

# BUSINESSREPORT

## Producers create problems with bad faith bargaining

May 8 2014 at 09:08am  
By John Capel

[Comment on this story](#)



*Independent Newspapers*

The hostel at the Primrose gold mine has been affected by non-attendance. Photo: Boxer Ngwenya

It's like a soap opera, what is going to happen next, except the stakes are very high. In 2012, when striking rock drillers from Lonmin wanted management to negotiate with them, Lonmin refused, because the recognised collective bargaining route was through the union, the National Union of Mineworkers.

Now, workers under the umbrella of the Association of Mineworkers and Construction Union (Amcu), their union of choice, are being undermined. The three big platinum producers, unable or unwilling to negotiate effectively, now believe they can go to workers directly – offering them what they have already rejected.

What do they think they will achieve going this route?

Undermining the recognised union, questioning whether or not Amcu is truly representative of workers' demands says a lot about their ability to negotiate in good faith.

Good faith bargaining requires the companies not to undermine the collective representative of workers. Otherwise, why have unions? It seems, when it suits them, they don't engage workers, as with the 2012 Lonmin strike. And when the collective agent of workers refuses with a mandate not to accept the latest wage offer, they go to the workers directly.

It's unwise, beset with problems it will create. Right now, Amcu is the agent that the companies have to go through.

Offering a package between 7.5 percent and 10 percent is not much different from their original stance of between 7 percent and 9 percent. What Amcu should be talking about is separating the living-out allowance from wages. Is it actually part of wages?

No. Historically, workers have been accommodated in hostels. Central recruitment is done through Teba, the recruiting arm for the industry. In effect this means migrant workers have been brought into Rustenburg. With the limitations of the mining charter, conversions to family and single-sex quarters, more workers are pushed out into the surrounding areas without accommodation.

In the case of Lonmin, which employs roughly 30 000 workers, the conversion process has displaced between 9 000 and 15 000 workers. The hostels 15 years ago accommodated between 12 000 and 18 000 workers. But the Lonmin workforce, like those of other producers, has grown, so 27 000 workers live in backyard shacks.

But workers living in the hostels of the three producers while on strike continue to receive accommodation, albeit subsidised. This

privilege has not been withdrawn, while the living-out allowance has not been paid for the past 14 weeks. Surely this is a double standard? Amcu should be demanding the living-out allowance, backpaid from January 23.

It's not about wages but about how the company provides migrant workers with accommodation. This is a model they chose, a model they must continue to support. Or why not kick out those workers living in the hostels? Historically, accommodation was seen as a cost to companies.

Now it is seen as part and parcel of workers' salaries. Anglo American did just this prior to 1994. Welkom, the old gold mining town, was built almost entirely by Anglo. The houses, hostels, roads, schools and recreational facilities were all built by the multinational mining company.

If mines employed locally, and trained workers locally – which they don't – the living-out allowance would not enter the picture. Thus the industry has a problem with the living-out allowance, which perhaps the union can obtain a court interdict to force the companies to comply with.

And what about undermining the collective bargaining process, is it wise?

Do they actually believe they can break the union this way? And if they do, what do they achieve? All that can be achieved is mistrust and the breaking down of social cohesion. Workers seem resolute to continue to struggle for a living wage.

As one of the workers commented: "Nelson Mandela suffered for 27 years, and we are prepared to go on for another six months."

What really is at stake is a principle. It's not about how much in wages workers have already lost but about receiving fair compensation for their labour.

Unfortunately for the companies, they are going to have to face this head-on and deal with it. These same companies talk about stakeholder capitalism where all stakeholders must benefit, not just shareholders. Yet that is all it is, talk.

Practically, this means addressing socio-economic development in a holistic way, which addresses the dire socio-economic issues along the platinum belt. It does not mean business as usual and high shareholder returns at the expense of workers and the broader environment in which they operate.

A team of experienced mediators is needed. What is on offer needs to be unpacked, broken down and examined.

The government needs to stop talking in generalities, calling mainly on the union to be responsible.

It's time the companies acted responsibly and, perhaps, they now have finished their study on the dire socio-economic issues affecting the platinum belt. Their findings, I am sure, will be the same as the National Treasury and several studies by the Bench Marks Foundation.

They need to respond – and respond appropriately. Going to workers directly is not going to change the stance of workers for a living wage. If anything, it is going to harden attitudes and, eventually, they will have to face this new problem they have brought about. Remember Marikana, the 34 deaths, the resolve of workers to continue striking in the face of police brutality, and ponder whether undermining the union will lead anywhere.

A mining Codesa – as called for by Bishop Jo Seoka — is urgently needed.

It must address the historical issues, current issues and the returns on investment to gain a true picture of the industry and the externality cost passed onto workers, communities and the environment.

In doing so we must have a picture of the industry and explore concretely what can be done to address the dire conditions of workers and surrounding communities. After all, this is not just a labour dispute. It's about lack of transformation.

If addressed properly, perhaps the companies will have a good story to tell. Then they can cut their advertising budget. It won't be needed.

\* John Capel is the executive director of Bench Marks Foundation.