

Marikana lont van stryd teen sentrale bedinging

ARBEIDSIENING

JAN DE LANGE

lmal het dit gesê: Iets moet gebeur in die land se arbeidstelsel ná die Marikana-slagting.

Oor 'n bietjie meer as 'n week word 34 mynwerkers se dood op die koppie agter Lonmin se Rowland-skag gedenk. Amper 'n jaar het verloop sedert die tragedie die land tot stilstand geruk het, maar tot dusver het bitter min uit Marikana voortgevloei waaroor 'n mens tevrede kan wees.

Die Farlam-kommissie ploeter voort en het nog net getuienis aangehoor oor die gebeure op 16 Augustus 2012 en die aanloop daartoe in die vorige sewe of tien dae.

Wanneer 3 000 of 4 000 stakende mynwerkers en 'n paar honderd swaar gewapende polisiemanne mekaar konfronteer, is bloedvergieting amper onafwendbaar. Om te weet wie eerste die sneller getrek het en waarom, gaan nie veel help nie.

Die vraag waarop eintlik antwoorde gekry moet word, is waarom omstandighede by Marikana só ontwikkel het dat dit op so 'n bloedige konfrontasie uitgeloop het.

Die antwoorde daarop is deurslaggewend vir die land se arbeid-

stelsel. Rolspelers in die arbeidsmark sit al 'n jaar lank op die punt van hul stoel om dit te hoor.

Die behoefte aan leiding hieroor was die duidelikste op die jaarlikse arbeidsregkonferensie van LexisNexis, die land se grootste regsuitgewer.

Niemand minder nie as Gill Marcus, president van die Reserwebank, was die luidste woordvoerder vir diegene wat leiding hieroor vra.

Sy het onomwonde verklaar dat die arbeidstelsel wat in 1996 tot stand gekom het met die proklamasie van die Wet op Arbeidsverhoudinge, nie aan die verwagtinge voldoen nie.

Marcus het dit veral daarteen dat sentrale bedingingsforums werklike lone bepaal. Dit was nooit die bedoeling toe die rade in 1996 geskep is nie. Die plan was dat die bedingingsrade bloot " 'n raamwerk" vir minimum lone sou vasstel – werklike loononderhandelinge sou op werkplekvlak beding word, het Marcus gesê.

Sy het ook gekla dat loonskikkings in bedingingsrade groot maatskappye bevoordeel ten koste van kleiner maatskappye.

Dis 'n aanval op die land se kollektiewe bedingingsstelsel. Verskeie ander sprekers het kritiek uitgespreek, maar was heelwat meer bedees.

Regter Basheer Wagley, regter-president van die arbeidshof, het gesê dis tyd dat weer gekyk word na werkplekforums – nie werklik 'n alternatief vir kollektiewe bedinging nie, maar 'n instelling wat heelwat van die mag van vakbonde kan wegkalwe – juis omdat dit alle werkers in 'n werkplek insluit, want dit is werkplekgebode en neem nie sentraal oor 'n bedryf heen besluite nie.

Die bevoegdhede van so 'n fo-



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– GILL MARCUS,
PRESIDENT VAN DIE
SA RESERWEBANK

rum is ook baie omvattender as enige bevoegdheid wat aan 'n vakbond toegeken word.

Werkplekforums is destyds, toe die wet opgestel is, deur Cosatu self nek omgedraai. Hy het aangedring op 'n bepaling dat net 'n vakbond 'n werkplekforum kan stig – nie 'n werkgewer of selfs die werkers in 'n werkplek nie.

Toe die wet destyds in Nedlac bespreek is, was dit duidelik dat dit hewig in die guns van sentrale bedinging swaai. Dit het eintlik buitensporige mag aan vakbonde gegee om werkgewers in sentrale bedingingsforums in te dwing. In daardie forums kry die meerderheidsbeginsel voorrang.

Adv. Martin Brassey SC, wat namens die Vryemarkstigting optree in 'n saak om die uitbreiding van die ooreenkomste na partye wat nie ondertekenaars daarvan is nie, nietig te verklaar, sê dié aspek van kollektiewe bedinging is in wese kartelvorming.

Dit kom daarop neer dat werkgewers en werknemers saamspan in werkgewer- en werknemer-organisasies (vakbonde) om die prys van arbeid te reguleer.

Dis 'n praktyk wat andersins

deur mededingingswetgewing verbied word, maar kollektiewe bedinging word in Suid-Afrika en in die meeste ander lande vrygestel van die verbod op kartelvorming.

"Vakbonde glo die koste van kollektiewe bedinging word gedra deur diegene wat dit kan bekostig – werkgewers. Dit is egter net waar wanneer daar volle indiensneming is, wanneer die (arbeids-)mark beskut word teen mededinging soos globalisering," het Brassey, een van die land se voorste arbeidsregpraktisyns, vroeër vanjaar in 'n lesing in Johannesburg gesê.

In Suid-Afrika is daar 47 statutêre bedingingsrade wat lone vir 2,5 miljoen werknemers bepaal. Die uitbreiding van hul ooreenkomste na partye wat nie die ooreenkomste onderteken het nie, word gedoen op grond van die meerderheidsbeginsel.

Daarmee word aanvaar dat die werkgewers en werknemers in 'n bedryf 'n natuurlike mandaatgewer is vir sulke ooreenkomste.

Brassey sê egter dis 'n valse aanname. Die mandaat vir sulke ooreenkomste moet ook toekomstige

werkgewers en werkers insluit – met ander woorde entrepreneurs en werkloses.

"Wat dit vererger, is dat die afbakingsknoeiery ten gunste van groot werkgewers en gevestigde vakbonde gebeur," sê hy.

Die gevolg is dat lone opgedwing word en dat indiensneming as gevolg daarvan afneem. "Sentrale bedinging het indiensneming met tussen 8% en 13% laat inkrimp," sê hy.

Dié syfer is deur ekonome aan die Universiteit van die Witwatersrand nagevors en is deel van die hofstukke van die Vryemarkstigting in sy aansoek teen die minister van arbeid om die uitbreiding van bedingingsraadooreenkomste te beëindig.

Vrydag het Joseph Mathunjwa, president van Amcu, verklaar dat dié opkomende vakbond gekant is teen sentrale bedinging.

Sy redes daarvoor is heelwat meer elementêr: Goudmyne, waar hy nou saam met die ander mynvakbonde aan sentrale bedinging deur die Kamer van Mynwese deelneem, verskil te veel van mekaar wat betref koste om aan almal dieselfde lone te betaal.

Amcu is die meerderheidsvakbond by die drie topgoudmyne: Driefontein van Sibanye Gold, Mponeng van AngloGold Ashanti en Khusasalethu van Harmony, maar vanjaar is die loononderhandelinge deurslaggewend vir die kleiner, swakker myne.

As die swakker myne die loonverhogings moet betaal wat Amcu van die drie grotes eis, gaan van die kleintjies nie oorleef nie.

Amcu se standpunt strek baie verder as die mynbedryf.

Mathunjwa kan net sowel 'n ondersteunende verklaring aan die Vryemarkstigting gee vir dié hofspraak.

Some Marikana villains identified

THE sonorous proper noun Marikana has become among SA's more ominous. As you'd expect, the reasons advanced for the tragedy are manifold. There is no single cause. Instead, an unwholesome brew of widely differing chemistries seems the likeliest answer.

Not in order of importance, the first on the list is the role of the mining industry itself. It has had years — decades, actually — to fix the pressing accommodation issues of its employees. Instead of addressing these head on it chose to go the route of offering an easier (and cheaper) out-of-hostel allowance.

That enabled miners to send more money home or spend it on indulgent fripperies, while leaving them scratching for a roof over their heads. The outcome was the rise of shantytowns at the mine gates, and with these came the prostitutes, the taxi industry and everyone else — including the loan sharks, second on the list.

Third, they extended the role of garnishee orders, supposedly issued by a magistrate, but in reality a lender chucks some rand the way of a court clerk and goes off with an order requiring the employer to deduct an "approved" sum from the employee's monthly salary. When the consumer ends up with nothing in his monthly pay packet, it's back to

David Gleason

the loan sharks, or the barricades.

Rules applying to the issue of emolument attachment orders (garnishees) include that the consumer must consent to the judgment, the order and case number must be issued in the jurisdiction in which the consumer works, and it must state the amount of debt plus the interest rate and the legal costs.

I bet that many orders, perhaps a majority, are issued illegally. The National Credit Regulator acknowledges the problem.

Cold calling, theoretically outlawed in terms of the National Credit Act, continues on an unprecedented scale. Everywhere you look, consumers are being wooed incessantly to borrow ever more.

This national personal debt tragedy, apparently approaching R2.1-trillion (Reserve Bank figures), underlines the nature of a socio-economic problem that must be just about the most serious the country faces. Nearly half the 19.6-million credit-active consumers observed by the Credit Bureau Monitor have impaired records.

Unsecured lending is fraught with uncertainty. While returns are vast — I've heard of numbers like 45% — the risks are similarly huge. And the trend has been for sectors which never previously operated in this area, to join the party. Retailers, notably furniture stores, have long been players in this field. Banks such as African

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Bank and Capitec have been joined recently by the high street banks. I suppose the steak is so succulent they cannot resist the lure.

I have long held the view that the state should not be involved in the personal lives of its citizens. But when a large number of individuals who are inadequately versed in

finance become just so much meat for the pot, as it were, then it's time to intervene, however reluctantly.

All this leads to the National Credit Act Policy Framework, which Trade and Industry Minister Rob Davies is using to solicit comments on a Credit Amendment Bill. The bill is supposed to plug the many loopholes that have appeared in the original act, but observers doubt that it goes far enough.

I can't understand why the National Credit Regulator is supervised by the Department of Trade and Industry. Since the National Credit Act is concerned with strictly financial matters surely it makes sense for the regulation to be provided by the Financial Services Board and the Reserve Bank?

Remember Marikana lest we be forced to relive it

FRIDAY next week marks the first anniversary of a grievous and unprecedented South African mining industry event, the recurrence of which must, at virtually any cost, be vigorously averted. I am referring to the Marikana tragedy that took place on August 16 last year.

Precisely what happened on that day, when 34 platinum sector mineworkers lost their lives in a violent confrontation with members of the South African police, is yet to be conclusively determined by the Farlam commission of inquiry.

What is unequivocally acknowledged, however, is that it was a catastrophic occurrence that brought shock and sadness not only to representatives of the mining industry but also to all the people of SA.

The common thread that winds its way through all incidents of this kind, whether they have taken place in SA or anywhere else in the world, prescribes that while it is critical as part of the healing process to finally come to terms with the reality of what has transpired and move on, it is equally important never to forget.

It is therefore vital to consistently commemorate tragic occasions that have deprived colleagues, friends and families of those who are most dear to them.

This is what the mining industry — as represented by the Chamber of Mines — is planning to do on Friday next week in remembrance of those who died last year at Marikana. An appeal has been made to all chamber member companies and their employees to honour the memories of those who perished in what is one of the most sombre and regrettable episodes in the often contentious history of the mining industry in SA.

In finding comparatively egregious incidents, it is necessary to look back close to 100 years — to 1922 — when striking miners fought pitched battles on the streets of a burgeoning Johannesburg with representatives of the armed services.

In accepting this unhappy reality, responsible mining industry stakeholders are unanimous in their conviction that what happened at Marikana and in its immediate aftermath must never be repeated. A series of disruptive and unprotected industrial incidents in the gold and platinum mining sectors followed the Marikana tragedy and these events further tarnished SA's reputation as an attractive investment target.

Critically important to SA's global investor image and closely connected to what happened in August last year is the 2013 mining industry wage negotiation process that is under way at this time. In spite of some declining trends in recent years, mining remains the bedrock of the South African economy.

The successful conclusion of current industry engagements with representatives of organised labour and, most importantly, no descent into illegal and potentially violent strike action, are mandatory prerequisites if the reputational damage caused by Marikana and its associated occurrences is to be mended.

The realisation of these outcomes is also the primary objective of the recently concluded initiative led by Deputy President Kgalema Motlanthe, which produced the Framework Agreement for a Sustainable Mining Industry.

Signed by all major stakeholders — the only exception is the Association of Mineworkers and Construction Union (Amcu) — the agreement commits all signatories to work together to ensure the sustainability of the mining sector for the future of the country and its people. Of critical significance is the obligation of all parties at all times to abide by the rule of law and commit themselves to peace and stability.

The work done by the deputy president is supported by all members of the Chamber of Mines. In addition, there is acceptance of the need to address issues that reside beyond the direct control of mining companies.

These include unacceptable socioeconomic conditions in communities that have grown up alongside mining operations, and which are aggravated by ineffective levels of service delivery.

Community development projects are at the top end of the industry's activity agenda. In collaboration with other relevant stakeholders, the chamber will support all measures aimed at eliminating sources of friction and maintaining a climate of stability.

As we pay our respects to the men who died, and grieve with the families and friends who lost loved ones, it is imperative that all conditions that could lead to another Marikana tragedy are effectively eliminated.

Never again in SA must there be an event of similar calamity that causes so much sadness and so much collateral sovereign damage.

Sibiya is CE of the Chamber of Mines of SA, and this column will appear monthly.

Bheki Sibiya

Marikana inquiry postponed

PUBLIC hearings of the Farlam Commission of Inquiry into the Marikana shootings have been postponed, the commission said yesterday.

“The possible funding of the legal team representing the injured and the arrested miners has not been finally determined. A decision is expected by the end of the week,” it said.

The hearings now resume next Monday.

The commission is investigating the deaths of 44 people during strike-related unrest in Marikana last year. Police shot dead 34 striking mine workers on August 16. Ten people, including two police officers, were killed in the preceding week.

On Wednesday, the commission heard that it was not clear whether lawyers at the commission would get interim funding from an unnamed foundation.

The commission’s chairperson, retired judge Ian Farlam, said at the time he “may have been too optimistic in thinking they would have received a decision by now”.

Dali Mpofu, representing the mine workers wounded and arrested at Marikana, wanted the funding for his legal team. He intended filing papers with the Constitutional Court for a ruling on whether the state should fund their work at the commission.

He made a similar request in the high court in Pretoria earlier this month, but it was dismissed. - Sapa

Marikana women in march for peace

ELFAS TORERAI

FEMALE mine workers at Lonmin joined forces with other women in Wonderkop to stage a march for peace and tolerance as part of marking Women's Month and encouraging the restoration of order in Marikana.

The march took place on Thursday with the call: "Enough is enough" Communities around Lonmin operations have in the past witnessed increased violence, especially in the aftermath of the August 2012 Marikana disaster in which at least 40 people died.

Organised under the banner, Lonmin Women for Peace, the march drew hundreds of people who took to the streets of Wonderkop in support of peace and tolerance in their communities.

Natascha Viljoen, executive vice-president for processing and sustainability at Lonmin, commended the women for taking the initiative for peace.

"I am very proud of this team for coming up with a way to mark the start of Women's Month with such a symbolic gesture of unity with the local community. Women bear the brunt of violence and this march was a call for women everywhere to stand up and say no to violence and to urge everyone in our communities to commit to living and working together peacefully. It was such a humbling experience and indeed a proud one to walk among such powerful and passionate women," she said.

One of the civic leaders who took part

in the march, Messina Ouma Makgope, congratulated the women for taking a stand against violence and abuse.

"It is time to draw a line in the sand and say no more abuse and violence, enough is enough. As women we should

be defiant in the face of adversity and refuse to be victims," she said.

Lonmin CEO Ben Magara and other top executives also supported the march.

In his address Magara said: "The anniversary of the tragedy of Marikana

is almost upon us and I cannot think of a better response than to come together with the local community to make sure that nothing like that ever happens again, in our company and our country."

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