instruments that workers have to defend and advance their interest. So we want also to have a look at those labour market institutions to see whether they do advance and protect the rights of workers. And then we also want to look at the kind of strategies that we must adopt in order to better defend the rights of workers.

And then just a number of outcomes that we're hoping to get out of this workshop is firstly, to develop a shared understanding of what realistic wage and non-wage increases should be. There's a big question of the CPIX which we use consistently year-in, year-out as a key yardstick for wage increases; how should we look at that?

Also we want to create better strategies for effective, collective bargaining, that's in terms of the annual agreements as well as the multiyear agreements. And finally, we also want to generate ideas around a living wage which links up to Cosatu's Jobs and Poverty Campaign as well as a Living Wage Campaign.

Without taking that further, just to announce that I myself forgot to introduce myself, which is a serious omission. I'm Kimani Ndungu, I'm a researcher at Naledi, and I'm privileged now to introduce our General Secretary of Cosatu who's going to welcome you, as I said, officially, and to open this workshop for us.

Cde Vavi, let me hand over to you.

## **OPENING AND WELCOME ADDRESS**

**Mr Zwelenzima Vavi, GS, Cosatu (TBC)**

Thank you very much. Good morning, comrades and dear friends. I can't see any friends, though, all I see is comrades. Oupa asked me to come and say a few things from what Cosatu has been saying in relation to this issue as part of opening this very important workshop. Living wage we have said is the cornerstone of any trade union movement. The Living Wage Campaign was launched by Cosatu way back in 1986, barely a year after Cosatu had been formed into the fighting trade union movement that it is today. And since then as you know, we have been battling the employers in terms of ensuring that the wages of workers improve, the conditions at work improve, the labour market environment improves, the economy improves and the political systems that help make all that possible, improve.

And we now can say safely that we have registered countless gains in terms of that campaign. That campaign remains relevant and will always be as relevant as it was in 1986 when it was officially launched as a cornerstone campaign of the federation.

We now know that because we have been running a campaign, the Jobs and Poverty Campaign since 1999 basically, the 10th of May was the first general strike that Cosatu conducted in protest against what we called at the time the job-loss bloodbath as well as the inability of the economy to grow or to create enough opportunities for the unemployed, as well as raising other related issues such as the casualisation of workers and subcontracting use of labour brokers; and therefore have been making other related demands as part of the broader Jobs and Poverty Campaign, one of its cornerstones is the Living Wage Campaign.

We're now sitting in the 13th year of democracy, and Oupa is going to come and speak about the economic situation in the country, but let me just make a few opening remarks in relation to that question. Cosatu in its congress and in its dealings with other formations, be it in the coalitions we have established, in the Jobs and Poverty Campaign and in the Basic Income Grant Campaign and the political alliances, have been making a conclusion supported by all those people we have been working with, that in the main, the main beneficiaries of the economic transformation for the first decade, or in the first decade of our democracy has been capital. So we make that very serious statement. Then making that statement we then say, what we are striving for is to make

sure that the next decade or the current decade of democracy must be a decade of the workers and of the poor.

And the reason why we were making that conclusion was not only in relation to the fact that we still see these extra levels of unemployment in the country but it was also because of other related issues, and here are these related issues:

The first issue we have been raising, and I think that this workshop has to raise, is that in the overall, the wages of the South African workers have stagnated over the past 13 years. Whilst we have made major gains in the Public Service in relation to improving of the wages, closing the apartheid wage gap and improving the conditions of work in general, but in the private sector we have been facing serious challenges in terms of ensuring that we are able to improve the wages, to close the apartheid wage gap, and to make sure that the conditions of work in the overall does improve for workers for the better. So that's the first point that we have been raising.

Obviously related to that issue is then the whole issue of casualisation of workers and the issue of the income disparities as reflected by the huge disparities in wages between the lowest paid workers and the executives in the private sector. The whole question of the glass ceiling for black professionals in that despite all the efforts to bring into play the Employment Equity legislation and the Skills Act, the reality of the fact is that in the majority, the people who still occupy the high and well-paying jobs in the private sector remain the whites and the males to the exclusion of black people and women.

So we then said that look, those are the issues, and surely for Cosatu these are the issues even now. The public sector may have made gains in relation to that question, but we're not necessarily saying that all is well in the public sector. There are still major battles as reflected by the current mobilisation that the Cosatu unions are doing in support of their demands, their legitimate demands for a 12% increase in wages as well as other important issues that are not being raised publicly as part of this propaganda warfare that is currently going on. I think that's one of the weaknesses of the strike.

The issue that has become highlighted the most is the 12% issue, and not the rest of the other issues, serious issues that are standing between the employer and the workers in terms of getting this particular struggle or this particular dispute settled in that point of view. So when we say that

the tenth, this current decade of democracy must belong to workers, we mean in the sense that there must be sufficient job creation to reverse the current trend, to break the backbone of unemployment in the country. And that that unemployment or that employment creation must relate to the twin sister or twin brother of the problem, which is the quality of the jobs that must be created.

And then related to another problem, that poverty must decline in real terms, declining on the basis that the majority of people will have income that they can then use to improve their conditions of living in general. It must also relate to the fact that the wages must improve, must improve in real terms. The trend that we have already noticed, that we're already speaking to about the wages stagnating must be reversed. And that basically means that we must strengthen the Cosatu's Living Wage Campaign in the public sector, in the private sector, and more importantly, in the sectors which are currently very weakly organised in the Federation; the farm workers, the domestic workers, the sectors that we regard as vulnerable, covered by the sectoral determinations including retail, including security, including cleaning sectors. Those important sectors in the economy that just continue to just trap the majority of workers earning way below R2 500, or even below the R1 000 mark.

We must at all times, related to that question, struggle for the living wage, relate to this debate that never ends in the Federation about what is this living wage. And we have avoided to put figures, Professor, on that question precisely because it's a matter that divides the union. A living wage for someone in the farms is not the same for someone who's working in the auto sector in the motor industry. But what is this minimum living level? What is this poverty line that we're talking about?

When that debate is opened as it is currently being opened, what Naledi will say to Cosatu, the poverty line should be, and how that relates to the current wages of the South African workers. And I think that that issue then arises automatically that in engaging with the struggle, with the Campaign for a Living Wage, we will have to relate to quite a number of other related issues. The issue of skills development, which unions must - Trevor Manuel says we must take all the blame, but I will say it must take some blame in terms of failing to drive that particular campaign and to make sure that the people that it was intended to help do benefit from that campaign.

The issue of employment equity becomes part of the key priority for the campaign, moving

forward, in the context of the fact that many, many black workers have reached that glass ceiling in the private sector in terms of opportunities for them to be promoted. So that we're talking about basically that package for this particular decade.

But more importantly, which is the most important thing, and relating to the propaganda warfare currently under way, trade union leaders, institutions and the left generally are very, very, very weak to make sure that their messages are packaged in a manner that it will appeal and create more possibilities for broadened alliance-building in our society in general. And I think that we're very, very weak there. We're not always very sharp, we don't always have champions that pick up these issues of the wage differentials, the issue of how weak the employment equity compliance levels have been, the issues of what's happening to the skills level in the South African Economy. The issues of what is happening broadly in the labour market and why we continue to argue that the labour market is rather too flexible and then not lacking any levels of flexibility as some employers and the ideologues are always arguing.

And therefore I think that one thing that this workshop can help us do, and I know that Naledi came to do a very important intervention in this issue, was it in March or February, in February 2007, this workshop builds up on that intervention that Naledi made. But the challenge is how do we simplify this information and engage with the public so that in particular now, as we're moving to the ANC Policy Conference, we can get every working-class cadre understand why we keep on saying that in economic terms the main beneficiaries have been capital and not workers and the poor. And I think that that's one area that we ought to improve on.

We're seeing too, in my view, too few contributors from Naledi in the public arena. And Naledi's not engaging on the brilliant work that it continues to do. It doesn't engage the shop steward; magazines, it doesn't engage with any of the leading publications, it doesn't engage with the media. And I'm not saying that there has been no improvement, I've seen a few Naledi people, certainly Naledi's Director, and Ebrahim, the former researcher, engaging on very, very important economic aspects.

And certainly at the SABC, we have fought and forced them to always look around for other views on these matters. And I think that from time to time they do get obliged to come around and check around what are the views other than the orthodox views that they always put in front of everybody through the radio. 20 million that listen to radio listen more to the economics, the

conservatives, and the 6 million people who are watching television watch more the orthodox and conservative views about the economic transformation.

So in general this can't just be some matter for us here in this Boardroom. This Boardroom must be multiplied to reach the millions and millions of people out there so that they can know what are the key conclusions of the workshop, what are the central findings in terms of where we're going to in relation to this campaign. And overall, what do those central findings mean to the overall living standards of our people in general.

Thank you very much.

**FACILITATOR:** Thank you. Thank you so much, Cde Vavi. Okay, we can go with the traditional or the non-traditional. I would want to let Cde Vavi probably leave because I heard that he might have prior commitments, but it would be criminal of me to do that if I allowed him to leave before taking just a number of questions, comments, queries, anything that we can engage with him around the very key issues that he has raised. Now I'll just flag a number of things, not necessarily for his response but the way I understand the challenge that he poses to us this morning.

Firstly, it's on the question of wages, the economy and the wages, that the wages have really not benefited the workers, and therefore this decade must be a decade of workers.

Secondly, there's a question of casualisation, atypical employment, the very non-standard forms of employment that now we see therefore rendering workers more vulnerable.

Thirdly, there's a question of a living wage, you know, what is a living wage, and how should we engage with that. And finally, building up on more interventions in terms of mainly simplifying the language that we talk everyday so that we massify the struggle to improve the lives of workers.

So that's the way, you know, the kind of topography that I pay in relation to his presentation. Now let's hear something. Raise your issues while he's with us here. Comrade, just say your name again, and ask your question.

## **DISCUSSION**

**MR NDLOVU:** My name is Mbongeni Ndlovu from Creative Workers Union of South Africa, which is a merger between Performers Arts Workers Equity and the Musicians Union of South Africa. Now, Cde General Secretary, our sector, we are faced with challenges. I mean, to start with, in terms of legislation which is supposed to be in place to protect the creative workers, but unfortunately we find ourselves not being taken seriously as workers, but we are referred to as independent contractors, which put us in a position whereby we do not enjoy a social protection plan like everybody else, like any other worker in the formal or public sector.

Now challenges in terms of legislation. If I talk about the Labour Relations Act there is nowhere in the Labour Relation's Act whereby a person like an artist is covered. It is precisely because of the nature of the industry where artists are regarded as independent contractors. That's one challenge.

Secondly, some of the legislation that is supposed to improve the living standard of such creative workers like if you talk about content, local content, it is with the Department of Communication. If you talk about Performers' Rights Act, it is with DTI, you talk about work permits, Home Affairs and the like. Now we do not get support from the government, in particular the Department of Arts and Culture, which is the custodian of the arts and culture, whereby we are saying to the Department of Arts and Culture, is it possible that you bring all these departments, relevant departments into the party so that we can now begin to address issues holistically?

We are not winning in that regard. We are also not winning in terms of the Labour Relations Act, which is in the domain of the Department of Labour, so it's a struggle on our side. What I can say is that even though the Constitution of the country says everybody is equal in the eyes of the law, but artists are still not part of the liberated society. I thank you.

**FACILITATOR:** Let me take two more hands. I see a hand on this side, and then we'll have you and finally you for that round, and we'll allow the Cde GS to respond.

**MS MAKHUBELO:** Cde GS, mine is just a comment from NUM, from the mining sectors, which I see there's now this thing which they are doing, they retrench people. After retrenching people, they recall them and they make use of a subcontracting. The mines are now mined by the

subcontracting, and to us now the salaries are no more the same, but they are doing the same jobs as the miners are doing.

Now, I think we must come with a strategy how to deal with that thing, because definitely we are not going to reach our goals of the living wage, it's no more set at the right scores. The salaries have been reduced and everything, so we have to come with a strategy to deal with that. Thank you.

**MR M BODIBE:** Ja, Chair, thanks. GS, I just wanted to reiterate and perhaps you come to our rescue on the propaganda issue, coming the impending strike on the threat of nurses going on strike. And whilst we have this Essential Service Clause, in the absence of minimum service agreement which the employer has arrogantly refused to engage with Labour, perhaps we need your voice on air to help on the rights issue and relating to how we can paralyse the state in terms of taking the essential service to strike.

**COMMENT:** You want to paralyse our state?

**FACILITATOR:** The democratic state. Okay, comrade, you'll be the last in the round.

**MR PAMBO:** Ja, thank you, Cde GS, it's Vukile Pambo from POPCRU. I'm actually going to comment and want to have an understanding around the issue that we have now, the current negotiations in the public sector. There's a problem that I am experiencing, also anticipating on the question of essentiality of services. If you look at the argument of the state, they talk about there are people who are in the essential services, but I have a problem about this question of essentiality because when do you start to determine that this is essential service?

For argument's sake, I'm a policeman, I'm from the police. A policeman, a detective in the police is a reactive agent, he's not a proactive agent. Now how do you start to say that person is essential, because he only comes and deals with issues when everything is done and investigates; everybody has already been killed or whatever; you see, that person is not essential. But now how do you start to say every single person there is essential? There's something wrong about the essentiality of the public sector. Even people, your typist in the police, in the hospitals, they are also regarded, declared essential personnel. We need to interrogate that. I think that's what makes our process very weak in terms of engaging around this issue.

On the issue of incapacity of union leadership, I think, Cde GS, it's about time that you also need to get on board in terms of engaging, interrogating in media. Because I'm not undermining our leadership, but if you look at the engagement on the other side, you'll find the employer has made more research than our leaders. When they argue their points, they are able to advance their propaganda even if it's not true to make buy-ins to the public as if your public sector workers only need money more than any other thing. There are no real challenges, it's not that the employer does not want to provide.

And then there's that lack of capacity that you have raised. You need to come in and start to assist in that regard to make this thing to have more power. That's basically what I wanted to raise. Thank you.

**MR VAVI:** Cde Ndlovu went out after asking the question. He says he's from a union called Creative Workers Union. As far as I know the Union doesn't exist yet. It should be launched here in May and there's no concrete date so far, but we're going to form the union between PAWE and the Musician Workers Union to form the Creative Workers Union. And the issues that arise surely for the unions have been articulated through that comment and question by the comrade.

Central to it all, as I've come to understand it, is the absence of a legislation, a coherent single legislation in one place to protect the rights of creative workers in South Africa, it doesn't exist. I'm told that South Africa is the only country in the developing and developed world where there's no such a legislation.

So the biggest thing that I think the new union will have to engage and fight is the issue of ensuring that there is a legislation that can then protect the rights of the workers, in particular, in their relationship with the public broadcaster, other broadcasters and the people who exploit their talents, record companies, and the many others, many others. I don't know everybody else, but record companies will rate amongst the most biggest exploiters of the talent. The people who have become rich in the country is not the musicians or the creative workers, it is basically the record companies and it is the promoters of shows, it is the companies that stage shows and so forth. And that relationship ought to be fixed, not only through the legislation, I must hasten to add, but through a stronger organisation. And I think that that challenge is going to be with us for some time.

The union, Creative Workers Union still to be formed must make itself relevant to the artists and to creative workers. And all of them must see in it that there is something for them in order to improve their lot as workers. And I know that under the current leadership, Mabotho Sithole and all of you comrades have been doing very, very well to put the issue of creative workers onto the national agenda. But I guess that more still needs to happen, needs to be done to make sure that that organisation is strengthened and is protected.

The Basic Conditions of Employment Act protects all workers including the creative workers. But as we normally say, when you have no organisation to claim those rights, those rights lie on the floor, because you don't have a shop steward structure, you don't have a legal department, you don't have an organiser, you don't have an office bearer. You have nothing to use to make sure that workers are protected through the legislation. All other labour laws do protect all workers in South Africa.

What I need to familiarise myself with is whether indeed, despite the amendments we made to the Labour Relations Act, the use of independent contractor can still be applied to a creative worker or artist, and I don't think that's possible. But the comrades are saying that that's what the employers are using, they are calling them independent contractors, and then they employ these people in as independent contractors in terms of workers. Maybe we need to take that issue up to follow it through Ntate Boikie.

On the issue of the NUM, Cde Makhubelo was raising the question about subcontracting and low wages and no benefits, that's the centrality of the issue that you're raising and I think that that comment is well taken. It's very painful. I've been in mines where this has happened, Mpumalanga, everywhere else in the country. Literally, you know what they do, they retrench the worker and the worker carries this R17 000 in the bank, and he knows that with this R17 000 he won't last for the next two, three months.

So at the door, that's what the workers in Mpumalanga told me, that at the gate there is this black African with a nice suit and very sharp shoes, I happened to wear those shoes today, with these sharp shoes and driving an A-Class Mercedes, and he says look, I'm an independent contractor, I've been given a tender in this mine. I'm told that you people are being retrenched, but I've won a tender as a black economic empowerment person. If you want to save yourself, join me. And the

worker takes sometimes a third, sometimes even less than a third of the wage that he has been working for yesterday and goes back and sees that no ways, this R17 000 will just not carry me.

And the exploitation of - what Madam said, this is what I was asking to the ANC, what does this super-exploitation really mean in practical terms? Is it the subcontractor, do I work, or is it generally what is happening in the country to all workers this super-exploitation? So I think that we're still, and the comrade is correct to put that issue on the agenda and we've got to relate to it as the Federation.

Now the comrades from the public sector, about the strike, the essential services and the propaganda. Starting with the essential services, my biggest fear about the strike is that the government is going to catch us up on that issue, practically. And when the right time comes, they will throw the interdicts to POPCRU, all of POPCRU, so the militancy will be limited to the press statements. And they will throw it to DENOSA, all of it, so DENOSA's militancy will suddenly be the press statements, the voracity of the statements and not the actual action outside the offices.

(Tape 2a)

They will throw it to almost half of NEHAWU. And unfortunately with the NEHAWU, the most militant part of NEHAWU is in the health services, the nurses and the cleaners. And we have been struggling to mobilise these workers in Pretoria, in the Union Buildings and Umtata. When we strike there and we have massive marches, they normally peep through the windows, and they're all at work, they are in sympathy with us, but unfortunately they will not join.

And I don't know to what extent that particular weakness has been addressed now; I've asked questions, and comrades have been saying that they are working around the clock to make sure that the bulk of those in Pretoria and in Umtata, Pietermaritzburg and Cape Town do come out, Limpopo, Polokwane, you know, the headquarters of the administration. Because if there's nothing happening in the Minister's office, why should she feel under pressure, because two nurses have not pitched up in Bara, despite the fact that they are in essential services. That's my nightmare moving forward in relation to that.

Then they will throw the same interdict to SADNU, to some parts of SASAWU, and who else is left, the new union, the side of SASBO. In any case there are still battles in the Constitutional Court as to whether they should be in the Federation in the first place. So the weakness is there,

and I think that the unions should have pushed the issue, should have called a strike some three, four years ago about what are these essential services. Because now with the strike in days, I know that they intend to defy, at least for the first week or so, with possibilities of massive casualties thereafter. But I see their legs are completely tied, but obviously we ought to support them, we're not going to say much about the essential services and say more about trying to win. That's why this propaganda warfare is so important, because essentially, you may not win that strike through the actual strike, you may win it through the actual propaganda and public sympathy. And that's where, in my view, the unions have not been doing very, very well.

Yesterday I had a massive fight with uSlovo, because in the SFM they said that he's going to be debating Geraldine, and suddenly he was not there. Geraldine had a free flow - you heard all that, people were phoning me to say, what the hell is this? And I'm phoning Slovo, I can't find him. So that war has to be jacked up, I agree with the comrades.

What can't happen, and this is what I've been resisting is for the Federation to take over the strike and make that public sector strike a general strike of all workers, when it is not. It's a big chance of, how many, a third of Cosatu members on strike, that's the biggest time we can say we are on strike when a whole third of the membership is in a dispute with the employer. Yes, the Federation must come more to the fore, but we must avoid a situation where the profile of the Cosatu General Secretary just makes the strike not to be a strike of the public sector. He knows where they need to profile their own leaders, using the strike and to make the unions relevant to their members at the micro-level. POPCRU relevant to the police, NEHAWU relevant to all the state workers and SADTU relevant to the teachers. And suddenly there's this Federation that they all belong to basically running all the propaganda, I think that will be a mistake.

You see that I've been staying in the background. Last week on Friday, Geraldine insisted with the ETV people that she will only come to the studio if I'm coming as well, suggesting that her seniority is not paired with these people that she negotiates with in NEHAWU and others, which I felt that was completely inappropriate. And as a result of that, the show had to be cancelled, because I just refused and she said, I'm not coming.

And yesterday almost the same thing happened. There was a talk, Kaya at nine, and originally she wanted to insist that well, I'm coming only if the Cosatu General Secretary will be coming to debate the matter. And we forced her arm, she came, I think that because she thought that the

public sector unions will not pitch up, but at least Thulas did pitch to debate the issue.

My fear is that we're not picking up all the issues. We're not picking up the issue of the rank promotions, for example, that government has defaulted on it from 1996, it's not coming to the fore. We're not picking up the issue of skills development. We're not picking up the issues of restructuring, we're not picking up the fact that the government wants a four-year deal to 2011. Those issues are all disappearing, all those issues are disappearing from the 12%. We're not very strong to link up the 12%. The government wants to paint the public sector unions as being so irresponsible asking for 12%. But the government is completely silent about a more ridiculous recommendation from the Moseneke Commission which is recommending a 57% hike for the President and for themselves. No comment on that. These unions, if we give them this 12%, all the money will go to them and there will be nothing whatsoever for basic services. The union is not engaging with that type of a detail to show that that's correct and that's just part of the propaganda.

Yes, we need to improve on that and I'm willing to help, but not to be in the forefront of that campaign. The campaign must profile the public sector unions and not Cosatu, the Federation, because Cosatu does not need any profiling anymore, and it has been fighting its own battles at the macro level and the unions must be profiled more than the Federation. Thank you.

**FACILITATOR:** Okay, thank you, Cde GS. Now in the interests of time, I'll take the last round of about four hands. Keep your questions very, very short, one question each. I'm going to note the hands now. I note your hand. Anyone else? Say your part or forever remain silent. Okay, good enough, it's only Guy. Thank you.

**MR SLINGSBY:** It's not so much a question, but maybe I can come up there and provide the GS with something about what NEHAWU is doing to deal with some of these issues, because we've consolidated sort of our propaganda and our media strategy. And our intention is after our Strike Committee meeting today, you will see a lot of information that's out there. So in terms of the demand of 12% wage increase, and this is what's dominating the media now, I mean, behind that we're saying this, but remember that the filling of staff or the shortage of staff in the Public Service, it's not about wages or working conditions, so ... (interjection)

**MR VAVI:** That's not our Cosatu logo.

**MR SLINGSBY:** Isn't it?

**MR VAVI:** Ja.

**MR SLINGSBY:** They've given us an old one? Okay, anyway, and it goes on and on.

**MR VAVI:** No, let's see.

**MR SLINGSBY:** Okay, and these will all be out, they've all been distributed now to all the provinces, so you're going to see these in all the mass meetings that are being held in the following week. You'll see them on all the marches on the 25th when the marches take place, all these demands will be out there on the street. We demand:

- The current 16 notches reduced to 5 notches. I mean, these have things to do with the rank and leg promotion.
- Review of the current pay progression system, which is being used in a form of nepotism. A lot of the lower level workers are not getting any joy from that.
- Reduce the wage gap in the Public Service.

The GS mentioned that we did a lot to reduce the apartheid wage gap by getting equal pay for equal work, that was 1996. And then the wage gap in the Public Service was 12:1, that was our target, currently it's running at 27:1. So if you look at the DG, the highest levels, the wage increases there ... (interjection)

**MR VAVI:** We don't know that from the public, we're hearing this in the Boardroom.

**MR SLINGSBY:** No, right, but you're going to see it on the street, too. I mean, that's what I'm trying to tell you. We've got a Public Service Amendment Bill which is about the agentisation of Public Services. So we've had SASSA, we're seeing government trying to open the door for public hospitals to be handed over to Netcare and Lifecare as a form of privatisation on the excuse that these hospitals, they are not functioning properly. They first cut the funding to the

hospitals, they're understaffed, they don't fix up the hospitals, just the basic infrastructure and maintain them. When they collapse, they hand them over to the private sector, so we're seeing this creeping privatisation that was informed by GEAR continuing.

That's why we're saying - that's why I'm engaging this, obviously we say no to 6%, and we can argue that in the current rate of inflation. Right now, I think the price of meat has gone up like 25%, maize meal has jumped up massively. You know, if we look at the lower-level workers, this is how they're spending their money, largely on food.

But I wanted to get to the question of essential services. Now the problem with the essential services is that there's an Essential Service Committee and they've got their own criteria in how they determine what is essential or what isn't in terms of safety, health criteria. And once these services, they are determined as being essential in this Essential Service Committee, we as a union in the bargaining councils have a right to begin to negotiate minimum service agreements.

Now we've tabled minimum service agreement engagements with the employer and the councils, time and again. But if it comes from the Constitution where it's enshrined, we have the right to strike, and you travel down to this question of essential services and the minimum service agreements, basically that right to strike has been taken away. So our constitutional right to strike has been removed through this, the implementation of essential services.

The way that is then dealt with is through this minimum service agreement. Now government has refused to negotiate any minimum service agreements because obviously they don't want us to have the right to strike. So as part of the union strategy we have a three-pronged strategy. Firstly, we want to engage, we want to start a constitutional challenge where we're saying that we should defend this right to strike that's enshrined in the Constitution. We are saying that these councils are not willing to engage in minimum service agreements.

So what we're doing now in practical terms, we have this strategy to engage on this legal process. So what we're doing now is that we are going to, as we embark on the strike, enter into negotiations with the institutions themselves, and say as NEHAWU we are obviously concerned, we care, we're frontline workers and we want to make sure that patients have access to the basic minimum services, we don't want to put anyone's life at risk. So can we now, and we will draft the minimum service agreement ourselves, and we will engage the employer at that institutional

level and try and say, here is a minimum service agreement, we will make sure that you've got the skeleton staff available, and on that basis, legally prepare ourselves for the backlash on essential services.

And in addition when we're submitting our strike notice, we're not just saying a fully-blown strike, we're saying work-to-rules, we're saying grasshopper strikes, we're saying lightening strikes, so we've got a whole package of different forms of industrial action. Because we don't want our members to be taken straight out of the workplace, sitting at home, and they implement the no work, no pay rule. We want our members to be in the workplace like in the old ways we used to struggle, we want to make sure that they still are in a position to earn decent wages. Like this whole debate around now, is it work-to-rule or is it a go-slow?

Well, there's been a bit of confusion and we've had to clarify that. We're saying it's work-to-rule. If you are usually working in a ward where there used to be 20 nurses and now there's 5, there's no way that you can just work according to your job description, so you have to like fill in for the other staff that are missing. So we're saying, no, now we're going to work-to-rule and, you know, it's all in the job description. There should be no confusion. We just need to make the clear distinction that work-to-rule is work-to-rule, it's not illegal. A go-slow is a form of industrial action and that is illegal. Once we have our strike notice in, we're going to include go-slows, we're going to include these things. So all that will be in there. And we're finding practical ways to overcome some of these problems that we're faced with in the strike.

**FACILITATOR:** Alright, thank you very much, Cde Guy. He'll be speaking in the second session after tea at eleven, so we will engage with that. Comrade, yes, do you want to say a few last words?

**MR VAVI:** We want to hear those things in the media, I'm not hearing enough of it. All I hear is that Geraldine is taking over the propaganda war. Let me tell you what's the difficulty generally in the public sector. There are eight unions in Cosatu, all of them competing for profile, some of them competing with one another, because they organise exactly the same sector. NEHAWU and DENOSA and SADNU, basically are fighting in the same turf, each one wants to be the champion of the nurses' cause. And in process of doing so, it's not easy to run a propaganda war. And SADTU have no competition, POPCRU doesn't, but SASAWU, NEHAWU, DENOSA, SADNU, PAWUSA are in the same turf.

Now, the issues of when you need one person to go to the television and you have four competing for the same constituency, it's difficult. Yesterday I sent them an SMS at eleven o'clock to say I need one person to go to Kaya, I'm telling you the name was not forthcoming, and I understood why it's not forthcoming. Who's going to go? And in the context of the small competition amongst the unions, even though they agree overall that anybody who speaks these days, speaks for all of them, but it's difficult, you know. Suddenly the people start counting that he was there yesterday, and it's a problem.

So I know there's that difficulty to all the comrades there, but unfortunately it has to be done, even if it means that some people must be appointed. And that's why they sometimes say go, go, there's the General Secretary, because they're avoiding those small internal battles. They will not be questioned if it is me or one of the Cosatu National Office Bearers speaking on behalf of them. But we must hear the other demands other than the 12%, and the 12% must be articulated better, not just a dry 12%, it must be backed with all these things.

So we hear now, we know that the meat price is now sitting at 25%, but that's in the Boardroom. We want to hear that in Ukhozi this afternoon in their current affairs programme, six million people listening to that at a go, that's how you build public sympathy. So I think that we have to check up that propaganda thing for all the public sector unions. And there's no place which can allow eight general secretaries or presidents to come on television for a two-minute slot, you need one, and we've got to be able to co-ordinate more effectively to sort that out.

**FACILITATOR:** Alright, thank you very much, Cde GS, let's give him a last hand before we move on to the next session.

Alright, now we will be moving to the main presentations. We have two presenters for this session. We have two presenters for this session, and I want to appeal to the comrades that we go until 11:30, with your permission, is it permitted? We were meant to break for tea at 11 o'clock but due to the lateness of time, we will have to probably extend a bit until about 11:30, is that fine?

Okay, now just one rule to the presenters, I'm going to have to limit you to about 20 minutes each so that we have enough time also for questions. And we're going to begin with Oupa Bodibe.

Oupa is a Director of Naledi.

**SESSION 1:  
THE ECONOMY AND ITS IMPACT ON WORKERS**

**THE STATE OF THE ECONOMY**

**Mr Oupa Bodibe,  
Director: NALEDI**

Good morning, comrades. I'll also like to thank Cde Zweli for making time and we do understand he has other commitments, and we appreciate the fact that he's been able to make some time and also to assure him that we will try to also participate and pick up the challenge about the public debate. Already Kimani has an article, but it's on our website. But I think we take the criticism that we need to up the ante, basically to raise the kind of issues that we'll flag here and maybe probably, Kimani, we should consider having some kind of a press briefing about these things next week, especially since it's current, you know.

Now, I'm going to talk about the state of the economy and how it effects workers. I'm going to circulate this so don't worry about taking extensive notes. I want to look at the economic growth, employment and unemployment, working conditions and then flag some issues for debate at a policy level.

If we're looking at this from 1994, we can see that the economy at least since 2000 has been growing at a rate that's relatively higher, compared to the period 1998. And at average now the economy is growing at about 5%, which means that the nature of growth has changed. For the '90s we were growing at under 3% on average, and since 2000, we're growing at an average of about 5%, which means that the economy is really picking, and we may actually even hit the 6% target even before 2014. So that's one point that we need to note.

What's driving this growth? First is the commodity price boom. If you're looking at all mineral prices from platinum to gold and all other mineral products like coal and so forth, you can see that their prices have gone up, especially platinum and gold. And what's driving this is the demand especially in China and India, but is also the shifting of investment into commodities, which is driving up all these commodity prices, even the prices of oil.

And why is it that there's this shift towards investments in commodities? It is because if you're

looking at the world economy for a while, for example, the US economy was going into a slump and the investors were looking for new areas of investment. And now at the time when the commodity prices were going up, you can see that there's been a shift of capital into the mining sector.

So then the question is and we're going to come back to this, because over long-term, commodity prices are very cyclical, which means they go through a period of high prices and go through a period of low prices. The question to ask is whether this cycle is long-term or short-term. If it is short-term, then it means the windfall we're getting out of these commodity prices may hit us in the following sense. If the price turns negative, employment is going to be affected, profitability is going to be affected, and also the revenue that the state is able to make out of the economy is going to be affected. But if it's long-term then it means we have an opportunity to launch a far more aggressive and rigorous strategy for transforming this economy, and we're going to come back to that.

The second factor that's been driving the growth is consumer, there's been a consumer boom, if you're looking at household expenditure, and that has been helped by the fact that at least before last year, interest rates in nominal terms have been coming down. I mean, we've had the lowest interest rates ever in this country before they were hiked up. I mean, they were below 10%, which means that for those who are able to access credit and use credit to purchase, the low interest rates have facilitated access to credit. Which means that if we're looking at household expenditure, it increased in 1998 from 470 billion to 963 billion in 2005, just looking at market prices, not looking at real prices.

The fourth element that has been responsible for this growth spec is government expenditure. We've seen that at least since 2000, government expenditure has been positive and slightly expansionary, but it means that the level at which government is spending, we are more or less catching up to where we should have been in 1996. So remember in 1996 there were real cuts in government expenditure, and so since 2000, government expenditure has been returned to that, and what is that expenditure on? We've seen the nominal increase in social grants, so the take-up rate of social grants has gone up, but we've also seen a phenomenal increase in infrastructure. And government up to 2010 plans to spend about R40 billion on infrastructure, meaning rail, electricity and so forth.

But there's also been an increase in investment by both the private sector and the state, which again validates the point that Cosatu has been making that if you have the public sector leading with investment, the private sector is likely to follow. And as a result, we find that investments at the moment are about 19% of GDP. They are still very far from the target of 25% of GDP but they are much better than the 15% that we experienced at least in early 2000.

If we're looking at where does growth come from, if we're looking at the sectors, the sectors that are driving growth is the services. They've contributed 67% to value created in 2005. If we're looking at the secondary sector, it's 23%, and we're looking at the primary sector, it's a paltry 10%. And within the secondary sector, if you're looking at manufacturing, it's just 19%. But if you're looking at the services sector, it's really wholesale and retail, finance and the government, you know, government and services, particularly government services that are driving this growth or that are making a high contribution. And this begs the question, are we a service economy or are we a manufacturing economy?

And it means it has long-term implications in terms of what should government do; should it target the services sector, or should it also try to target manufacturing? And I'll come back to this question, but if you're looking at the sectoral contribution, you can see the services sector making a big contribution to growth. And that brings the question that I was posing, is the current commodity price cycle short or long-term? And some economist will argue that it's fairly long-term because if you're looking at China and India the demand for commodities there, and also you're looking at the demand for platinum in the auto sector, so we're going to see fairly relatively medium to long-term price stability in the commodities sector.

But at the same time, our exports are being affected by the fact that the Rand is strong, it's now trading under R7, and that means that if we are serious about manufacturing, we have to do something about the exchange rate. But at the moment it's quite high, and this is making imports quite cheap. And that's why as a result we have a very strong import intensive economy at the moment.

The second thing that - or the third thing that I would like to highlight is that the current economic growth has revealed serious weaknesses in our manufacturing base. We are importing most of these things, from white goods to inputs in the industrial sector. So as a result we're seeing a concern that our trade deficits are increasing, it's now standing at around 6% of GDP

partly because we now have to import a lot of things from cement and so forth to steel, etc, etc.

But at the same time, these real weaknesses in the supply sector in the economy are also creating a situation where prices are being hiked up. So if we have like monopolies like, what you call them, Mittal are able to, because of this strong demand, are able to hike up prices of important inputs like steel, and as a result, and you now can see that government is saying if we don't do something about this, we are going to have a serious problem. And that's why they're saying they want to go into a surplus to avoid a situation where prices go up and secondly, where government expenditure continues to exacerbate the shortages. We come back to this question as to whether the surplus is the only way in which government can address some of the structural limitations of the economy.

Last point is that if you're looking at who gets what out of this growth, and I'll again come back to that, is that it's not equitably shared. Poverty rates, depending on how you measure them, have since 2000 stabilised, but they're still very high, which means we are not seeing a sharp increase or we are not seeing a sharp decline in poverty rates.

In terms of incoming quality, that incoming quality has risen, and what is worrying is that it's intra-race in equality. So within Africans, the highest and the lowest paid, the gap is rising there which means even as we are having this type of growth, it's not equitably shared.

If we're looking at the labour market, we can see that the economy is creating some jobs, but also that the labour force is increasing at a rapid rate, and these are the graphs that are showing that. These figures show what is happening in the labour market in general terms. First, if we're looking at the employed, we can see at least these two years, there's been an increase in an overall employment. Unemployment, we can see it's slightly coming down, but not at a fast rate. And if we're looking at the labour force itself, the labour force has increased from about 16 million to about 17 million people, which means the number of people who are economically active is also increasing. But also if we're looking at the number of people who are not economically active, it's going down, which means quite a number of people are now entering the labour market in search of employment.

So this is the employment, okay, so if you can see between this 2004 and 2006, there's been at least an increase in employment, and it's estimated about half a million. Now if you're looking at

unemployment, this is unemployment, at least since 2004 has been coming down, stabilised, but it still remains high, at around - no, that's a narrow definition, the narrow definition, so it's about - standing at around 4 million unemployed individuals.

Now if we're looking at the labour force, the labour force is the total of the unemployed and the employed, it's also increasing. That's that line, that line there, which means that the number of people who actually now want employment is growing. And if we're looking at the number of people who are not economically active, it's been coming down. What this means therefore, comrades, is that there are several factors that would affect our ability to meet or to reduce or to halve unemployment. First is if employment increases faster, and two, if the population of working age is not increasing as fast. But the problem is this; that the population of working age and people who are looking for employment is increasing faster than we are creating jobs. We are adding close to about 300 000 new entrants in the labour market every year which means that if we continue on the current trajectory, we'll only halve unemployment in 2022. That's the estimate.

Now if we're looking at employment in terms of the formal, informal and domestic and total employment, this chart tries to show that, and this shows formal employment in 2003, in 2004, 2005 and 2006. So we can see that most - the bulk of employment is in the formal sector, and I know Eddie has issues about how the informal sector is measured, but in terms of the current statistics, most of the jobs are in the formal sector. If we're looking at the informal sector, it stayed stable, but started to rise in 2005 and 2006, but it's still less than 30% of all people who are employed.

So what does this mean, comrades? It means South Africa, for a developing country, South Africa has a low level of informal sector employment which means that there's a high dependency on formal sector employment. And therefore it means that if you get retrenched, there are very little opportunities for self-employment and for generating own income. And why is that? It's because as we know for many years the apartheid system has destroyed any income generating opportunities for black people. So as a result, employment in the formal sector is the main source of income for many black families. This graph here just shows domestic employment and you can see that it has stayed relatively stable for the entire period.

If we're looking at sectoral change, we can see that both mining and agriculture and private

households and I think transport had lost some jobs during this period. The sectors with the highest gains of employment during this period is construction, wholesale and retail, followed by the finance sector.

Now if we're looking at what type of jobs are these, so looking at permanent versus casual, subcontracted, fixed-term and all of that, so this graph shows per sector. And what you can see, like if you're looking at permanent employment, mining has the highest permanent employment, but it's off a shrinking base. And if we're looking at casualisation on all of that, construction has the highest casual employment. At the moment the share is between 63% of all people employed in construction are casuals.

If we're looking by gender and race, it's obvious that female have a higher unemployment rate than male, and that Africans have a higher unemployment than whites and other races.

Now this is where we're trying to look at what are the working conditions and what workers share in the national income. We can see that the workers share in the national income has been going down and the share of profits has been going up, which means that there's more money going to capital than coming to the side of the working-class. And if we're looking at a monthly income, we can see that the greatest proportion of workers in the formal sector and below 2 500, this is that graph.

So if you're looking at that, a greater portion in the formal sector earn under R2 500 per month, which means that even when we're looking at wages and incomes, monthly incomes, that the majority of workers earn under 2 500 per month, and if you were to break it down by sector, you'll see that agriculture has the higher proportion of people earning under R1 000.

This graph tries to show cover in terms of medical aid, in terms of UIF per sector, and what does it show? It shows the following things. In agriculture, the number of people with medical aid is under 10%, and it means over 90% do not have medical aid. UIF coverage is under 30%, and those without UIF is over 70%. In mining, mining has the highest coverage in all these areas. What this means is that in total, therefore, comrade, the number of workers in this economy with medical aid cover is around 40%, without medical aid cover, 60%. UIF, it's just above 50% without and just under - around 49%. What this means is that there are people who in this economy are not receiving UIF contribution, so if they get unemployed, they will not get

unemployment insurance, because employers are not contributing.

This slide also shows percentage of workers who have paid leave and written contracts. And again it shows sectoral dynamics as well as total. If we start with the total it means that just under 61%, just under 60% had paid leave and just under 40 did not have paid leave. Percentage of workers with written contracts, just under 50%, without it's high. So which means that the violation of BCA is quite high in this economy in terms of workers without written contracts, and you can see that there's sectoral dynamics shown in the other graphs.

Now against this background, these are the issues for debate. If we were to target employment and poverty alleviation and equity, what should change in economic policy?

Secondly, if we say we want to transform the economy, what do we mean? And what are the aims of that transformation. An industrial policy, if industrial policy is to change the structure of the economy, these are the questions. Because if you're looking at the recent developments, what has happened is that there's been growth in retail, financial and business services, which creates some employment, but that employment, the sectors are highly cyclical and many of the jobs are not permanent. So if we're saying we're targeting growth in retail and finance it means is this the kind of jobs we want?

Secondly, if we're looking at the auto industry, the auto industry in terms of output has grown but in terms of employment it has not, it has been shrinking. And if you're looking at exports, mining and minerals continue to dominate exports, which means that we're still very much a mining economy. And then the question is, can construction retailer business continue to create employment at the rate last seen in the last four years, which means going forward is it possible that the rate of employment growth can be sustained in retail and construction? If not, then how can government intervene to support employment creation in other sectors in order to maintain rapid job creation?

And ja, that's the last slide I wanted to flag, but just to flag that, comrades, that there are serious issues about the structure of the growth, how is it shared, and the nature of employment that is being created, and what sectors can create employment and what type of interventions are required to create employment. And so this was meant as a general overview of the key issues facing workers in this economy. Thanks, Comrades.

**FACILITATOR:** I want to invite Cde Eddie to come and talk to us for the next 20 minutes. Cde Eddie is from the Sociology of Work, I sometimes call it Project or Programme from the University of Witwatersrand. Thank you, Comrade.

# **WORKING CONDITIONS / CHANGING NATURE OF WORK**

**Prof Eddie Webster,  
Director: SWOP**

Good morning, Comrades. I'm going to talk to you about the changing world of work, and 20 minutes - Kimani, okay. I've put in this, and you've got it in front of you, a package, which is a summary of this book here, which is 497 pages long, called *Beyond the Apartheid Workplace*, which I've edited with Carl Van Holt. In fact this book is a joint Naledi / SWOP project, so I'm very happy to be here, because it is actually a joint Naledi project that we did and published this book two years ago.

By the way, let me ask you a question here, what do you think is the fastest growing job in South Africa over the last ten years? What occupation has grown fastest? ICT, okay, that's one growth sector, that's in the service, the financial sector, okay, yes? Retail, okay, you're talking about sectors, I'm talking about occupations. Call centre, security, they're all good examples, but you've missed the one. Hairdressing, hairdressing, the hair, the hair, people looking after your hair, okay, that's part of the service sector, ja.

Let me just very quickly introduce this, I think the first thing, when you look at what's happening to work, the first thing to do I think is to see how the corporate, the companies are restructuring under the impact of globalisation. You've see a lot of companies that are going global, have moved their head office; South African Breweries, Old Mutual, Dimension Data and so on. Expansion into the rest of Africa, Well, we know Shoprite, I suppose will be the best example, which is throughout Africa, and companies, because of competition, becoming increasingly competitive, cost conscious and quality driven by markets. I mean, a good example is the wine industry. We first went into the international market after '94, there was very bad quality wine, and there was a drop in demand and we had to really transform the quality. Because you're competing against global markets, not only in football and rugby that you compete globally, we also compete globally when we sell our wine. And then of course there's a pressure to privatise that we know very well about.

What were the central findings of this study? What we identified are what we called three zones of work. A core of stable employment, which is estimated at 6.6 million people, those are the people who've got standard employment contracts, permanent jobs. Then what we call the non-core, insecure, casualised, externalised. By externalised we mean subcontracted, outsourced. And then the periphery, the edge, informal work and unemployment.

Okay, I just want you to bear that in mind what I call an onion. You've heard about the African Potato, well, this is the African onion. The African onion has got a core of stable jobs, a non-core of casual, ama'casuals, and then you've got your informal periphery, okay. And what this has done is, it meant that new lines of social inclusion and exclusion, so you find that there are quite a lot of people who were previously excluded have gone into the core, okay. But there's a growing number of people and Oupa mentioned that there's a widening gap within the black African population between those who are becoming wealthier and those who are remaining poor. So there's a change, but it's around this core periphery model that I'm presenting to you this morning, and I'll come back to the onion in a moment.

Now, the first issue, and I want to develop five different themes, very quick themes. Has there been an end of the racial division of labour? Because obviously that's what we're talking about when we talk about the apartheid workplace, white boss, black worker. Now you started to see black workers moving into supervisory positions from the late '80s and it's obviously increased with the Employment Equity Act in '98. But the research that we've done is that, putting it simply, what has happened is that as blacks have moved up the organisation, whites have moved up to higher positions. So we call that the upward floating colour bar, okay, the upward floating, like floating up. But it's not a simple black/white division in workplace and in particular, we see, particularly in the Western Cape your divide between Coloureds and Africans. And quite often that's a divide between the permanent and the casual. So there are ongoing divisions but there is a lot of continuity in the division of labour, but there's also change.

Our second theme is employee participation. Now the thing about employee participation, it's not like being pregnant, you know, you either are pregnant or not, right. You can't be a little bit pregnant, okay, you can't be, but you can have a little bit of participation. And I think what we're saying is there's a little bit of participation. But workers are generally suspicious of management initiated task-centred, trying to introduce those quality type circles which doesn't really give you much control over the power, where the power is in the company. That's why I'm saying it's a

little bit pseudo, pseudo meaning false, not real, participation. Often they could be briefing groups where you're not actually changing the decision but you're just actually listening to a decision that's already been made; you know what I mean? And that's not participation, because that means you're influencing the decision, that's actually communicating a decision that has already been made. And sometimes these schemes are boycotted.

There are examples, and we just took BMW, because we know how many of you have that, is it the 3-Class that you drive? No, we know how many Cosatu people drive these ones, so we looked at BMW, which of course is a world-class producer of luxury cars, it produces the second highest number of imported luxury cars into the United States, and they do have a participatory scheme. So there are examples, we call it in the book, negotiated restructuring, negotiated which in this case is NUMSA. That's the second theme.

The third theme is the service sector. Now as Oupa has explained very clearly, and indeed, as Vavi was mentioning as well, where the strike, a third of Cosatu workers are now public sector workers, and one out of ten Cosatu workers is a school teacher. But we see that in the economy as well, where the growth in the economy is in your service sector, and call centres, as was mentioned at the beginning, I mean, call centres is a new form of work. It's an example of the coming together of the telephone of old with the computer and with the satellite.

So we're now seeing, and of course the example of India is usually used where it's possible to handle telephone calls bounced off satellites in Mumbai that are given in New York, and impossible in fact to monitor in Mumbai a building in New York City with a camera. And you can press a button when you see a suspicious looking fellow wandering around, and then somebody comes down. So you can actually do that on satellite in real time with ICT. And we actually do, we have got a share of call centres, as was mentioned it's a growth area. We've got the Lufthansa Contract where you bounce calls off from Germany and pick them up in Cape Town.

It's clearly an area of new work. Although in fact the conditions, like the service sector in general, tend to be low wage high turnover jobs. Some people have described them as the sweatshops of the digital age. But the thing about the service sector is it's a different kind of labour. You know carrying things is manual labour, giving this lecture is mental labour, and hopefully you're engaging in a bit of mental labour as well, in listening to me. Emotional labour is the job where

you have to smile, that's emotional labour, okay. Creative workers, ja, they smile, or nursing, nursing would be the best example, nursing, it's generally done by women, it's care-work, but a nurse is caring for others, right, you're using your emotions, is that right, sister?

**COMMENT:** Mental as well.

**PROF WEBSTER:** Mental as well, ja, it's not an either/or, okay, there's a lot of mental here, I mean, look, this is also involved emotionally, I also have to smile, by the way, so there's a bit of emotion. But the point about emotion I mean, the classic example will be a flight attendant, you know who has to smile even as you try to stroke her leg she has to smile, and make out as if she's enjoying what's happening. A receptionist, another example, these jobs are very much part of the service economy, and of course there's growing casualisation with that.

I mean, the retail sector, about a third of Shoprite would be your ama'casual. Now it could be, usually a temporary part time job in that, and we've seen of course the expansion into the region, Shoprite, so you get what we call regional claims. You're finding Shoprite workers in Maputo will say, well, hang on a second, Shoprite workers in Johannesburg are getting this pay and these benefits, we should also get that pay. So you're getting a kind of regional labour movement emerging. That's the third theme.

The fourth theme is about labour law, if you like, it's about the contract. Employment is not what it used to be. It's not what it used to be, there's what is called the standard employment relationship. The standard employment relationship, what we would in a sense be aiming for in the labour movement, the standard employment relationship is you work on the premises of the employer, in other words your place of work is the same as your employer, you work full-time, okay, and your permit is for an indeterminate period. That's a legal term, in other words it's permanent.

Then under capitalism there are no permanent jobs. They're always subject to, as someone was mentioning about retrenchment in the mining industry, there's no such thing as a permanent job, but indeterminate means it's not a fixed term, the opposite of indeterminate would be fixed term. In other words it doesn't say one year or three years; it's open. That's a standard employment, SER, standard employment relationship. We draw a distinction between casualisation, which is part time, or temporary, and externalisation. That's where you bring in a third party. Your

standard employment relationship is two-way, your employer and your employee. What the labour broker and what a non-standard employment relationship outsources, you bring in a third party which is your labour broker here.

And that's a different kind of contract, because you now have, let's say it's Wits University where I work, Wits is your place of work, you're a cleaner. So the employee is a cleaner, he's employed by Super Care, which is the name of your company here. So it's a three-way - it's no longer a relationship between the employer and employee, which is what labour law is, it's a relationship between Wits, which is the client and Super Care, which is the service provider. So what drops off is your employee. It's no longer an employment relationship. That's why I said employment is not what it used to be. It's a different concept of employment, it's not a labour law contract between two people, it's now a commercial, it's a commercial contract. You go out on tender and Wits says we want cleaners and you sell it to the labour broker who can come in at the cheapest rate.

That's exactly what Cde Vavi was describing where he said that you lose your job on the mine, and then an independent contractor, who's won the contract for that mine then offers you a job at a third of the wage. So I think we have to understand that, ja, okay. That was the fourth theme, is it? This is continuing there, I think if you look at employment you will see that there's been a decline in particular areas of footwear and textiles, where you now have people working from home in Mitchell's Plain rather than in Salt River at the factory. And you get outsourcing to sweatshops and homework.

And I think I'll just want to - I'm putting this question to be provocative; is it better to have a bad job than no job at all? Okay, that's a question for you, because a lot of people will say there's a trade off, there's a trade off between quality and quantity, and we have to confront that. It's something you confront in collective bargaining, and it's something that we need to address.

My last theme here is about the self-employed. I mean, are there self-employed? Is the lady selling curry and rice at the street corner, is she a worker, or is she a potential entrepreneur? Bethuel, what's the answer to this question? Is she a worker, or is she a potential entrepreneur? What that, yes? They have a boss, ja. It could be somebody in the shop next door who's getting her to sell on the street, okay. So you think that every hawker could become a billionaire? Hey? Survivalist, yes. Well, that's actually what the conclusion of what - there is a fellow called De

Soto who's a favourite in the World Bank and he makes this distinction between having an asset, having a house, shelter, maybe a shack in Orange Farm and having capital, that is, that you can actually borrow money, where you own. And his argument is that people need to be able to own. And De Soto thinks that the lady selling the curry and rice, if she had access to property she could borrow from the Bank and get what we call collateral. She could become a millionaire and we could create a massive number of self-employed people.

Our research findings were much more less optimistic about the informal economy, because I'm talking about the informal economy, I'm just talking about small enterprises that are not registered, they don't pay tax, they work from home, like your Spaza shop or maybe a shebeen or is it a tavern? If it's licensed, of course it is, but I mean, 70% of SA Breweries distribution is in unlicensed shebeens, which is part of the informal economy.

And the key elements of what we call informal work, your income is low and irregular, so the lady selling the curry and rice will most probably work there seven days a week, and her income, maybe she gets, maybe R10 maybe R50 to do the job. And they generally tend to be people less educated, quite often immigrants, undocumented workers, or alternatively children, women, what we would describe as groups who are marginal in society.

If you look at these attempts to establish small businesses, you'll find that there are major obstacles to them. The first is that if you try to set up a dressmaking business in Mahlabathini, right, you will find that the matric dance comes, and everybody wants a dress for their daughter, right. But they say we haven't got the money, we'll take it on credit. And of course the credit never comes, or when the money does come, the old man spends it on beer. So the problem is, you don't get off the ground, and of course you'll find somebody who says, well look, we need a bakery in this district, so you set up a bakery, but then you find everyone says I want a bakery and you get over-traded, too much bread. Or alternatively the donor comes and says, Well, we want to set up a chicken farm here. And you set up the chicken farm and of course everybody in the village wants to be part of that, and so there's an oversupply of labour and very little money for people.

Lack of management skills, I mean, what we find is, I think the idea is that many people think if you're a manager, it means you sit on a big chair and you give orders to people, you know that's the idea. And it doesn't actually, quite often people don't realise that the first thing you do with

that money is not buy that Mercedes Benz, you actually invest it in expanding your business.

Lack of access to credit and collateral for loans, of course that's a big problem in the rural areas. So we ended up being quite pessimistic about the possibilities, and the person who did this, written this chapter is Kate Phillip, who used to work for the Mind Development Agency, says small rural enterprise is not a way of alleviating poverty, they have no margins for savings or investment and a decreasing appetite for risk, and she suggests what you need is a bold strategy of redistribution. And of course we've mentioned, as Oupa's mentioned, the increase in state grants, which is quite fundamental, the pension fund, which is R780 a month, the child grant, oh, a child grant, you know all about the child grant. How much is it? R180. And also the disability grant.

So, what are the implications of our findings? I think the main point, the central point I wanted to get across here is this: what's happened is that our labour markets are increasingly divided into these three zones. Now asymmetrically interdependent, but asymmetric and unequal, but they are interdependent. I mean, when the President, by the way, with great respect for the President who's a very fine man, with great respect to the President, when he said we have two economies, remember he spoke about the second economy, he didn't mean that that's a separate, geographical place, okay; that here you have a first economy, and there is a second economy. He was using it as a metaphor. A metaphor means that you don't take it literally. When you say to the woman you love, your lips are like a rose, you don't mean it's a rose.

That's what the President meant, he didn't mean, and people get confused here, because they think it's some place there, another place called a second economy. It's not another place. The second economy is - the lady selling curry and rice around the corner here, she is linked, interconnected, she is interdependent because she gets her curry and rice from the Indian store around the corner, which is part of the formal economy. So they're linked together.

SA Breweries, which is now called SAB Miller, second largest brewery in the world, it's deep in the second economy, because 70% of it here is distributed through unlicensed shebeens. But they're very unequal. It's very difficult to get into the core, but it's very easy to get out of it, and that's the onion in its full bloom. There you have the core, that's your standard employment relationship, okay. Then what we call the non-core, temporary, part time domestic. Domestic, many domestic workers don't have formal contracts and benefits. This is changing, by the way, and that's a factor, and then the informal - that's your self-employed, the lady selling curry and

rice. If you add those up together, you'll get 12 million, just under 12 million, which is the size of our employment.

It's very important to realise that when Trevor Manuel says we've got 12 million people employed, he's including the car guard, he is including the beggar on the street, because a beggar after all does make money. If you fill in the labour force survey, you will see under Section 2 it says, are you economically active, and the last one says begging. So when we talk about employment you must realise it's being used very loosely, it's a very loose term, okay.

Now you'll notice that Cde Oupa had 4 million down here, I've got a double figure. And the reason is that Oupa is using the official definition, which he's allowed to do, but it's very misleading, Oupa, particularly amongst workers. You must never lie to the workers, right. It's actually double the amount, and why is it double the amount? It's double the amount because the 4 million that Oupa's quite correctly saying, which is what we're saying. That means the number of people who don't have work and have been looking for work over the past seven days, this is the Labour Force Survey Stats South Africa. It excludes the person who's given up looking for work. They are classified as discouraged workers. But that's another 4 million. And I think it's very misleading, but Oupa's quite correct, that is the official international definition.

But we've got a problem in South Africa that half of this group here are people who've actually given up looking for work. In fact, if you go and interview them, which I've just done, shadowing the Labour Force Survey, and the Labour Force Survey says to them, why have you stopped looking for work, they get very angry because they say, well, what do you expect us to find here? So you know, people have given up because the economy is not creating the jobs, that's the point, they're not creating the jobs.

But if you add this all up together, you'll get our economically active population. That's the number of people between the age of 15 and 65, who are either unemployed or in employment. But I just want to mention this because the figures are very contested, are very debatable, for reasons that I've tried to outline here.

And that brings me to a summary. I think what globalisation has done is made it more difficult, it's put the companies under much more pressure to compete, to increase their skill level, increase their market share. That is implication for collective bargaining. But it's complex, there's change

and there's continuity. But the main point I wanted to say is we have these three zones of work and a deepening of poverty and exclusion.

But there is a space of hope. I think the government has - since the President spoke about the second economy, which I think was a very important metaphor to describe the fact that there's a growing exclusion of people, for exactly the reasons that the comrade was talking about, retrenchment, outsourcing, and marginalisation. And I think what happened in the first ten years, the government focused on trying to make the formal economy more competitive. And in making it more competitive, of course you retrenched, you outsourced.

And the idea of the second economy is that there's a growing number of people where one has to redistribute resources to and that's where the idea of the two economies comes in. And there's a shift in government strategy, the Expanded Public Works Programme is one example. But the problem with that, those kinds of things is they're temporary jobs, alright, they don't really - and there's an increase in the budget deficit, and Oupa was mentioning the question of the surplus. And there's a shift in emphasis, increasingly, and you've seen that with Alec Irwin who's no longer talking about privatisation but now we're talking about how to make the state-owned enterprises like Transnet more efficient, but that they remain in state hands.

And I think that our case studies, and the book has 17 different case studies, it suggests that the idea of two economies can be misleading. Most of the economic activities in the periphery, that is in the informal, are dependent on markets created by formal economic activities. And if we're going to deal with the question of job creation, we have to really address, as Oupa said in his concluding remarks, you've got to expand the formal economy, because that's where the standard work - that's where I would call it decent work, by the way.

I think maybe the term 'living wage', it focuses very narrowly, I would prefer a campaign that Cosatu runs around decent work, because decent work is a much broader concept that talks about the right. When you talk about decent work, you're talking about the fact that you need a voice at work, the fact that you need certain conditions, that you need certain benefits, that you need a regular income, you need to be respected. Whereas living wage is quite a narrow one, but that's maybe something, Oupa, that SWOP and Naledi could do together. Thank you very much.

**FACILITATOR:** Thank you very much. Let's give a hand to both Oupa and the Professor

again. We are not going to do justice by taking questions now. What we need to do is to break for 15 minutes, stretch our legs, then we come back at quarter to twelve and we'll have those 15 minutes to engage with the two presentations. Comrades, let's keep time, thank you.

## **TEA BREAK**

**FACILITATOR:** Welcome back, comrades. As agreed just shortly before the tea break, we're going to have 15 minutes of questions and clarity. Please keep them very, very brief. We have to be strict on time. Oupa and Eddie, you are the two protagonists, so we need the questions. Okay, you can take them where you are, if that's fine with you, but you'll need a microphone. We are recording this, okay, you've got a roving mike. Okay, can we begin, let's take rounds of three hands each, keep them short and to the point. Let's start at the back.

## **DISCUSSION**

**MR RAMPUTA:** The issue of unemployment, the statistics, it's always misleading when you read it like that, and also the number of jobs created, if you take into consideration, as Oupa has indicated, the new entrants into the labour market each year. Do we think that with the current job creations that we are seeing, will we be able to deal successfully with the issue of the unemployment?

The next issue is the issue of the ESOPs. I don't think as labour, we've got a strategy for that. I'll like to hear the view of Cde Eddie whether in their view when they looked at it, whether it was good or bad, the issue of the ESOPs. I've got other issues, but I think let me stop there.

**MR M BODIBE:** Ja, Comrade, I was referring to Eddie in relation to the cycle of the onion that the presented that where do the criminals fall within that sphere? Are they falling on the discouraged group, but are they not doing work, you know, with what they are doing underground? So I just wanted to get unpacking of that particular area.

**COMMENT:** Thanks, Kimani. Look, I think the two presentations for me, just basically confirmed everything that's wrong about capitalism, nè, but on a more pragmatic issue, shifts in

government strategy, Eddie, you raised three points here, which I don't necessarily take as optimistic a view as you. I think the Extended Public Works Programmes will do nothing to dent unemployment. They are bad jobs in fact, and they're not going to do anything to basically deal with some of the objectives of poverty eradication and that kind of thing. As opposed to an increased budget deficit, we actually have a budget surplus. Now how the hell this country operates on a budget surplus is beyond me, given the problems confronting us.

A shift in emphasis from privatisation in the state's role to one of corporatisation, commercialisation, for example if you look at the Public Service Amendment Bill and this whole thing of setting up government departments as agencies etc, and operating as a form of state capitalism. Whereby the end-user pays, if you can't afford to pay for services, you don't get the services. So I think they are government strategy rather than being progressive is actually coming down harder on workers and the working class.

**FACILITATOR:** Thank you very much. Can we get a response, please?

**MR BODIBE:** Just on the issue of unemployment, if we continue at the current rates, we will not be able to dent the current unemployment because we're looking at in just three years, only half a million jobs created, against eight million unemployed and against new entrants in the labour market of about over a hundred thousand. So what that means is that even the rate of employment creation at this rate is quite slow to dent the unemployment rate. And that's why we need much more aggressive industrial policy. And the sectors that have the potential for creating jobs for the low-skills include manufacturing and services. And when I talk about services I also refer to state services in the form of education, health care, policing and so forth.

But one thing is that if you're looking at the state sector, for example, there's a serious shortage of support staff, whether it's health, whether it's education, and for those types of job you don't need really high skills. On manufacturing sectors that have been seen to be creating more employment is agriculture and agro-processing and also like light manufacturing that tries to meet the basic needs. But the problem is that we've liberalised some of those sectors, without any form of counter-veiling measures to support those sectors to adapt.

So for example, you're looking at agriculture. With the liberalisation of agriculture, there's been an increase in imports and take-over of local capacity. So I mean, I think there's even a prediction

that we are going to run out of milk soon, and part of that is because of the fact that many farmers have chosen to exit out of dairy farming because they can't compete with Parmalat, or that Parmalat is offering them low prices. So there's a substitution of production.

So there's quite a number of practical, industrial policy interventions that are necessary. But as of now we have not yet cracked the idea of the state taking the issue of industrial policy much more seriously. We now have an industrial policy framework, which is quite an improvement, relative to what has been coming out of the DTI in many years, but it still doesn't sufficiently prioritise the issue of employment and the sectors that create employment and ensure that all government efforts are directed towards that.

So at the current rate, and I think one thing that I need to underline that I didn't underline is that the crisis is one of youth unemployment. Of the unemployed, 75% are people under the age of 35, and of that, 65% never had a job before. Which means we are finding that there are young people out there who can't continue their education, neither can they find employment because they do not have either the necessary experience when there are job opportunities, or the economy is not creating as much jobs as possible.

And I think that the strategy of creating large scale employment will be not just public works in the form of the current Public Works but public works in a much larger scale than we have at the moment as well as state services, and I think that's manufacturing. And if we also want to create employment manufacturing, we must do something with the exchange rate because the level at which it's at, at the moment is not supportive to employment creation.

And I think at a macro-policy level, lastly, we need to continue to insist that monetary policy have to change because monetary policy is not sensitive to supporting growth and employment. It is only about inflation and using the blunt instrument of interest rates. And we've seen that last year there's been four incidents of interest rates increases, and those are going to even blunt the current growth that we have. And I think that's the only issue I needed to pick up.

**FACILITATOR:** Eddie?

**PROF WEBSTER:** Right, maybe to start with Ronnie's question. Capitalism as a system is not designed to create jobs, it's designed to make profit. And I think that particularly a market-driven

developmental strategy, which is what we really have had mostly, has actually created jobs, half a million, as Oupa was mentioning, over the last ten years, but not sufficient to meet the demand. Whether you have the narrow definition of 4 million unemployed or the broad definition of 8 million, it's way above any of our neighbours or countries in other parts of the world of a similar economy.

So it's unacceptable, and I think the only the countries that have established full employment have done it through the state intervening. There are no countries outside the United States which have a peculiar position in the global economy, which has only 4% unemployment, you'll see that it's expansion of the public where the jobs are created. On my optimism I did, Ronnie, put spaces of hope, question mark, if you noticed, and I really wanted to make a point really about there being a paradigm shift from simply making more competitive to starting to redistribute.

And you're obviously right about the limitations of those strategies, but I do think it is being taken more seriously and I think it's a challenge for Labour to come in with its own agenda on this. And I would conceptualise it around decent work, because otherwise if you simply say jobs, it doesn't tell you about the quality of those jobs. And I think we need to shift the debate in that direction.

Just the two other quick ones, obviously criminal activities are broadly defined, part of the informal economy. They are not activities that are easy to measure, for obvious reasons. But I mean, it's clear that the 'discouraged worker' category could be someone who wants a job but he can't find it but has to feed his or her family, and so they do activities that are outside the law, and there are ways, there are quite sophisticated ways you could measure it by looking at bank statements and so on. But generally it's not an easy thing to establish, but it's part of the informal economy.

Just on the question of ESOPs, I think the problem with ESOPs is they usually employ share-ownership schemes, are involved with very small amounts of money, they don't give you any influence over the decision-making processes. But they could be way of giving workers a bigger share of the profits of the company, it's something worth exploring. I wouldn't dismiss it out of hand.

**FACILITATOR:** Thank you very much. We have another probably five minutes, I want to encourage the last round of hands. If there are other issues remaining after that, we'll have them

after the next round of presentations.

**MR MOUKANGWE:** Comrade, can I request Cde Webster and Oupa to talk to the concept that the unemployed people actually does not include those people who, if given the employment, cannot work productively for whatever reasons. I'm not sure if I'm clear, so the definition of the government as explained by Nevi in the previous meeting, he said those people who are less than 35, but if physically or otherwise, given the employment, cannot work productively, are not regarded as unemployed. So I want comrades to talk about that.

**FACILITATOR:** Okay, I hope they understand that. The last question?

**MR MDONGENI:** Thanks, Chair. Eddie spoke of that metaphor about two economies, and he seemed to be watering down the kind of ideological attack that he was referring to the President, with due respect. And later on he turned and said it may be misleading without necessarily because initially it was as though he doesn't see a problem with a statement, he called it like a rose, something like that. But he turned again to say the statement may be misleading, without expatiating, so to me I can't see where he stands on that. So I just wanted to say what does he mean when he says, "it can be misleading", why he was trying to say it's just a metaphor, it's not a statement that bears anything.

Secondly, if anybody, whether it's either Cde Oupa or Eddie, to say something on the claim the state always makes that the current state is a developmental state, that's what they always claim. So in one or two minutes, if somebody can speak, attest to the fact that indeed is it really a developmental state that we have currently? Thanks, Chair.

**FACILITATOR:** Thank you so much, Comrades, can we - just one last? Keep it very short.

**MS ORR:** Ja, it is a short question. I just wanted clarity on the issue that Cde Eddie raised about evidence of a deepening divide between Coloureds and Africans, and how that is playing itself out, what they've picked up. Thank you.

**PROF WEBSTER:** Ja, I think just on the second economy, I think that the Comrade was listening very carefully, because there is ambiguity there. I think the reason why I said it could be misleading is because people would take it literally as another economy, as something separate,

and that's not what the President means. It's not literally a second physical, geographical place. And it's actually clarified in the Economic Transformation Discussion Document for the June ANC Conference. It's very clear there where it says that it's not a geographically separate place. So that's why I said it's better described as a metaphor, not literally, but it can be misleading.

The question about the unemployable, I think that there's always going to be a percentage of the population who, even when you talk about full employment, when you talk about full employment there's always 2%, 3% people who are considered not to be employable. And we don't, generally speaking don't include those in the category of unemployment because they would be classified, if they are people with disabilities of such a nature that they can't work, okay, not able to work, then they would be classified as disabled, not unemployed.

The development state, I think that - hey, this is a difficult one, the developmental state. Look, I think that the discourse, the language of redistribution that's associated with the second economy idea does involve a more interventionist state. And I think if you look at successful late industrialisers such as Korea, you will see that the state wasn't simply involved as a regulator providing for law. They actually directly involved themselves in economic transformation. They did it through industrial policies, they did it through actually targeting certain companies, developing certain sectors, and I think this is what the government is thinking about when they talk about development states.

But there are two things about the development state that I think we don't have. A successful development state has a strong, highly efficient bureaucracy, and we have a dysfunctional bureaucracy. So I think that the conditions for a development state don't exist at the moment, and secondly, development states like Korea developed behind protective barriers, they're pre-liberalisation, so they were able to protect their economies, it's difficult for us to do that. So I think a development state in the South African context would have to be something different. Also they tend to be authoritarian states and we're establishing a democracy here, so I think that, for those reasons I think it's an interesting idea.

On the question of Coloureds and Africans, Liesl, it's actually one of the chapters on the wine industry, where we found that what was happening is that Coloured workers were getting the permanent jobs on the farms, and African workers were getting the casual jobs. And so underlying tensions were insecurity in the workplace and they were expressing themselves in

racial form. So it's a particular case study arising out of, I think it's Chapter 5 of the book, okay.

**SESSION TWO:  
COLLECTIVE BARGAINING TRENDS**

=====

===

FACILITATOR: MANAKA BOIKHUTSO

=====

===

**FACILITATOR:** Comrades, can we then move to Session 2, Collective Bargaining Trends. And we will start with the second one, which is the public sector, which will be presented by Cde Guy.

**THE PUBLIC SECTOR**

**Mr Guy Slingsby,  
Researcher: Organised and Collective Bargaining, NEHAWU**

I'm going to do this presentation on NEHAWU's collective bargaining strategies. And I just want to use this opportunity, it's not often that one gets a chance to speak to the professor when he can't talk back because I've got the floor. But when in this space of hope, what I was surprised to see IS that Eddie made no mention of organised labour, because for me that is precisely where the hope lies.

And when Eddie was doing his sterling work in the '70's the black trade unions were beginning to emerge, and people maybe felt that under the threat from apartheid, would they ever actually make it. And now we see that the trade unions played a central role in the struggle against apartheid. And now people are talking about the trade unions with, all these new forms of work, that the trade unions aren't as relevant any more and they talk about the underclass. The trade unions might be down, but they're not out like Tony Blair. Tony Blair is not only down, he's also out now.

Okay, so I want to start here by looking at some of the NEHAWU principles regarding collective bargaining. And as a union, we support collective bargaining to improve conditions of work of our members. Now, I just need to make a comment here about Geraldine Fraser-Moleketi who says: Well, why doesn't Labour come back with a counter-proposal, come back to the negotiating table so that we can be serious about collective bargaining? Well, what we need to understand is that government itself is not really serious about collective bargaining and it constantly tries to undermine the collective bargaining processes. If you look at like the sectoral councils or the provincial councils of the bargaining units, they're not working. At the very best, they might like push through a resolution that is largely administrative, like take occupational sector specific categories or you take other issues, nothing's really moving at that level.

Now at the Public Service collector bargaining level where we're negotiating these wages, we go to the negotiations with mandates, where government says no, we've already got a mandate, and that mandate is predetermined by Trevor Manuel's announcements in the budget. He allocates how much money is going to be available for personal expenditure and he never moves beyond that.

So I'm trying to say that although there's this notion that there should be general negotiations, government does not come to the bargaining table and negotiate in a genuine way. They say no, we don't have a mandate, this and this, and actually they're not really committed to collective bargaining, okay. We support collective bargaining, because it means we can use the collective power of our members to improve the conditions of work for our members.

Okay, bargaining is just one of a number of strategies towards winning improvements for the working class as a whole, and we can bargain over wages and working conditions. We can't bargain over the massive staff shortages that exist in the Public Service, but we'll use it as a platform, but we need to learn how integrate collective bargaining into other work of the union to create improvements for the working class as a whole.

NEHAWU's collective bargaining agenda is informed by the current political and economic conditions. We've seen Oupa's slide presentation, we've seen Eddie's presentation and we've seen the changing nature of work, we've seen, you know, people talk about the last ten years have been the decade of the bosses, they've been the real beneficiaries of economic transformation. Massive

unemployment, massive inequality, increasing impoverishment of people, the changing nature, the atypical forms of work, the kind of - we can see the kind of contestation within the ANC. This is the political environment, the economic environment in which we're operating in.

Just let's take the budget quickly in terms of the allocations, government has a budget to spend in health, housing, personal expenditure, etc. We've seen declining shares of that budget going to housing, to education, to health. In 1996 29% of the budget was spent on education. Currently it stands at about 20%. So how, in this total budget, where is this money being spent? It's being spent on social services, it's being spent on infrastructure and generating some kind of surplus. We're saying no, it must be invested in Public Services.

With this increasing poverty and unemployment there's a growing demand for these services. People need access to these social services, and yet government has been depleting these services, making it much more difficult in terms of a social wage and accumulating social capital in South Africa for the benefit of the working class as a whole. We need to change that, we need to shift it back in another direction.

Negotiations cannot be won at the table alone but must be backed up by mobilisation and campaigns, and as you can see, we're now moving into the strike mode. And later on I want to talk to you about how we have a Public Service delivery campaign, and how we view the negotiations as just one pillar of our Public Service delivery campaign and that pillar is to improve conditions of work for our members.

Now we've seen the migration of workers out of the Public Service, the moonlighting, people going over to England to go and work in their national health system. We're saying that if you don't improve, the conditions of work and wages for workers, you're not going to be able to retain the necessary skills to be able to build up the Public Services and provide these services to the public.

Workers have the right to strike on interest issues, okay, which are the conditions of work. We don't have the right to strike over rights issues. We can't like strike over the right to strike, okay. There are certain rights that are enshrined in the Constitution, we have to engage in legal processes. So you take the minimum service level agreements, it like qualifies our right to strike, because they're essential service workers, we must have a minimum service level agreement. We

can't strike over essential services. Essential services workers we believe can strike if we are in a big majority.

So for instance as part of our Public Service delivery campaign in Mpumalanga we came out on strike over the conditions of the health system in Mpumalanga. 98% of our members came out, not one was disciplined, not one of our members were disciplined. It was illegal, but not one was disciplined because they are essential service workers. So we need to use our collective power, remain united, to be able to overcome this essential service question. There are legal aspects to it; we can't win it at the legal level only.

The relationship between collective bargaining and power is one where workers have labour power, and employees have economic power. That's why it's important that as a last strategy of ours, the last weapon that we have is our right to strike. We need to be well prepared if we're going to use that right.

So these are some of the principles that we adhere to when we engage towards collective bargaining.

So I just want to quickly reflect what's actually happened in collective bargaining over the last three years, and we characterised it in terms of three phases. The first phase is 1994 to 1996, and NEHAWU played a leading role in transforming the Public Service from a fragmented Public Service with lots of racial inequalities and discrimination. And what we came out with from that negotiation was a multi-term agreement, and it was a single salary scale ending racial discrimination, it was a 12% to 15% average wage increase. It was a reduction in the wage gap so that there was no unequal pay for equal work, etc. So it was real genuine transformation, and that was then in 1996.

Second phase, 1997 to 2000, we saw the introduction of GEAR and government took a unilateral decision rather than seeking meaningful co-operation with the unions around negotiations. And so those gains that we won in the first phase, some of those were pushed back. And what GEAR meant was reduction in budget deficits, there was a cut in personal expenditure by approximately 1% a year between 1998 and 2001, there were a lot of retrenchments, outsourcing, below inflation wage increments, cuts and benefits, freezing of vacant funded posts, and outright privatisation.

Now in our negotiations we came up with solutions that we felt were appropriate to keep the Public Service healthy. And we even compromised in these negotiations, where we said let's do a proper skills audit, see what skills are available, what skills are necessary to implement these services, and make sure that we find those people. And this was undermined and we had a struggle; I think that's actually - let's move on.

Okay, and then we went to the third phase, 2001 to 2004, and there's a shift from fiscal austerity to mild expansionary fiscal policy. Now there are lots of dangers in that. I mean, we want to use, government is making the right kinds of noises, but there's a lot that's hidden out of sight, for instance like the Public Service Amendment Bill, which is promoting ongoing agentisation. We've seen the downgrading of hospitals in places like Eastern Cape. They've got an outsourcing policy, the Department of Health's provincial policy is one of outsourcing. So they're continuing out of the limelight, out of the big GEAR kind of things, we now have ASGISA and JIPSA, etc, but government is continuing to push its pro-market, pro-commercialisation, privatisation policies at different levels.

Okay, so we've seen a slight increase in the budget but what we continue to see is still - in fact Geraldine was asked at the Budget Speech, she does a presentation to Parliament. And she was asked by the journalists, how many people, how many vacant posts are there in the Public Service. And she said she can't tell us, all she can do is give us an estimate of between 22% and 40%. So even her, at the top of that pyramid, in control of all those departments can't even tell us how many vacant-funded posts exists in the Public Service. Now obviously they're hiding something, but anyway, and outsourcing is continuing. And we're seeing that as a percentage of that total budget towards health, housing and education is declining over time.

Now, let's focus more on the Public Service itself, and we can see how this has impacted on the Public Service. So in 1996 there was 1 176 000 jobs. By 2001 it had been reduced by 134 153 jobs, and this is the result of the government wanting to downsize. So what we saw is like a lot of those support service workers, they were outsourced, they lost their benefits, they lost their secure employment, they were thrown to this kind of inflexible, atypical labour market. And as a consequence, we can go into that, I haven't got time now, but it actually has had a massive impact on the quality of work that's said nurses are doing in hospitals, because now they've got to multi-task and they've got to do all these different things. They can't even utilise their full potential, their skills as nurses, they've got to do jobs that were previously done by the support staff.

Between 2001 and 2006 there's been a small increase of 35 000 jobs, and now we've got 1.7 million public servants. So we've seen a loss of 8.4%. Some of the estimates are more towards 12%, but we definitely see - this is now under democracy from 1996 to 2006, where one would think that there was an investment of social capital within the social wage, build up the capacity within the state to provide services, there's this like increase in social benefits and government champions itself on like fulfilling this mandate of providing these benefits but on the other hand, it robs Peter to pay Paul. It's like taking their own Public Services away from them, undermining them, and giving them social benefits, and through all this, boss's profits have increased massively, etc, etc.

Okay, let's move on. So at the provincial level, it's important just here to make a couple of notes like the Eastern Cape which is one of the poorest provinces, we've seen the loss of 49 000 jobs between 1999 and 2006. The consequence is, obviously it takes money out of the economy. As we say, people are dependent on the social wage, people are dependent on the social benefits and the social wage, people are also dependent on incomes, on family members wages. And when you take those wages away, people are more dependent on social benefits etc, etc. So we can see in the provinces the number of jobs that have been lost.

Now, some of these things have been touched on here, and I just think it's important quickly to run through them, because this was all part of our preparations for this round of collective bargaining. We wanted to locate the Public Service collective bargaining within this economic and political context, and we can see here how 48% of all workers earn less than R1 500 per month, in 2005 this was only slightly down from 2002, when it was 50% who earned below the R1 500 per month. One could say well, is that a living wage, but also I think Eddie's got a good point when he talks about decent work. But anyway you can't go much lower than that in terms of like maintaining a household, and that's 50% of the population.

For formal workers, a share of earnings, the poverty line had declined from 33% to 31%, so there's a 2% improvement, okay, and the poverty line is R1 500. Okay, now here is a striking correlation between the compensation for employees and profits. So we can go through this and we can see how particularly in the period between 1997 and 2002 how as a total portion of the GDP what percentage went to workers. So if we go to round about 1990, more than 55% of the total GDP was going to compensation for employees, and there was a profitability of just less

than 30%. We can see our profits have increased for the bosses, and as profits have increased for the bosses, so compensation for employees has gone down. So there's this direct correlation between the two. Okay, let's move on.

Okay, now this is a whole lot of facts and figures here, I don't want to go into too much detail, but you know, it's all about the declining wages, also if you factor in things like inflation, purchasing power decreases etc, etc. I mean, they're quite horrific statistics in fact, if we look at the human impact of them.

Wage trends in the Public Service: Going back to 1996, we've seen like this is in nominal terms, so real term is when you factor in inflation and how your purchasing power decreases. That is something you need to factor in when you engage in collective bargaining, but we can just look at the straight increases. So between 1996 and 2006 we've seen 110% increase, particularly for level 1. Now remember, in 1996 we spoke about creating equal pay for equal work, so that was where most of those gains have been made, and we've seen those increases.

Now the wage gap in 1996 was below 20%. Now in that first negotiation where we brought up level 1 and 2 and we created parity between black and white workers and everything, we did a lot to reduce the wage gap, we made strides in reducing the wage gap. We sometimes talk about that as the apartheid wage gap. By 2006, today a DG earns over R800 000, and a level 1 worker earns R35 000 to R40 000 a year, okay. So the wage gap has now grown with inside the public sector to 27 to 1, over and above about 27 to 1.

Okay, this is about factoring in inflation, the impact of inflation, obviously workers who earn a small income of maybe R2 500 or R3 000 a month, 50% of their wage goes into food, okay. If we look at the price of maize meal or if we look at the price of meat, it's in the papers all the time; inflation is rocketing. Petrol prices are going up every month, this is where workers spend the majority of their money, they are the ones that are being hardest hit by inflation. 50% of a worker's wage goes to buying food. It's something like less than 18% for someone more wealthy, you know they got lots of money, and they're still eating caviar and god knows what else.

These are some of the key points on inflation. Now one of the key things about NEHAWU's position is that we want to move beyond this Reserve Bank's inflation targeting. So they have like their inflation policy of between 3% and 6% and workers wages must be below the top end of the

inflation target rate, etc. But now workers, if you read the Sunday Times, they're telling us that workers wages is inflationary, it's contributing to the increase in inflation. That's not the case at all, they're lying. Workers wages don't increase inflation. What increases inflation is competition, over inputs and demand and supply, etc, and as a consequence, because all the capitalists are now rushing to capitalise on the possibility of growth and profit, they all rush to secure these inputs, and it then pushes up all the costs of the inputs, and therefore when it comes down to selling those goods the increased costs are passed on to workers and that is what gives inflation, okay.

So for us inflation is important. This is why we're talking about 12%, okay, because actually workers have been hit much harder than that 12%. It's only going to help them just to keep pace, okay, it's actually beyond that. So lower levels have more than doubled in nominal terms, but okay, let's go on.

This is what we're trying to do, we want to strengthen, in this round of negotiations, strengthen centralised bargaining and we want to engage on the budgetary processes as well because we're unhappy about the way that government predetermines bargaining outcomes, and there are other things about the budget as well that I don't want to go into now. Reserve some of the setbacks and find a proper balance to represent worker's broad political interest. We can see how workers have been smashed, absolutely smashed in the last like years. The organised labour has kind of held it together with the neoliberal -

Okay, we want to secure gains to improve service delivery to the public. Now NEHAWU is not just a gumboots union about better wages and working conditions. We see ourselves playing a very active role in transforming society and so one of our demands that we keep pushing and that links up with the Public Service negotiations is our campaign and the key demand of our campaign is increased starting levels in the Public Service. You need frontline workers to be able to go and deliver those services.

Trevor Manuel, they've been smashing frontline workers left, right and centre, telling them that if they're not committed they must get out of the Public Service, etc, but actually behind that, they've been pushing all these cuts, and what we find is that the frontline workers are working, trying to deliver these services under extremely difficult conditions. If you go into a hospital you're going to find the nurses rude, etc, etc. But why? We need to be able to go beyond just pointing fingers and these frontline workers and the way to improve that is to increase the staffing

levels in the Public Service.

We want to use the collective bargaining to shift the terrain in terms of the budgetary processes and the wage demands, kick-start a process of jointly reviewed conditions of service and remuneration policy. So when we put forward our demands, we don't have a big shopping list of demands that we know that government isn't going to respond to. We say: "In these negotiations we want you to review the total package and we want that as part of the agreement so that post collective bargaining then we can begin to engage in this process of reviewing the whole package."

These are our transformation and development objectives: Improving wages and working conditions. Increasing staffing levels and - okay let's move on, and research and data collection. We want to engage on the policy issues around these.

These are the strategic demands: As Vavi says, you know, everything's 12% but actually we're saying let's collapse level 1 and 2 into level 3, because we're applying our minds creatively, is how do we reduce the wage gap in the Public Service. So you bring a R35 000 a year level 1 worker up to 42 000, the level 3 amount, then we're doing something to begin to reduce the wage gap not just in terms of sliding scale, wages increases etc, etc.

Let's move on. There's things like housing subsidies and a multi-term agreement. There's some things about benefits as well, medical aid. The multi-term agreement, government initially wanted a three-year multi-term agreement that would have brought us to 2010. Now in 1996 we had a good multi-term agreement but this year government said no, 2010 is a bad time for us to sit down and negotiate again, given the problems that we have here, we've got our World Cup. So they wanted a four-year multi-term agreement. We're saying, no we want a single-term agreement because they want to keep it pegged to inflation. As we go through from the one year to the next they want to peg it to inflation.

We want the implementation day to be April. Government wanted it to be July. At the last negotiation in 2002 we were still at the negotiating table but because the last agreement had collapsed, because the implementation date was due, government went ahead and unilaterally implemented what they felt was appropriate for Public Service workers. They just undermined the whole bargaining process. So this year we prepared well in advance so that we knew by the time

it came to the implementation date there would be no agreement as yet and we would be able to get our strike notice in time and prepare for some industrial action. Anyway there are a few other things as well around the strategic demands but we don't want to go there. Let's carry on.

This was the budget outlook. We had a sense of how much money was available for personal expenditure. So this 12% is not a thumb suck, you can see there the percentage increase. Trevor Manuel said: "The percentage increase for personal expenditure is 12.51%." Now we know that out of that money they want to pay like senior managers massive salaries. We know they need money for retrenchment packages. That total package of 12.5% increase is for a number of things including the negotiated wages. But we're saying: Look, the money's there, you've got your surplus of 17 billion or whatever the case is. We're seeing people leaving the Public Service. We're going to go for our 12%, and then over time it goes from 12, the multi-term agreement. If we get 12% this year, you know, they'd peg it to inflation but you can see how they've already like done their projections in line with the Reserve Bank's inflation policy to the level of like the top end of 6% so they're trying to keep us nice and low and that's going to be the increase.

That's the projected normal increase. This is about the budget and what are the implications of that. I spoke earlier about how the budget process truncates to bargaining. These are some of the issues that are related to that. Let's go on.

Okay, this is the last slide. Just quickly give me a couple of minutes here. About preparations for the 2007 wage negotiations, we've come a long way. It's not like we've just gone for a strike, you know. We've done a lot of preparation and it goes all the way back to our 2004 National Congress resolutions that said we must have a Public Service delivery summit and we must have a collective bargaining conference. We held a summit in April 2006 and the outcome of that summit is a campaign and the campaign is around - and we produce a whole lot of material, we build broad coalitions, we present alternatives like the Chris Hani Bara Project where there's been this genuine attempt between - Eddie spoke about the BMW experience of quality circles and that. Well, we're trying to take it much further. We've approached them and said: Look we need to get together to be able to run a pilot in the surgical wards so that labour and the employer can come together and find ways to improve service delivery.

So we have this project at the Chris Hani Bara and that presents a model alternative. So instead of like the outsourcing in Gauteng or the downgrading of hospitals in the Eastern Cape, we're saying

here the Chris Hani Bara Project provides us with the model about how we can get improved medical outcomes to improve the delivery of health services.

We had our collective bargaining conference in October 2007. One of the pillars of our Public Service Delivery Campaign, we had a whole set of demands, a declaration. One of the key demands was increasing staffing levels. When it came to improving working conditions we parked that at the Public Service delivery summit and said when it comes to the negotiations, the collective bargaining, we'll deal with the working conditions, etc. And so they're directly linked. They're not two separate things. It's all part of our campaign. So we located collective bargaining in our Public Service Delivery Campaign.

The conference, we held a conference. All the provinces and sectors participated. People gave what their demands should be for the various sectors, we discussed the budget, we had people coming in doing presentations and we had a whole list of consolidated demands. And then we had post-bargaining conference, discussions with all the chief negotiators and national organisers, and then we came up with key demands, strategic demands and how we should approach the negotiations.

We also secured technical support. So when it came to the research we did all the research on inflation, on a whole range of issues so that when we sat down to the negotiations we could give them facts and figures. If you go and ask government for facts and figures, like even the number of staff vacancies, they can't give you any facts and figures or they don't want to give you sight of it. So we were doing all our own research, etc.

We prepared the timetable for the negotiations to avoid the unilateral implementation. I handed out this circular, people had a chance to look at it and you can see all the steps that we've gone through in the negotiation process; always being prepared, being willing to listen to what the employer is tabling and responding appropriately to that. In fact at one point we even came up with our own set of - we responded and we tried to formulate into a nice agreement package.

Subsequent to this we've had the joint Mandating Committee. I mean, obviously now we can see that the negotiations have deadlocked. They haven't been genuine negotiations. Government is blaming us. You just come back to the tables and we'll submit your offer or whatever the case may be. So we were well prepared for the strike well in advance.

Now one of the biggest problems that has been raised, like you know, we've got DENOSA, we've got HOSPERSA and we've got all these different unions with conflicting or competing interests. And we've had to engage on the leadership level all the time to make sure - because we know that when it comes to strike action the first thing that the bosses are going to try and do to us is try and divide us. So they've spoken about their occupational special dispensations and they talk quietly to one union on the side and another union: Here's a nice package for you. Go and sell that to your members, etc, and we've been able to keep us all together, consolidated and united. In fact not only that, the independent unions, the PSAs, these other sweetheart unions, we also have a process where we engage with them and it looks like they're going to be on board for the strike.

So we have the labour caucus where we build this unity within our own organisation. It's uneven amongst the provinces in terms of the Public Service Delivery Campaign so it's important that we build uniformity and cohesion. And Mpumalanga had their big strike and then Western Cape is very much in the news at the moment and some of the other provinces are further behind so we've got to bring them all up together.

Mobilisation of our members: I mean, the next phase is we continue with our institutional meetings, our mass based meetings, the joint shop stewards councils in all the provinces. We produced the material. Our educational pamphlet will be ready tomorrow because we had to wait for the strike timetable, when the strike notice will be submitted. We're well prepared. The educational pamphlet will go out tomorrow and we'll be having our mass marches on the 25th and then over the weekend we'll have our night vigils and our work-to-rule, etc, and then on the Monday on the 28th it will be the fully blown strike.

Communication strategy: Emails, material, media, etc. I think I need to include there the propaganda side of things, how do respond quickly to Geraldine because she's putting a lot of misinformation out there. If you look at what the 6% increase is for our members, I think it's somewhere around 7/8 billion or something to that effect. Now how do you go from a 6% wage increase at 7 or 8 billion to 198 billion? She's telling the public that if we demand our 12% wage increase it's going to cost the state 198 billion and we're being completely unrealistic and unreasonable. She knows it's absolute rubbish but she wants it out there because she wants the fear factor to percolate and blame us.

Another strategy that she likes to use is to say: They have the mandate. The public have voted the ANC into power and therefore the rights of the beneficiaries of the grants, etc, must come first. So it's always the rights of the public out there who should have access to quality public services, not depleted public services, their rights always, our rights must be subsumed under their rights. And they're trying to divide us. We've done a lot of work in trying to build broad coalitions with different civic organisations, NGOs, etc, and build with the community. Thank you, comrades.

**FACILITATOR:** Thank you very much. Can we kindly note the questions down. We will ask them at a later stage with all the comments. Cde Kimani, with the private sector is next.

## **THE PRIVATE SECTOR**

**Mr Kimani Ndungu,  
Senior Researcher, NALEDI**

Thank you. Mine is going to be quite short because most of the issues have been covered so I'll just try to look at what hasn't been talked about.

Briefly, as we know, collective bargaining is central to the advancement of worker's rights and interests. I think we don't need to belabour that point and we have to use collective bargaining, you know, struggle against mainly the bosses.

Now I want to look briefly at bargaining councils because that is the key instrument designed to advance negotiations within the framework of collective bargaining. Now some of the latest research has shown that at the present moment, and I've also had a look at what government has put on its website and in publications, is that we have a total of 56 registered bargaining councils and 50 of these are in the private sector and 6 of them are in the public sector.

What is important, as you can see from the figures provided there, is that the total number, by 2005 the total number of workers who were covered by collective bargaining agreements was only 25%, meaning that just about a quarter of all workers are covered by BCs. There's a huge number of workers covered either by sectoral determination as well as the old ministerial determination and sectoral determination and this means that these are the most vulnerable sectors. But where we mostly would be in terms of our interests looking into these and that's not a very huge number.

That slide just shows the trend around what has been happening in bargaining councils from around 1983 to present. As you can see the number is just short of 60, it's about 53, and this is a decline in the number of councils that are either active or registered. Some of the reasons why bargaining councils have been on the decline is that some are functional and they become deregistered. We have ... of regional and sub-sector councils but what is important, and Cde Eddie talked about it this morning briefly in terms of what Cde Oupa said and Cde Vavi, we have this changing nature of work and with the change in work we have more atypical employment,

casualisation, sub-contracting and with those forms of work, we therefore have a decline in terms of representivity and this affects the way that unions are able to organise and therefore bargain through bargaining councils.

Now this is just a repetition of what was said there. I just briefly want to point to one thing. Last year at Cosatu's ninth congress this was one of the resolutions that was adopted. I'm not sure and I've not come across any evidence that there have been further discussions around it but that we need to have more bargaining councils in more sectors and to lower the threshold of representivity, including subsidising some work of the bargaining councils. For instance, dispute resolution.

Now sometimes, and I've spoken about this in certain audiences where we have had affiliates, I've had responses saying this is both a plus and a negative because the more you strengthen - the more bargaining councils you have, it means that you're going to have more, probably the word is more structures to deal with and therefore you're likely to weaken bargaining; but this is something we can discuss during this workshop.

Now wage settlements, again I'll be very brief on this, we've done some work presently around this and if you look collectively at the trend in the last one year, whether these are annual settlements or multi-year settlements, you'll find that increases have on average been less than 6%. That is, if you take all the different percentage increases and divide them by the number of agreements that we have received, and this comes from all these affiliates. Now the public sector, as we all know is one where wage increases remain extremely low and again looking at the amount of increases in monetary terms you'll find that the amount is less than R400 per month.

Now the last one here comes from the sectoral determinations announced by the Minister some time in 2005, in the clothing and textile sector and as you can see, the amount is really low. That's 1 220 per month. This is about the CPIX and that's one of the key questions, as I said earlier when I was speaking about the objective of the workshop, that we always tend to peg the increases around the CPIX and if we look at the CPIX, if you look at the wage increases in the CPIX, we've had increases that's mainly between 1 and 2% above inflation and that's what government is going for. And if you listen to Fraser-Moleketi on radio anytime and on TV currently around the Public Service wage dispute she keeps saying: "But we're giving an increase above inflation." But we haven't really questioned whether the CPIX is the best tool for pegging our wage increases.

The idea, as we know, very aggressively government wants to keep inflation within a 3 to 6% bond. There have been arguments that this, one, the CPIX or inflation targeting is not the best tool for economic development, and secondly, that our economy can hold on a much higher rate of inflation, probably up to 10%, and as we can see, the CPIX at the rate of inflation keeps on fluctuating. By the beginning of March it had gone to about 5.5%. But I'm sure that government will try very much, through interest rate hikes, to reduce this.

Let's move onto the next slide. Let's leave that. Guy has already spoken about that.

As you can see, inflation hits hardest those who are at the lower end of the economic scale. The average food prices, and this comes from Statistics SA, at the end of 2006 we had 8.1% increase on food, that's year-on-year increase between December 2005 and December 2006. At the same time, that's when the official inflation rate is just about 5% or below 5%. So whoever got a 6% increase would have thought that they had a much higher inflation increase or inflation related wage increase, when in real fact, if you are living at the lower end of the economic scale you are hard hit by this increase because it was above average.

If you look at meat increase, by the end of 2006, 17.8%, fish, mealie meal, sugar and other products which are mainly consumed by the workers. So actually the demand made by the Public Service unions makes a lot of sense because if you want to stick within this purchasing power you need something that gives you an average of 10 plus, just to be able to purchase the basic commodities.

Let's move on. Okay, again in similar items, whether it's fuel and power, education and medical care and health, all these items had above an average inflation increase between 2005 and 2006. Now I thought this is where I really should put in quite a lot of emphasis in the next four or five minutes because it's one thing that we should be talking about. If you look at executive pay, and this is out in the public domain, if you look at executive pay, between 2005 and 2006, executives really reaped the benefits of so-called economic growth.

Now on average in 2005 the average remuneration for executives in 2005 was around 15.7 million. Now in retail alone which was an exception if you remember how much the CEO got, then you had around 35 million. Now executive pay as a whole, that's executive directors and

non-executive directors and others, had an average increase of 34% in one year alone. Now an average CEO in a Johannesburg Stock Exchange listed company was earning between 1.5 and 1.7 million per month and as you can see in total the basic salaries of CEOs increased by an average of 18.5% between 2004 and 2005.

Now this is at the same time as the increases for average workers, as we've said, was just under 6%. So if you compare and contrast the Apartheid wage gap, the increasing, inequality, intra-racial, as well as to an extent, inter-racial, it means that workers have on the whole really not been the beneficiaries of the so-called economic growth in the last few years.

Now I have a couple of slides in conclusion and some ideas for discussion. So on the one hand whereas the economy has recorded, well, what's got positive growth, and most of the jobs created, and these were mentioned in the morning by Cde Oupa and Cde Eddie, most of the jobs created are non-standard and vulnerable. These are not long-term jobs, they are not well paying jobs, if you look at how they've been created mainly in the services.

Now economic growth has not dented unemployment which we know remains stubbornly high. I remember a comrade told me that we need to talk about jobless growth. So on the one hand we have an economy that grows but at the same time we have a lot of unemployment that grows with that. As at September 2006, that's using the latest statistics from the Labour Force Survey, the official rate of unemployment is 25.5% of the labour force. The entire labour force is 17 million. So the figure we got given, and this is the official figure, is 4.4 million. The problem is that, that is a narrow definition of employment, as we heard earlier this morning.

If you use the expanded definition of unemployment then we have almost 40% unemployment. It's around 36/37% and that total comes to 6 million which is quite huge by all standards. And then union density remains very low. I had a slide earlier but I won't mention it. Union density remains quite low in traditionally vulnerable sectors and these include security, construction, agriculture and wholesale and retail.

Now wage increases, as I said earlier, have been quite modest, at most rising only 1 to 2% above inflation. We have executives, largely in the private sector, reaping a lot of benefit, and then, as I said at the beginning of the slide, collective bargaining weakening as a result of the declining trend. But we have not seen a corresponding strengthening in the remaining councils and that's

something we need to discuss about.

Now the last two or three slides is about some of the things that we can discuss during the course of today and also tomorrow when we look at the strategies and the first one is: What minimum percentages, just speaking strictly about wages and percentages, what minimum percentage increase should we be settling for? We have this big argument now in the public about the 12% but what really should we be settling for? What can we strategically go for and push for until we get it?

Now what about the non-work issues? We have medical aid, leave, bonuses, allowances, working conditions in general. How should we go for this and what should we prioritise? Because whenever we go with our basket of demands we always have, as we know, fall back positions. So if we go, and I've heard it again a lot in the media from Geraldine, saying, but the unions are not mentioning that we have OSD or something or ODS, they're not mentioning we are increasing the levels and all those things. What should we prioritise and how do we go for that, in combination with the percentages that we ask for?

The question of annual and multi-agreements, this has risen from time to time in quite a lot of workshops and seminars that we have been invited to. Now should we prefer the annual round of negotiations, you know, with all its complications and with all its difficulties or its benefits, or do we go for multi-agreements, again with their complications and many of the negative things that we have seen from that. And how do we conceptualise a living wage? Should we be talking about a living wage? Should we talk about a social wage? What kind of wage should we be going for?

What about this idea of a compulsory retirement fund? This was mentioned in Trevor Manuel's budget speech. How do we respond to that as workers? Is it going to benefit us in terms of employment and general living social security? Also, what kind of practice strategies should we look for or should we develop at the workplace other than just conditions of employment? What happens to core determination and other terms in the LRA quite some time ago and how should we deal with the continuing weakening of collective bargaining?

So that's essentially it, because I think most of the issues have been covered earlier. So I really won't have to rush through most of these things so that we give ourselves enough time to listen to the next presentation. So we will engage with those issues more in debate. Thanks.

**FACILITATOR:** Thank you very much, Cde Kimani. Liesl, you are next; Industrial Action.

# **INDUSTRIAL ACTION**

**Ms Liesl Orr,  
Senior Researcher, NALEDI**

Comrades, fortunately this isn't going to be a long presentation. You've been listening to a lot of presentations today so I hope you're still able to concentrate and engage. The focus of this presentation is on industrial action. My area of work at NALEDI is organisational renewal. So I'm going to focus more on the organisational issues related to strikes and industrial action so it's going to be a little bit of a different emphasis from more of the sort of economic analysis and issues related to wage settlements, etc, that you've seen earlier.

So we have here a picture taken during the security strike last year. I'm not attempting to raise the profile of our comrade provincial secretary in the Western Cape but we were debating this photograph earlier and maybe you can think about it yourselves. I'm not sure whether Cde Tony is single-handedly stopping the onslaught or whether he's surrendering or - but it does raise, I think, some of the issues which I'll touch on later about the levels of violence and repression that we've seen in strikes in recent years and we'll talk to that shortly.

So the issues that I'm going to go through in this discussion, I'm going to raise a few of the bargaining challenges that we're looking at, the organising and organisational challenges, a range of issues around strike organisation including issues of solidarity, building working class consciousness. The question of whether, and I think Cde Guy raised it earlier, whether the right to strike is being undermined in various ways and just to raise that as a question.

Growing arrogance of employers that we've seen in recent strikes, what we've seen and what we can expect from the state in terms of interventions around strikes as well as the issue of racism that has come up as an issue in a number of strikes. And the final question that I'm going to pose is around whether there's a possibility of growing numbers of strikes and what could potentially constitute a strike wave in the country and what the implications of that could be.

Just one graph which illustrates industrial action from 1994 to 2005 and you can see that initially from the number of hours, 4 million hours lost due to strike action, going down quite dramatically

to 1997. I suppose you could call that perhaps a honeymoon period with the new democracy. But you can see quite a significant increase in the number of strikes between 1997 and 1999, some of which could perhaps be accounted for by Public Service disputes, by also Cosatu's campaigns around jobs and poverty. But then you see a decline in strikes between 1999 and 2002 and again, quite a significant increase that we've seen and we are in a period of really massive increase between 2004 and 2005 in strike action.

One sort of broad point that I would like to make, I mean, all sectors are affected by strike action but I think one of the important points that I want to highlight, if you look at the strikes that we've seen over the last couple of years, is that we have seen - we've been talking about changes in the composition of the workforce, we have seen quite a number of high profile and big strikes in what could be called "vulnerable types of employment."

Security workers, cleaning workers, retail workers have been on strikes and have been on quite big and powerful strikes and maybe that's something we need to think about that perhaps there tends to be an argument that vulnerable workers are in this very disadvantaged position but perhaps that is where we're going to see increasing militancy. Of course we also have the Public Service workers potentially going on strike which is obviously another end of the scale.

In terms of bargaining challenges, I just want to raise a few broad points and these again are really for our discussion in commissions but also comrades that are presenting from their affiliates will, I'm sure, raise some of these issues specific to their own sectors. Obviously a key challenge is the establishment of centralised bargaining forums in all industries and we do still have a number of industries without centralised bargaining, and related to that is the conflict that emerges for unions like SACAWU, SATAWU, FAWU, that are dealing with sectoral determination.

There's a conflict between, you know, where you have sectoral determinations for vulnerable workers which really just involves a consultation by the Minister versus establishing genuine collective bargaining structures in those sectors particularly where the workers are most vulnerable, and obviously that conflict also relates to organisational strengths in those sectors and the ability to push for bargaining in those sectors.

The other point I want to raise about bargaining, which Cde Kimani raised earlier, is about the

dilemma of multi-year agreements. There is a need for more analysis and research on multi-year agreements to look at the pros and cons. Obviously there are some positives to multi-year agreements in the sense that you're not dealing with bargaining and negotiations every year. You're able to perhaps focus on other issues as a union but on the negative side you can be tied into an agreement which perhaps is not in the interests of workers and in most instances those agreements do not allow for striking or renegotiating any of those aspects of the agreement.

The next area that I want to look at is organising challenges. The first one of course which I've touched on is that we have very low unionisation rates in vulnerable sectors. So it's kind of a self-perpetuating problem where those workers are vulnerable but they're not well organised and therefore can't fight to advance their interests and demands. But of course that doesn't only impact on those sectors, it impacts on the collective bargaining scenario of all workers because where there are vulnerable workers, any workers, even those that are relatively in a better position, are vulnerable where there are large number of workers that can come in as replacement labour, as scab labour and potentially undermine strikes, etc.

The second issue that I want to highlight is the issue of the spontaneity or self-organisation of struggle of workers. These are the organisational structures, that those should not be counter-posed but that there is a need to look at how workers organise themselves perhaps spontaneously but also within the context of the union around their demands as well as how you ensure that the organisation has strong structures and disciplined structures. So there's nothing inherently wrong obviously with workers organising themselves, taking action that is perhaps considered illegal or outside of the framework of the law.

But how do you deal with those issues organisationally and inevitably those questions arise in the context of a strike. Issues of violence, etc, and there's been a lot of debates around that also in the context of, for example, the security strike and some of the questions that, that has raised. Again, comrades, I'm only just able to pose these as questions without going into detail. Hopefully we will be able to interrogate them further in the discussion.

The third question that I want to raise around organising challenges is the whole notion of an organising versus a servicing model and we are sort of posing those as models that are at variance with each other, but obviously there may be some sort of a continuum in some instances but for the purposes of conceptual analysis we want to pose them as two different models. On the one

hand you have an organising model where the organisation is about empowerment of workers to advance their own struggles and your resources as an organisation go towards ensuring strong shop floor structures, buildings, shop floor representation and empowering workers to advance their own struggles.

A servicing model is more of a, say for example, the FEDUSA-oriented unions might have more of that approach where you give a service to a union. They pay a subscription and they expect a service in return for that. So they're basically paying for legal services or whatever the case may be. A union member is more like a client of the union. It's more of a financial transaction and we want to counter-pose those because we think it has quite significant impact on the kind of organisational strategies that you develop with an organising model. As I said, more of your resources go towards building worker capacity to engage around legal organisational issues rather than depending on the union official to come and deal with those issues. And of course that will have an impact on how you approach strike organisation as well.

So the issues around strike organisation, really I think this slide deals with issues of mandates, of democratic processes in unions; firstly, what kind of processes are being used during strikes, the mandating procedures. In a number of unions there's a shift in terms of how unions seek mandates. In some cases a mandate consists of a teleconference of provincial secretaries reporting back to their general secretary on what is being said in their province. To what extent does that then actually take account of worker demands?

Secondly, to what extent are unions still using structures like strike committees to organise and co-ordinate strike action? Anecdotal evidence from interviews with unions during and after strikes suggests that many of those structures have declined and many unions no longer even have strike committees in place. There's a tendency to rely on shop stewards as the voice of workers rather than actually going to workplaces, balloting, having direct contact with members through general meetings.

So shop stewards are more of a voice that reflects what are worker's demands and that potentially has an impact on the active participation of members as well as the experience of members in terms of strikes and the ability to be actively involved in strikes and to carry those strikes forward. So that raises a challenge in Cosatu unions of rebuilding democratic and worker controlled methods in strike organisation.

The other issue that I want to raise around strike organisation is the issue of strike funds. Cosatu and its affiliates have committed to establishing strike funds in various forums but this actually hasn't happened in practice and clearly for a strike to be successful it's a fundamental issue and we need to ask what the blockages are in that regard.

The next issue is organic and informal education as well as information and political consciousness of members during and prior to strikes. Strikes potentially are a face for active conscientisation of membership. You have members coming together with the time and the energy potentially to engage in informal education while participating in a strike. There have been some attempts in unions to use those opportunities but it seems to be something that could be made better use of by affiliates.

And then the last point I want to raise is in relation to the Cosatu living wage campaign, that essentially there's a need to have a campaign that is not just about demands but also about co-ordination and that could include co-ordinating the solidarity action and support for strikes on an ongoing basis. Currently there are challenges in terms of that and I'm going to move onto that issue now in terms of solidarity.

What we've noticed in recent strikes is that there have been quite significant problems with regard to affiliates getting other affiliates involved in giving support to strikes. We've had strikes, the security strike, for example, the cleaning strike, that have go on for fairly long without significant support even from within the union itself, never mind other affiliates. So what are some of the problems with regard to solidarity?

A related question is the issue of secondary strikes. It's been threatened in some instances by affiliates but we need to look again at what are the blockages to really advancing that as a potentially powerful message to ensure solidarity.

We also have many linkages within the economy where, for example, unions that organise in the service sector, their members would be connected to a number of industries. Whether you're talking about catering or cleaning, those workers would be connected to various factories or industries and there is the potential for other affiliates to put pressure on employers. For example, again, I don't want to keep mentioning the security strike but obviously it was quite a high profile

strike and a recent one, but for example, a number of companies obviously have security workers. Why were those Cosatu affiliates not able to put more pressure on their employers around problems of security during the strike?

And then finally the issue of working class community solidarity during and in the lead up to strikes. Obviously that is crucial in any strike process and requires, as has been mentioned quite repeatedly this morning, propaganda, publicity and information, use of alternative media, community mobilisation and support, campaigns, as well as consumer pressure. Again, that's a leverage that needs to be utilised and needs to be co-ordinated in strikes.

I think these points have largely been covered. How do we ensure that Cosatu structures are able to co-ordinate? That seems to be quite a significant weakness in terms of facilitating solidarity action across the economy and supporting strikes.

The next issue is around building working class consciousness. There are a number of ways of doing that through bringing together workers both before and during and after strikes so that you're not just talking about wage demands so that strikes themselves are about building organisation.

The point that has been raised already this morning about the right to strike also needs to be engaged. And the question that we're raising here is whether the constitutional right to strike is effectively being undermined and here we have various examples that seem to point in that direction and perhaps it's something that needs to be discussed and debated further so that we can develop strategies around that.

The example of the public sector and the issue of essential services has already been debated and I'm sure it will be debated further. Secondly, we have limitations on the right to picket in a number of strikes where employers use the issue of private property to prevent workers from picketing right outside the place of employment. For example, retail workers who work in shopping malls are given a place three kilometres away from their place of employment to picket, which obviously renders them quite ineffective.

We've also seen a growing number of bans of demonstration and marches by municipal authorities. In Cape Town there was a complete ban on marches during the security strike and

we've seen that in other areas as well.

Of course the issue of replacement labour or scab labour obviously affects the right to strike and that itself is enshrined in the LRA. What are the strategies of dealing with that? And then the other point is that we've also seen the increased use of private security firms such as Red Ants to persecute striking workers and to harass them physically. So these again are challenges that we need to look at.

We've also seen quite significant arrogance by employers where they've simply been unwilling to negotiate strikes that have endured for long periods, of four to six months in some cases, and we need to try to unpack the reasons for this. One possible reason is the negative example set by government in terms of labour relations practices in the Public Service, as was referred to earlier. The private sector often follows examples set by the public sector.

A second possible factor is declining levels of union organisation.

Thirdly, employers in some instances are able to continue without significant disruption to work, given the availability or given the growth in casual employment. So they're able to just bring in casual workers as well as using labour brokers. There are labour brokers that actually advertise as strike breakers. You know, we see adverts saying: "Are you having a strike? Are you having labour problems, call us", and they supply workers to employers.

We also have the issue of the role of the state which I'll come to shortly and we need again to look at that in terms of the strategies because the state has not in recent strikes been playing a role of assisting to resolve disputes and in some instances, has not assisted, particularly on the union's side.

And then the last point which was referred to on the previous slide of private security being used to limit the disruption caused by workers. So what we need to look at is how to deal with those issues more effectively.

In terms of state intervention in strikes, I'll just go through this very quickly, that in fact we've seen growing repression used in recent strikes with extreme brutality and in fact we've had fatalities of workers. Of course we've also seen the murder of workers and shop stewards. I'm not

sure whether we can attribute that to the state but it is important to note that there have been shop stewards, a few cases of SACCAWU, SATAWU, where leading shop stewards have actually been killed during the course of the strike.

We've also seen cases of the state acting in favour of the employer and we balance this against the expectation of labour friendly state interventions and the cause for that. Now given that, that has not been forthcoming, how should Cosatu be dealing with that lack of progressive intervention on the part of the state in recent cases. As I mentioned earlier, we've had a number of cases where racism has been raised. The Karan Beef strike, there's I think a pending security strike where also issues of racism are being raised where employers are refusing to deal with significant cases of racial insults and racism in the workplace. Cosatu has a campaign on racism but perhaps it needs to be heightened to also ensure greater publicity of those cases, exposure of racism in the workplace and intensifying that campaign.

Finally, is the increase in the strikes that we've seen in the past year significant enough for us to talk about a potential strike wave? The question that differentiates a number of strikes from a wave that can constitute a strike wave would be the issue of class consciousness. Because it's not just about people being out on the streets it's about that constituting a qualitative shift in class consciousness where workers begin to challenge their employment conditions. And the question that we need to ask is whether Cosatu affiliates are prepared and ready to deal with growing worker militancy. Can we say that there is growing worker militancy and are affiliates prepared to deal with that.

And two related questions would be: Are they able to mobilise that militancy towards deepening collective bargaining power and actually winning those worker demands in concrete terms and secondly, are they able to direct that militancy towards deepening struggle against the capitalist system? Thank you.

**FACILITATOR:** Comrades, I think we can break for lunch and come back at half past two. We will start at half past two with or without all our comrades.

**LUNCH BREAK**

**FACILITATOR:** Comrades, can we start. It is now twenty five to three. We were supposed to start at half past two. We are now going to take clarity seeking questions on all three presentations that were made. I'm going to take the first five round of hands. Are there any questions, comrades?

## **DISCUSSION**

**MR M BODIBE:** Ja, Chair. In fact I want to check the clarity on the NEHAWU document, the equitable salary scales to end discrimination, which was a submission previously and the collapsing of 1 and 2 to 3 which one would also differently question it to say the wage gap that they are referring to, is it 1 and 2 versus 3 to 12 or is it 1 to 12 versus 13 to 16, as the target of breaking that gap?

Coming to the equitable salary scales, now how do we account for the occupational classifications in relation to the salary scales because that translates to the salaries itself, and how do you manage the professional grouping in terms of addressing their needs as your members as well? I think I'll pause there. Thanks.

**MR O BODIBE:** I'm going to ask a similar question from a different angle, Cde Guy, and maybe even comrades from the public sector. If you collapse the level 1, 2 and 3 into 3, I understand the principle behind that, but what are the implications going forward for job creation? Are you not also scaling up entry level jobs which means only people who can have the kind of - so what would be the job requirement as an entry level? Does it not only address the current public servants but does not talk to how you'll contribute to large scale employment creation for the low skilled. So what's the impact of that?

The second one is, has there been a comparison between private sector jobs with public sector jobs? So, for example, what an average teacher, nurse and your average manager earns in both the public sector and the private sector, for example, looking at - just to see whether the public sector is improving or is lagging behind. I'm thinking here, for example, looking at the particular sectors like Health and Education and I think the security service as well.

**MR SLINGSBY:** Okay just on the wage discrimination. I mean, 1996 remember we had all the

homeland governments and all these different governments and whatever. So that 1996 wage agreement, why it was such a good agreement is that it did away with all the discrimination, so basically the consequence was equal pay equal work. So if whites were getting higher money for the same job, that agreement made sure that everyone received the same pay. So that was then.

But we've noticed since then the wage gap has increased. So we tackled the apartheid wage gap then but now we have the neo-liberal wage gap and the neo-liberal wage gap has shifted the ratio from the lowest level to the highest level. From 1 to 12 in 1996, in fact 1 to 12 was our goal but it was about 1 to 15. Now it's like up to 1 to 27. So if you're a DG you're earning 800 000 plus and if you're a level 1 worker you're earning R35 000 a year.

Now one of the principles of our negotiations is that we want to reduce the wage gap, okay. So a creative way that we decided, the best way to do that is level 1 is say on 35 000, level 2 on 38 000, level 3 is on 41 000 a year. So we're saying instead of having 16 different levels let's do away with level 1 and 2 so that the entry level is 41 000 a year, okay. And you'll find that people in level 1 and 2 there, you can't progress out of those levels. Like cleaners or whatever, in terms of progression and career pathing, they can never seem to get beyond levels.

So we're saying if we collapse level 1 and 2 to level 3 the entry point is higher. It doesn't affect any of the others. Everyone gets a 12% wage increase. So the level 3 would get the 12% wage increase, you do away with level 1 and 2. So if you're on level 1 you're now on level 3 with a 12% wage increase. If you're on level 8, you're now on level 8 with a 12% wage increase. So we're just trying to say the lowest level, we're trying to introduce a way that rises a minimum wage.

Okay, then on how do we accommodate for the professional groupings. Ja, I mean, it's a challenge to NEHAWU. We got a lot more professionals working in the Public Service. And in terms of the negotiations, let's just take a housing subsidy, it's for R70 000. Now if you're earning, say you're a level 5 and you're earning a fairly decent salary, with your R70 000, well for a R70 000 house, you can't go and buy a house. So we're saying well improve the benefits, I mean, that's going to benefit everyone.

If they get the 12% wage increase, if you're level 5 you get the 12% wage increase. So in terms of that, I mean, just through the collective bargaining and the negotiations, they would benefit from

whatever our demands are. I mean, they might not directly benefit from level 1 and 2 collapsing to level 3. But we're also saying instead of having 16 notches - so let's say you're at level 5 then the first year you're at level 5 you're at this notch and then you go up the next notch but that notch increases. It used to be automatic depending on if you're there for a year you get the notch. Now they've linked this pay progression to performance. So you only get the notch increase if your manager decides that you are entitled to this increase.

Now I mean, they've got all sorts of systems but if you go into the Public Service, if you want to start a strike tomorrow in the Public Service you can pull workers out on this performance measure because everyone's got a problem with performance.

It was introduced by a management and unilaterally and there's only so much money that's allocated for this performance advancement and most people don't get it. You know, it's only like if you're friends with the manager or whatever, then you get your performance. So we're saying let's deal in progression from performance and let's collapse all those 16 notches into 5. So if you're like first year you automatically go up the next notch and after five years you have the chance to go up to another level, instead of having to work for 16 years and you might get the increase because it's related to performance and then you might go up to the next level. Because you find people there who've been on the same level for 30 years and they've never advanced. So that's another one of our key demands.

To answer Oupa's question on collapse 1 and 2 into 3, regarding job creation. Well, most of the jobs of those support services jobs have been outsourced anyway. But I mean, if let's say you're a clerk or you come in at a level 5, you're going to come in at a level 5 and there are those requirements for a level 5. If you're a sweeper, what it means is, and if the government is still going to employ a sweeper then that means that, that sweeper will just come in at the entry level equivalent of level 3 as opposed to the entry level of 1.

So if you looked at say home-based care workers who are at the moment - like they're working as part of this Extended Public Works Programme and all they get is a stipend, but they're attached to the Department of Health and they earn their like stipend money for the month. It's just a cheap form of employment for the government. They would then come in - let's say they decide that they want to create jobs in the Public Service, there are all these home-based care workers. Why don't we bring the home-based care workers into level 3 and create like hundreds and maybe a

thousand jobs?

Because there are hundreds of home-based care workers working in the community that are employed by NGOs that operate like labour brokers who have contracts with the government. Rather bring them in as like full-time Public Service workers entitled to the protection of the union, collective bargaining and some form of permanent employment at a certain level, whatever level they decide on. So I don't think it proposes any barrier to job creation in the Public Service.

Then just regarding the private sector / public sector comparisons, I know that if you go back towards 1996 and you look at some of the wage agreements, the Public Service workers advanced quite far in 1996. So a sweeper, once we reached that agreement in 1996, a sweeper was earning good money in government, in the Public Service. But then they were the ones that became the most stressed, those support service workers because what you find is that the sweepers find themselves outsourced. So through the restructuring process they lost their jobs.

One could speculate that at the lower levels Public Service workers get a fairly decent wage. If you look at these current contract workers or outsourced workers, they've lost a lot. So all in all, you know, I don't think that Public Service workers have like marched ahead of the private sector. I mean, I just don't think it makes sense.

**FACILITATOR:** Thank you, Cde Guy. Do you have any further questions, comrades?

**MR M BODIBE:** Chair, I'm just checking the collapsing 1 and 2 as a follow up to say, as level 3 people are also your members, does it mean that a person on level 3 will remain there and now get the same salary as the one who was on 1 and 2? So it means there's no concurrent movement of 3 upwards, up to 12, which is our juristic levels that we are representing.

**MR SLINGSBY:** No I mean, they would remain at level 3. They would have their 12% increase. If we won the demand around the advancement to reducing the 16 notches to 5 maybe there would be - well ja, I mean, they would remain on level 3. It would just mean that there would be more workers on level 3. I mean, if you look at the total number of workers on level 1 and 2 and how many workers on level 3 it probably isn't that many workers anyway. But, ja, no they would remain the same.

**FACILITATOR:** Comrades, do we have further clarity seeking questions. I'm taking the last round of hands on clarity. Do we have any comments or clarity? Do you have any further clarity seeking questions? I'm taking this last hand, comrades, then we move to comments.

**COMMENT:** Okay, it's on the industrial action and on the part of organising challenges. The first sentence there of organising challenges, it is saying "low unionisation rate in vulnerable sectors", that is the one. My input there is the low unionisation rate in vulnerable sectors, I think we need to change the old styles of organising, if there is any. For an example, an employer in the vulnerable sectors, like in domestics or farms ... (interjection)

**FACILITATOR:** Comrades, I had opened for questions, strictly questions. We are going to come to comments. Can we kindly ask questions if we have any questions. Do you have any further questions, comrades? Okay you can comment now; continue.

**COMMENT:** Okay, thank you. I think we need to change the old styles of organising, if there is any, because for an example, if you go to the farms or where the domestic workers are in the houses, you find that the employer won't allow you to get inside his or her house to organise that particular person unless there are some rallies or whatever outside where you can gather them and talk to them. But the employer will deny you to come inside the house or call that particular person out the house. So we need to change the strategy of how can we organise those vulnerable workers in those sectors.

And the contractors also, you will mobilise but when the employer notices that these people are organised then come the end of the contract he will make sure that he changes the industry, he goes to another industry. Then you'll find that the union in that particular area it starts to fluctuate with membership. So also there you need also to change the strategy of how can we mobilise these particular people again, because we do mobilise them but at the end of the day the employer's notice that they move away from that industry.

Then on solidarity issues, the morale of solidarity within the affiliates in the Federation, it's a reality, it's down. We seem to be like - if SACCAWU has got a problem and it's on strike, we seem to be saying we lack information when we see them toyi-toying there or whatever or we see on the news, unless we are informed by the news. But ourselves as a Federation, as affiliates in the Federation, we really don't share information personally or we don't even share it. Like we are

sitting in your union and discussing the issue of SACCAWU to say, here's SACCAWU having a problem, what do we do, how do we give them a hand. So again we need to share information, as affiliates in the Federation. I thank you.

**FACILITATOR:** Do we have any further comments? Comrades, is there anyone else who wants to comment?

**ROGER:** I just want to raise a couple of issues from the inputs. One relates to - I do think that besides simply looking at this whole notion of servicing versus organising models, I do think it's time for us to start seriously examining whether the whole notion of one union one industry remains relevant.

I do think the move in other parts of the world is towards addressing the impact of globalisation towards much more social movement-based unions which includes the unemployed, includes women, includes youth, as part of the structures of that organisation which represents workers in the formal collective bargaining structures but also represents other sectors of society in various forums set up to engage with the state and with capital. So I do think we must come out of this notion that, you know, 'one union one industry' which might have been good a few decades ago remains the only way forward for the union movement.

I also think the notion of seriously starting to question the notion of trade union legalism, that is the legal framework within which union's operate, and the impediments that, that actually imposes on our ability to advance our member's interests. For example, there was mention about some of the restrictions on the right to strike. Now we often look for the ones which seem the most, how can I say, oppressive but the very obvious ones which we just accept as a given. The 30 days conciliation period, why the heck must we go on conciliation for 30 days before we can go on strike? Why do we have to give 48 hours notice to go on strike? We must we give 7 days notice in the public sector to go on strike? Surely we should be able to strike as and when workers feel they want to stop working. And so I'm saying that whole notion of the legal framework within which unions find themselves today I think partially contributes to a lot of the inability even to organise these informal sectors.

The third issue is the question of centralised bargaining also, we seem to be preoccupied with wanting to entrench centralised bargaining, often at the expense of building strong shop floors. If

we're talking about an organising model, how do we build the kinds of issues which workers can negotiate on at the shop floor? How do we ensure that things are not simply taken up to a level which is often three/four times removed from the members of the organisation? So in terms of worker control it's no longer worker control, it is secretary and controlled dictatorship of the executive of the organisation and again it impacts on our ability to exercise our collective bargaining mandate.

The last issue I want to just talk on is this question of a strike fund. We've been trying to build a strike fund for the last four years, right, R2.50 a month. We've got the bulk of our members contributing. If we go on a three-day strike, just a three day strike, and currently our strike rules provide for R75 a day. Irrespective of your occupation you can get paid R75 a day. If you go on a three-day strike, if 60 000 of our members go on a strike it's going to deplete that fund by R13.5 million.

So I just think it gives you an example of how much resources you need to build up if you want to have a strike fund which is aimed at compensating people for loss of pay and we must give careful thought about whether that is the way to go, given that we're building national strikes as opposed to - the traditional strike funds relate to a one-factory strike, not to an industry-wide strike and therefore we need to think, maybe we need to look at some kind of solidarity fund as opposed to strike funds which don't - so ja, let me stop there.

**MR M BODIPE:** Chair, my comment would be that we know that the Cosatu position it's the cartels per unions but then perhaps we need to be careful as trade unions, especially the progressive ones that in dividing our own constituency in terms of representing them in the collective bargaining power that we have, that we don't promote or perpetuate the formation of craft unions which would - I would translate it to the same topic that I'm actually concerned about that if we have to pull out all the workers in the Public Service for a strike as its looming and you see one in two will be happy. Are you going to be able to pull out level 3 to 12 if they don't see any benefit into the demands that we put forth? I'm just making that comment to say we need to perhaps be careful when we craft these demands, that they don't divide us within the federation itself. Thanks, Chair.

**FACILITATOR:** It is 3 o'clock. I am done. Thank you very much. I would like to call upon Cde Bethuel. Comrades, when I spoke I was very clear. I said I'm taking the first round of comments



So at a more general level I think the terrain has been really well sketched. This time we want to now move much deeper into what happens in the various sectors where we look at your experiences regarding collective bargaining in the sectors. It's just that we turned the scales around. It will be more of you speaking rather than being spoken to and obviously more about innovation, and more politically conscious ways of approaching bargaining will come out this time, because then you who are in control of the processes would be sharing with us the kind of things you do to improve our effectiveness and our power in improving the conditions of workers.

So as I have it, we will be asking you to just briefly, in ten minutes, each union, each affiliate, in ten minutes just to give us a sense of the challenges you face with bargaining in your sector; the kind of problems you encounter, lessons you have learnt in driving bargaining in your various sectors and the kind of strategies that you are implementing that you have developed to deal with your challenges and your problems; the kind of things we could learn from as the wider trade union movement in terms of improving our performance on bargaining. And I think that will be laying the basis towards us in the next day, beginning to look at strategies going forward. That's what we'll ask you to talk about, just briefly reflect on.

I'm going to do a roll call here of all the unions that are here so that everybody is aware and given a chance to speak, and after which I'll then allow you, in that order, to speak. We would not open up for many questions, unless if you have a really burning issue to raise on a presentation, on a briefing, otherwise we think that the work tomorrow in commissions will allow some space to pick on some of the issues that would have been raised. But of course if there's anything very, very burning that you want to pick up on a briefing or a presentation you'll be welcome to do so.

My list, as I have it, that was prior to NUMSA's arrival and I know that metal workers are better late than never and so there is NUMSA here. Okay, I have NEHAWU. I have POPCRU. I have SADNU. I have Communication Workers Union. I have Creative Workers Union, CWUSA. I have got SASBO. I've got the teachers. I've got SATAWU. I've got the NUM, then SAMWU, SASAWU, DENOSA, and of course the most strategic union, NUMSA.

I hope we are clearer with how we're going to go in the session in terms of what we request you to do and in that way I would want to invite our first briefing from NEHAWU. Cde Guy, you've already been here but I think you may still want to condense for us the kind of things that we

should pick up, crisp points of your experiences at NEHAWU.

## **NEHAWU**

**Mr Guy Slingsby**

Okay, comrades, where I want to start is with the kind of tactical sense that we try to derive in our collective bargaining approach. Roger Ronnie made some mention about this obsession with collective bargaining but it's important for us in the sense that collective bargaining is around interest issues and on interest issues we have a right to strike. We aren't allowed to strike over rights issues so it opens a door for us and it's something that we want to obviously draw maximum benefit from.

But I want to take you back to where we were in the - we had our 2004 National Congress and the resolutions, I mean, you know, we also subscribe to this notion of worker control and the one place where workers do get the opportunity - I mean, I know that like officials and staff they write resolutions and that but it must go to provinces and generally workers are there, it's their congress, it's the highest decision making body in the union and it provides workers with an opportunity to make their voices heard inside the union.

And there were two resolutions that came out of the 2004 NEHAWU National Congress and that was to hold a Public Service Summit and to have a Bargaining Conference. Now the Public Service Delivery Summit we held in April 2006 and we invited like Unison, Geraldine Fraser-Moleketi, in fact we invited Trevor Manuel but, you know, there was no way he was going to pitch. And at the summit the declaration and the outcome of that summit was that we were going to embark on a Public Service Delivery Campaign. So the campaign had like immediate short-term objectives, medium-term objectives and long-term objectives.

And the immediate short-term objectives was to link our Public Service Delivery Campaign to the Mayday activities and to the Cosatu Jobs and Poverty Campaign. Now I don't know if you've seen the Cosatu Jobs and Poverty Campaign demands. It used to be like, Buy South Africa, Keep the Rand Low, and they're like not really tangible demands for workers and all this discussion about the changing nature of work and that is about how the service sector has a potential to create jobs. This is where the growth of employment is in this new world of work.

And we were saying like they must not only fill vacant posts in the Public Service but this is where they must create jobs. So we spoke briefly about home-based care workers and we're saying like home-based care workers - in fact I've just seen the Harvard Report by Mbeki's group of economic advisers to see whether our labour relations framework was in - you know, this demand that we must have flexible labour for small and medium size enterprises. One of the conclusions that they came to was that in fact the state should create more employment. This is a potential space for employment growth.

So we were saying, like in the Jobs and Poverty Campaign, is we want to get like sketch the scenarios of what's happening in the Public Service, a loss of jobs, the cuts in budget, etc, and the ANC is committed to halving unemployment by 2014. These are part of their Millennium Objectives. So we're saying like, you know, here's where you can create jobs and we want those demands from NEHAWU to flow into the Jobs and Poverty Campaign.

Now I've noticed Cosatu haven't taken up the NEHAWU demands as much as say, SACTU's demands, the Textile Workers Unions which have got all their demands in there. So those were the immediate, out of the Public Service Delivery Summit, they were the immediate part of the campaign and we set up like campaign structures in the province. I mean, this comes to the question of organising and, you know, we also have these telephone shop stewards and provincial officials and organisers. A lot of them like just dealing with legal cases and they don't focus on organising. They always submit their budgets from provinces for doing work, for this and for that. It's all very constitutional and there's no real organising that goes on.

So, NEHAWU, we talk about our dark days, the pre-2004 congress and we've now like emerged and we want to change the union into a dynamic relevant trade union. So the more kind of medium-term things were like set up the campaign structures, hold mass meetings. We were asking our leadership to go into branches to find out what were the problems regarding the poor service delivery, to then engage management. And if management couldn't come up with solutions to say, well workers have answers to how we can improve, it might be increasing staffing levels, it might be career pathing or skills development or whatever the case may be. So we started to participate in these engagements through this Public Service Delivery Summit.

Then the more long-term goals of the Public Service Delivery Campaign is that we want to have a review. The government and the unions must sit down and review the whole conditions of

service, ways to improve like, you know with the goal of improving Public Service delivery. So the campaign had these immediate medium and long-term goals but the bargaining, you know, out of these were a whole lot of issues. The one was poor staffing levels. Another of the main issues was the poor wages and working conditions in the Public Service, given the attrition, the loss of like public servants either moonlighting or whatever, and we needed to improve the wages and conditions. So we said, at that time in April that we must make sure that the negotiations is one pillar of our Public Service Delivery Campaign. So it's not all collective bargaining. The collective bargaining is in fact subsumed to our Public Service Delivery Campaign and it involved a whole lot of activities.

I mean, part of our campaign - we were building broad coalitions with various stakeholders. We had a big march at Chris Hani Bara. We had doctors on our side. We had community members, TAC, a whole range of organisations. We had the Taxi Association, the Traditional Healers Association, all these people were involved in the activities around Chris Hani Bara. We engaged with the churches.

So that process of building the coalitions, I mean, here people are concerned about the propaganda, whether the community is actually going to be on our side in this round of negotiations. We already started processes going way back where we were saying that we need to start building these broad coalitions always with a view that we would come to the negotiations.

So, you know, we had to think tactically that it wasn't just collective bargaining as a stand alone issue and how do we integrate it into our Public Service Delivery Campaign. And when the strike ends or when it becomes post this deadlock, the campaign will continue. We're going to continue with that campaign straight after the negotiations. So we developed that momentum so that we can come up with positive solutions and build this social capital for the public. I mean, this about future generations. It's investing in the present in that social capital.

Then just on the bargaining, I mean, we did a lot of preparation for the collective bargaining as part of the collective bargaining conference. We did a lot of research. We held the conference. We came up with a whole long shopping list of demands and then in the post bargaining conference we sat down and we took those demands and we streamlined them, and we decided what were the strategic demands so that we could strengthen them.

I mean, the comrade is worried here about whether these workers at level 5 and 6 and 7 aren't accommodated by the demands. I think we're overlooking the fact that we are - we're demanding improvements in some of the benefits and also improvements in wages. So they're not going to be in any way set back by this. So then the technical support, we prepared the timetable of the negotiations. At each stage in the negotiations the negotiators would come back and give us a report and we would provide them with updated technical support.

And you know, we've got to this point now where the negotiations have deadlocked and we're mobilising for the strike and all that machinery is now in place going all the way back to April 2006. So it's not just about the negotiations now.

**FACILITATOR:** Thanks a million, NEHAWU. A very clear sense of how you're approaching bargaining. I'm moving onto POPCRU. Is POPCRU still available? They're gone.

Okay, shall we take SADNU and may I ask the comrades from SADNU, please introduce yourself first. The recorders would like to know who speaks from which union, before you give us your briefing. And again, please be a little bit short and sharp to the issues without necessarily wanting to affect the quality of your message. Thanks.

## **SADNU**

### **Mr M Bodibe**

Mohau Modibe, National Organiser, speaking on behalf of - and the chief negotiator from the union.

Our point of departure, Chair, is that since our engagement in the collective bargaining and the observation, even from outside, has been that trade unions do operate on the mandate of their members' interests obviously, which is correct, but sometimes when we come to collective bargaining now as a collective, we still tend to maintain our rigid own member's interest. You know, not necessarily now generally operating in the interests of the general membership that we represent collectively in the bargaining chambers, and to an extent that we would come up with a research.

For instance, what our colleagues in NEHAWU have done this time around was that they developed a research and that was translated into the federation to say all trade unions, you know, within this sector should come up with the documents of research and we should meet. But if those researchers have not been consolidated into a workshop like this one and we all own and understand those researchers in terms of advancing the debates, you know, across with the employer, then that's where you'd come to a stage whereby we come to a dispute with the employer whilst we have a dispute within ourselves; you know, even worse, within the federation itself that we'll be speaking not with one voice but speaking differently, sometimes even worse in front of the media.

So that in itself, the failure of the past, you know, operations of not coming up with research to advance our demands concretely so, has resulted in the resolutions that we are ashamed of reflecting to. And I'll cite an example which the employer is actually using against us now, the resolution on medical aid, you know the GEMS issue, that we now want to reverse, but if you look, we are the signatories to that particular resolution.

You come to the housing issue, we have been signatories because in the past we just engaged into that divide and rule operation. And also facing the - you know, generally speaking with even the

issues affecting other unions outside the public sector which generally influence the service delivery in the Public Service, as the comrade highlighted earlier on, that we don't seem to speak in unison when we have to address the strikes issues.

Now the haunting issue that affects us as nurses unions, perhaps obviously is the essential service clause which we believe that we are the ones who should define that not the cause of laws or that particular committee that has been established without involving us and it didn't even go through the Nedlac process. And perhaps we have failed, as the federation, to challenge this for the past four years, the essential service cause and even the minimum service agreement.

So in the midst of the strike we are now finding ourselves having to push for an arbitration to come up with a solution to the impasse of the minimum service agreement that is not existing. And correctly speaking, we're saying that, and legally so. For instance, nursing is a component of the essential service, that's our definition and that's our starting point which we believe that we should talk commonly about that, you know, across to the employer.

Therefore we have the right to take the nursing component to a full blown strike in terms of the law and the definition that in the absence of minimum service agreement when the essential service clause is put in place, if that does not exist we can exercise our right and we are not taking the essential service actually to a strike. We are taking a component of the essential service to a strike and perhaps we need to talk about this and come to a legal common understanding.

Because we have consulted broadly on this issue to say we can actually take them out, they may not have a case in court and there's definitely a case law from the prosecutor's point of view because they were also designated as essential. They went to strike and they won the case so that's a case law. So we're just saying perhaps it might help in the looming strike that we can use that particular approach and mobilise all the nurses, the police, the doctors, paramedics, even the soldiers for that matter. And I mean it when we say we can paralyse the state and that would take three hours strike and it will be a very effective strike.

But as long as you leave nurses behind and doctors when you go on strike, it will be a laughing strike because you'll still come back and assert to the same 6% and say yes we have to accept it because then by that time you shall have been divided and that's a problem that we take a risk of taking workers to a strike without sometimes evaluating the possible outcomes of our strategies.

That is the input because I would end up there but the other issues that one would talk about is the representativity of the different groupings within the cartel or even the super union for that matter, that we need to compartmentalise the areas or the occupational groupings so that you don't lose the interest of others because you had interest on others so you're actually creating division amongst ourselves.

And of course we know the danger of a lot of trade unions, for instance, representing the nurses in particular because you'll find a nurse in each pocket of all the eight unions in the Public Service and I mean, are the nurses' interests addressed? Yes, we are addressing the major issues which we think might be the cornerstone of the beginning of trying to unite the nurses in particular, like the teachers have done.

That's in short our submission, Chair.

**FACILITATOR:** Thanks, SADNU. Clear kinds of lessons and difficulties that you have taken us through. I hope there is no burning issue to raise, in which case I'm moving to CWU, Communication Workers. The colleague from Communication Workers, if you can introduce yourself.

## **CWU**

### **Mr Mos Rakolota**

Thanks, facilitator. My name is Mos Rakolota. I'm the National Organiser of Communication Workers Union. I'll try to adhere to your orders in terms of time management.

Facilitator, as an entry point I'll really indicate that we find ourselves in a terrain where collective bargaining is not as simple as other sectors because we don't have a Collective Bargaining Council and we have a number of employers where we are organised in the industry. And the lack of this Collective Bargaining Council we have identified as one weakness because we thought that it could as well assist us even in expanding the union in the sector, because as it has been pointed out this morning, the call centre environment is expanding, highly casualised and so on. Now we are saying we thought that the Collective Bargaining Council can assist us on a number of fronts.

Now the other area that I may just in passing touch on, it's around the wage settlements. As an organisation when the call was made by NALEDI to make available the wage settlements we have had in the industry, we were able to respond, and as it was pointed out this morning in terms of the hour rate figures, it was also shown that CWU was able to also present those documents for that purpose.

But I must point out that the other area relates to really the processes involved, mandate seeking or preparatory stages involved, in fact traditionally. Like other unions in the federation we used to have what we call collective bargaining conferences prior to engaging with employers in the sector to basically develop a broad framework, because as I pointed out we're negotiating with different employers. The framework that much as you'll engage with company specifics but at least there is a particular framework that must actually guide that engagement.

But as a result of, you know, the tough times that we have gone through, which I may not actually take much time dwelling on, we couldn't really sustain that. In fact from 2005 to date we haven't had a collective bargaining conference that would then guide us in terms of approach to our collective bargaining.

But in 2005 what we have had, which informed the negotiations then and in 2006, we called what we refer to as sectoral fora where workers, for instance, in the postal and allied sector or courier sector would come together, shop stewards, and begin to say what should be the demands and so on. But prior to that we would really make a request that, I think it relates to one of the presentations, I think that of Cde Liesl, around whether workers are involved, although she was specifically dealing with industrial action but in fact this linked to the whole process of collective bargaining.

But even in terms of mandate gathering we will go into that exercise to say can shop stewards interact with workers so that when we come to that sectoral forum at least we relate to information that has been gathered from the floor. Now that's how we have been conducting our processes, development of demands, you know, coming to negotiating teams and what have you which in fact I think it's a weakness to a certain extent because you are not able to evaluate whether things that you are interrogating in the sectoral forum are actually coming from workers on the floor.

Maybe also to just generally touch on our experiences as it relates to industrial action in the sector in trying to pursue our demands. In fact we are the first or among the first unions that experienced a lockout in one of the companies ever since the ushering of the LRA by Telkom SA. Where in fact one of the things that they were putting to the fore was this multi-year notion of agreement where they were pushing through, and in fact some of the motivations from them was to say, we're also giving you breathing space to deal with other issues as a union rather than on an annual basis engaging on the processes around wages and so on.

I'm saying it's a notion that from our perspective we were saying, no, no, no, we don't really - initially we were saying we don't really need to engage with that kind of, you know, a proposal or rather agree to such a proposal. But then we said as a fall back position what we do, we know in the federation you have unions that are involved in that situation of multi-year agreements. I remember we dispatched a team to interact with unions like NUM, NUMSA, because in those sectors I think this notion has been there for some time to say what are the benefits and what are the disadvantages.

But then I think that company has been able to a certain extent to crush our efforts in terms of, you know, pushing through our demands, although you can't characterise it as a total loss because

there were certain advances made. So we pulled that industrial action, they locked us out and we realised that we're going to really - because we reached a stage where workers were individually finding themselves in a situation where they accept the offer from the company and we had to engage in a tactical retreat, you know, so that we don't keep on saying we are fighting when workers are actually submitting.

Now in terms of solidarity actions, as I said, I'm just picking up examples in terms of those various companies that we're dealing with because otherwise I'll end up making, you know, rounds moving from one company to the other. But in terms of solidarity action, comrades, it's an area that we have never really put much effort on even within the union itself in trying to solicit solidarity. Say for argument's sake if it's in Telkom, what forms of support should come from the post office and the rest of them before you could even engage the federation.

So the only time we were thinking about this action is in the recent struggles with Vodacom though it was not necessarily for collective bargaining purposes but for organisational rights. But we were preparing to say, before the court could really interdict us, that we will try and engage, especially Telkom workers, to see what forms of solidarity action can really give to that kind of exercise.

Loose as it is, I think generally those are our experiences, facilitator.

**FACILITATOR:** Thank you, CWU. When you started you gave me a good impression that you were solid in terms of mandated processes, mandating, but then you sounded like you're even doubting whether you truly seek and get mandates. But I like that kind of openness and I'm willing to see a federation which will say, look, we sort out the workers here so that we'll learn and don't do it again.

But thanks, CWU. Anyone wants to pick up anything with CWU of utmost urgency? My colleagues this side, are you comfortable with the format? Okay fine.

Shall we move on therefore to the Creative Workers. Again, your name.

# CWUSA

## Boikie Mohlamme

I'm going back to how I started the whole thing. I'm not impressed about this name because I inherited this name from my parents during the past. My name is Boikie. It makes me feel very small because Boikie means a little boy but I'm an old man. So let me be brief and direct to the point.

One, we have a very serious problem as Creative Workers Union. Our membership is really suffering. We created a document that allows actors to get what we call repeat fees and this document was created before CWUSA, it was PAWE, and it's a signed document with SABC. But the most hurtful thing is that everybody has benefited from that document and when you try to talk then they say, no, in the unions there's always a free ride. I hate free rides. So I really need to be advised how to go about improving that document that is the standard contract presently serving on CWUSA and the SABC.

Then I go to another area that has left me very disappointed. In fact if there was anything that I could do, I would never take any matter to CCMA. I'm very bitter about dismissal, unfair dismissal of some of our members and when you try to follow this up then you go to CCMA and the presiding officer there will be some kind of African who's trying to speak English. (I'm not a racist, please understand me.) And you'd have arguments there with documents that are scratched and when you say to these people: "I will not accept this document to be part of this evidence because it will influence the decision of this." Your word will go through but they will still go against it and that document will influence the decision on that particular case. I have had a case like this. I've got proof in my office and I need help because we are talking here about people who have lost their jobs and you cannot help them as a union. People end up saying, ai, they're useless as a union.

That's all and I really need help. Anybody who thinks they can help, please contact our office so that we grow because we are a very small union and we need to grow and for us to grow we need your assistance or help. Thank you.

**FACILITATOR:** Okay, let's get to SASBO, the banking sector.



# **SASBO**

**Mr Isaac Ramputa**

My name is Isaac Ramputa, obviously you have heard I'm from SASBO. The bargaining process, as we have it, we don't have centralised bargaining as such, we bargain at company level. We've got two phases of bargaining. We do the working conditions separately and we also do the salaries separately.

On the issues that we normally would submit for salary negotiations we'll look at issues like they've got bonus skills in the institutions which is the sharing of the profits and whatever. They will also look at issues of the salary scales itself in terms of how market related they are. There's always research that is commissioned to check on that.

The challenge we had is that the banks, about four or five years ago, they all moved into a package system and a package system which means that when increases are given they're given on package. So the challenge you'll have is that if the medical aid increases, say its 10%, then your salary increase is 5%. It means the difference will have to be picked up by an employee who worked in that particular institution. So that was one of the challenges that we'd have with that approach.

To circumvent that, we started putting also demands every time when we negotiate for the medical aid's subsidy that if the normal salary increases are less than the increase in medical aid, the difference the company must give to subsidise the medical aid, that's what we did to try and deal with that issue.

The other challenges that we are facing is, I think, you'll know that, that industry is an industry that's not known for its militancy. The last strike in the industry is actually very, very long ago. All of us sitting here were not even there. It was in 1916, so that was the last strike in the industry. 1916, yes that's where the challenge is.

The industry is changing also rapidly. The average age in a bank at this stage is about 35 years. So you can see that you've got a lot of young people that have come into the bank at this stage and with those young people those are not the people that will happily want to belong to a union.

And the issue of trying to politicise and deal with them to understand the need to build the union, that's one of the big challenges that we have.

And that also affects the issue in terms of the structural issues where you'd have to elect people to sit on the branch executive committees and things like that. You battle to have the right calibre of people to put in there and that in itself it's a challenge that also will permeate in terms of the transformation of the organisation itself. So that's one issue that we looked at.

The other issue that we battle with, the nature of the people in the bank, they are people that are more service orientated, not organised oriented, so that's where the challenge is. You'll have shop stewards that are trained and when they have to represent them at the company level they'll refuse, they say they want an organiser to represent them. So those are some of the challenges that we have with the membership we have. So that in itself, if you have to rally people around for action, then you'll battle because of the nature of such people.

The other problem is in terms of the agreements we have in terms of when the issue can go to the media and whatever because it's part of the recognition agreements. And some of the recognition agreements were signed 20, 30, 40 years ago so it's a long time that we have some of those agreements. You can only go into the press immediately after you've exhausted the last level, that is the CCMA level, when now you're balloting people to go on strike. So the propaganda message, if you want to go and get support and rally around broadly, then you battle with that.

Obviously the communication with the members in terms of the report backs, that is not a problem, we can still do that. But the solidarity that you'd expect, even from the community and other unions, you'll not get because it only comes right at the crunch where people are just ready to go on strike. I think that's one of the weaknesses that we have in the system. I think broadly speaking those are the challenges we're having.

**FACILITATOR:** Thanks, SASBO. That's a very interesting profile of workers and members in the industry. I'm struck by the fact that you went on strike a year before the first socialist revolution. No wonder you are tired.

Thank you, comrades. Anyone wants to pick up anything with the bankers? Okay, if we could then move on, the teachers, Democratic Teachers Union. I'm told by Thulase, you are the only

revolutionary union in Cosatu.

# **SADTU**

**Mr Moreothata**

Correct. It's true, Chair. We are the largest teacher union in the country. We are very big and very revolutionary. We are able to pull out masses to the streets to such an extent that the state is contemplating to declare us essential service. We are waiting for that day.

On a more serious note let me continue. Chair, we are operating in two bargaining councils. That is your sector, the ELRC and the PSCBC. ELRC, we are dealing basically with the sector specific matters relating to conditions of service and so on. In the PSCBC, in most case are your transverse matters like your salaries and so on. The structure is fully equipped in the mandate seeking processes.

We are collecting mandates from our structures, from all structures of the union and then they would go through the NEC. In cases of transverse matters they would then flow through to the JNC, Cosatu and then at times we would be compelled to interact with non-Cosatu unions to emerge with a consolidated labour position. We have been doing that for quite some time but a frustration in this, as time went on, for quite some time alongside the way one must say it to say we picked up some problems because some unions, yes, alongside the way they would fall out and so on. But it is a challenge really.

SADTU pointed out the fact of GEMS, for example. It's not all of us who signed GEMS and in the past even so, come to salary negotiations, some unions would sign, some would not, and so on. So that one is really a challenge and in the past the employer would really strategise to seek to divided unions and they would succeed in doing that. They've done that in the past by in fact going on bilaterals with unions individually.

Now for this year it's like we are a little clever because we club together so as they were calling for bilaterals we would give them the whole Cosatu bloc and not to go to unions as individuals. But up to thus far I think we have succeeded with the Cosatu bloc but the outsiders are not settled so the ground is a little slippery.

So the other one is your CPIX really, a comrade in his presentation spoke to CPIX versus wage

stagnation and so on. That one, when you look into it, your inflation target versus your wages for now is still problematic. As a union, we are working on this. We are taking this as a challenge. It is against this background that today we are saying 12% and we want nothing. We don't want to hear 6% close to CPIX. That's what is informing that. We are not undermining CPIX but everyone knows that CPIX is being manipulated somewhere.

The other one is in our consultation processes we interact with our structures. At times there is this delay which is as well a challenge whereby you interact with a structure, the employer is set to retreat as well to go and interact and get mandate and so on. That process alone is really taking a little time if not monitored properly. But it's a challenge as well because at times you can put up time frames as parties to these chambers but only to find out you don't really adhere to what you have put on there. That's because of the type of consultation processes the unions find themselves in and the type of consultation processes the employer finds itself in, because at times the Minister might not be in the country and so on so you'll have to wait for her.

The one other challenge that is facing us is in conditions of service for educators. If you go into it, ever since the inception of the Outcome-Based Education and the new curriculum statements and so on, this basically has brought an increase in the workload for educators. Now the workload for educators, really teachers are crammed with a lot of work and even administratively so. Now it's a challenge, we are saying this is a challenge, that's why to us today we are calling for a review of conditions of service for educators.

Not very long, some weeks ago, we embarked on a global action week. It's an international event. Now here the emphasis basically was on the post-provisioning norm because it's our view that for now the norms - the class sizes really do not match. One educator at times is equal to 60 learners in one class or at times 70, 80 and so on. So we have even said that it's like educators are addressing mass rallies now. So that one is still a challenge. We are interacting. We take it as a challenge. Yes we are engaging all our provincial governments and so on around this one and even nationally it's a challenge really.

The other one is, we have outstanding resolutions still to be signed, the full time shop steward resolution to be renewed because there is a nagging from the side of the employer to renew this for us. Now these FTSS, once they are signed, in fact they are the heartbeats within our provinces. So once we have this, it's just the renewal but they are there already. So employers are

reneging on this a little.

Now we have some other resolutions whereby we are developing scarce skills and whilst you develop a scarce skill you recruit this educator and as well after you have developed that scarce skill and then you look at sustenance and maintenance programmes or mechanisms to keep this educator. Other ones to recruit an educator to rural areas and not just rural areas, Chair, there are as well other areas, criminally infested areas, no-go areas and so on. Those areas, really, educators they don't want to go there.

So now we are working on something that would attract these educators to those places. There is a draft resolution to that effect. We have participated in sending out groups there, Chair, to do research on these areas I've mentioned, your scarce skills, your no-go areas, your rural areas and so on. So we have reports to this and we are working on this and still it remains a challenge to us.

We used to have a problem with temporary teachers around the country but one must indicate to say it is still a process, it's continuing, but we are succeeding in this one as well because we have started by saying all educators who were two years, let them be absorbed permanently into the system, and we have succeeded. But we are continuing to say we need more educators. It shouldn't just be two years but there are those there, because we want to do away with casualisation.

Yes, Chair, I think I've covered and I've reflected on even all the frustrations and challenges facing us. It's not all, there are others but I'm saying these that I've spoken to address the other ones. Thank you, Chair.

**FACILITATOR:** Thanks, Comrade. I was still waiting for the revolutionary character I have not yet seen it in your views here but anyway, you are working towards that, comrade, I am happy. But I'm also aware that SADTU is one union which has benefited fully from this concept of full-time shop stewards. They are avoiding in carrying too many staff costs in their union by using excessively this issue of full-time shop stewards. But of course this has got other implications which the comrades will discuss, if they are revolutionary enough.

Shall we take a break? We have taken about half the affiliates here so we kind of are doing well. So if we could take a short tea break, come back in fifteen minutes. Please, sharp, fifteen minutes.

Discipline is the hallmark, comrades, thanks.

## **TEA BREAK**

**FACILITATOR:** Okay, comrades, welcome back. The democratic chairperson is still taking the lead. I've just been informed that POPCRU is actually with us. We omitted them but they have volunteered to speak last, as the police, to ensure that they're watching the proceedings with a clear police eye. So shall we take transport then. Let's travel the road, comrades.

## **SATAWU**

### **Mr Johnson Gamede**

Thank you, Cde Chair. In SATAWU we are busy trying to revive the department because the last guy who manned the department left. There are about eight sectors in SATAWU and only three of those sectors have got no bargaining councils at all and those are; cleaning, security and the last one, the road freight. We are likely to be deregistered there because of fees and loss of membership, we're losing members there.

Currently what we have been doing for the last two years in terms of mandating, we've been saying to each and every sector that they meet provincially, consolidate the mandates or the demands, then we then meet at national level. The national councils of the various sectors would then come together, get reports from the nine provinces and come up with one set of demands which are going to be taken forward to the negotiations.

As earlier indicated, the last bargaining conference was two years ago and when we took this decision to revive the department we had to then revisit all the decisions that were taken in that bargaining conference. The two decisions that come out very strongly was the question on recruitment. We realise that we have failed to establish the bargaining councils in security and cleaning, precisely because we have not been able to meet the thresholds.

After having sourced that information, that decision, we then said, has it been implemented or not. Clearly it has not been and therefore we then said we need to implement that decision. We are going to launch a national recruitment campaign on the 18th nationally which then we believe

will be able to assist us to meet that decision.

Also I don't know whether we were day-dreaming or what, but one other decision that was taken by that bargaining council was that in the vulnerable sectors we needed to come up with a vigorous campaign to fight for a minimum wage of R3 000. Currently some of the employees in those sectors earn less than R1 000 a month.

One other decision coming out of that bargaining council was to improve the conditions of service which we are doing in the various sectors.

The challenges that we are faced with is we are asking ourselves in the department whether shouldn't we be looking at streamlining, bringing together all the various sectors so that the demands that they go out and fight for are the same. That we'll also find that these demands or the negotiations, wage negotiations, should start on or about the same time and if they deadlock they deadlock all at the same time. And of course it takes us back to what Cde Oupa said that when we have to go out on strike it is a more powerful strike that will definitely bring South Africa to a standstill.

And also we have failed, it was earlier mentioned by Liesl earlier on that even in SATAWU during the security strike we could not come out in solidarity. It was precisely because of this lack of streamlining of how we do things. We have forwarded this proposal to the national office bearers of SATAWU and the intention is for them to look at it and take a decision, either take it to the central executive committee where a decision can then be taken on how we approach this matter.

The other challenge is the multi-term agreement. The two strikes, or should I say the security strike last year ended up by an agreement, a two-year agreement. The very same thing with the cleaning sector. Already Transnet is saying that's the route that they would like to go.

But the other problem that I missed out, that I didn't talk on was on the question of the non-existence of the bargaining council in the security and cleaning sector. This is a great challenge in that each time we reach an agreement, we sign an agreement with the employers, we have to take this agreement to the Minister for promulgation and the Minister has made it clear that I cannot do this because there are oppositions. In fact other employers who are not part of the associations,

employer associations that we negotiate with, refuse to be bound by decisions of the minority, as they term their parties in the forums, the negotiations forum.

The other challenge facing SATAWU is the taxi industry where we have to deal with individual employers. The department is also working in conjunction with the taxi drivers in terms of looking at how we can utilise what was enacted by the Department of Labour in making sure that we benefit out of the victories that we fought for.

The other problem is the number of unions involved in the very same vulnerable sectors; security and cleaning. There are unions that are representing about 200 workers and employers because those unions are causing delays and problems, the employers have fought for those unions to be represented in the wage negotiations. And these are the unions that, you will agree with me, who were very, very vocal in the last security strike in saying SATAWU is met, we are happy with what the employers have proposed or offered.

The only way we can do that, deal with this matter, is either we recruit their members because they are also not members of Cosatu. There's a slogan in SATAWU that says: "Any worker who is not a member of a Cosatu affiliated union is not a union member." Therefore that member has got to be organised. That is exactly what we want to do, go out and organise them or maybe in a case where we find that some of these unions are a bit strong, we need to look at how we can deal with them so that they come into SATAWU and become part of SATAWU.

The last serious challenge facing SATAWU is the tender and contract system. It is a problem, a very serious problem, where an owner of this tender or contract can be dismissed for violating a contract risk between the employer and when the new owner comes in he or she has got the right to say: "I'm bringing in my own people and therefore I'm not going to even look at those that were employed there." We're fighting that and we've engaged Transnet and we seem to be winning. We seem to be winning because they've given us a hearing and have agreed with us that yes, that is the route that we must follow.

So far that is what we've done in the department in the last four months. We're also talking to sister union affiliates of Cosatu to say help us, we want to come out with a very strong department to be able to be like the NUMSA's, the NEHAWU's, the SADTU's. Thank you.

**FACILITATOR:** Thanks, Cde Thabo. I was not going to report that your militancy is a direct lesson you learnt from NUMSA. But we are moving ahead, inspired by the good lessons we learnt.

Shall we ask the comrade from NUM to take us through mining and construction.

# NUM

**L T Makhubelo**

Good afternoon, comrades. I think what I'm going to do now it's just what we are doing in NUM currently with the bargaining councils. What we have done is that we said before we go for negotiations this year, we approach the way of starting by implementing the 1946 demands whereby last year in August we marched to the Chamber of Mines and submitted those demands and some of them were decent houses for the employees, comprehensive health care for the dependents, the job grading, equalisation of bonuses and allowances. Those are some of the demands which we said had to be implemented.

And then as you know, we are organising in three sectors. That is; mining, construction and energy. There are some challenges more especially in construction sectors in the form of organising. As we know that, that is a very vulnerable sector whereby you'll find that an employee is only employed for three months then he is out of a job and it's very much difficult to go and organise and thus there are no bargaining councils there.

But what we have come up with, we have said that we had to engage the brokers and submit the demands which we've made last week in our workshop whereby we came up with a number of demands for this sector. We said that we had to revisit some of the Acts because some of the Acts are not covering the sector as such. And we said, I think, in the Mine, Health and Safety, that is the Act which had to be worked for this construction sector rather than Occupational Health and Safety Act because it is not covering the employees but it is in favour of the employers.

And what we come across again is that since these sectors, we have got those ones which are on the Chamber of Mines Bargaining Council and the other ones are out of chamber. But in future what we have said is that we're going to have four bargaining councils which will cover the gold mines, the coal mines and precious metals which is diamonds, and platinum. So we're going to have four of the bargaining councils where we're going to bargain for this law.

But what we have done currently it's that we collected demands in the regions, then we come central into the national whereby we consolidated all the demands and then after consolidation of the demands it's whereby we take them back to our employees to say okay, these are the final

demands which are going to be taken to the employers and to be tackled. I think we're going to win by doing that. I think that's all what we have to say for today. Thank you.

**FACILITATOR:** Thank you, comrade, that was very short and sweet. I forgot to allow people to interact.

## **DISCUSSION**

**MR M BODIBE:** Chair, I'm interested in these four bargaining councils representing different sectors in that mining to say it means you don't have a central one because perhaps you need to learn from this as the Public Service maybe. Are you saying you don't have a central bargaining council.

**MS MAKHUBELO:** What we are having currently, there's no central one. It was only two, that was the gold mines and the coal mines only and now the problem is they we have the same needs and demands. So we said that to reach our demands let's make four bargaining units so that we can cover all these sectors of ours. Because when we are in one bargaining council other sectors are not covered; more especially the energy sector, it's not covered. They are having their own demands, which coal doesn't have, and gold have got their own ones which the coal doesn't have. So that's why we said let's separate them to be four. Thank you.

**MS LETSIKE:** I want to add on that, Chairperson. We also have the platinum side and the platinum side it's non-chambers. They are not falling under chambers so therefore the problem is, as you have already said, we don't have the same challenges around the issues so that is why we don't have a central one.

**MR M BODIBE:** Are they managed by the same negotiators or you have different negotiators from each sector?

**MS MAKHUBELO:** No in our last NEC we have decided that each and every mining house is having its own chief negotiator.

**FACILITATOR:** Thank you, comrade.

**MR O BODIBE:** You can respond to this but I want to pick up a point about the peculiarity of the taxi industry where in terms of class consciousness you are finding that the taxi drivers and the taxi owners, there's no clear distinction between employee/employer relationship. To the extent that I think that one of the problems that if you're looking at taxi campaigns, their mass actions, the issues that taxi drivers are picking up are actually issues of the owners, like issues of tickets for unsafe cars and so forth and so forth.

So what is it that SATAWU is doing to create a class consciousness, for example, for arguing that fines for un-roadworthy cars should be really an issue that the taxi owners take up rather than it's an issue that the taxi drivers take up? Because I think in terms of health and safety it is the employer that is responsible for making sure that there's a safe workplace. But I think that part of the hurdle in the taxi industry is really getting into the consciousness that people must now see themselves as workers rather than as part of a gangster whose master is the taxi owner. So I just want to you reflect on what you're doing to try to build that consciousness.

**FACILITATOR:** Okay, SATAWU, remember we omitted to offer people the opportunity to interact with your input, if you could just respond to that?

**MR GAMEDE:** The major issue that we have to do in trying to deal with the problems in the taxi industry is to strengthen the industry itself by making sure that we recruit more and more workers and we also get them involved, they establish some more structures in order for us to be able to reach to them, because up to now it has been very difficult to even call them to a meeting. You would find very few coming to a meeting of great importance and we have recognised that as a weakness and we are trying to say let us deal with these matters and be able to say if we have reached a point where we can then say we've got more members and we've got workers who are conscientised, who know the difference between the employer and employee; the issues that affect employees and the issues that affect employers. Then we would then be able to say we have, we are almost there, we are not there, but we are almost there. Up to now, that industry is vrot with corruption where the employer would say that's your ticket, it's not mine.

Some of the issues are even worse, some of the problems that we are dealing with in that industry are even worse, that is why we are spending most of our time at CCMA fighting these employers. And where we have taken them to the CCMA, those workers who have been there, have been able to go back and say look here guys, it's good to be a union member because look at these

issues which were weaknesses from our side as employees, we have now been able to say these were not weaknesses of our side but these were problems that should have been directed to the employers.

**FACILITATOR:** Thank you, Comrades. We move on now, we want to enter the municipalities.

# **SAMWU**

**Mr Roger Ronnie**

Ja, thank you. My name is Roger, I work in National Office of SAMWU. Comrades, we are organising basically three key areas, the main sector being local government, which is municipalities. There are currently now about 190 000 local government employees down from 240 000 in 1994, now that's both as a result of them just failing to fill posts, but also an increase in the number of outsourced jobs and the introduction of labour brokers. A lot of that particular development in the municipalities is throwing up a challenge for the union in relation to black economic empowerment, because community-based schemes for refuse collection and that kind of thing are often driven by councillors with their own narrow self-interests and nothing really to do with promoting service delivery.

We also have a national bargaining council in the local government sector with one employer, South African Local Government Association (SALGA) which is a creature of statute, it's set up under the Organised Local Government Act and which has certain problems and we've been campaigning to amend the Act to make it compulsory for every single municipality to join the national employer organisation, etc.

We also have another Union in this sector, IMATU, so two unions make up the Trade Union Party to the Council. We are organising Water Boards and have managed to establish something which is called the Amanzi Statutory Council and the first step towards establishing a fully-fledged bargaining council. Then we are also negotiating certain private companies who perform municipal services, we have got one national bargaining forum for a company called Water and Sanitation Services and the rest are local company, workplace and negotiations.

Some of the main agreements I think that we've concluded and which continue to influence our collective bargaining work going forward is, we have a National Organisational Rights Agreement which basically is binding all local authorities. Some of the innovative provisions in there are for things called local labour forums which are for the establishment of negotiating forums in each and every local authority. Some of the issue they bargain on are skills development, health and safety, workplace restructuring, etc. We have agency shop agreement which covers about 20 000 workers who are not organised. We have an essential service

framework agreement which basically permits municipalities at local level to conclude minimum service level agreements. We have proposed certain changes to that framework which we're currently dealing with.

We're also in the middle of three-year wage agreement. In the early parts of 2000, 2002 or so, we, after a very bitter strike, succumbed to a three-year wage agreement, also with wage increases linked to CPIX. At the end of that agreement, the employer wanted to again impose a three-year agreement. We had another very bitter strike and they unilaterally implemented the wage agreement, but because we never signed the agreement, they didn't get their three-year wage agreement so we were able to come back again the year after and renegotiate again. At which point our members had become extremely tired of having to strike at every opportunity and we are now back into three-year wage agreement and we at our last national congress, in fact just adopted a three-year bargaining strategy which is aimed at basically preparing us to - when we go back into negotiations at the end of 2008 to deal with a number of problems that we've experienced.

I think the key issues of our strategy is one, fighting during this three-year period for amendments to the Labour Relations Act through Cosatu, particularly the essential services, but also on all other impediments to the right to strike, like this issue about being unable to strike on rights disputes, the question of solidarity, secondary strikes, and the difficulty with workers engaging in solidarity action with other workers. So we're basically reviewing the LRA and extracting every single impediment that we think impacts on the right to strike and we'll basically be taking that up through Cosatu and see how we can change that.

We're also looking at rebuilding what we call the living wage campaign, based on the Cosatu campaign of the '90's which was a combination of political and socio-economic demands, including the question of the social wage and looking at what constitutes a social wage, basic levels of services, whether it's electricity, housing, education, health, etc, would form part of the living wage campaign demands.

We are also looking at the question of identification of key issues for bargaining at a local level as part of the campaign of strengthening our shop stewards' capacity to basically engage the employer at a local level as a way of bridging the gap between central and local level negotiations.

We have just concluded an amendment to the Bargaining Council Constitution which slightly amends the definition of the scope of the Council, because currently the scope is a local government undertaking and it's defined as the institution where employers and employees come together for the purposes of initiating, continuing - it used to say "and finalising", it now says "or finalising" any Act or service undertaken or provided by a municipality and because of the "and" that was initially in there, we had difficulty extending it to the private sector. Now with the "or" in it now, we're going to tackle every single private company that extends, that does municipal services on a contract basis and get them covered by all of the current Bargaining Council Agreements and that campaign will kick off in about a few months time.

I already spoke about the question of the strike fund and the difficulties that we've experienced with building up a sufficient amount of money in the fund to make it a meaningful fund. What we have also done as part of our strike work is embark on education programmes. It is now the second time that we've used this approach during strikes with the assistance of our national Education Department, develop education packs which then is used in general meetings with shop stewards, etc, during the course of strikes. It covers a whole range of political and organisational issues which is basically aimed at trying to develop the kind of consciousness and promoting the link between the strike of workers at that particular point and broader political issues.

I think, ja, maybe just let me stop there.

**FACILITATOR:** Comrade, I think I was really fascinated by the kind of approaches you have but I was worried when you said you realised that your members were growing tired of striking every year, you said you assume it's because of fatigue and I wasn't sure whether you were serious. Then you come back and tell us about the problems of the strike fund. Don't you think the members have noticed that you have no money in the strike fund, that's why they don't want to strike every year? I'm just saying it's really a curious kind of thing, it would be useful for you to give us -

**MR RONNIE:** It's a combination of the strike fund, a combination of the role of the security forces, particularly I think our strike was as bloody a part of the security workers strike as well and so workers were also - and then it was just the question, because what we do is, with all of our strikes, we basically conduct ballots on the strike issues and ballots were indicative of the

extent to which workers still displayed the level of commitment toward strike action. They were committed to the demands, but were not willing to translate it into strike action, so this is not some reading done by the Executive, it's based on the whole mandate and report back interaction that we have with members through ballots.

**FACILITATOR:** Thanks, comrade. Any one want to pick up? Yes, Cde Bodibe?

### **DISCUSSION**

**MR O BODIBE:** Just a clarity for purposes of my education, Cde Roger. I used to think that you have once centralised bargaining, but now you had strike of bus workers in Johannesburg. Wasn't the agreement covering some of these issues or these are the type of issues that have to be renegotiated with the municipality?

**FACILITATOR:** Cde Roger, just before you answer, let me just take one last question.

**MS ORR:** Cde Roger, I realise that it's not within the scope but just in terms of refuse collection and other sort of municipal services outside of local government, I'm just wondering whether you've had much engagement around informal work in that area? There is quite, I think, a significant amount of informal work in terms of refuse collection and are you engaging with that at all as the union?

**ROGER:** The question about Metrobus is that Metrobus is part of the whole restructuring of Johannesburg that happened a few years ago with Egoli 2002 and so it's set up as what is called a municipal entity. Now one of the fights which we've just won now with the amendments to the Constitution is to bring all municipal entities now under the Bargaining Council, so they can no longer claim to be outside of the Bargaining Council. So that was because they were wanting to say that things need to be negotiated at plant level. Then when they ended up with the strike, they then said, hey, but how come you're striking again since we fall under the Bargaining Council? So they wanted to have their cake and eat it. Well, they've got it now, they are under the Bargaining Council.

Refuse, most municipalities run their own internal refuse collection services so we do organise those workers. What we've also started organising was some of the more private companies and the community-based refuse. I know Ekurhuleni has a community-based refuse collection arrangement and there are a number of these companies which spring up on a daily basis, providing street sweeping services, etc, in CBD areas and that, and we have started organising them. We are doing it in two ways. One, through a targeted strategy of recruiting those workers more broadly, and then the strategy of seeking to extend the scope of the Council. So what we're wanting to do through the extension of the scope of Council, is to then place a demand to them to say they're covered by the Council. If they then reject it, we take it to the CCMA under Section 62, etc, and get a determination on it, but that's how we will go about that.

Then the other issue is that we started a project which targets women workers in these private companies as well, looking particularly at the refuse companies and that's a particular research project, but it's aimed at recruiting and developing a servicing strategy based on the particular needs that women employees and women workers have, as opposed to issues that men workers raise during the course of organising and recruiting them and that will then feed into the broader recruitment strategy.

**FACILITATOR:** Thanks a million, comrade. We move on now. May I invite the comrade from DENOSA. Gone? Okay. Well, let me then move to SASAWU, that's the comrade over there.

# **SASAWU**

**Mr M Tyatyantsi**

Thanks, Chair. My name is Tyatyantsi. The fortunate thing is that we are talking, the last public sector, we have been covered, but the point that I want to raise is that ePublic service is bureaucratised, and also on the question of the bargaining, now it's also bureaucratised in that there is a PSCBC which is very central and we are having provincial co-ordinating committees of the PSCBC. It goes to sectoral councils; we are participating in two sectoral councils, that's your General Public and Public Health and Welfare. And also we are participating in national departments bargaining chambers.

We are having a working relationship with POPCRU at PSCBC level and GPSBC, and also we are having a relationship with the NEHAWU and Public Health and Welfare.

eChallenges that we are facing is that, now I'm not only talking for SASAWU but that's a general observation that resolutions that are taken at either at these councils, who imply they are not seriously implementing them and also the weakness that also as unions, we are not pushing hard for employer to implement those resolutions.

And the other problem that these sectoral councils and chambers, they can take resolutions but they need to be ratified by the PSCBC, which takes a long time for that to be done. I know of certain issues that we have been in the Council for almost about two to three years, without any substantive progress.

Coming to money taking now as a union - oh, we have got our own bargaining structure, but it's got its own weaknesses and we heavily rely on shop stewards. We occasionally meet limited membership of the union in branch general meetings. We recently held a national congress where we resolved that the leadership must visit workplaces because that's where we saw that there's a gap, there's a disjuncture. Whatever we are agreeing on at higher structures is not cascaded down to the lower structures.

And on the question of solidarity, that one we are very weak. For example, with the SATAWU strike, we tried to talk to our comrades to be in solidarity with the SATAWU members but

unfortunately they said it's SATAWU's own baby; they understand the Public Service, how do they operate.

On the question of membership profile we have got two extremes. We have got young workers like the ones seated next to me. The majority of them, they only know the union when they are involved in disciplinary hearings. Outside of that, they don't care, but unfortunately that's an exception. And also, even those young workers, they will always elect their preferred reps in disciplinary hearings, they would not want any organiser or shop steward to go there.

The other profile of our membership is that we've got old people who are always busy to do union work and federation work and the majority of them, they are clerical and unprofessional. Those who are younger are professionals.

We have been hard hit by government that it took out magistrates from bargaining, to become a separate entity. Now they are no longer seeing themselves as workers, the magistrates. The very same moves that the prosecution, the NPA also wants to pull them out, but we are still engaging with the employer around that question of the NPA.

I think that's all for now.

**FACILITATOR:** Sure, comrade. Anything anyone wants to pick up with the report from the comrade in SASAWU?

**MR M BODIBE:** Chair, I'm just interested in this pulling out of magistrates and NPA, I mean, where are they shoving them to? Are they giving them better salaries or they are pushing them out of the level 12 so that they determine their salaries?

**MR TYATYANTSI:** With the magistrates, that process was done about almost four to five years ago and it's separate thing, I mean, it's not in the Public Service. With the prosecutors, the way they are structured, they are unlike the salary bans when you compare with the other public servants and also there's this mentality that they are professionals, therefore they are unlike other people.

**FACILITATOR:** Thank you, Cde. Okay, comrades we are now edging towards the end of the

affiliate reports, there are only two left, so please, you have just two more reports to go through before we close for the day and the next in the queue is the father of strategic unionism in South Africa, NUMSA.

## NUMSA

**PRESENTER:** Oh, okay, thank you, Chair. I must apologise because our sector co-ordinators are not here, the two of them. Comrades will understand that all our sectors are approaching bargaining processes and we are just from a national bargaining conference which was preceded by the national policy workshop and regional activities that would inform actually the outcomes of the National Bargaining Conference.

What is likely to happen in terms of our own analysis from the national union is that because all our sectors this year are engaging in negotiations, at a strategic level as a union, we are having leverage over the bosses. That's the first point I want to make.

The second thing is that what has transpired out of the National Bargaining Conference, it pointed to significant shifts in relation to our strategy. The first one is that there was a serious debate around going back and seeking to review the current bargaining strategy, your long-term versus short-term. There was a huge debate which took the whole duration of the conference, around whether we return to one-year agreements, two-year agreements and three-year, there were three extreme positions and which ultimately culminated in a situation that we'll still maintain the current negotiation strategy of a three-year, but that a three-year that is restructured. That's how it was termed, a restructured three-year negotiation strategy in that part of how we would engage now is that we would review the agreements on a yearly basis. We will negotiate a three-year agreement, but also review the agreements on a yearly basis and if it is possible, we may even go on a strike. So those are issues that have emerged.

The other thing is that comrades should understand that in the engineering sector you have this problem of import parity pricing which has been affecting, I mean, which distorts industrial growth, which also has a serious impact in issues of employment and other things. So what we are doing, that congress, that bargaining conference agreed on was that one of the things, whilst we'll be focusing to confront the logic of capital at the point of production, but also would confront that logic at the level of confronting the state, because the state must systematically intervene in this crisis of import parity pricing.

Obviously the call has been that, as we enter this bargaining round, part of the key demands also

is about nationalising your SASOL, to mobilising membership also around nationalising Mittal Steel and some of all these key strategic industries in the steel industry. So these are the key demands we would also be taking forward, and obviously the usual demands around skills development.

The other issue that has emerged is us liberating ourselves from the inflation determined negotiations. That was a huge debate that ensued and one of the things that we have engaged on, part of this two-pronged strategy is that whilst we will be engaging with the employers, but also would be engaging with the state, including the Reserve Bank, at that level to confront it around issues; but also the level of wage. The wage demands that we will be putting through would not now be determined by inflation, looking at inflation targeting and all those things. So those are the issues, as we're approaching these negotiations.

Actually the negotiations have started in the engineering. Comrades would have heard yesterday, that's why some of the sector co-ordinators are not here, all of them are quite over-stretched, because these processes have already started. In the engineering, when actually you know that in the first processes that you submit your demands, so there was a situation where bosses were starting to threaten us, to say they are not even going to consider some of the demands that we are putting in place and all those things, but today they have changed that position, they are prepared to engage. But the likelihood, as I've mentioned, out of these current negotiations is that there's a high probability that our members have mandated the leadership that we will be going on strike in all our sectors.

There are key strategic issues which we'll be focusing on. One of the things, if comrades remember the theme of the conference, is that of confronting the logic of capital through collective bargaining. Part of what is going to happen, part of the demands that we are putting on the table, like demands that we are of the view that are transformative, particularly on issues of skills, because you have a skills deficit in the country and part of one of the things that we want to address is around also negotiating on behalf of salaried workers, I mean, those who are in key - so there are attempts in going to that.

But obviously with regards to the motor industry, some of the garages where your petrol attendants and all those other areas, we have some weaknesses at the level of membership there, you know the nature of the sector itself. So we have put a strategy to increase our membership so

that at the level, when we engage in negotiations, we are better placed to determine the direction of ... There are lot of unions that are organising there.

The other issue around these negotiations is that, you remember that part of this sector is dominated by multinational corporations and some of them have been excluded around your BEE codes and all those things. Some of the demands around skills development and other things are also informed by that, including the issues of - part of the key demand is that the relocation of production to other regions around, in the multinational corporations, I mean, in your auto sector, has to be negotiated with the union in that company, that NUMSA must also - I mean, if VW is thinking about issues of relocating production from South Africa to other regions, that has to be negotiated with NUMSA in South Africa.

So those are the issues that are emerging. Actually when NEHAWU was saying they were engaging with their big list of - it was the same thing, actually but there are key strategic ones. I mean, there was a significant shift from other previous years around how we would conduct this round of negotiations.

So, that's what I can say and I think that tomorrow, obviously some of sector co-ordinators would be here, they will be released from some of their responsibilities, so they would add on other issues that I might not have touched on. Thank you.

**FACILITATOR:** Ja, SADTU. When we talk about revolutionary unionism, you see, confronting the logic of capital, I'm sure you are learning very well. I hope it is not confronting through give and take, comrades, of collective bargaining.

Anyone wants to pick up an issue with NUMSA? Yes, Cde Isaac?

## **DISCUSSION**

**MR RAMPUTA:** The comrade made a statement right up front that they've got a leverage over the bosses this year and he never elaborated what leverage they have. Can he maybe elaborate on that?

**FACILITATOR:** You'll be the last one to follow, comrade, I will take only two questions. Oh,

is it you too, you want to say something? Okay, as a democratic Chair, of course.

**MR MDONGENI:** Thanks, Chair. The comrade spoke to the issue that we think in SADTU we learnt from NUMSA, the issue of the multi-term agreements and we followed, but we had very nasty experiences with those agreements. Now we want to come out, the employers are adamant, as they are adamant now they want a four-year agreement that ends up at 2010, because there's a World Cup, so they don't want disturbances during World Cup, they don't want to negotiate. Now that's where we think we are deadlocking. But he went on to say then that they agreed on a revised strategy to say continue with three years, but review annually. I just want the comrade to unpack that, what does that mean, so that we are able to learn some experiences from them.

The other one on freeing themselves from the CPIX linked increases, whether it was an idea that initially came up with them, because at some stage they were in love with this idea of linking CPIX to increases, but now they have a challenge. They have decided now to free themselves from linking their demands with CPIX. If then the employers, because that's what we were saying, we are demanding 12%, employers are saying no, no, our policy is that we must base increases on CPIX and therefore we'll adjust as per CPIX and then give a something like above CPIX, 1.2, we are saying we don't want to listen to that. But perhaps if he could put some more flesh on that so that we are able, as we go to this war outside of public opinion shifting to our side, we are able to put more facts in what experience they are having. Thanks, Chair.

**FACILITATOR:** Okay. They are challenging the logic of NUMSA now, no more of capital. Let's allow this comrade just to raise -

**MS LETSIKE:** Thank you, Cde Chair. This is a question of interest to NUMSA. I just wanted to hear NUMSA, when he was tabling the industries that they are negotiating for, he never mentioned the mineworkers. So because I'm a mine worker, I'm interested to hear how far is he with my sisters and brothers there. Thank you very much.

**FACILITATOR:** Behind you, just give it behind you. Okay, NUMSA?

**NUMSA:** Chair, I was still awaiting for other questions, you see, I was still waiting for other questions. Look, this are our own analysis, as the union. When we say that we've got leverage, we are saying in our assessment with regards to the strength that we have as a union at this moment.

Because at the time we normally used to negotiate on different periods, but now all our sectors would be going to negotiations at the same time. So at the level of mobilisation, level of our strength, when we assess our strength, we think that we are in a better position to be on the offensive than we were. So that's why we are putting that, but I think that is debatable generally.

Then the issue of multi-term agreements and ja, this comes to the issue of multi-term agreements. It's correct that actually we used to have these long-term agreements, your three-year agreements which was informed by NUMSA strategy and what has happened in this National Bargaining Conference, you'll remember that we had a process of reviewing. The comrade sitting there at the front was part of some of those people who were reviewing, part of engaging the process of reviewing our negotiation strategy, I mean, our bargaining strategy and after that process, then there was a strong view that - there were two views.

The first view was we continue with this three-year bargaining strategy, and the second one was saying actually this three-year bargaining strategy, one of the things it has done, it has made the union retreat at the shop floor in terms of defending workers' interests. Because if you have this three-year bargaining strategy, there were questions of militancy that is declining at the level of NUMSA, at the level of its engagement, at the point of - and all those things, so there were some of those debates.

But also the other issue was that it also creates stability, this three-years, it has created stability for the economy and in the process of that stability, workers - when we were making an audit at the level of - one of the things that we have achieved in these three years, three-year agreements, when we were making the analysis, the bosses actually were the ones who have benefited more than us. So those are the things that we have -

So with regards to that, the congress took a resolution in the Bargaining Conference, took a resolution which says okay, you have these three extreme positions. The first one you go back to the one-year agreements. The second one you go back to two-year agreements. The third one, the status quo will remain. But actually the debate which was defeated was that the issue of militancy has to do with the fact that when we reach agreement, these three-year agreements, comrades assume that it becomes an end of the bargaining process. There is nothing that takes place at the level of - the point of production to say, to fight for the gains you have won at the central bargaining processes and you defend them, you advance them from the point of production.

So the issue was that one of the things we've got to see this bargaining, the negotiations, as a process, you see, but also as a process that has to be defended also at the level, because you can win those games in terms of national bargaining round of processes, but if the organisation is weak at the point of production, then actually those gains will just be reversed even a day after you have won them in the bargaining, in the national bargaining. So the issue was that we've got to build our strength at the point of production.

Then with regards to the issue of CPIX, you'll remember that with regards to our strategies that we have there, the issue of improvement factor. You see, you negotiate, also you negotiate for an improvement factor over these other two years. If you've noted it for 5%, then you also bring that 2% improvement factor, that is determined by inflation and all those things. And also you can open negotiations if it goes beyond a certain line, a certain level. So that was the current situation.

But now what we're saying is that we have seen that even the manner in which this CPIX is determined does not take actually into consideration the key areas in which our membership generally are spending their wages on. You know, actually you look at the research done by NALEDI and other research, also including our own research that we have done in our members to check what are the key areas in which they spend, we find out they're spending on food, they're spending on transport. And if you look at the recent reports, you'll find that inflation has been driven by food prices, by transport and other areas, but clearly those and household expenditures where our particular membership is spending most.

So we said, we have taken those things into consideration, that's why we're saying actually we are liberating ourselves. I mean, that was the debate at the conference, we must liberate ourselves from the CPIX.

**FACILITATOR:** Thank you, NUMSA. Okay, comrades, we have one last report to take, it's from POPCRU. I think earlier on I didn't realise that there were other comrades from POPCRU sitting at the back. So if we could allow them just to give us -

**MS MAHLANGU:** Thank you, Chairperson. Our challenge as POPCRU, it has been alluded earlier this morning by my fellow comrade, Cde Pambo, where he was asking Cde Vavi the part of essential services, where you said a detective, how can a detective or admin clerk in the police

be essential services?

The other one is at the sector bargaining in SSSBC, where our Cde SASAWU has alluded that our agreement has been signed but the employer will not implement it correctly, it will implement it in their favour. That's all, Chairperson, thank you.

**FACILITATOR:** Oh, that's quite unusual of police. Thank you, comrades, I think we've come to the end of the briefings for now and I think it was a very fascinating session in which interesting insights were kind of shared with us about your handling of collective bargaining, the challenges you face. I won't be supposed to do any summary of that, my colleagues have been taking down notes out of every briefing and they'll be able to channel the issues from this session into the Commission work for tomorrow. But more about that will be said by Cde Kimani. Let me appreciate your participation and the openness with which you shared with us your experiences and I would hand over to Kimani. Thanks, Kimani.

**MR NDUNGU:** Thank you so much, comrades, it's been a long day and we really all need to take a break and go and relax for the night; the revelation continues tomorrow morning.

(ANNOUNCEMENTS)

As you know, today it was presentations and a lot of intellectual engagement; tomorrow we develop the strategies. So tomorrow it's less talk and more ideas about strategy. We have a session in the morning, it's kind of an imposter session with Cde Rudi Dicks from Cosatu. We thought it would be useful if he came and talked to us about labour market institutions, because this is another arm in the arsenal of struggle against the capitalist bosses. So a lot of the time tomorrow will be spent around developing strategies.

In the morning I will briefly highlight some of the key issues that have come up in the presentations that all of you comrades made this afternoon. So please, once again, tomorrow morning let's be here on time, let's try to capture as much as we can because we have to leave right at one o'clock.

Otherwise, thanks a lot for being here, relax, relax, don't think about too many things, there are no assignments and stuff like that. We all need just to relax for tomorrow. Thank you so much, see

you tomorrow.

**END OF DAY ONE**



The idea here is that we want to see what new ideas we should come up with and we probably should discuss ideas that we can also be able to implement, rather than sometimes, the usual idea is that many of us in the activist tradition would want to say, no, we need more to be done, yes, but what is that more that needs to be done. We have to look into that.

## **SUMMARY OF THE AFFILIATES' PRESENTATIONS**

### **Mr Kimani Ndungu**

Now before we begin the first presentation, I want to briefly recap the issues that came up yesterday, just by way of summary from the affiliate presentations. Those were the brief presentations that you made about your own sectoral experiences in relation to collective bargaining. Now they're highly summarised, but it doesn't mean that we did not capture them. I think some of the key ones, the ones that we're going to discuss here are those that really have had an impact on the terrain of collective bargaining.

Firstly, and this relates to the public sector mainly, the question of essential services and as we heard, NEHAWU has defined the extent and reach of essential services, as an example, and how they limit the rights of workers in those relevant sectors. If you think of the example you were given by the comrade from POPCRU, that even a clerical person in the police service is deemed to render an essential service or that a detective who is mainly reactive in terms of his or her work is deemed to render an essential service and therefore cannot go on strike. We have the case of nursing workers and doctors. So that question of essential services and the way we need to approach it, we also heard it from Cde Roger from SAMWU, some of the definitions of essential services and how all these impact on the ability of workers to strike.

The question of matters of interest, that workers can strike only on questions of matters of interest rather than matters of rights. So if it's a matter of right then you go the legal route, which would be to challenge it in court and this has an obvious implication on the ability of workers to struggle against their employers.

Solidarity; now solidarity, at the root of the struggle by workers against their bosses is a question of solidarity. And this came out quite strongly from almost all the comrades who presented, saying solidarity is dwindling and I think last year's security strike was one stark example. So

how do we build that tradition of solidarity? How do we re-ignite it so that collectively we can be able to confront the difficult challenges that sometimes come, for instance when we need to go on strike? And we were given the example of, I think the Mpumalanga Health Department, Provincial Health Department, where we were told that - was it from you, Guy? Okay. Where we were told that they render an essential service but because almost a hundred percent of them went on strike or protested, it was ... (interjection)

**MR SLINGSBY:** 90.

**FACILITATOR:** 90%. It was virtually impossible to fire all of them, so the might of workers can be manifested through solidarity. We need to look into that and think about it.

Representivity in order to acquire recognition at the workplace and also register with the bargaining chambers or certain bargaining chambers. Again, that's an issue that came up in some of the presentations yesterday.

Absence of bargaining councils in certain sectors, that was very real. I think mainly for instance we heard from SASBO that we don't have a bargaining council in their sector, it was mainly the financial sector. I hope I captured that correctly.

Now inability to hold bargaining conferences or summits and these are necessary and essential in order to collect the views of the rank and file of workers, you know, in the drive towards bargaining rounds. That is a weakening of collective bargaining, for instance from CWU we heard what problems they've had.

Now issues with the CCMA, the very passionate appeal we heard yesterday from our comrade at the end there in terms of, I think it's CWUSA or PAWUSA, the Creative Workers union.

Now organising and recruitment, another major challenge and what are we going to do about it, how do we go out there and create more - politicise, in other words, the workers so that we can recruit them, and as the movement says, we need to massify the rank and file of workers.

Lack of centralised bargaining, we've heard that in terms of absence of bargaining councils and others.

Politicisation of workers, I've talked about that.

Problems of using the CPIX, which so far we have traditionally tended to be so attached to. Now is it because over the last many years the CPIX has been a good tool? Is it because we just don't want to explore other alternatives? Or is it because we probably don't know what to do with the CPIX? We need to discuss that probably even in the commissions. But we need to look into it and say, what are the key problems we have identified and how do we deal with that.

Getting resolutions implemented, another problem. You know, you decide on a resolution, accept it between the employer and employees and then eventually it's either never implemented or never followed up.

The vulnerability of certain sectors is also another very real concern and a real challenge. If you think particularly in the security sector and the services sector, transport sector in terms of the taxis, we had that presentation by the comrade, that that's something that impacts and affects the ability of the unions to, firstly, mobilise and organise and also to push for their demands, using a different range of tools, including strikes.

Now competing unions in certain sectors, the nursing and the caring sector, SADNU, DENOSA and others. Remember, I was thinking about this last night when the comrade said that you'll find about in that sector, eight, there are about eight unions wanting to represent one worker, I'm not sure if that's the way it goes, but this is something we have to think about, when we compete for the same pool of workers, what impact does it have on our ability, because it certainly does have one. And when the crunch comes, when push comes to shove and we have to confront the employer during strikes, we all know sweet deals and all the other things and attempt to divide the different unions, because that's the only way that the employer is able to whittle down the strength of the workers.

So this is mainly a summary of the key issues, of some of the key issues that came up. But what I will do is to just allow ourselves in the time while we're still waiting for Rudi, just allow ourselves a moment of 10 or 15 minutes discussion around other things that we might need to take into account, key issues that are probably missing out of this. Okay.

## **DISCUSSION**

**MR O BODIBE:** I would like to highlight two that we didn't pick up. The first one is about multi-year versus annual agreements. I would that that's an issue we need to do a deeper analysis of from a research point of view and open up the debate to sort of look at what are the - because I don't think it's an issue that we can approach by saying this one is inherently better than the other one and we need to look at reviewing experience of that.

And the other issue is the one that Cde Roger flagged yesterday, the issue of a strike fund, what do we mean by strike fund. Is it something that you establish for compensating people for loss of pay or is it something that you establish to enable you to finance the campaign? Because if it's established to compensate workers for loss of pay, clearly it was highlighted that it's never enough.

And one issue that I think did not arise *per se* but it's from the analysis of what is being said, is the issue of equity in the workplace. It's not being picked up quite seriously and you can see that, for example, the public sector proposal tries to deal with the issue of equity in the workplace. But through the presentation yesterday you didn't pick up that as an issue that we are picking up a struggle around that specific issue. It's gender equity, it's racial equity and it's wage equity, as a whole. Thanks.

**FACILITATOR:** Okay, thank you. Additions?

**MR SLINGSBY:** I think that also the comment that Eddie made about we should consider upgrading the living wage to something about a decent wage. So I think we need to have more discussion on that.

**FACILITATOR:** Living wage to a decent wage; decent work. Comrade at the back?

**MR RAMPUTA:** The other issue is the issue of the skills. In our bargaining we don't really put mostly the issue of skills and it is a critical issue in our country at this stage.

**FACILITATOR:** Okay. Okay, comrade?

**MR MDONGENI:** Chair, thank you. I would like to perhaps from the angle of education, we all sitting here have a very keen interest or passion with getting to see that our children get quality education in the schools. There are serious problems in the schools that are confronting parents, educators and learners with the fact that the present government one will say is not necessarily prioritising the education of the working class children. It's something even if you can strike you would hear even that they don't mind, because most of their kids are in the private schools, they won't be affected by the strike if there's a strike in education.

But the other part is the difficulty with us in organising in the sector is that we're dealing with something that is very close to the hearts of parents, including us seated here as workers, when we're at home as parents to our kids. You would love to see us in the streets fighting for this and that, but come the time of exams, this is the last semester, December or November when kids are writing exams, matric and everything, very few, including some of us, will support teachers going on strike during that time, because he has planned, next year my kid must be at the university and all that, or the technikon. It's a difficult struggle that we're waging, because including teachers themselves they feel that passion that anyway now you'd first defeat yourself even before you embark on something that has caused you to give that necessary pressure to the employer.

So all I'm saying is we tend to take education, even ourselves, and put it as a SADTU issue, SADTU must address all the shortcomings in education as if it's not a societal issue where all of us need to be vocal when it comes to issues of education. I'm not singling out education because I happen to be in SADTU. I would say that even in health, what the government is doing in privatising health services and everything. But there are sectors that not necessarily touch as much as education for everybody in the country, where everyone is interested to see that the child that they are bringing up must have access to quality education.

**FACILITATOR:** Alright, thank you. Yes, comrade?

**MR M BODIBE:** Comrade, the point that I wanted to make, in fact I forgot to talk about it yesterday, is that the period that we take to negotiate in the chambers, maybe we need to review that and shorten it as much as possible. Because it's very costly that you'll be negotiating for six months and down the line with that militancy now going down and aggression being summed by the managers, that we would be planning for a strike. So I'm just saying perhaps we need to come up with a model of how we manage the time of negotiations.

**FACILITATOR:** Are you advocating for that period to be shortened to a much lesser period?

**MR M MODIBE:** Ja. In essence what I'm saying is that normally when we go for wage negotiations conferences we come up with, you know, our initial demand and we've got the bottom lines. So the question is, even the employers do have bottom lines even before they start negotiations, so maybe we must amend our legislation that forces the movement within a specified period of time to say, let's disclose this early, to say this is our bottom line. So that if you don't agree, we don't disagree, we disagree and then we decide what's the next step.

**FACILITATOR:** Someone else? Alright. All those issues are noted and they'll be used together with the discussions yesterday and the commission discussions later this morning, to work out towards the kind of strategies that we all should feel are important in the collective bargaining field.

Okay, I'm going to leave it there for now. I see Cde Rudi's here, I hope he's prepared to give us his wisdom, he's been in it for quite a while. Is it too much a challenge, comrade? Alright, I'm going to invite Rudi to come and speak to us, Rudi, will have about 20 to 25 minutes and then thereafter we will entertain questions until about ten o'clock. Comrade, you're raising your hand?

**MR MOHOSHO:** I'm not sure, I had thought that unions that are within essential services will raise this problem matter, because when the General Secretary was here of Cosatu they raised that particular matter. But seemingly today I'm not sure whether it's going to be a point for discussion, because there is no way in terms of breaking that particular problem between themselves and the employer. I think it's a matter to be discussed.

**FACILITATOR:** Is it in relation to the last input by the comrade? Alright. Is it something - well, this is a discussion where we come up with ideas. Is it something that we should flag for further discussion today, should we do that? We can discuss it as part of plenary, we could include it in part of the two commission discussions, we could do that. The thing is, we all have to be flexible in terms of tactics, so this is not a rigid catechism kind of workshop, as would happen in religions. So I will take that and include it - let me just see, that is the period for negotiations, correct? Okay, I'll flag that.

# **EVALUATING THE LABOUR COURT, THE CCMA AND BARGAINING COUNCILS**

**Mr Rudi Dicks**

Apologies from me, I've got bad flu and I'm just recovering, so I've been down and out. So if you don't hear me properly please indicate so and I'll repeat myself.

Comrades from NALEDI asked me to talk about labour market institutions, specifically with labour market institutions I think in the context of bargaining and I think this is the essence of the seminar or workshop. But two specific institutions or three, well the two are kind of like linked, but three. The one relates to the CCMA and the Labour Court, so there are sort of processes that occur there, and the other one relates to bargaining councils and I'll deal with them interchangeably.

The question was asked to me to talk about whether there's a need for institutional reform or not. Now this is the question that I put to everyone of you and I think it's something that we should debate. The issues that I will raise here, comrades, are not necessarily different to that which I've raised previously and it's part of the ongoing debate that is happening in the labour market. I mean, for those comrades who have been following it, it's kind of like died down slightly because of I think just the launch of the ANC policy document that deals with labour market reform begins to admit that labour market regulations and institutions, although to a small degree - and I'll talk about that small degree in the paper - begins to say that labour market regulation institutions are not the cause for slow growth in employment or for high levels of unemployment.

You remember the paper that was done by Jabu Moleketi some time back talked about development and underdevelopment and blamed various legislations, CCMA, I think there was a huge onslaught against the CCMA and bargaining councils. Subsequent to that a number of studies were done and of course some of the studies I will relate to. But it's in a good context that we'll be able to relate to some of these things and build onto what the paper says. Although critical of the ANC policy paper on the labour market issues, I think we need to continue to build on that debate and share those ideas.

Now just a quick background and context, I think everyone is familiar with this, I'll put it in the

collective bargaining context. So we've inherited a fragmented form of collective bargaining and this continues to persist. There's no substantial change and the point here is there's no substantial change in the way we've done bargaining, except for the Public Service I think, to that in manufacturing services. And I think if you look at it now and you look at it then, there's a huge disfragmentation, you know, limited number of bargaining councils that cover about 26% of the workforce. Most bargaining is done at a plant level or through individual contact negotiations. So there's been really no substantial change, although the new laws that have been introduced talk about them.

Coupled with this, comrades, in the context, is that there was no support for collective bargaining institutions. Because remember just then we were able to win rights in the mid-80s, bargaining rights, rights that dealt with issues of collective agreements around shop steward representation, general meetings, etc, etc. And these issues in relation to collective bargaining fell into that particular category. So it was not geared, labour market regulations were not geared to supporting us at all, I mean, that's obvious. So we had a regulated apartheid labour market, there was no institutional capacity or support from government.

And then a significant shift that's partly because of the old system of industrial councils that were there, but a significant shift in the mid to late '80s from sector bargaining to plant level bargaining. And I think when we were successful in some of those industrial councils, we were able to transform them and change them to needs of our workers. But I know for example of a number of councils who were unions there, who were not necessarily aligned to Cosatu, deliberately with employers, collapsed those councils. Or we promoted the collapse of those councils so that we are able to engage at the plant level to be able to represent our members directly. So that was the type of shift that was there.

Fourthly, we had no adequate dispute resolution mechanism to deal with industrial disputes as we have today, there was what was called the Conciliation Board that was set up much later on. And then collective bargaining arrangements and I think it's something that we need to debate, tended to favour manufacturing and mining over services, agriculture and other valuable sectors. So we were more organised in those sectors towards the late '80s, '89 I think we were very, very well organised.

A significant dent into traditional union-based or workers that were not organised and that's partly

because of the way that the labour market institution regulations were structured. Partly because the LRA and basic conditions excluded them, excluded domestic workers, excluded agriculture and farming workers. And there were low levels of union density, because it was also very difficult to organise those sectors and I think the type of conditions there didn't favour us as it was, for us easily to organise workers, for example, who were organised or placed a factory or at a workplace and we can go and recruit a 100 or 120 workers sort of thing. And then of course what characterised our system before 1995 was extreme adversarial labour relations and high levels of conflict.

So that's the context I think that we just need to sketch which I think is not new to everybody here. So in theory what happened? In theory when the new LRA was introduced as a first stepping stone, it in theory brought it into a fragmented and adversarial labour market, that was the intention. But the point today is that I think it's not achieved some of the desired results that we initially intended to happen.

By 1997 labour legislation brought uniformity on the application of labour laws to all sectors, so we didn't have this exclusion, although some of it still tends to exclude, for example, defence, intelligence services. So that's something which was fairly new, particularly defence, with the intended affiliation of the defence workers into Cosatu. It also brought about the establishment of key labour market institutions like the National Economic Labour Development Council, CCMA, labour courts and skills institutions, comrades.

Now one the key proponents of the Act was to promote sectoral bargaining. Now there were significant compromises there in the negotiations, although it promoted - remember one of the key mandates that we had during the late '80s and early '90s was mandatory sector bargaining, centralised bargaining. We wanted to establish bargaining councils in various sectors of the economy, carve up the sectors of our economy and establish bargaining councils. Now that was a compromise that we've reached and of course instead the Act talked about actively promoting, through a voluntary process, of the formation of bargaining councils instead of mandatory.

And then of course, which was something that happened during the late '90s, was the development of sectoral determinations. which the Minister through the Employment Conditions Commission set up a process of identifying vulnerable sectors, we are currently now with the new one of restaurants. There are now 13 or 14 sectoral determinations that cover vulnerable sectors

that specifically look at those particular workers, like in wholesale, retail, like in private security, like in the new one that was just recently passed. So I think these were sort of the labour reforms, this is what the labour reforms intended to do, to try and deal with the apartheid labour market that was there.

If one looks at it, I think you'd have to look back and say, did it achieve its primary objective? Did we set up what we said in the late '80s and part of our bargaining structure, part of our demands that we've set in terms of what we wanted as labour legislation? So I think one would have to put it into that context and debate that context, because I think that's important. But you also have to put it in the context of whether we want to do this through legislation or not, whether we're foregoing organising strategies, which is something that I mention continuously throughout the document, to rather favour legislation to try and support workers that are vulnerable. And I think it's something that we need to look at and whether this is a challenge for us as unions.

So I want to come back to the two areas, so dispute resolution and is there a need for change? Those are questions that I ask.

Now pre-1996 settlement rates were lower, 17%. So the conciliation boards that were there, the data that we were able to capture just at the end of the conciliation boards, looked at settlement rates of 17%, compared to now, 2005, a relative settlement rate of just under 70% for the CCMA. So CCMA as an institution, what do we look at in terms of performance?

So clearly this is one of the areas that we attempted to look at, was how do we deal with these sort of adversarial labour relations? How are we able to deal with the sort of conflict in the workplace that doesn't necessarily compromise workers demands but are able to create an institution that would facilitate in some way or another, debate and discussion in terms of reaching an agreement on some issues, particularly issues of mutual interest for example, or issues relating to unfair dismissals, but still retain the rights for example in relation to mutual interest disputes, to be able to strike if there's no agreement.

So the CCMA has been able to reach settlement rates of up to 70%. The CCMA is free and accessible, we all know that. And just some data here, has handled about 1.3 million cases since its inception. You know, initially when the CCMA was established the founders of the CCMA or those who built the CCMA basically, estimated that the amount of cases that they would handle

per year was about 70 000. Today we have 500 referrals per day on average, 10 000 cases per month on average, you know, literally about 170 000 cases a year. So that's the case load that the CCMA's had.

I just want to go through some quick achievements, because I think this is important. And the comrades know that I have a close relationship with the CCMA because I sit on the Governing Board and I do quite a bit of work with the CCMA, so see it critical. So some of the quick achievements. It's much shorter and it's taken much quicker to deal with dispute resolutions. On average the turnaround time is about 26 days, although the statutory requirement was 30 days. So in the late '90s and early 2000s turnaround times were about 35 days, so we've been able to bring that down.

We were able to say to the CCMA improve efficiency, deal with the issues around turnaround time. You can't have workers who refer disputes, particularly disputes of mutual interest and even unfair dismissal disputes, sitting there for 30/35 days and then only having to sit. So turnaround times and depending on the parameters, it's even much shorter, some as close as 18.

So if we had an unfair dismissal, for example, comrades, on average arbitration takes 50 days to complete. So from the time that it starts, which is conciliation, to the time that it actually sits or is completed, case is closed, it takes about 50 days and then of course awards are issued within 9 days thereafter. So I think that's what we're trying to do.

I think another key achievement in the 10 years, comrades, is that in 2002 we introduced the con-arb, the conciliation-arb process. Unfortunately it was just mandatory for dismissals that relate to probationary period dismissals and not for any other forms of dismissals, unless agreed to between the parties. But this is interesting and I think it's something we also need to look at, because 41% of the case load, this is 41% of the case load, so 71% of this is completed in one day. So think of a normal arbitration that you go for, for dismissal, you do it, it takes a lengthy period of time, but in a con-arb process you do it in one day or it continues the next day.

And then of course I think some of the achievements, key achievements were accreditation and support of bargaining councils, although this is a bit of a grey area, particularly around accreditations to other institutions also to do dispute resolutions and stuff like that. Including support during 189 facilitation processes and interventions in major industrial disputes. So these

are some of the achievements.

But just if one disaggregates the type of cases that the CCMA deals with, there's only a small percentage of referrals that are mutual interest disputes, so collective bargaining disputes, in essence, it's the third largest number of disputes. Over 81% of cases are unfair dismissal cases. So that's the case that it is.

This is just some data to show how case loads have in fact increased over the - you can see it's kind of petering off a bit. I think we've reached in a sense the saturation level of the number of cases referred, even if I look at the 2006 and even up to date 2007, it's more or less about the same. So it's levelling off at about just over 120 000/130 000 cases a year.

Then I just wanted to show comrades the sector break because this is important and this relates to the debate that we have around the bargaining councils and I just did a dataset over the nine year period. Clearly you can see the highest number of cases, comrades, referred per sector relate to retail, the retail sector, it consistently remains from the outset the highest number of referred cases. These are people from Shoprite-Checkers, people that are in the shops that you find all over the place, Spaza shops, etc, etc. But it's slowly also decreasing, but it continues to remain the highest referrals.

Private security comes in second; food and beverage processing comes in third, sorry, not in third, domestic comes in third. And then there's been a significant increase, now you can see there's been a significant increase in business services and this is like professional services, call centres, comrades, other sorts of banking services, financial services.

So you can see the slight difference in the way that case referrals look like from 1996 to 2004/2005. You will also see for domestic, comrades, a lot of it relates to the fact that when the sectoral determination was enforced workers began to take up those demands, refer cases to the CCMA in relation to enforcement, although some of them may not have had jurisdiction within the CCMA, but you could see a higher case load.

So this has generally been the case load and it's not significantly changed. And as you can see the CCMA's becoming more and more an institution that deals with the vulnerable and atypical forms of work. Unlike when it was started in 1996, the way it was structured was to deal with formal

employment and in these sectors, comrades, there are not many formal employment or the traditional way that we see employment relationships.

And then I just did an interesting graph around arbitration awards, comrades can look at that again. The Eastern Cape is the only province where the percentage of cases won by workers is less than employees, you can see that just the national averages ; in actual fact the CCMA is working for us, comrades, I mean, this says to us in terms of unfair dismissals that just over 60% of cases, arbitration cases in terms of dismissals, nationally are won by us, workers, and a smaller percentage is won by employers, and you can see that.

Now what are the sort of challenges that are faced by the CCMA? There's been a recent debate that was started by Halton Cheadle and one of them related to the function of the CCMA, in particular, issues that related to mutual interest, issues that related to unfair labour practice and issues that related to dismissals. Now some of the points that I make here relate to some of the debate and Guy's put it in a particular context. For example, dismissals, I think there's been some debate that is ranging - a lot of them relate to that even when workers have no chances of getting reinstatement or compensation they tend to refer cases to the CCMA.

Now I think this is something which is a frivolous debate because for many workers, as you can see in the sectors that we've looked at previously, there's no union density over there, comrades, so there's not a lot of organisation over there. Many of the referrals, even if you look further at the case of the management system of the CCMA, you'll find that many of the cases that are referred, in fact the majority of cases that are referred are not by unions but are individual workers and these are workers that are in these particular vulnerable sectors.

And some of the arguments from employees in some sectors of government begin to say that, well, you know what, we must prevent frivolous cases from being - what is a frivolous case? You know, a frivolous case depends on what side of the table you're sitting on. And therefore there was this whole debate of introducing a cost for workers to refer cases. You know in fact this is exactly what employers are beginning to say that because of 130 000 cases a year, the CCMA cannot handle the case load, and therefore some cases we need to charge users cost. But who are the users? The users are workers.

Now Halton Cheadle makes an interesting suggestion, he makes a number of suggestions around

dismissals, for example. Now The LRA talks about the code of good practice. A lot of us don't tend to use a code of good practice, comrades, and I'm going to cite some cases. In a recent case that went to the Labour Appeal Court, I don't know if comrades heard about the *Avril Elizabeth Home* case, where Andre Van Niekerk, Judge Andre Van Niekerk who predominantly represents employees, reinforces the fact that when we deal with dismissal disputes, you must try and simplify it, use a code of good practice. Now it could be a plus and it could be a minus in a sense and I think some of that we need to also continue to debate.

But in essence it says, adapt your procedures to the conditions in the workplace. You cannot use the same test that you'd use in a civil court, for example. He begins to say that and this is sometimes a little bit dangerous. He says that when you're trying to prove basically the cases, if you're trying to prove that a worker is guilty, you can't use a beyond reasonable doubt here, comrades, you have to use a balance of probability test. It's probable that he may have. Now I think that is something that we need to debate, but certainly something that is promoted in the code of good practice, Schedule 8 of the LRA.

But the debate also goes to whether we take into account small employers. Let's use an example of a domestic worker. I know some of us even here have domestic workers, do we develop the same sort of practice that we have in a factory that employs let's say, for example, 50 workers, to that of a domestic worker, comrades? I mean, just think of the situation, comrades. I have a domestic worker, I'm retrenched; what procedures am I required to follow? In terms of the law I'm required to consult with the domestic worker, I'm required to give notice, I'm required to have all those particular procedures that are there in Section 189. But now there are arguments that say, well, fairness is important, but do we follow those onerous procedures in certain circumstances? And here the risk is duality. So do we want to go for something that looks at a particular situation and the possibility of duality in the labour market? Or do we remain with onerous procedure and say we stick to the procedures and we want that, without looking at the specific conditions?

There's also another thing, interesting thing that we've also began to look at, comrades, is whether we need to develop an income threshold? But the income threshold particularly for - to exclude executive and senior managers, because you know what tends to happen, particularly when cases are referred to the CCMA, is that they become precedent-setting cases. So these cases involve some senior managers, and unfortunately many of the cases set precedent, and therefore have a significant impact on ordinary workers and the way their matters are dealt with, and I think that's

dangerous. So I think it's a debate of whether we need to maybe exclude executive managers and senior managers from the CCMA. Let them pay for it themselves because they have the money to do that, and let the CCMA be maintained for ordinary workers.

Comrades, I don't have much time but let me go through some of this - the issue of ConArbs, I talked about that earlier on, I think it's something that we need to look at in terms of some of the challenges that face the CCMA. The ConArbs issue has been significant, and we know when unions and ourselves propose ConArbs, employees immediately decline that, they refuse to go for it, you know. And you can see they just look at the period, 77 000 cases during 2002/4/5, 51% were conducted through ConArb process, 69% of those cases were settled in one day. Now 69% would have taken 50 days plus 9 days to complete, but they were all settled in one day. So I think that's significant and I think that's quite an important process for us if we want to try and deal with issues that looks at challenges for the CCMA.

I think we need to continue to prohibit legal representation and tighter provisions for commissioners. Although the Minister has recently made a lot of noise, the problem is that leeway still provided for commissioners to grant legal representation. And they tend to do that willingly, depending on some of the provinces. If you look at KZN for example, you know they willingly just agree to legal representation because both parties have legal representation. And I think it's something that we need to tighten up and make the CCMA what it was intended to do.

Then I want to come to two important sections of the Act, Section 145, now this relates to comrades who have been following the *Rustenburg Platinum* case. One of the arguments in the court has been over the year jurisprudence case law has extended the case for review. So the narrow review test which simply says that the commissioner has not applied his mind, he's acted unfairly or biased, showed complete biasedness towards one of the parties and acted in a manner that's unbecoming of a commissioner. Three and basically narrow tests for reviews, because the system was set up not for the Labour Court for you to take an arbitration award to the Labour Court and appeal, it was a review, so it had to have narrow reasons. You couldn't really review on the substantive measure.

And of course judges, Labour Court judges over the time began to say no, sometimes arguments of commissioners were such that you can't. You have to look at a substantive argument of the case. And of course, jurisprudence, as a result of that, extended beyond the narrow test of review,

and I've cited some cases that comrades can look at that. The *County Fair* case, I mean, Ngcobo there significantly first, in the first instance began to introduce a more broader test for review, the *K-Form* case, the same thing also, you know, so you can look at that.

And I think the *Rustenburg Plats* matter eventually begins to say, and there we're arguing that we want to go back to the narrow test for review. Because the CCMA is a tribunal, it's not an administrative structure. We've given the power to commissioners to make a decision, to test the fairness of a dismissal, for example, and say is this dismissal fair or not, and for a commissioner to make a ruling on that, and not necessarily show deference, as the legal term is used. So this is an important point, comrades, and this has hamstrung the CCMA and commissioners enabled to do their work, because now the ability to be able to change, for example, rulings that are made by employees, become significantly watered down because of these type of cases that are here.

Another area that concerns us in the CCMA, comrades, is the enforcement of Section 143. This is quite interesting. 143 relates to enforcement of arbitration awards. And what has happened more and more is that the Labour Court has played a significant role, not in favour of workers to enforce arbitration awards, and here I've got some interesting stats. In 2002, just recorded stats, there was one Section 143, 2003, 10, 2004, 569 and 2005, 4 909 complaints, so you can imagine how much it increased. So workers who have won their cases, they have gone through the fair process, right, the employer is simply not implementing the award.

They don't take it even on review, they're just not implementing it, so the worker has to come back again, right, he has to then get a sheriff, pay R50 for a sheriff, serve a notice to enforce the award. It's the consequences of this, comrades. And if I look at, this is double, comrades, in 2006, you know. So simply not even taking on review, it used to be the old case, now they just simply don't want to even take it on review, they just leave the case and not enforce the arbitration award. So it's certainly something that we need to look at.

I think some of the other areas, administration such as case management, data, I think that's important, capturing for example, the statistic's correct, speedier turnaround times, I think it's still one of the challenges that we face, comrades, and the one stop shop. Because you tend to have workers come from - when they have particular issues, particular enforcement of - let's talk about enforcement of sectoral determinations. Workers don't necessarily know whether they need to go to the Department of Labour or the CCMA, so they're sent from pillar to post, and this is a

problem.

And I think what we're trying to introduce is a type of one stop shop, comrades, where we begin to say to workers, you come to this particular office, we'll deal with all of it, you know. So whatever it is, so you don't have this thing of jurisdiction, because employees tend to have this, they want to introduce a lot of legal mechanisms to try and avoid compliance, so they say the CCMA doesn't have jurisdiction. But it's a simple matter of just complying to sectoral determination, so we want to introduce this thing.

And then of course, the point that I made earlier on, comrades, is gearing the institution, because the CCMA was primarily set up to deal with formally the traditional employment relationship, you know. And if you look in services, you look particularly at labour brokers, a high number of cases in terms of security, part time casualised workers in wholesale and retail, the increasing seasonal work in agriculture. So it's not set up to deal with these type of employment relationships, and you know I think this is an important thing, and I think it's something that we need to debate and take forward in terms of challenges.

The point here also is that while we can blame the CCMA for a lot of the problems that workers and our members face, a lot of it relates to the sort of relationship between the CCMA and the labour courts, and the labour people, the specialised courts. And I think there's a huge debate currently under way, particularly in Nedlac, to try and ensure that that relationship is strengthened, you know, that there's a better interface between the CCMA and the Labour Courts, the specialised courts. And there's a particular, I mean, there's an obvious reason for that, because it can benefit our constituency.

But it also leads to ensuring that we retain specialised courts, comrades, because I think that is significant, if we're able to do that, improve the enforcement of awards. But also on the regular training debate and interaction on jurisprudence between judges and commissioners, because you know what you have, it's amazing, comrades. You'd have a case of a very similar nature, the cases are at the CCMA, they use the jurisprudence of each other, but when it goes to the Labour Court there are two different decisions, entirely opposite decisions on them. So it creates conflict in how you deal with it for commissioners, and I think this is something that we need to deal with.

How do we deal with case law that comes up and it affects rulings that are made in awards by

commissioners? And I think there's a current debate that is happening in Nedlac which we've just introduced, and that is developing a protocol between CCMA, the Labour Court and Nedlac. So these I think are some of the key challenges that we need to look at and debate, you know.

But I want to come to the more important part of labour market institutions and that relates to bargaining councils. And then I ask the question about bargaining councils, bargaining councils are failing workers to a large degree. And I think it's, to a large extent, the way we've conceptualised bargaining councils. Also when we've had the initial demands of we want centralised bargaining, the way that we've developed centralised bargaining structures is very, very different to the initial understanding of what we had as centralised bargaining. And I think some of that debate we need to continue.

So the envisaged move towards the formation and promotion of bargaining councils has not materialised. That's partly because of the compromise in the LRA. We continue to have the same type of bargaining councils over there. Very few bargaining councils ... the significantly new bargaining councils are in the public sector, and one or two new bargaining councils or the amalgamation of bargaining councils in the private sector, okay.

Many bargaining councils continue to face a number of challenges that would undermine their ability to function effectively and promote thorough sectoral bargaining, and I'll unpack that later on. But according to the Department of Labour, there are 59 bargaining councils registered today, 7 of them are registered in the bargaining councils, few of them are national bargaining councils, comrades. Many are small and have narrow scope and are regional-based. So you have these provincial bargaining councils.

So what are the sort of problems that we have in the bargaining council? There are dropping levels of representivity in many councils, and this is partly because of a number of reasons. In fact recently the Department of Labour called us to a meeting, they called comrades from NUMSA, comrades from Chemical, comrades from - they called us from Cosatu also, and there were a few other bargaining councils, some of the smaller ones, and basically they showed declining trends of representivity. The question was whether the Minister now has a right to extend agreements, because in all these bargaining council trends show that bargaining council representation fell below the 50%. In fact it went below 49, 40%, Comrades. Even the motor industry bargaining council, which had representation of about 50%, 52%, went at a point to

38%; 38%, Comrades.

There are a number of factors and we need to agree on them, but we need to debate these factors. Some of them are a result of us not organising workers and a real decline in our membership. I mean, Cosatu membership remains stagnant at 1.8 million members. I think that is a significant contributor as to why representivity issues have always been a problem for bargaining councils, and the right to extend those agreements, because remember, if you face representivity problems you cannot extend those agreements to non-parties and to workers who are not members of a union.

But that could be because of growing in formalisation of work, so people exiting as formal employees and entering the labour market as atypical forms of employment. So it's again an organising challenge for us; how do we organise these workers? It could also be through high levels of job losses, through retrenchment, I think that has been a significant contributor, particularly in motor manufacturing.

Another challenge, another serious problem is that the cost of negotiations are always borne by parties to the council and not by non-parties, and yet they benefit, they tend to benefit through the collective arrangements for them. And I think this is something that has always been an issue for us, the issue of non-riders, for example, particularly for us, not so much employers but workers. So we have workers that are not members of our unions, we call them free-riders, they benefit through the agreements that we reach at a bargaining council, but they don't want to join a union. That continues to remain a big problem for us.

We have poor support from the Department of Labour, both financially and administratively. Many bargaining councils are on the verge of collapse, they don't have the type of support, they don't have the type of systems in place, they don't have the type of advice. And basically DOL leaves them to their own devices and they tend to function in a manner that continues to not be favourable towards workers.

There continues to be resistance from employers to form bargaining councils. I mean, I remember, comrades, in negotiating both the Paper Bargaining Council and the Chemical Bargaining Council, it was a huge and major, major fight, you know. So while it's promoted we continue to have huge obstruction from employment towards sectoral bargaining. Even now the

discussion in the mining industry to form a bargaining council has been happening for the past three years, and I don't know whether they're any closer to forming that bargaining council or not. So there's huge, huge, huge resistance.

The attempts to try and form a bargaining council, the security in the private security industry, even though the issues of representivity, employers are plain blank refusing to, the same at wholesale and retail, I think there is a significant problem. Only 17% of those workers are organised by unions, so it is going to be a legitimacy issue, unlike for example private security, where about 26% to 27% of workers belong to unions. So for us clearly I mean, is it then therefore, I mean, we need to clearly look at those particular challenges, and I think these are some of the things that we deal with when we look at representivity.

And then I think we continue to inherit this complex. We don't have organised collective bargaining in our country and that's something that we need to address, and it think it's something that we need to think about. But we need to think of it not in the way that we thought about it in the late '80s and '90s, and I throw that challenge to comrades that we continue to have fragmented collective bargaining system. Collective bargaining with the labour ... 26% continue to be covered by bargaining councils, most of them are covered by either workplace negotiations, through plant-based negotiations, or through individual contract negotiations. So that clearly is a challenge.

Let me quickly just go through some of the areas that I think we need to look at. So I think we need to look at a more mandatory approach for sectoral bargaining. It's something that we've not done. We've demanded sector bargaining and centralised bargaining; it's fallen off the table, comrades, and we've left it to affiliates to do that. And that's partly because we've not been able to organise an adequate living wage. When our living wage campaign was strong, centralised bargaining was strong on the agenda, so I think it's something that we need to look at and we tend to leave it to the legislation to promote this.

We need to look at differently, and this is the challenge that I talked about just a few minutes ago, we need to look at new forms of bargaining councils. And here I talk about, because I think there are two problems here, and comrades may disagree with me and that's fine. If we tend to centralise negotiations too much, we risk, and we know that, comrades, from those who are on bargaining councils, we risk watering down the mandating process, number one. We risk that

bargaining councils become organisers for us, so we don't go out and organise, so we want the bargaining council is the be all and end all, you know, it will solve all the workers problems. We risk losing touch with workers in the workplaces.

So those are inherent risks for centralised bargaining and therefore I think we need to think differently of how we need to deal with bargaining councils, and I want to borrow - there's one example. I mean, there are significant examples looking at that, but the chemical industry's a good example where we need to look at flexibility and have different levels of bargaining. And for example, comrades, in the chemical industry, I use this because I know of the bargaining council, I participated there, we begin to set national processes in motion, we deal with policy matters at a bargaining council level. But we acknowledge, for example, that pharmaceuticals is different to rubber, so we have a compromise. We acknowledge that industrial chemicals is different to base chemicals, right, and therefore we then have different sectors that begin to say, yes, in chemicals, or petroleum is different to industrial chemicals. We have them in sub-sectors, so we demand centralised bargaining under one bargaining council, but we acknowledge that each and every sector, for example, is very different.

Now that's something similar to the way it happens in the Public Service, so there's not one big bargaining forum, you know, there's one big bargaining forum that deals with wages, for example, but there are specific issues that teachers deal with, there are specific issues that the general Public Service deals with, there are specific issues that, for example, other chambers in the public sector deals with; so something very similar. So we're able to deal with issues that affect those particular workers, because they may not be the same. Although they're common, they may not be the same for workers, for example, in petroleum to those workers in industrial chemicals for example, you know. And therefore you need to look at those specific instances.

But also there are some issues that you cannot deal with at a centralised level and therefore we need to say, let's try and deal with issues that are identified by the bargaining council that we need to go for at the plant level. So you try and build in systems that ensure we try and co-ordinate a sufficient amount of issues that have a common thing across all workers at a centralised level. But you decentralise it to a level that also benefits us and our members, so we don't fall in the trap that old unions used to fall in when they had industrial council's complex. And that's why it was easy for us to, for example, pinch those workers.

I mean, I remember during the printing, there was a huge surge of workers from the printing industry that joined paper from SATU. We are going to fall in ten years time in the same trap, comrades. New unions are going to be formed because we're allowing bargaining councils like the old unions did for industrial councils to service our members and not us service them. So I think we need to think of new conditions of how we want bargaining councils to be formed.

There is also a high level of flexibility in inherently built in new forms of bargaining councils, high degree of exemptions granted, you can see that through the data, greater representation of smaller business on councils, so those things are there. We need to promote national councils not provincial councils, comrades, we need to move away from that. If we have ability to close those like the hairdressing council in Cape Town or the hairdressing council here in Gauteng, close it down because they really serve no interest; I think we need to look at them.

We need to look at current thresholds of representivity. Now there are two issues here. I think it favours us, of course. Both the Minister and Halton Cheadle, in their papers, argue for that, for decreasing the thresholds of representivity. But again, we need to ask the question, is it legitimate? So if we represent 20 of the workers, 20% of the workers, can we claim legitimacy, comrades? Because now we say, okay, it's fine, 20% of the workers, we can form a bargaining council, we can extend it. What happens to organising, what happens to organising those workers, going out and organising the workers, increasing those thresholds? So it comes back to the old thing.

So it's again having to find a balance here, and I think we need to flex a little bit the issue of representivity of bargaining councils so we can promote national bargaining councils and move to genuine sector bargaining councils in the way that I think it should be looked at. But I think we need to balance this again with organising and ensuring that we increase representivity. And then I think we need to look at improved support from DOL, I think there's a lot of areas over there, I talked about it earlier, allowing greater powers of bargaining councils to regulate labour brokers.

Metal engineering industry bargaining councils, brilliant idea, they've developed this over years, to be able to ensure that through labour brokers for example, I mean, it virtually becomes a hassle to become a member - to be employed by a labour broker, because the same conditions are implied and they are more effectively enforced. I mean, just recently I met with Alistair, the General Secretary of the bargaining council, they've gone on a massive campaign where

inspectories and the metal engineering bargaining council has specifically targeted sectors in metal engineering where there's high degree of labour brokers. And they've been able to deal with extensions of those agreements to labour brokers at that level. So I think it's something that we need to look at, we can learn from some councils.

But also there's a current debate that is happening in Nedlac on ensuring that we deal with the growing trend of atypical workers and we try and deal with institutionalising, we try and deal with changing the sort of market labour institutions like bargaining councils to be able to gear. I mean, the point here is, comrades, we cannot really, it's been an impossibility to prohibit those forms of employment. We must continue to demand that, I think that's significant, but it becomes impossible. And therefore we need to create measures that makes it almost impossible for them to operate, you know onerous measures for labour brokers, onerous measures for people to be employed as casualised labour, onerous measures for outsourcing.

So I think these are things we need to look at, and therefore we need to look at extending better powers to bargaining councils to be able to deal with it. The problem is that even ourselves in the bargaining councils, we still think of our members as formal employee, so we gear our bargaining councils towards the formal worker, when we know that the traditional relationship of - the employment relationship is not there, comrades, and we need to organise those workers. So again that's a challenge for us, and I think that is something that we need to look at.

And then we need to look at improving membership representivity. MIBC has introduced another innovative thing but I think it's a lazy thing, and it's also got lots of money for NUMSA, by the way, millions of Rands; both of them. They've basically introduced what is called a council levy for non-parties to deal with the free-rider issue, you know. And what has happened, the consequences of that of course is that many of the employer parties, many of the individual employees joined SIFSA. But has it been the same for NUMSA? I don't think so, it hasn't been the same for NUMSA. So not a significant number, they've got a significant number of money, yes, because of that process, Bethuel, but it hasn't significantly improved ... (interjection)

**COMMENT:** It's clever.

**MR DICKS:** It's clever, yes, but it raises the question, which I say again. So they've been able to get lots of money, but has it significantly - have they gone significantly out on an organising drive

to ensure these members who are paying now council levies, who are paying this, are actually becoming members. So that's a lazy way of doing it; clever, but lazy, and therefore I think we need to be careful. I come back to this point, comrades, we must not be complacent and rely on bargaining councils to do our work. Organising can only be done through unions. The bargaining council is not a union, it cannot be organised.

So I think these are sort of the challenges that I throw out for you, comrades, around the labour market institutions, and how we can improve these sort of rights and issues around collective bargaining. Thanks so much, sorry for being long.

**FACILITATOR:** Thank you so much, Cde Rudi, for that profound input. I'm sure there will be a lot of questions. You stay here, you ought to take the fire as it comes. Comrades, let's engage for the next 15 minutes, before we begin to move into probably two commissions, let's engage with that input by Cde Rudi, raise the key things that come up from it. I'm going to be quite generous, I'll just take about three hands per round.

## **DISCUSSION**

**MR BODIBE:** Ja, comrade, it's exciting that at least there's somebody doing a good job somewhere to evaluate these things for us because we thought maybe we've seen them alone without somebody as an observer there, and we hope that you should push this in one way or another to the unions to form a campaign, sort of an advocate for these changes.

The little problem, I'm not sure whether everybody is aware of that, this issue of dismissal versus discharge from work, it has created a problem for us in the Public Service using the Public Service Act, section 17 of that. That it is now a juristic problem that if a member is discharged from Public Service on account of misconduct, then his case will be heard after ten years of dismissal.

So you appeal to the MEC if he upholds the discharge, because then there's no definition in terms of their understanding and the application of that Act, discharge, dismissal. So there's nothing like discharge, so therefore they have not dismissed the person, the person has discharged himself or herself from the Public Service, so there's no jurisdiction over CCMA or bargaining council, even the high court. So it will only go to Labour Court after 2010, if you happen to have a case now.

**FACILITATOR:** Thank you, comrade. You're next.

**MR RAKOLOTA:** Ja, thanks, Chair. You know, I'll firstly comment and later on pose a question. I think we are one of the unions that in our reports yesterday reflected that we are dealing with individual employers in terms of collective bargaining, and we don't have bargaining councils, Communication Workers union. But our assumption generally was that collective bargaining councils would actually go a long way, not only in terms of collective bargaining but also in terms of organising the sector.

But you know, I was listening to your input with interest to say that cannot be a panacea, especially from an organising point of view. Now my question is, because there is that declining trend in terms of representivity as you are saying, and considerations to really lower the threshold, does that not, posing another challenge, of having pluralism in the bargaining councils and therefore another difficulty in terms of successful collective bargaining? Thanks.

**FACILITATOR:** Okay, thank you, comrade. At the back?

**MR TYATYANTSI:** Thanks, Chair, I'm from SASAWU and I beg to differ with the concept from SADNU on the question of discharge and dismissal. I think that we must engage on that one, because a discharge is in the Public Service Act and it means that when you have absconded; that's the understanding. But the two points that I wanted to check with Cde Rudi is around the question of the CCMA. Has there been any study to show that how many - that is in percentage terms, of cases that have been taken on review by employer? And secondly, maybe as Naledi, or is there anybody who's doing any survey on cases that have been done on the Public Services and all the bargaining councils?

**FACILITATOR:** Okay, thank you, comrade. Cde Rudi, respond to that before we move on.

**MR DICKS:** Ja, the debate is really legal, I mean, discharge and - I mean, I agree, is the employment relationship there or not, you know. So if the employee can show that there's no employment relationship, whether he or she considers themselves to be dismissed or discharged, I think it's really an academic debate that one, hey. I think you need to establish whether there's an employment relationship or not that exists there.

I want to relate this to the last question. This is the problem that we sit with, you know, we've just started doing, for the first time, research on bargaining councils, comrades. There's no - that's why I said one of the key points that we have is that we don't have any - one of the challenges is that we don't collect data, we don't have statistics, we don't keep proper records of bargaining council agreements. I know some bargaining councils are good in doing that but they keep it for themselves. So there's no uniform approach on doing this thing, and I think that's something that we're raising with the Department of Labour.

And clearly for us one of the challenges is the Public Service is always seen, and that's why this debate of executive pay, sorry I'm all over the show, but that's why this debate of executive pay is such a thing, because you want to exclude your senior managers. Personally, my view is that if I can get executive managers and senior managers out of bargaining councils, because they clog up the system. You know for them it's about - the majority of cases for those comrades in the private sector, 80% of the cases in the Public Service is not dismissals, it's unfair labour practices. It's about promotion, it's about pay, so it's the reverse, you'll see. It's not about dismissals or mutual interest disputes, it's about unfair labour practices. Now 80% of the case loads are unfair labour practice, if you look at it.

And so you have this system where it's clogged up, and that's why there's an argument to get rid of this unfair labour practice, because predominantly so, we know the people that do raise the unfair labour practice issues are white workers unfortunately, and some disgruntled black workers who think they could have been promoted into positions. So a lot of them relate to employment equity issues and skills development. But the problem relates to the way the Public Service deals with some of these things, and the time taken. I mean, I think it's one of the problems that we do sit with and we need to deal with it in the Public Service.

Now of course the CCMA in terms of the law is allowed to give accreditation, and it's one of the things that we look at in the governing body, because clearly - I mean, one of the problems that we do sit with is that you cannot take lengthy times to deal with some of these things. And therefore going with accreditation must deal with the inefficiencies of a speedy dispute resolution that the Act talks about, and I think that's going to be important.

So we're trying to compile stats, there's just a recent paper that was done by Jan Theron and

Shane Godfrey. It's an interesting paper, it's just scraping the bottom really, so it doesn't give us a lot of detail, it just gives an oversight of what is out there. And I think what we need to do is to understand what each and every bargaining council does, and that's something that we need to look at more and more.

You're right, comrades, from communication, that's my point. The demand - we tended to have - I think we've misled workers, because I want to come back, I want to draw that analogy to both paper and chemical. When we formed the bargaining council in chemical we said, Hallelujah! We formed this bargaining council; wonderful. Two years later people said, but we're not benefiting from this bargaining council. Because you know why, our rates are much lower. The increases that we could have negotiated here would have been much better.

So we went on this big thing of saying centralised bargaining now, we wanted everything to be centralised, this became a panacea, right, the point that you make. And I think for us, that is dangerous because you have to accept the fact that there are inherent weaknesses in a centralised system of bargaining, and for those comrades who are there, we know that, in private sector. Public sector may be different, but Roger can talk about the Local Government Bargaining Council.

But I can tell you for the private sector bargaining councils that I'm involved in, comrades, it's very different. Comrades that have been organised for a long, long time are beginning to say, but this bargaining council is no better for us, we can negotiate something better if we had actually done it locally in our own plant.

So I think it's something that we need to look at and therefore I'm saying we need to do more in centralised bargaining but I think we need to unpack it much more in the sense, say to workers, this is how we need to see centralised bargaining. But the key thing is to continue to organise because for us, I mean, I stress this point, comrades, that we have seen that. History has taught us that, that if you rely on a centralised system of negotiations, your weakness is that you rely on the Bargaining Council to become your union now.

In fact, you know what happens even, I know that even in Furniture, the union that I used to work for, Paper, used to do that, guilty, because we were in the same building, it's the Furniture Bargaining Council. A worker comes to you with a problem of leave pay. You send him to the

Bargaining Council, which is five floors up. So you send him there. Instead, you could have done it yourself. It's a good example, comrades, Furniture Bargaining Council. That's why the Furniture Bargaining Council in the next five years probably will not exist any longer because workers are sick and tired of that bargaining council, which by the way, SAPAWU, is still a member of. But these are some of the problems that I'm saying, that you become too reliant on a bargaining council, it's your be all and end all, and you forget about simple organising and servicing of workers.

Then I just want to say, the review cases, comrades, here, I don't have it with me right now, I'm sorry, man, but I do have the data there. In fact, the majority of cases are in fact set aside, so review success is very minimal. It then becomes an issue of when you implement it. So you go back to 143. The worker comes to the CCMA, my boss doesn't want to enforce an arbitration award, now I have to go the Sheriff of the Court. I have to pay R50 to issue the summons or whatever it is and now it becomes a civil matter, which is crazy, man, which is crazy, comrades.

But generally speaking, a review, a successful review has been very minimal, amazingly so. We've just recently seen the data here. For the first time they've been able to capture it properly.

**MR RONNIE:** Are those reviews not for employers?

**MR DICKS:** Reviews generally, generally, ja. Reviews generally, we haven't really disaggregated - there are the ones - ja, Ronnie, I mean, I think for - there are few reviews that we do as unions, I know of NUMSA for example, there's a review case there. But there are a number of review cases that we've seen, so we've looked at it.

But generally a review case, and the good thing about it is because some of the judges continue to maintain the narrow definition of review, so they just kick it out, they just say no, we're dismissing this case. But the problem with a review case is also where you're successful and this is why we say we need to have better interface with the Labour Court, I've seen it, just a one-pager, refer back to the CCMA. Application successful, referred back to the CCMA. That's what it says. So there are no grounds for what the review was about. What was the review successful for? So it has to be heard again by the CCMA.

So that's the most interesting thing, I mean, we're seeing that and we said, we can't do that, I

mean, we said - and of course judges are arrogant, they don't want to listen to the CCMA. The Judge President says, ja, he can have tea with the CCMA character to talk about these things but he's not discussing a relationship. But, comrades, ja, that's the thing but the Judge President unfortunately is under pressure now so I've heard that he's going to resign, which is a good thing, I think.

**FACILITATOR:** The Judge President of the Labour Court?

**MR DICKS:** Ja.

**FACILITATOR:** Okay. Comrades, let's take the second round of hands. I'm on that side so we'll begin with Oupa, Bethuel, and the comrade at the back, in that order.

**MR BODIBE:** Thanks, Rudi. Two points. What's the impact of the change in the average size of the workplace on representivity? I have a hunch that the average size has shrunk, of the workplace, partly because of retrenchment but also because of outsourcing. I mean, you're looking at sectors like say let's take your communication. These were sectors where there were large workplaces, like Telkom as one employer but also even in terms of the size of the workplace being big. And the fact that in small businesses, that's where there's a failure to implement the Labour Laws. So I want to find out if we've been able to disaggregate and look at that as an impact on or how does that impact on the representivity of bargaining council?

The second point, and this is a point that I think you were silent about, the Department of Labour. Where is the Department of Labour? Because one gets a sense that there's a feeling that the Department of Labour is like business as usual, but whereas when we are coming into the nineties, they were leading in terms of thinking through transformation, thinking through regulation and so forth. But you don't get a sense that the Department of Labour as an institution is on top of developments in the labour market. Secondly, also in terms of doing enforcement and it's also quite weak on enforcement.

So even if they are doing these five-year plans, what are they based on? Because I think the last Labour Market Review that I know of is the Commission and is the ILO. But since then, I don't see the Department of Labour thinking strategically about what's happened in the labour market and how they have to intervene. So where is the Department? It's sort of irrelevant nowadays

even in debates about what we should do to improve regulation, even around debates around flexibility, it's like - it's nowhere. It's almost like it doesn't exist. So what's your take on where the Department is?

**FACILITATOR:** Thank you, comrade. Cde Bethuel?

**MR MASERUMULE:** Thank you. I am really glad that you highlighted this question of, I don't know whether we should call it institutionalisation of union work, or over-reliance of the regulatory powers of the system to deal with the problems we have. I think we should try and investigate it more deeply. While you're correct in saying listen, let's organise, I think we should also just understand what causes this reliance on regulatory powers of the system. And I'm sure Liesl will keep that in mind for the Organisational Review project.

My hunch has been that our thinking of an ordinary organiser who's anticipated to carry out any union's recruitment campaign, that the organiser is overburdened with a number of things, having to assist training committees, employment equity committees in the factory, assist unfair dismissals. It's a whole range of issues that I would assume poor organisers are saddled with and they're on their own. So the capacity of organisers but perhaps even the capacity of shop stewards, because most of the issues that flow to organisers reflect weaknesses of shop stewards on the shop floor.

And the question definitely then is, to what extent do unions really prioritise empowerment programmes at the lowest level of the union rungs, so that we arrest most of the rot which we begin to resolve through reliance on the regulatory system and on mechanisms of the system? And those are really fundamental questions about prioritising, rebuilding power, reinventing the mass character of the movement, because I think we talk about the movement and no more the mass character of it these days.

So that's one thing I wanted to highlight but I was also glad you were reflecting on the growing number of cases that go wherever, CCMA; the extent to which now the CCMA wants to restrain that huge inflow, but also the role of the courts in terms of trying to limit some of those things. And so some of the ideas that come freewheel as cases, I'm just wary that we might shoot ourselves in the foot. If you think about the situation in which a strategic company to a union unleashes all forms of anti-union practices, and locks endless number of workers into disciplinary

enquiries and counselling sessions, reducing the union to a non-entity, showing the workers that they are worse off trying to belong to an organisation than otherwise.

Under such circumstances, and where they are careful to find good cases against workers, then you're really in a retreat. And the use of a defensive mode of fight-back might really include taking up cases even those which are weak. In a sense, I mean, I used to rely on that strategy, to lock management in endless appeals and counter-grievance procedures, Bargaining Council disputes, court cases, such that they know that the cost of acting against my member is losing more time in these other processes.

So it's a bit of a strategic thing to think about, and more often if you give up just because there's a prima facie case of guilt, you might end up abandoning your members unduly. So let's not beat an assault into this idea of trying to lessen the workloads of the CCMA through some of these approaches, otherwise sometimes you can win a case just on the basis of the company being inconsistent. They were right in the procedure, they were right on the charges, everything, but they were wrong in terms of the punishment. They were lenient on another worker and they become more harsh on your member. And if you gave up early, then it becomes wrong.

And the last thing was this story about what determines guilt, what do you use to determine guilt? Is it beyond reasonable doubt? Is it balance of probability? I don't know. It will be interesting how we approach this issue, because in the past when I was still trying to organise workers, then theirs had a double bite. But you see, management would want to take the worker to court first and then they lose in court because they depend on beyond reasonable doubt. But when you are happy and celebrating with the workers that we have won, then they institute a disciplinary hearing in the inquiry and they find the worker guilty on the basis of balance of probability. And when you try and argue there, but on what basis do you even institute these proceedings because the case was lost in court? They say no, no, no, no, no, we are going to use this other criteria.

So I think clarity would help. This thing of subjecting workers to double forms, you know, try him this way, if you fail try him another way and catch him with either, it's a bit unfair. And we should also be clear about where to locate ourselves because this balance of probability nonsense, it catches - you know what I mean, they shoot with everything and then one of them will catch you. So we ought to really tone down what we -

**FACILITATOR:** Thank you, Cde Bethuel. The next comrade?

**MR MDONGENI:** Thank you, Chair. Right. The question that I wanted to raise perhaps is two quick questions. The first one deals with the issue of the vulnerable workers that we have referred to, and to me, my little knowledge in terms of the sector, it's like we are depending on the message of the Minister to determine the minimum wage that must be able to apply in those sectors. I stand to be corrected. As if we don't have any mechanism as a federation to make sure that we are able to put on our own what we view as minimum wages and begin in the process that will help us to mobilise those workers.

And when you place such demands, they will understand that the Federation is indeed meaningful to their issues. You'll correct me if I'm wrong. If it depends on the blank cheque of the Minister to determine then it becomes something else because they will see the Minister as their representative other than a trade union. He's the one who's looking at their interest, not the trade union.

The second one, Chair, is in one of these labour workshops, bargaining conferences, one of the guys from the Labour Court, one of the judges, he was painting a very bleak picture of the future of the Labour Courts given that there's not much attention, you don't have permanent judges sitting in the Labour Court. It's an area that is neglected, those who sit at Labour Courts are doing it on a part-time basis. It's not that the Labour Court is failing but it's because there's no enabling environment that allows Labour Court to be - whether there has been an improvement on that aspect, perhaps it will also go into the CCMA issues. I've heard recently that Vavi was on the air speaking on the dangers, if we allow a situation whereby the High Court will be able to take over issues that are supposed to be dealt with by the institutions meant to deal with labour issues.

To what extent also are the trade unions, the rank and file, understanding the danger that is coming so that it doesn't become - when eventuality comes, it's not become an issue of Vavi versus, and not the workers on the ground, understanding the attack or the onslaught that is being waged by the new dispensation that is coming.

Lastly, Chair, we tend to be romanticising the public sector in terms of bargaining. It's one which is to us very, very difficult also. We have a super Minister, Geraldine, we have our Minister in Education as Naledi, we're supposed to be negotiating our conditions of service with our Minister

but now there's this super Minister of Public Service. If our Minister were able - because in the LRC were we bargain in the sector, we command 72% of the total workforce in there, where we think we have the muscle to can be able to make an impact in improving our conditions of service, but you have this broad public sector where we are so many and you have to struggle to forge unity on the demands themselves even within the Cosatu unions.

Others feel, when you say as teachers, we say 12% and no bottom line, our bottom line is 12%, we should have said 20%, but given that we understand our government is still facing these challenges so we said 12. Now, you get into this big caucus of the broad public sector, others are worried, why are you saying 12, we are prepared to go for 10, they are watering down even what you thought is a key demand, doing that through the media. By the time you get there, you're already defeated by the very same unions inside. You still have to go outside the non-Cosatu ones where you get the worst kind of an environment.

So it's a very difficult situation but I'm saying perhaps this thing of this super employer - because you'll find some comrade wanting to sneak demands they were supposed to have been pushing in their sectors that are not necessarily cutting across but they want to sneak them in, in the broader public sector issue so that they get what they want, then they go outside, they sign. While you're still outside, you're still wanting to pursue your struggles, they've already signed because they've been able to push their own sector things, but they have put the sector things in the public sector, broad public sector bargaining structure, so we have that kind of environment. So it mustn't be like the Public Service is a good arrangement that we're having in terms of that. Thanks, Chair.

**FACILITATOR:** Alright, comrade. Just a point of intervention. I thought what we should do is we'll have an early break for tea at quarter to eleven, and then we can come back at eleven o'clock and then we can talk about the commissions.

For now, we'll get Cde Rudi to respond to that and then we'll probably take the last two hands. I certainly haven't asked a question and I feel that my rights have been violated by myself.

**MR DICKS:** You see, comrades, I didn't talk about the public sector at all. I want to avoid it, you see, for exactly the same reasons that you've mentioned right now. It is dangerous and I agree with some of the sentiments, that I'm not laughing because of what you're saying, I'm thinking about 1999, I'm thinking about 2003 and it's repeating itself again, you see. I'll just leave it like

that. And if we don't sort that out, if we don't sort that out, then we'll continue to be stuck in this sort of quagmire that we've had post 1999.

Oupa, I think it's true, I think that's a good point that you made. I think definitely there is an impact on the smaller size companies and representivity so outsourcing has impacted on that. I think the ability to downsize, the introduction of new technology particularly in manufacturing, you know, high-tech manufacturing, chemical, motor, metal engineering, communication, we have seen the downsizing of the workforce, products being manufactured at other premises, smaller - so I think that has an impact. But I've not been able to disaggregate that and I think, Kimani, part of the research that you guys are doing, I think we need to look at that. Let's look at the sectors because I think some of the sectors talk about that, and let's look at that as part of the terms of reference and I think we need to put it in there; what has been the impact on the reduction of size of employers on the strengthening of bargaining councils. I think it's a useful point that you make and I don't think it's anecdotal, you know.

The DOL, it's true. Can I just share a lighter moment with you, comrades. Comrades know about the Rustenburg Platinum case, right, you all know about it, I won't even ask; comrades even know the legal arguments. But this is the strangest thing of DOL. The CCMA Director called the Minister and asked him, is he sending a senior delegation to the Constitutional Court? He asked, for what? She said for Rustenburg Platinum? He said, what is that about? Now, that shows the level of - no insult to the Minister, it just shows the level of officials that are working there. He didn't know about the Rustenburg Platinum's matter, comrades, when everybody else is talking about it and its significance on the labour market. He just didn't know about it.

So I'm saying, I mean, this is the problem that we have. It's endemic of the type of leadership that is there, there's no strategic thinking, comrades, and we've raised this with them on numerous occasions. Unfortunately a lot of it is our own comrades that have gone there and have not been able to perform, have been stuck in the sort of Public Service rut of doing things.

I mean, Oupa, you can talk about enforcement. When Mtisi came in as a Minister, there were 1 200 inspectors; there are currently under 700 inspectors, right now. Now, these inspectors, they don't go to small vulnerable business, they don't go to shops and agriculture and business call centres and stuff like that, they go to big employers that are already organised. So there's no effective strategy of enforcement and ensuring that vulnerable workers are better protected. So

there's no coherent strategy on dealing with issues of enforcement, for example. There's no proper debate, there's no proper analysis of some of these things.

Unfortunately my predecessor, Cde Kagiso, and there's another - I don't know, you know sometimes you don't whether these people are comrades or not, but there's another researcher, they have set up a research unit to do this. But they're wholly inadequate to deal with these issues, there's no review. In fact, the Department of Labour relies on the stuff that we do most of the time on the more recent research that they've asked for. So I think it is an issue of capacity.

I think comrades must discuss how we deal with this. Whether we, for example, say we need to meet with the Department of Labour and say, these are issues of concerns that we have, and I think that we need to deal with it in 1, 2, 3. And it's really a serious problem, comrades, I can tell you now, the problem is in some bargaining councils, bargaining councils are a microcosm of what happens in DOL, that's exactly how it operates. So they just transfer exactly the sort of bureaucracies, the inefficiency, inability to be able to do the work, they just transfer to those bargaining councils and they operate in the same way because DOL then is no support to them.

Cde Bethuel, I mean, institutionalisation, I made that point over and over again. I think we must be careful. History has taught us that. You know that when you were still a regional secretary for NUMSA, when you've taken those members - I know that when I used to organise for Paper and take from South African Typographical union. It's not because there was complacency that set in, we depended on the regulatory framework, that was it. No, we didn't go out and organise, we didn't go out and service members around these things, around small basic issues that affect them in the workplace. And I cannot stress that point more, comrades.

So I think that's an important thing and I mean, I think you made some useful suggestions around capacitating organisers. So what is the role of an organiser now? What is the role of a shop steward now? Do we see it in the same way that we have previously? And I think we need to look at that and unpack that much more. How many of us do organiser training, or shop steward training that we used to in the eighties and nineties? Have we redeveloped some of those training materials? And I think it's something that we need to look at because I don't think a lot of unions do that. I mean, only the ones where there's a significant number of spend on education and training and capacity, they're able to do that. So I think that's something that we need to look at.

The frivolous cases thing is something that is raised by employers. They basically want to introduce a fee to prevent frivolous cases. So in a sense, a penalty for you if your case is frivolous, then we're going to award a penalty against you. Now, I must warn you also, although that's not the case and it will never happen, comrades, I can tell you that, commissioners have awarded costs against workers. They've done that in the recent two to three years because the case is entirely frivolous. You know, they say, this is a frivolous matter, the matter is dismissed, we award costs against you. I'm serious, and you can speak to some of the unions, comrades. Cases have been awarded against where there have actually been costs awarded and it's up to the commissioner's discretion to do that but they've actually awarded costs.

So be careful. I mean, I know it's a strategy and it's a good strategy sometimes but be careful, there are costs being awarded and I know commissioners who will do that quite regularly because they can see that this case is very, very frivolous. So I think it's balancing between how we do that but I think the campaign needs to be that we must ensure that workers are not penalised for referring cases.

Because remember, the CCMA for many workers is the first and the last port of call in a sense, they can't go anywhere else, and the case has to end there, they can't go anywhere else, no one else is going to help them. They can run to a union and the union will probably say, we don't have money now, you know, and lots of long stories. So I think that's an important thing.

Now the guilt test again is an academic argument. Our Labour Relations Act and the issue of fairness is based on the test of balance of probability, comrades, it's based on that. It's not based on a beyond reasonable doubt, and this was recent - that's why I mentioned this case, that's why I mentioned this case, comrades, because this is a significant case that went to the LAC, the Labour Appeal Court, and it has been entrenched now throughout the CCMA, that you cannot prove beyond reasonable doubt; balance of probability has to work.

And I'm saying therefore you need to be careful about this, I mean, it's a significant challenge and unfortunately it's been awarded by a very conservative Acting Judge, van Niekerk, who begins to say that you don't have to prove, it's probable that that worker was there and he did steal the thing. I mean, that's how the argument - it's probable that he was there, you know, we saw him pass there but we didn't find anything on him, he maybe put it somewhere else. I mean, that's how you dismiss, comrades, and that's how the system works unfortunately, and this case entrenched that

further now, that you don't have to prove beyond reasonable doubt, that cannot be the test for approving a worker's dismissal.

Although I think if I look at some of the arbitration awards, some of the commissioners, they tend to still look at equity and justice, social justice. They still tend to use that in instances where there are huge numbers of employees, they tend to continually use it, it balances between the two tests. So yes, you have a procedure in place, show that you've done it fairly, right, and then kind of more flex it towards small employers. So that is something and it's really dangerous but unfortunately, comrades, that is the way the law has been structured.

Comrade at the back there, yes, I mean, the sectoral determinations, I was engaged with comrades from FAWU and when I listened to them, a lot of them were talking about, we must improve the sectoral determination, we must improve - but it's again institutionalising this thing. We depend on regulation and laws, over-organising, they're actually going out and fighting with employers, because the point is, you're going to be chased off the bloody farm; so what? How many times have you been chased off and arrested when we tried to organise workers, comrades? We must accept that, but it doesn't mean we can't go back again. We can go back again there and organise those workers in a different way. We can organise them when they go and do groceries at another point in time.

But you can't institutionalise everything, comrades. And that's one thing that I think it's important that - and some comrades in these vulnerable sectors tend to want to institutionalise. They think that regulation is the most important thing and therefore they're at the mercy of - I know it's not in the context of what you're raising but therefore then sectoral determination is an important thing. Sectoral determinations are just a - I mean, there's nothing significant about it to that, compared to the basic conditions other than prescribed minimum benefits in terms of wages, wage rates. Sometimes leave arrangements, sometimes hours of work are slightly are different and sometimes in the case of domestic workers, it's slightly different. But in essence, the majority of the conditions contained there are what is contained in the Basic Conditions of Employment Act.

So, be careful of this regulation, this over-regulation thing. Regulation only works if we have good unions, comrades, I mean, that's the most important point that you can say. It only works if we have good organising strategy and we have good unions, otherwise forget about it. That's why you have lots of work - that's why the data that I showed you on the referrals is why? Because we

don't have strong unions in those sectors, comrades, and there we have the highest levels of regulation. In all those sectors, we have the highest levels of regulation but they continue to be the highest levels of referrals to the CCMA, because you don't have strong organisation there, and that's important, comrades.

And you're right, comrades, there is a bleak picture of the Labour Court thing, just on the last point. I don't know if comrades have been following the debate on the Superior Courts Bill. Basically the Department of Justice introduced the Superior Courts Bill and the intention of the Bill was to eradicate all specialised courts, so they wanted to get rid of all specialised courts, you know, Child Maintenance Courts, blah, blah, blah, Labour Appeal Courts, all these other things and then put it under one court with judges that specialise in these areas.

And then they came back with a revised one, with a revised copy of the Bill. And the revised copy of the Bill only eradicated the Labour Court and the Labour Appeal Court and kept all the other specialised courts. This was a uniqueness of the Superior Courts Bill. So we said, but what's the rationale? We said to de Lange, but you said you want to eradicate all the specialised - no, we didn't mean all of them but we think these are the courts that must be eradicated; only the Labour Court and the Labour Appeal Court, comrades, serious. It's the only two courts that they wanted to get rid of.

And of course you would have noticed last year, the President then kicked it out because I think it wouldn't have stood the constitutional test, it was then kicked out. But they're still bringing it back again, and that's partly because of the way that the Labour Court and Labour - you're right, judges are Acting there. There's no security of tenure in the courts. You know, it's the only court where it's like that.

So although the constitutional provisions of fair labour practice and the LRA makes provision for the establishment of the Labour Courts, it's not taken very, very seriously. And that's why you have conflict in judgements, for example, because you have acting judges coming in that do civil matters, they're not specialised judges, or you have, for example, judges that are taken from different places all over the show, like van Niekerk who, for example, acts. But they also use judges that, for example, act in our interest also, so some cases go in our interest also.

But the point is, there are no specialised judges there, there is no permanent appointment and I

think these are some of the issues that we want to raise. It's going to come through the back door again but I think we made it very, very clear to them that - so comrades must prepare for a Section 77 on this, because we did say to them, if you continue with the current format of this particular Bill, then we're going to have a Section 77 on this.

So, yes, it's bleak for us as it is right now but we're continuing to engage with DOL, Justice, to say that specialised courts, particularly the retention of the Labour Appeal and the Labour Appeal Court, we also highlighted the point in the Rustenburg Platinum matter. Comrades were in the court. I mean, it's one of the key arguments and I said to our legal counsel, you have to say why the SCAs, Superior Courts of Appeal, erred on the decision because they don't understand labour matters and therefore there's a need to retain specialised courts because then you understand labour matters. You cannot have a judge - and this is what they said, we'll bring in a judge, it's okay, we'll train him for two weeks, he'll understand labour matters. That's exactly what they said to us, comrades.

So, yes, it is a problem and it still looks a bit bleak but it's something that we said that we don't want to compromise on. And specifically the Rustenburg Plats is a classical case of the courts saying, apply administrative justice to the CCMA. Do you know what that means for the CCMA? Administrative justice, comrades, PAJA, it will kill the CCMA, it will literally kill the CCMA, literally kill it, comrades. Because the administrative justice, PAJA, is so onerous in the way that you need to apply administrative justice to the way the CCMA operates; it in fact conflicts with that which is prescribed in the LRA. So there's a clear conflict between the Acts on a number of significant areas including reviews as one of them.

Thanks, comrades.

**FACILITATOR:** Alright. Let's wind this up. I thought we'd leave fifteen minutes to eleven, it seems like we might as well have to leave at eleven, with your indulgence, comrades, the last two hands, one will be mine, if I'm permitted.

Mine is on the encroachment of Civil Courts into the Labour Courts as the Rustenburg Plats case shows, and I'm wondering beyond the legal argument, because we can go and make those in the Constitutional Court because it's a question of conflict of jurisdiction. The Supreme Court of Appeal says, the Constitution says we are the last court of appeal, except in constitutional matters.

That's what the Supreme Court of Appeal says. But the LRA says all appeals from the lower courts, in those specialised courts, either the CCMA or the Labour Court, must go to the Labour Appeal Court.

So here, one court says no, the Constitution says we are higher than the others and that's where we've got these problematic judgements. So beyond the legal argument, what is the Federation doing, because I don't think the legal argument alone will help. What does the Constitutional Court say? The Supreme Court of Appeal has the right and the power to do it. We are stuck with it for life. Where is the political muscle, and probably that's what we need because when you talk about transformation, transformation is not about arguments by lawyers in court, it's about the collective effort demonstrated by workers and the mass broadly, otherwise these courts lack meaning for us. I'll leave it there.

The last hand by anybody else, anyone else? Okay, we can leave it there. After the answer, we'll go for a break. Carry on now, that was my question.

**MR DICKS:** No, it's not a question, you made the point, that's clear.

**FACILITATOR:** What is the Federation doing?

**MR DICKS:** We're not doing anything, comrades, come on, the point is clear, we're not doing anything. We're not doing anything on a lot of things, comrades, and this is the weakness that we ourselves have become institutionalised; I said it in a very subtle way. I was rather passing on the more harsher comments to the affiliates and leaving the subtleness to the Federation. In fact, you know, we are guilty of it, comrades, you know, we're institutionalising everything. If a judgement goes against us, I mean, this is huge shit for us, comrades, I mean, huge, huge, huge.

**COMMENT:** ... (inaudible)

**MR DICKS:** We're going to have to. I think these are some of the things that we need to raise. And I agree, I think, Kimani, you're right. I think the approach should be instead of waiting for the reserve judgement to be made, let's try and see whether we can politically deal with some of these things. But how do you do it when the Minister says, I don't understand what Rustenburg Platinum is all about because his own official didn't brief him about it, because his own officials

don't understand the implications. You know, for DOL, no disrespect to the Minister, it's his officials who were supposed to brief him, he's not expected necessarily to know all these things, but this is a significant case and he says he doesn't know that, so it becomes a significant problem.

**FACILITATOR:** Alright, comrades. Thanks a lot to Cde Rudi. Let's go for a break. We'll come back at quarter past eleven and then we will briefly explain what discussions we're going to have between then and until the time we close at about 12.30. We're finishing strictly at one o'clock on the dot. Thank you, comrades.

### **TEA BREAK**

**FACILITATOR:** Comrades, welcome back. This is the last session, no more discussions. We should be ready to strategise and leave. I wanted to say that I'm feeling a bit strange because this is one of the very, very few workshops that I've gone to and there has not been a single song by workers or representatives of workers, not one.

**COMMENT:** Workers' representatives don't sing.

**COMMENT:** But why are we classified as workers?

**FACILITATOR:** That's what's strange. I wanted to find out whether you are workers or we are workers or whether we are representatives of workers.

**COMMENT:** We are workers of the workers.

**FACILITATOR:** Who are we?

**COMMENT:** We are the workers of the workers.

**FACILITATOR:** If anybody still believes in the revolutionary morality of the struggle of workers, he or she must lead us in a song. It is imperative that we get that, comrades. Anybody take it up from the floor.

## SINGING OF SONG

Amandla!

Awetu!

**FACILITATOR:** Okay, initially we wanted to have a wider range of discussions, comrades, but then we decided to narrow down our focus to two key themes or strategic discussion. The first one will be on bargaining, as you can see, and that will be Commission One, and there are three questions under that, three broad questions under that, and the second one will be on organising. Unfortunately we did not get time to print this out, the second one will be on organising.

Let's quickly go through the kind of issues we're looking into and then we will randomly divide ourselves, but randomly in the sense of selective randomness, so I wanted to avoid clubbing. I think we're very good at that. You always find that somehow we settle naturally next to those we know, like I know Oupa and Liesl work in the same organisation, strange enough they're sitting next to each other, so we have to make sure that there is more inter-mixing.

Firstly on bargaining, we want to look at - because these are some of the key issues that came out of the discussions yesterday as well as the presentations in the afternoon, and the first one is on the issue of the CPIX. Because this monster or whatever it is called the CPIX seems to dominate our lives so much. It's an economic reality for us but since it seems to be the instrument that's used almost endlessly to determine how when increases are made, we need to have a discussion around it.

So the question is: Should we continue to use the CPIX as a tool for negotiating wage increases? Yesterday you remember we heard from NUMSA saying that they are drifting away, for instance, in their sector, they're wanting to drift away from the CPIX. And then why? No EBS, why, no why. I'm following up on that and this is a bit presumptuous: if not, what economic or other indicators should we use other than the CPIX for wage increases? What should we take into account? Because that question will come up when we go and meet the bosses. They'll say to us, give us anything else, even the state because the state uses the CPIX for its planning. So if we have to change the existing methods or methodology that we've used which is based on the CPIX, we need alternatives.

Secondly on bargaining rounds, annual and multi-year rounds, or multi-year agreements, should we remain with annual agreements; should we go for multi agreements and why? The idea is to make our motivation and to come up with ideas around that.

And thirdly, and this was one of our aims in this workshop was that, what kind of support do you think Cosatu and NALEDI should provide in this regard? What should we do? Tell us those areas of intervention that you want NALEDI and Cosatu to play, what support, what systems should we provide? Is it research, is it mobilising, I don't know; probably. Is it interventions of different forms with other institutions of state? Just think about that, reflecting that and come up with the ideas.

Now the second commission will look at organising. I'll read from my screen because it's there, the same thing, and the first one is, what constitutes organising? What constitutes union organising? What is the role of organisers and shop stewards? Is this role changing? Many years since we've been in the struggles for better rights against employers and the bosses and capitalism, is the role of union organising shifting?

Now, what specific strategies, that will be the second question, what specific strategies should we develop for organising new workers? We heard yesterday, we also heard this morning from Cde Rudi, I know the discussions that we had, that one of the key challenges is around the new forms of jobs, you know, casualisation, the changing nature of the workplace, as Cde Eddie told us yesterday, and as Cde Vavi mentioned at the beginning of the workshop yesterday. And all these have had an impact, firstly on organising and secondly, by extension on collective bargaining. So what strategies should we develop for organising new workers, you know in terms of groups, the jobs and the sectors?

Thirdly, in the context of existing constraints, what capacity and support is required for organising? Because obviously there are challenges, whether it's material, whether it's other forms of capacity, when you think about that, if you look at those constraints, what support, what capacity and support is required to enhance organising?

And finally again, the same question as in Commission One, what kind of support do you think Cosatu and NALEDI should provide? It should not be in collective bargaining, rather it should be in organising, and that was an oversight on my part, it's on organising.

Now, what we will do is, we have these two rooms here, well within a building, we have these room, 'Moses Kotane' and 'Geoffrey Nduza', right on the way to the washrooms, we are going to divide ourselves, we probably are 20-something people so we will have a 1, 2, 1, 2 arrangement. Commission One will sit here and Commission Two will go to the next room, Geoffrey Nduza. And this is what we would prefer to be done.

In your group, we have flipcharts here, if preferably you could take a number of them for those who go next door and also those who remain, we should get at least a chairperson. The commissions are at complete liberty to decide its own procedures, but at least appoint a chairperson or someone who can assist with teasing out the main points and noting the key issues. He or she is not a rapporteur, it's just someone to facilitate the discussion but also appoint a rapporteur and that comrade or someone else within that commission should then take the notes and come and report back. Are we together? This is just by way of facilitating the dynamics of commission discussions.

We have at least until - shall we come back by quarter-past twelve, is that too soon? It's about 45 minutes. We want to reserve about half an hour for discussions on the report backs and discussions, so we have about 45 minutes. So comrades, can we then come back at twenty-past twelve and then we will have those report backs. We'll have about a half an hour's discussion and then we will wind up the workshop and make a couple of announcements after that. Right.

**SESSION TWO:  
COLLECTIVE BARGAINING STRATEGIES**

**REPORT BACK FROM COMMISSIONS**

**FACILITATOR:** Now, let's do this; we will go straight to report backs, probably we should begin with Commission Two because I stopped them much earlier than Commission One. Can we get the rapporteur for Commission Two? Please use a microphone preferably so that we have that recorded, we are going to use that.

**COMMISSION TWO**

**MR RONNIE:** We never had enough time like your group and like group one as well I think the topics were just too loaded, I think, to do justice to it. So we rather superficially touched on the four areas that we were meant to deal with. The questions up there are, or the first question is:

**What constitutes union organising; what is the role of organising shop stewards in organising; and is this role shifting?**

Basically what comrades were saying is that a key component of organising is basically to build a strong union of which obviously the education part is important but that it encompasses in essence at the starting point a strategy, a recruitment sort of organising strategy which deals with issues like information, what is the kind of information necessary to basically make workers aware of what the union is, what it stands for, etc, what are some of the benefits of joining unions. It includes a knowledge of the workforce that we're actually targeting to recruit and organise.

As I mentioned, there's an education component both in terms of shop stewards organisers but also in terms of members. And organising also encompasses a servicing component which relates in part to the provision of benefits but also a process which seeks to build a strong shop union on the shop floor through strong shop steward structures, etc. And so all those strategies and tactics would then be included in the broader organising/recruitment strategy.

Then on the question of the roles of organisers and shop stewards in the process, we are saying

that there are a couple of key areas which flow from the strategies. There's the question of recruitment, there's the question of representation, there's the question of also talking of but ensuring that benefits which are available to members actually reach members, etc. But most importantly, it is the question of building working-class power in the workplace, and so this whole thing of building workers power and through that, the development of class consciousness is an important and primary role.

The group was very clear that although there's been a shift towards a greater preoccupation with benefits, the unity of workers, the solidarity and the prevention of the kind of competition amongst workers which belonging to a union brings, are the key reasons why workers join unions, and the role and culture that should be fostered by shop stewards and organisers within the union.

There was, however, an indication that we need to take different approaches, it's not a one size fits all approach to organising and servicing. There are different groups of workers and they have different needs, different interests. This could either be regional, it could be occupational, it could be gender, so we need to know exactly who is the workforce, and in that way adopt different strategies and tactics for organising amongst those groups of workers.

The other point that we just made there is that while we spent some time talking about the role of organisers and shop stewards in organising, we believe that part of that should also be to ensure that all members are ultimately able to play a role, because the union is the members and it's their union. And therefore, in terms of organising and that kind of thing, every member is a union organiser and not every shop steward. So it should also be aimed at empowering members to take control and own their own organisation.

On whether there have been shifts in this role, we said that the basic role of people who belong to a union, whether they are the members or any full-time staff or members employed to do the work that ordinary workers can't do because they're working full-time, and so they employ certain people and they become bosses in that way, there have been shifts. I've mentioned there seems to be a greater emphasis towards the question of benefits and that has to be understood within the context and the changes taking place in South Africa and particularly post-1994, and this very conspicuous consumption that we see taking place. So workers think it's my turn to also get part of it so there's that kind of thing and we need to fight consistently against that.

New work forms, introduction of new technologies and new work types, the A-typical workforce

which has grown, etc, casualisation, and those things which have led in turn to changes in the employment relationship.

And then an issue which comrades felt very strongly about, institutionalisation. I have another term for it, I call it trade union legalism. It's the legal framework within which trade unions operate and I think Rudi did a very good presentation explaining about how we've become tied up in the knots of legalism. So both in terms of often working against the best interests of the workers, this institutionalisation or legal framework is supposed to benefit but we actually find it working against them. I strongly believe in this thing of be careful what you wish for. And we wish for these laws and now we've got the laws and now it seems to be coming back to bite us.

But it also places a strain on our capacity. My union spends almost half a million Rand a month on legal fees alone because we're tied up in institutionalisation. And everything workers now turn to is get a legal opinion. They never turn to their strength now, the first thing is can we get a legal opinion on this, what does the law say? So I think we're saying that's a very fundamental shift in the way unions approach their work, which we must again resist.

And then also the growing number of unions, I think it's also mentioned about we've become lazy. And in that way vacuums have been created, spaces have been opened up, people have moved in, some with good intentions fighting against some of the bureaucratic tendencies which have built up in unions, others simply because they see a space to get rich quick and starting a union might be the way to do it. So we're saying that those are some of the things which impact on the role of organisers and shop stewards.

Then on the second question:

**What specific strategies should we develop for organising not necessarily new workers but the unorganised and they could either be different groups of workers, particular occupations, or particular sectors in the economy.**

We said that the first point is that, again this question of one size fits all can't be the be all and the end all of our approach, there have to be degrees of flexibility. And some of the things mentioned which I think we need to have further discussion on is that we have a preoccupation with stop-orders at the workplace. Maybe one way of attracting workers is to start through the process of debit orders and if they're willing to give a debit order when they join the union, and through

working consistently with them, you can ultimately get that converted into a stop-order at a later stage. So this notion of stop-order versus debit order I think is something that we need to look at.

There's also flexibility in order to be able to counter the new unions or other unions which operate in those sectors where we are. And that then requires us to be sensitive and alert and responsive to some of these challenges.

We need to be clear then what is the workforce that we're targeting, what are the specific needs issues confronting those workers, and also look at, for example, the flexibility I'm talking about is not the old style going to the workplace, getting access as provided for in the LRA that you now have access to the workplace. We need to look at what the sites of recruitment are, some of them might very well be, as I call off site, they're away from the traditional workplace. Somebody mentioned the question, the possibility of recruitment centres where all unions can set up a recruitment centre and workers can come there and they will be directed into the appropriate union, etc. So, new recruitment strategies.

The question of not necessarily excluding non-union members from union meetings, hold all inclusive meetings and in that way win people over to the ideas and the benefits of belonging to a union.

The question of, another tactic mentioned, establishment of specific recruitment teams which are familiar with some of the issues confronting different groups, whether it's women, whether it's youth, whether it's migrant workers as a set of workers, whether they're casual or atypical workers and other specific occupations. If you're wanting, for example, to organise academics, you know, let's look at getting a team together, drawn from that particular occupation group, and in that way, might be able to make a connection to these workers. And obviously through some of the other things we'll be able to bring them into the organisation.

The third issue was on the question of given - in the context of existing constraints, what capacity and support is required for organising. A large emphasis was based on what has now become a decline in the level and the type and intensity of shop steward training. And there was a strong feeling that this can take many forms, it could be structured kind of classroom-based shop steward training, it could be informal training, the use of constitutional meetings as a training site, etc. Issue specific, industrial relations given our being trapped into the legal framework, etc.

Political training as part of us understanding and building a strong working-class organisation and organisations which obviously many of us still feel are the primary organisations of the working class.

Then the question of strengthening centralised bargaining will go a long way, also notwithstanding, and note was taken of some of the warnings given about if we place too much emphasis and we place all our eggs in the basket of centralised bargaining, we could very well find us being weakened on the other hand.

The question of the correct information being available to us, both in terms of a sectoral level but also at a workplace level. The collection of that information, the management of that information, the monitoring of the information, etc, all assist in terms of our organising strategy is going to unfold.

The last question is, what kind of support can Cosatu and NALEDI give to organising? And it was basically grouped into one heading called strategic support. And this strategic support encompasses issues like research, assisting on propaganda, identifying and researching case studies, bringing these to our attention, possible tactics as part of our organising work, assisting with building overall capacity building through, amongst others, things like workshops, etc.

And again, there should be a balance between these things being applicable at a sector-wide level and not again taking all our resources and only capacitating those few shop stewards and organisers who serve in the National Bargaining Council but others who have negotiating forums at a local level are completely ignored and have to find their own way through often very important issues that they have to take up. So it has to be spanned, the national, provincial and local levels where all of this type of support needs to be given.

So, Cde Chair, that is the end of our report.

**FACILITATOR:** Thank you so much, comrade. Alright, let's respond to that, comments, suggestions, ideas, questions, clarity, let's do that now. Please once again speak to the microphone, we need all these recorded. Any one from the group, from Commission Two who'd want to add first, any one from that Commission? Okay. Can we get then an engagement with that report back.

## **DISCUSSION**

**MR SLINGSBY:** I just want to make one addition to the training. Ja, the shop stewards training. You know, we've got a programme of train-the-trainer, and I think something that would be very useful is mass-based training, mass-based shop stewards training, especially when it comes to kind of the strategic priorities in the union, the kind of mass-based approach. Instead of training shop stewards how to deal with grievances, etc, you have mass-based shop stewards training, you bring them all on board, you don't have to rely on the constitutional structures to push operational issues.

**FACILITATOR:** Okay, good, thank you. Comrade?

**MR M BODIBE:** Ja, I think the nice summary of this whole issue of organising is that we need to build self-reliance, membership that can face challenges of the working-class struggles. I mean, obviously the core issue as comrades are saying, is capacity building on all aspects of trade unionism. And I mean, not just trade unionism but progressive trade unionism because we're not dealing with the people who are employed only. So hence the notion that every member is a union organiser, it's entrenched within that logo. Thanks.

**FACILITATOR:** Thank you. I see you, comrade?

**MR MASERUMULE:** Just a short addition I want to make. I think we need to apply our minds carefully to the idea of capacity building so that we don't just include a very passive Boardroom-based process of transferring some so-called knowledge but rather inculcate the art of strategic interaction of shop stewards and organisers with the reality. That is to broaden people's ability to think creatively and think of multiple options of dealing with problems than expect to be taken to a Ditsela workshop on how a solution can be used to a problem. But the ability to think through things both collectively as shop stewards but also with members, especially with members, so that we don't think that members can think, they depend on shop stewards who are trained. I think that is a very important thing to consider in the capacity building.

**FACILITATOR:** Thank you, comrades. An interesting intervention if you think about the difference between should we really be talking about training or educating, Paulo Frere, should

we be talking about educating the working-class and what is education, or training? Training seems to be so narrowly confined in terms of discourse, but anyway it's not a discourse I want to introduce at this point, but think about it, comrade.

**MR TYATYANTSI:** I want to share something. I'm part of Ditsela provincial pool of educators in the Eastern Cape. When that was introduced, you find that shop stewards or members of the trade unions, they shy away from attending that training because there are no certificates that are dished out. I mean, it's a reality. And all of them, they want to go to Ditsela or to an accredited institution and that's a reality that we are facing that one day we must really, really look at it.

**FACILITATOR:** Thank you. Okay, comrade, I see you.

**MS MAKHUBELO:** Comrades, I think my contribution will be only on what the comrade has just said now between training and education of the members. I think education of members is the key success because there are youngsters who are from school and they don't know exactly why are we joining a union, so they had to know it. So we had to start by educating them, the reason for being organised, then after they've gained the knowledge of why are they organised, then we take them for training so that they can be capacitated. That was my contribution, thank you.

**FACILITATOR:** Thanks for the intervention. Anyone else with a burning point? Right, we will go to Commission One, now, can we get the rapporteur for Commission One.

### **COMMISSION ONE**

**MS MAKHUBELO:** Comrades, we'd like to apologise because we didn't use this, our time was so lean so we couldn't write on the board, we apologise for that. But then I think the first question was the CPIX:

**Should we continue to use CPIX as a tool for negotiation, wage increases, and if yes, why; or if no, why?**

But we start by saying that we had first, to lead us to know what CPIX is and what the inflation is. So we started by explaining the CPIX and we said that the CPIX itself, it's an instrument whereby there's a basket of goods which are collected, whereby they consider the food, fuel, clothing, and with the exclusion of mortgage.

Now, there's a little bit of confusion whether do we take the CPIX or do we take the CPI because the CPIX, it excludes the mortgage, but then we come up with the explanation again of inflation whereby we see that inflation in fact, it's the increasing of cost of goods, and including the food inflation as part of the increased costs, it increases the costs. Whereby we come by saying that inflation comes from the economic growth whereby this competition, you'll find that the companies are having a competition of maybe just take like jeans worn nowadays. Most of the people are wearing jeans, and all the markets will be looking for jeans and there will be over products of jeans and that creates high-low cost of jeans, so that's where the inflation goes up and down. And then that creates, that input of low, the scarcity of jeans, and the creation of jeans, it comes back to the consumers. We suffer because of that needs of the law, then it makes us suffer. So the market makes us to suffer of that.

And then we come again of saying that okay, let's not consider the CPIX. As workers we had to consider, try to protect the buying power, the buying power of workers' wages. By that we mean that what we had to look at, that do we have enough in our pockets, what you're going to demand must be enough for our living.

And then we come again to say that we had just to consider to take wage goods into consideration. By wage goods we mean that we had to consider electricity, water and food, those are the needy things, or do we have to consider average inflation.

Then we said again, medical aid is a very crucial thing whereby each and every year it is increased by 30% or over than that. So those are the factors which you have to consider when we go for any negotiations, whereby we consider an average worker which an average worker spends plus or minus R2 000 in a family. So we come up and say that we had to consider those factors, that how much an average worker must get.

So we come up into conclusion of saying that nobody shall earn below the minimum living level. If you take, for instance, that an average worker must earn at least R2 000 as a living wage, that is how we're coming to conclusion. And then again we come into equity whereby we say there must be a closing of gaps in the salaries and considering that, we are saying that it mustn't be just on our bands only whereby we bargain only, it must be also on the higher bands, whereby the managers are in. Because we'll be saying that it must be just amongst ourselves and we are still

killing ourselves, and whilst we are looking at the gaps or whereby the managers are getting higher salaries than we are getting nowadays.

And then I've already covered why are we not using the CPIX averages, the CPIX factors.

Then we come to this second one, the bargaining rounds:

**Should we opt for annual or multi-year bargaining increments, and why are we doing that?**

On that one then we said that I think it will be only the material factor which had to determine the duration of the wage agreement. Because taking into consideration that if we agree that it must be an annual agreement, more especially when we go to negotiations just like this here, you'll start in July and they end up in September.

So if it says it's only an annual one, 2007 already in September, it will be only a few months left, so when are we going back to implement those agreements which we had? So we are saying that the material must determine our duration of agreement. That's what we come up on.

And then for No. 3:

**What kind of support do you think Cosatu and Naledi should provide to unions in collective bargaining?**

We came up with the ideas of saying that there must be researchers, we have to have researchers. And then the other one, we have to be workshopped as stewards or as leaders. We must have a full understanding of the wages, the CPIX and the like.

But then there must be also a proper living wage survey, whereby we go outside and check the people, what are they spending on? Are they spending on luxury things or on basic issues? Because you'll find out that a person who's earning a lot of money, a lot of money is spent on luxury things rather than basic things. So there must be a thorough survey that these low earning people, how much are they making use to the basic needs, then that will make us to come up to a decision at least as to what is a living wage. And then we make the breakdown of the elements of economy. I think that was all we were asked to do. Thank you.

**FACILITATOR:** Thank you, comrade, just stay on the floor. Let's give her a hand. Shall we get

points of contribution first from the Commission? Additions, I'm going to note the hands. Okay, we'll start with you, comrade.

## **DISCUSSION**

**MR M BODIBE:** Ja, also that, Chairperson, on the issue of point 3, per se, is that ... (interjection)

**FACILITATOR:** It's fine, we just want to capture what you say. Okay, carry on. You have the floor, Comrade.

**MR M BODIBE:** Ja, on the bargaining rounds we're saying we need to be flexible there, we don't necessarily have to say we want single term or multi-term, we must prioritise and say for these particular demands, we'll manage them with single term and medium-term or long-term. So that's how we should negotiate that.

And coming to No. 3 on the support, we're saying Cosatu and Naledi, as the comrade said, that we should assist with - no, in fact on 2 again, we're also saying the period of negotiations, nè, itself, because you know when we go to the negotiations and we have those single term issues, that should be managed within a short space of time.

Therefore for those particular negotiations, a period of negotiating those must also be shortened. You know, for instance, we say for 12% or 6% we must take one month to agree or disagree, and then we declare dispute, rather than going for six months.

**FACILITATOR:** Ja, the period of negotiating should be ... (interjection)

**MR M BODIBE:** The duration of negotiations, ja, on short-term periods of bargaining rounds.

And then the last part, it's the model that is used by NUM in matching the demands to the employer, before we start negotiations, it is a very good strategy that perhaps we should adopt here as this workshop. I think that's what I wanted to say.

**FACILITATOR:** Alright, there is another hand that was up there, the comrade at the back.

**MR KWEYAMA:** Thanks, Cde Chair. The other thing which we actually noted from that commission was that in actually benchmarking the CPIX as your model of adjusting salaries, it actually has got the potential of limiting adjustments only to the buying power of workers, not necessarily adjusting your salaries so that the people can actually have something in the pocket, moreover what they were actually affording previously. So that is actually one other thing that we came out with in that particular commission in as far as that was concerned.

**FACILITATOR:** It's fine. Worker's purchasing power, and how the CPIX can be a limiting factor. There was a third hand, if I'm correct; the comrade at the back.

**MR MOHOSHO:** No, thanks, Chair. I will start with No. 3. I'm not sure, Chair, why this workshop is at this particular time because the round of negotiations was started late in November last year. And as the JMC met and tried to coach the demands of the workers, I would have thought that that was a correct timing, before they even met, so that they have this particular broad knowledge, because the workshop of today was an eye opener. But I think all the issues that we are raising presently are not issues that we might take as fundamental issues that are within this particular round of negotiations. Because all these nice things that we are saying are not going to be able to assist us in this particular round of negotiations.

The question of the annual vis-à-vis the multi, it's a demand presently that is overwhelming within the whole labour now, not only in JMC, that you are moving towards the annual other than the multi. But I would agree that in the next round of negotiations, in that, in this particular round we need to emphasise and ... for annual term other than multi-term. So that in the next term we are then able to ... these other issues where, comrades, correctly, correctly they are saying medical aid, for an example, housing and so on and so forth, those issues will couch them into a multi-term maybe of two years, and begin to make from time to time an interaction with the employer, have that particular clause within an agreement, and make these particular interactions, before even the end of the two years. So that you are able to see whether there is an implementation on those particular areas that you have identified.

But politically, politically it becomes a sabotage of your own organisation if you take a multi-term. Remember that it is for three years that we have not seen our members, and our members have not been interested in these, but other issues. You speak about salary increases, now you get

those halls being very, very full, so it means you are able to mobilise from time to time. I must say it that in SADTU we are getting an influx of new members coming into SADTU, resigning from other unions and so on and so forth, that that would mean it's a political strategy also to empower unions and to make sure that their members are always mobilised. That would be my contribution. Thank you.

**FACILITATOR:** Okay, thank you, comrade. Do we have another hand? Can I respond quickly to what the comrade said in terms of the timing of the workshop. We completely agree. Actually the original idea was that this workshop must always be held at the beginning of the bargaining round. We have not been able to do that because of capacity issues, but we will keep on informing you. And there is a document that we are required to prepare for Cosatu's CEC at the end of every year, which is a living wage framework. And then Cosatu, the Federation uses that to inform the affiliates on some of the key issues and strategies that must be adopted when you move on into your bargaining rounds.

Okay, thanks, carry on.

**MR SLINGSBY:** Ja, just because there's a shortage of time, what we didn't discuss was in 1996 the multi-term agreement when we got, we overcame the fragmentation of the Public Service, we got equal pay for equal work and all that. I mean, the multi-term agreement served our interest there, it was useful forays. This year what government wants is a four-year term agreement because a three-year multi-term agreement falls on 2010, and they've decided that's not a good year to negotiate. So they then pushed for a four-year term agreement. But our demand is a single-term agreement.

Now the value of the single-term agreement, which is like - and we discussed it in terms of the context of rights and interests, and when we can sit down and negotiate over interest issues, we can exercise our right to strike. So you know it keeps it on the burner, I mean, there's always a potential for mobilisation and members in a single-term agreement year after year.

**FACILITATOR:** Thank you. Any other issues? Okay, now can we get - is it a contribution from the commission or a question? Because for now I'm just saying, anyone else making a contribution. I know they are all move into each other. Okay let move and broadly now open it up to questions and comments.

**MR MDONGENI:** Thanks, Chair. What is good is that in the commission there's no one who's out of order, so in a commission you just air your views. So somebody aired his views to say this multi-term thing is much better at least if you limit to a maximum of two years. I think it was known. I thought it was correct if you have to go into multi, don't go above two years. So one, it's right but because of the time factor you said at least two will enable you to be able. But the other comrade said let's be flexible, let's go to three, whether we go to four it's not an issue, which I think, as I'm saying, nobody is out of order in a commission.

So it's not necessarily what is written there is a resolution of the commission that we must change what, what, demanding now in the Public Service to say we want a one-year term as if we're seeing something wrong with our demand. We think our demand is correct, so that when we go out of here we're not seen as if, in this workshop we came and we were questioning the wisdom of a demand in the Public Service that says one to one-year wage term. Thanks, Chair.

**FACILITATOR:** Okay, it's noted. Okay, I see a contribution there. We're moving towards closure now.

**MR MOHOSHO:** Chair, with the indulgence of the workshop, can we be pardoned at SADTU? There are comrades who have to get a flight at three o'clock, please, with due respect.

**FACILITATOR:** Okay, at three o'clock, okay, let's wind up, in the next five minutes we should be done. I just need to make a couple of announcements. I want to believe there's a lot left unsaid but we won't say it now, the struggle continues.

Now, there was something that was said earlier this morning, and it was suggested that we quickly mention it and I flagged it, and I want to go to it. It's the period for negotiations, it's been mentioned right now. I don't think we're going to do enough justice to this. To me, it seems like the agreement is that the period should be shortened. In other words, it's too long, it's cumbersome. By the time you're done with it, half the membership has already given up, because it takes such a long period of time from the time you begin the negotiations, the disputes and up to the time that you settle. Shall I take it, are there any strong feelings around this that needs to be taken into account, because we said we were going to briefly look at this? Or should we leave it this way and continue to explore within Naledi as well as within Cosatu? We can escape that way.

Okay, thank you.

### **ANNOUNCEMENTS & CLOSURE**

Now let me make just a number of announcements. I want to mention that we have a research that's ongoing on atypical employment, and we're looking at shall we say six sectors, some of them are classed into one another. We're looking at construction, wholesale and retail, security, contract cleaning, BPO call centres and food manufacturing, it's about shall we say five or six sectors.

**COMMENT:** We've spoken about this before. I don't know why home based care and community workers and volunteers should be included. But there's a Public Service component that's lacking.

**FACILITATOR:** Well, probably in terms of contract cleaning. The problem was that we had a very limited brief from whoever is funding the project, the EPP, and they said concentrate on these key sectors. The essential thing is, Comrades, we need your help. I have been trying for the last three weeks to get unions to respond to me. I've sent not all of you, but I've sent mainly to the general secretaries and to a few organisers. I have to say it's very sad that for some strange reasons, we don't seem to want to revert back and I'm feeling a bit frustrated.

So I'll put my details here, please take them on. I'm also going to use the attendance register that we have, I will come to you. We are looking at these particular sectors because of the problem of vulnerability, the kind of jobs that are in those sectors, the kind of working conditions, the exploitation that takes place in those sectors. And all I'm calling for from unions is to get assistance to identify what places, where we can go, and also to do the interviews and to conduct the focus groups. So please, Comrades, I'm appealing to you, we need your support, we have to work collectively to push forward the demands of the working class.

I don't have anything else to say, save to thank you very much for attending. Are there any last issues; okay. Before you disappear, there's lunch after this. Let me put down my details and please take that down in case you need to get in touch with me. Okay, here we go. These are my details, here's a telephone, fax and my email, if you need any information.

Those are my details. If you need to get in touch with us, I'm responsible for labour market transformation, and currently I'm generally dealing with collective bargaining and atypical employment. So for any information, get in touch with me. We have the presentations here, I should have announced this at the beginning that they are available, so if you have a memory stick, you can come to me, I can give that to you, I've noted your hand. Now if also you need these presentations, please drop me an email or give me a call, and I'll send you the presentations. We need to disseminate this knowledge, not hold it within our offices and in front of our computers and laptops. That would be a disgrace. Lies!?

**MS ORR:** Ja, I just had a question about the workshop report. It will be circulated, so if people haven't filled in their fax or email, please do so, so that you can circulate it internally to comrades who had attended, not only the GS's of their affiliates.

**FACILITATOR:** Okay, good. Now a request about the workshop report. This should be out in the next two weeks, so by the end of May, beginning of June, the report will be out. It will be good to circulate this report, to everyone, particularly those of us who attended these workshops as well as to our sister and brother unions who did not make it. So again, take these details. If need be, send me a reminder, drop me an email in the next two weeks and ask, hey, comrade, how is the report coming along, otherwise we get swamped with all sorts of different things, most of which are not very useful and we forget the more relevant things like this.

So remember once again, if you need these presentations, please bring along a memory stick or any other device. Secondly, drop me an email and I'll send them to you.

With that, comrades, let me say thank you very much. Let's look forward to more engagement with each other. Don't run away as we often do after a workshop, and then we meet again at the next workshop in a year's time. That will be bad.

*Amandla!*

*Awethu!*

**WORKSHOP CLOSED**