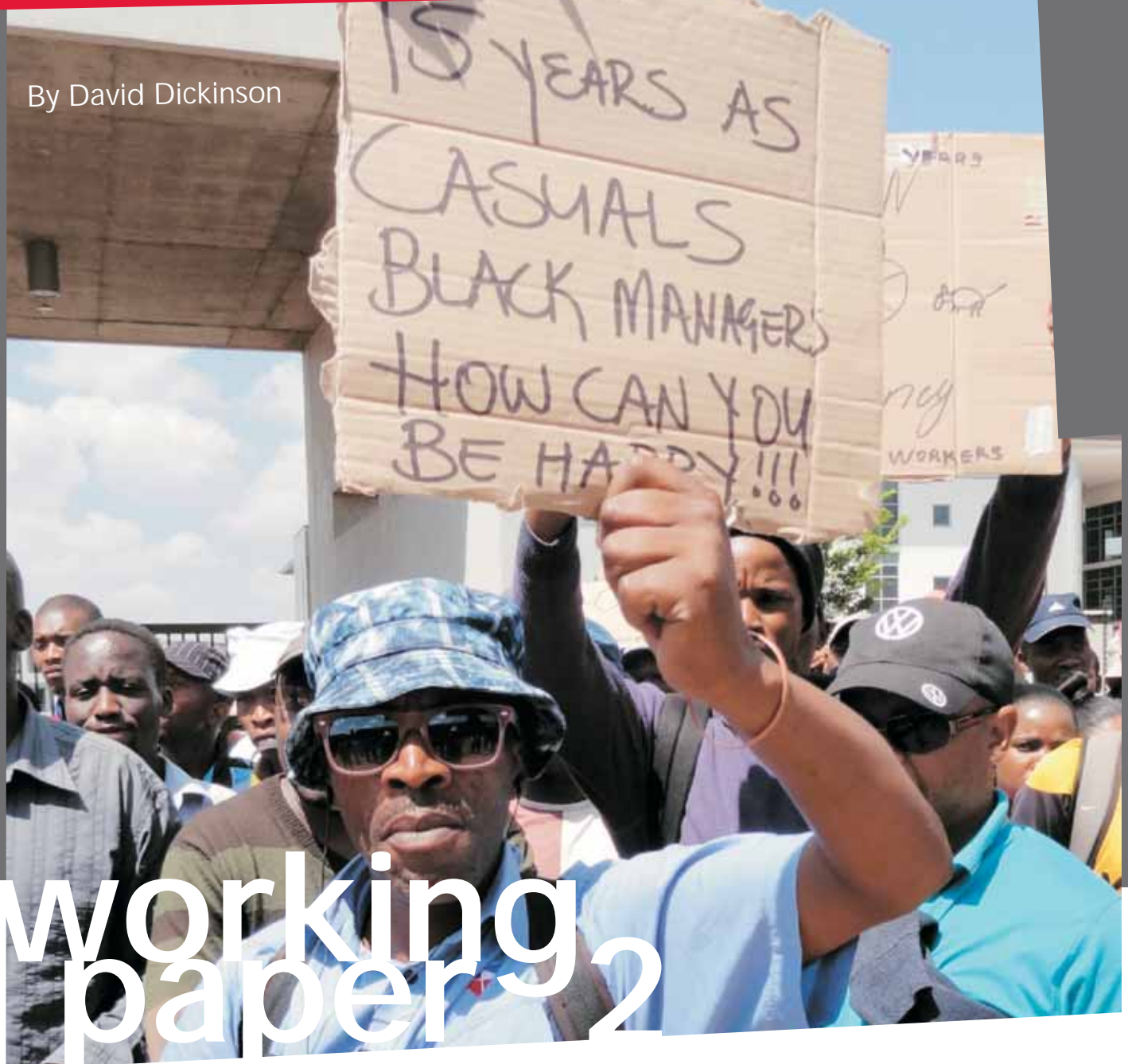


# Fighting their own battles

The Mabarete and the End of Labour  
Broking in the South African Post Office

By David Dickinson



FEBRUARY 2015

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# Fighting their own battles

## The Mabarete and the End of Labour Broking in the South African Post Office

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*All photos: David Dickinson*

*Cover photo: Tshidiso Selialia, DEPACU shop steward and Mabarete member.*

*SAPO Head Office, September 2014.*

# WORKING PAPER: 2

FEBRUARY 2015

# Fighting their own battles

## The Mabarete and the End of Labour Broking in the South African Post Office

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# One

## Acronyms

AA:	Entry level employment category created to accommodate previous TES employees by SAPO
ANC:	African National Congress
ANCYL:	African National Congress Youth League
APC:	African Peoples' Congress
BCEA:	Basic Conditions of Employment Act
BEE:	Black Economic Empowerment
CCMA:	Commission for Conciliation, Mediation and Arbitration
COSATU:	Congress of South African Trade Unions
COSAWU:	Commercial Services and Allied Workers Union
CWAO:	Casual Workers Advice Office
CWU:	Communications Workers Union
DEPACU:	Democratic Postal and Communications Union
DSM:	Democratic Socialist Movement
IICUSA:	The Influential Information and Communications Union of South Africa
LEWUSA:	Labour Equity General Workers Union of South Africa
LRA:	Labour Relations Act
MBA:	Masters of Business Administration degree
NACAWU:	National Communications and Allied Workers Union
PPTE:	Permanent Part Time Employee of SAPO
S32:	Temporary employee of SAPO (refers to the relevant S32 form)
SACP:	South African Communist Party
SAGWUTI:	South African General Workers Union & Textile Industries
SAPWU:	South African Postal Workers Union (becomes SAPAWU)
SAPAWU:	South African Postal and Allied Workers Union
SAPO:	South African Post Office
TAS:	TAS Appointment and Management Services (a labour broking company)
TES:	Temporary Employment Service (labour broker)
USO:	Universal Service Obligation (provision of postal services nationally)
VUT:	Vaal University of Technology
YCL:	Young Communist League

## Introduction

This working paper outlines how casual workers ended labour broking in the South African Postal Office (SAPO). There is now acute awareness of the explosive nature of SAPO's industrial relations and an increasing understanding that at its root is the problem of casual workers. This perception is correct: current industrial disputes in SAPO are, largely, the end game of a long and frequently bitter struggle to remove labour brokers from the Post Office.

It is fashionable to argue that the Post Office has lost its relevance with the development of information technology, this, however, overstates the case. The organization clearly faces enormous challenges stemming from technological developments. Challenges that protracted strikes have accelerated. However, large sections of South Africa's population continue to rely on mail delivery and other services provided by SAPO. Moreover, there is no purely technological reason why SAPO should not remain an important organization within the South African economy and society (albeit with a shifting service profile). There is, however, a socio-technical crisis within the organization; a dysfunctional combination of the organization's operations, its management and the workforce. A key component of this crisis is labour broking and its legacy which, as outlined in this report, resulted in a catastrophic rupture of workplace order.

Labour broking involves the placement of workers by a Temporary Employment Service (TES) in a client company. This triangular employment relationship<sup>1</sup> became increasingly common, and controversial, in South African. While there is a genuine need for agencies to provide workers on a short-term basis, the system has been used to by-pass labour legislation, notably through the construction of 'permanent-casuals' (employees on temporary contracts that are 'rolled over' year after year). Labour broking has created a class of precarious workers that makes up a significant section of a working 'underclass' that provides cheap labour for South African companies. There has been an extensive and contested debate over how this problem should be addressed. After much delay, new legislation aimed at curbing these abuses, has been enacted. The extent to which this legislation can and will curb the exploitation of vulnerable workers remains to be seen: there is considerable room for skepticism over the institutional resources and political will to enforce the new regulations. There is less room for skepticism over the likely will of employers to circumvent the regulations.<sup>2</sup>

Given this, the success of labour broker employees, or casual workers,<sup>3</sup> in ending labour broking in SAPO provides an important case study. This working paper analyses how this took place, the challenges that the SAPO casual workers faced in organizing and the strategies and tactics that led to their eventual victory. Such lessons will hopefully be of value, not only in assisting the rebuilding of the Post Office as an important national institution, but as a source of inspiration and guidance for all precarious workers.

Following a description of the research methodology, the system of labour broking that developed into monstrous proportions within the Post Office is outlined. At its peak there were upwards of 8,000 labour broker

employees earning a quarter of the salary of SAPO's permanent employees whom they worked alongside. Yet this army of second class workers remained practically invisible. It was a dirty secret.

The history of the key organization of casual workers that ended this system, the Mabarete, is outlined within the wider, often chaotic, process of 'worker committee' organization in Gauteng. This history reveals the extent to which casual workers attempted to resolve their situation through the 'proper channels.' Their experience showed, again and again, that every component of the South African industrial relations system failed them. Eventually, they realized that they would have to 'fight their own battles.'

A detailed account of the Mabarete's strike of December 2011 to April 2012 outlines the key battle in what amounted to a war against labour broking in the Post Office. Drawing on lessons learned in earlier struggles, the Mabarete forced SAPO to negotiate the end of labour broking. This was an enormous achievement and one with few parallels. Given the need for other precarious workers to fight their own battles, this working paper outlines and reflects on various tactics and strategies used by the Mabarete.

Finally, a set of broader reflections looks briefly at four important issues: the ongoing industrial conflict in SAPO; the complex process of balancing the cultural legacy of the workers committees and conventional unionism within DEPACU, the successor organization to the Mabarete; the transferability of the 'technologies of struggle' that were developed to bring labour broking to an end by the Mabarete; and the value that a wider process of such struggles would have for South African society.

## Methodology

This research project began in 2009 when friends in Katlehong found work in the Post Office. Only it turned out they weren't working for the Post Office, but, rather, in the Post Office as employees of labour brokers. Initially, I watched events through their eyes (while also learning a great deal about being a postman).

I first expanded my contact with SAPO casual workers, beyond my group of township friends, when I joined a meeting of striking workers in July 2011. Thereafter, I sporadically attended a range of their activities. In November 2013, I requested permission to interview leaders of the organization with a view to writing a history of the Mabarete. I wanted to complement accounts from below with the experience of leadership.

In addition to interviewing key leaders of the Mabarete and then DEPACU, I spend extensive periods of time with the organization during the course of two industrial disputes during 2014. This opened up a wealth of research avenues, including short interviews with rank and file Mabarete members, over the course of long days, and on one occasion a night, at SAPO's Centurion Head Office, Witspos, Germiston's Golden Walk Mall car park and other locations. Driving leaders home at the end of a striking day was often a fruitful way to hear candid reflections. As well as providing a wider range of perspectives on earlier strikes, participant observation gave me a better understanding of how the strategies and

tactics, described in interviews, were carried out on the ground.

The bulk of interviews were conducted with Mabarete members or those who had joined with them. However, I additionally conducted interviews with a number of individuals outside of the organization who could provide different perspectives on events. Those interviewed appear in the list of acknowledgements. A number of individuals were given a draft copy of this report and made valuable corrections and inputs.

Workers committees leave only a faint trail in the written archives of society. I am therefore extremely grateful to Russel Mutavhatsindi and Papiki Mokoena who lent me their personal records of numerous worker committee meetings, along with various papers and documents. The Casual Workers Advice Centre (CWAOC) kindly gave me access to their file on SAPO casual workers. Desmond Moeketsi of IICUSA also provided me with valuable documents.

Another important source of information was the court papers filed with the string of strike interdicts applied for by SAPO in the Labour Court between 2009 and 2014. There was also the Vaal Workers Committee own application to the Labour Court in 2011. Additional written sources included SAPO's annual reports, its Employment Equity Reports (obtained from the Department of Labour), the *South African Labour Bulletin*, and various newspaper/media accounts of events.

Ethical permission for the research project was granted by the Wits Human Research Ethics Committee. I avoided explicit discussions in which interviewees might render themselves, or others, vulnerable to legal action. Such practices are extensively documented in the various Labour Court cases brought by SAPO.

## Four

# Labour Broking, Legislation, Unions and Worker Mobilisation

Labour broking, defined as the provision of temporary employment services (TES) in the 1995 Labour Relations Act, is one of many non-standard or atypical employment formats.

Typical employment (often referred to as the standard employment relationship) is defined as permanent, full-time work, on premises under the control of the employer. Non-standard work deviates from these features in one or more ways and includes part time work, seasonal work, home work, informal work, subcontracting and labour broking.<sup>4</sup>

Labour broking is non standard in that the worker is employed by one company (the labour broker or TES) but works on the premises<sup>5</sup> of another. This creates a triangular employment relationship. The labour broking company employs the individual and, via a commercial contract, supplies these workers to the client company. The worker does the work of the client, but is employed by the labour broker.

There are different non-standard, triangular employment types, including short-term placements by agencies and outsourcing of non-core functions. The term labour broking, as used in this report, involves the placement of workers within SAPO's core business (mail delivery) on a long term basis by TES, who worked alongside permanent employees of the Post Office and who were supervised by Post Office line managers. In this situation,

workers became 'permanent casuals.' They were permanent because their employment in SAPO was ongoing. They were casuals because they were not employees of the Post Office (but of the labour broker) and because their employment was contingent on the commercial contract between client and labour broker continuing.

Some non-standard triangular employment forms can be beneficial, in particular circumstances, for companies and workers.<sup>6</sup> By contrast labour broking, while providing cheap and flexible labour appears to have always been accompanied by the undermining of conditions of employment, increasing worker vulnerability, preventing union organization, creating tensions within the workforce, and complicating industrial relations.<sup>7</sup> (Many of these problems are also present when outsourcing of non-core functions takes place.) This case study clearly illustrates how the negative outcomes of labour broking became increasingly apparent within SAPO. Aggregated to the macro or national level, labour broking prevents the creation of decent work, stifles socio-economic development, destroys social cohesion and weakens democracy.<sup>8</sup>

Following the introduction of the 1995 LRA there was a massive increase in labour broking.<sup>9</sup> This has often been attributed to 'loopholes' in the legislation that business (and in this case SAPO a state owned enterprise) was able to exploit. This is true, but the loopholes were, in large part, introduced when regulations on labour brokers, previously included in the LRA

of 1983,<sup>10</sup> were dropped.<sup>11</sup> It is also true that the closing of these legal loopholes has been painfully slow. The Department of Labour, COSATU, and the ruling party, was well aware of the growth of labour broking, and its negative consequences, for at least a decade before legislation, designed to close these loopholes was enacted on 1st January 2015.<sup>12</sup>

As outlined by the Department of Labour, "the main thrust of the [LRA] amendments [on TES/labour broking] is to restrict the employment of more vulnerable, lower-paid workers by a temporary employment service to situations of genuine and relevant 'temporary work'...."<sup>13</sup>

Key amendments to the LRA include:

- The TES and client are jointly and severally liable for contraventions of employment laws.
- Workers are treated as the employees of the client if they work for a period in excess of three months (with permitted exceptions). Termination of employment to avoid this will be considered unfair dismissal
- After three months, there must be equal pay for equal value work.

Whether this long-anticipated closure of the legal loopholes will bring an end to labour broking remains to be seen. The attractiveness of labour broking to management of private and public companies is in providing cheap and compliant labour. This suggests a likely rear-guard defence of labour broking will take place on the ground.<sup>14</sup> The limited capacity of the Department of Labour to enforce legislation is widely acknowledge. Unions' response to labour broking has been less than impressive. COSATU<sup>15</sup> and its affiliates have pursued a legislative response,<sup>16</sup> even as they have complained about the Department of Labour's inability to enforce existing legislation.<sup>17</sup> Indeed, as illustrated in the case of CWU in this report, the response of unions over labour broking has often been deeply ambiguous; high-profile calls for its banning accompanied by accommodating on the ground.

There has been limited research on how workers, with or without the help of established unions, have mobilized against labour broking.<sup>18</sup> Given the probable limitations of the legislative response now in place, this is an important area that needs to be better understood.

## Five

# Background: Labour Broking in the South African Post Office

### 5.1 SAPO as a State Owned Enterprise: Doing the Right Thing with Disastrous Results

The post-apartheid government charged state-owned enterprises with a dual mandate: first, to roll out infrastructure that would support development goals, and, second, to do this without burdening state finances with the need for subsidization. The Post Office's key role in development was the establishment of 'points of service' (retail post office facilities) and the provision and servicing of physical addresses across the country, or Universal Service Obligation (USO). Previously, the luxury of mail delivery had been largely limited to the White population and many households, especially those in mushrooming informal settlements, did not have an address, something that severely limited their ability to get credit or access services.<sup>19</sup>

Mail delivery is the largest section of the Post Office, accounting for some 67 percent of revenue<sup>20</sup> much of it generated from corporate clients such as banks, municipalities, stores selling on credit, and other companies providing paid for services, for example DSTV or distance education, such as UNISA. While new technologies threaten the long-term future of mail for the purpose of billing and accounts, many South Africans continue to rely on the post. Large urban townships, in particular, provide profitable areas for postal delivery and are likely to continue to do so for some time to come. The mail delivery workforce is dominated by entry-level postmen and (far

fewer) postwomen.

The Post Office made extensive progress in fulfilling its USO, resulting in an expansion of its mail delivery workforce, and it turned around its finances from an approximate R1bn annual loss in the late 1990s to profits (excluding once-off income and government subsidy) from 2005 to 2012 of between R471m and R22m. This was a considerable achievement, but it was short lived. The financial viability of the organization had been achieved, in significant part, with unremitting emphasis on cutting costs. A major mechanism in which expenses were contained was the use of Temporary Employment Services (TES) or labour brokers. At its height the labour broking system was saving the Post Office approximately R380m a year in salaries.<sup>21</sup> In addition, its overall labour costs were reduced by not having to provide benefits such as pensions and medical aid contributions that had been negotiated for permanent employees. In the short term this made a significant contribution to the financial success of the organization. In the long term, it was disastrous; the labour broking system created an explosive industrial relations environment and destroyed pride and loyalty in the organization.<sup>22</sup>

### 5.2 Agencies and Labour Brokers in SAPO

TES or labour brokers were present in SAPO prior to 2000. They provided labour to mail centers<sup>23</sup> and acted as placement agencies across the organization when there was a need for short term cover. Three companies, which

had been approved by the organizations Supply Chain Management division, were dominant: Kelly, Transman and Quest (a BEE subsidiary company of Adcorp).

This situation changed in 2000 when newly appointed management imposed a moratorium on entry level positions in the organization. That moratorium was not lifted for more than ten years. The combination of natural attrition and expanding postal delivery services initially stripped out the position of leave substitute who used to cover for workers on leave or sick as those in these positions were allocated 'walks' (delivery areas) previously covered by a permanent employee who had retired, been dismissed or died. Initially, the need to 'cover' walks was managed through splitting them among other workers for which overtime was negotiated. However, this was more expensive than using workers sourced from labour brokers. Increasingly, this became a permanent arrangement and, with the moratorium on appointments still in place, workers placed by labour brokers came to outnumber permanent workers in mail delivery. In some depots, particularly those where delivery to home addresses had been expanded, the only employee of the Post Office was the supervisor who oversaw 10, 20, 30 or more permanent casual postmen who were, formally, employed by a number of labour brokers.

The nature of the TES also changed over this period. The only real requirement imposed within SAPO when contracting for labour was that the TES be BEE compliant. In response, Kelly established at least two BEE companies, Marula Staffing<sup>24</sup> and Workforce Management<sup>25</sup> as fronts to compete for what was a lucrative market. These organizations joined a plethora of other companies that provided labour to SAPO.<sup>26</sup>

### 5.3 *Three for the Price of One!* Conditions of Labour Broker Employees in SAPO

Within Gauteng mail delivery, the dominant TES providing labour was TAS Appointment Services, wholly owned and run by Colleen Ramaphakela. In a 2011 interview with the *Voice of Hope* magazine,<sup>27</sup> Ramaphakela explained that, 'The recruitment industry was predominantly white and...the government had already introduced BEE programmes...in order to enhance the economic participation of black people. I'd say that I'm blessed to have been one of the few women who managed to seize the moment.' Later in the interview Ramaphakela stressed the need to 'ensure that your staff salaries are paid timorously.' Ramaphakela's employees, placed in the Post Office, didn't feel as blessed as she did. A constant complaint was that salaries were not paid on time. Nor were they always paid in full.

TAS, like its many competitors, was itself vulnerable. Unlike the normally understood triangular employment relationship in which a labour broker has a commercial contract with the client (here SAPO), TAS and other brokers supplied and billed for labour on a monthly basis, notwithstanding that they had long-term placements within mail delivery and elsewhere in SAPO. There was no commercial contract beyond monthly invoices.<sup>28</sup> The TES were, in fact, price takers; what was authorized by Regional SAPO offices, keen to control costs, didn't necessarily correspond to the time sheets filled in by employees on the ground. That was tough for the workers.

The often amateur management skills of the swarm of labour broking companies created numerous grievances and breaches of labour law. In theory the TES kept to the minimum standards outlined in the BCEA (considerably lower than had been negotiated by CWU for permanent employees of SAPO). In practice it was often different. Many workers did not

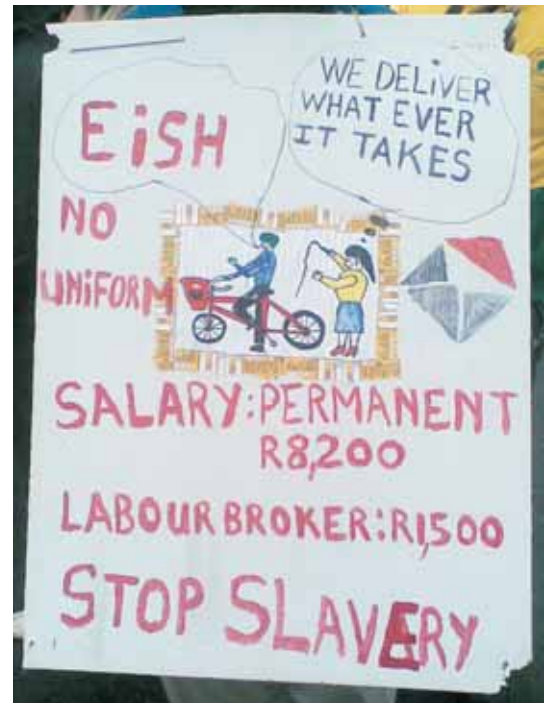
have written details (or a contract) of employment, a BCEA requirement,<sup>29</sup> and if they did they were not provided a copy. Thus, TAS did not provide copies of workers' contracts even after ordered to do so by the Department of Labour in March 2007.<sup>30</sup>

Despite working alongside permanently employed postal workers, and doing exactly the same job, labour broker employees had very different terms and conditions of employment. They had no pension contributions, less leave days, less sick days, no housing subsidy, they were not issued with Post Office uniforms and were provided with inadequate wet-weather clothing. Nor were they entitled to an annual profit-linked, 'gain sharing' bonus paid to permanent workers.

However, the most visible difference between TES and SAPO employees was salaries. Monthly payments to TES postmen varied because of the number of days worked (which varied by month) and the hourly rate (which varied between TES). In rounded terms, by 2011 a permanent postal worker's salary was R8,000 a month, but a labour broker would be paid R4,000 a month to supply a worker, who would be paid R2,000. The Post Office saved R4,000 a month, the TES had R2,000 a month revenue per placed employee, the employee managed with what was left.

The combined effect of savings on salaries, benefits and uniforms dramatically reduced SAPO's wage bill, even when the TES' monthly placement fees were paid. As one interviewee explained, 'It was three for the price of one!'

This situation was maintained through the vulnerability of the casual workforce. What the TES did provide was a disciplinary service. Interviewed workers explained that Ramaphakela, while never available when they had a problem they wanted to discuss, was quick to arrive for a disciplinary matter. Initially, workers were summarily dismissed without



Poster outlining working conditions of labour broker employees: Germison, 5th July 2011

hearings by labour broker owners. However, after one dismissed worker went to the CCMA, jointly citing the labour broker and SAPO, the Post Office insisted on a tightening up of procedures; hearings were now held and employees were permitted to be represented by a colleague. By and large such hearings were, however, formalities, as one interviewee explained, 'it was just to... satisfy what the [LRA] Act requires, but once the Post Office [supervisor] said that they no longer want you, you are done.'

Attempts to organize unions were directly blocked. Workers were told to their face that if they joined a union they would be fired. The nature of the employment relationship meant that a supervisor could have an employee dismissed by simply picking up the phone and asking the TES for a replacement worker. Supervisors could decide who ate and who went hungry. In such a situation raising concerns or grievances becomes perilous. The multiplicity of labour brokers also made it harder for workers to organize. In addition to outright anti-union stances on the part of the labour brokers, the multiple employers

operating within single depots raised the bar to union organization since negotiations would have to be held with each TES separately.

A frequently employed description of the system of labour broking that has emerged is that of slavery. While this can be disputed in academic terms, in practice the conditions of labour broker employees, especially when trapped in this employment over long periods of time, was akin to a form of slavery from which escape seemed impossible.

## 5.4 The Implications of Labour Broking for SAPO

The explanatory memorandum to the LRA Amendment Bill (and now Act), outlines how there were 'problems and abusive practices associated with temporary employment services commonly referred to as "labour brokers."' <sup>31</sup> It is clear that this was the case in the Post Office; however it is important to note the introduction of labour broking resulted in negative outcomes for the organization.

The multiplicity of labour brokers, the lack of any real regulation by the Post Office, and the absence of commercial contracts (beyond monthly invoicing) provided fertile ground for kickbacks and corrupt relationships.<sup>32</sup> It was only around 2011 that the sheer size of the labour broking bill raised concerns among senior SAPO management and the organization's board, resulting in an investigation run by KPMG.

The labour broking system that emerged in SAPO was neither about placing workers for short-term contracts, nor about outsourcing non-core functions of the operation. Rather, the system was used to fill long-term positions, for well over a decade in some cases, at the core of the operation's business. Given the nature of mail delivery, which requires detailed local knowledge for both sorting and delivery, it was never feasible to use labour brokers as temporary employment services to cover for short-term absences. Labour broking only

worked by providing permanent casuals. In doing so, the Post Offices' own recruitment criteria were undermined. Thus, previous requirements for a matric pass and a clean criminal record were not necessary for employment within SAPO as a TES employee.

The massive savings that could be achieved through the use of labour brokers, in line with constant pressure for cost cutting, provided a classic example of a 'race to the bottom' within the organizations. Corruption aside, incompetent management was able to meet their targets, not as a result of their acumen, but at the expense of labour broker employees desperate for employment. At the same time, realities on the ground were increasingly been hidden from what had become a centralized managerial structure. Lower level managers complied with the targets set them, but hid how this was being achieved from Head Office.

## 5.5 Two Unequal Workforces

The widespread establishment of labour brokers within SAPO created two parallel workforces. One was relatively privileged and unionized, the other was precarious and without representation. SAPO's industrial relations environment was dominated by CWU between 1996 and 2012 as the only union recognized within the Post Office Mail Delivery business.<sup>33</sup> Only in 2012 was SAPWU (later SAPAWU), formed by a breakaway from CWU in 2009, also recognized by SAPO.<sup>34</sup> Excluding the efforts of a handful of individuals, CWU made little efforts to prevent the increasing use of labour brokers (see Section 6.2). Nor did it make any real attempt to organize casual workers either within SAPO or within their respective labour brokers.

Rank and file casual workers widely believed that CWU officials were involved, along with SAPO management, in receiving kickbacks from competing labour brokers seeking to place workers within the organization.<sup>35</sup> Those who held office within CWU give less credence to this explanation and rather put emphasis

on CWU's complacency within SAPO as the only recognized union with an agency fee agreement in place,<sup>36</sup> on the dominance of Telkom-based union officials in CWU, its focus on the danger from the SAPWU breakaway which competed with it for the membership of permanent employees, CWU's focus on wider political issues (rather than the bread and butter issues of workers), and the difficulty of organizing casual workers given the multiplicity of labour brokers.

Further, it is clear that there was a reliance on the part of unions, including CWU, to wait for COSATU to deal with the issue of labour broking at a national level. As early as COSATU's 8th Congress in 2003, concerns over the 'casualisation of quality jobs' was raised. In subsequent congresses, resolutions deepened the analysis of problems of labour broking, a process that cumulated in calls for its banning by the federation. Indeed, ironically, CWU officials played a prominent role in a number of high-profile campaigns and demonstrations against labour broking, while their union was doing next to nothing about it in their own back yard.<sup>37</sup>

On the ground, two unequal workforces labouring side by side resulted in toxic workplace relationships. While there were exceptions, the general experience of casual workers was one of discrimination at the hands of supervisors and permanent co-workers. The difference in terms and conditions between the two groups has already been outlined. Additionally, casual workers were vulnerable to exclusion and exploitation by co-workers.

The different pay days between the two groups opened up an avenue of advantage for permanents. They were paid on the 25th of the month; casuals were paid on the last day of the month, and not infrequently later. Between these two dates, one group was flush, the other skint. Occasionally, permanent workers showed solidarity with interest free



*Poster: Challenging the value of labour brokers, Germison, July 5th 2011*

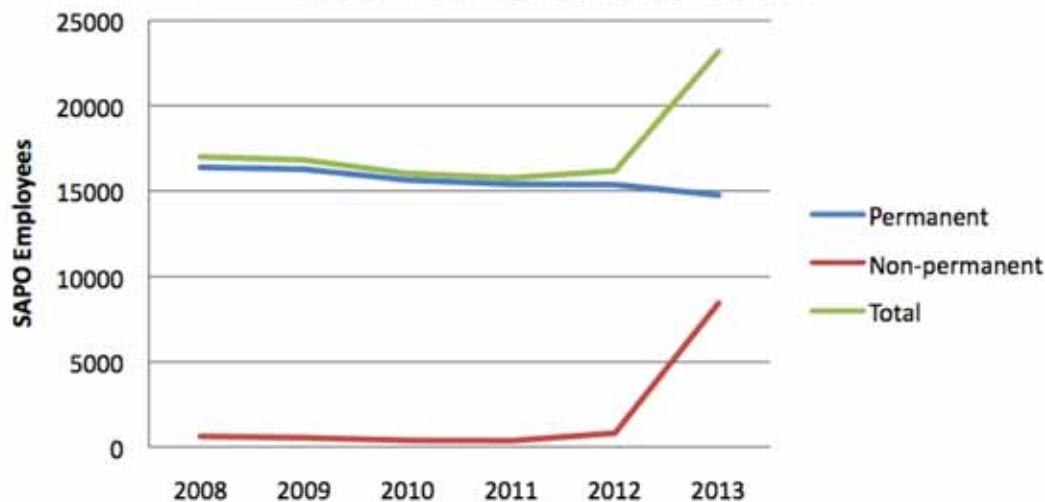
loans to tide casuals over. More commonly, they charged interest or took it easy by paying casuals, between R50 and R100, to deliver the mail on their walk.

A tea allowance given to permanent workers, while objectively a small thing, had enormous psychological impact. The monthly allowance would be pooled and used to buy tea and coffee. Casual workers did not have this allowance. In a few depots supervisors insisted that the purchased beverages be shared by all, but this was rarely the case. Generally, tea and coffee was for permanents only. The resentment generated by this petty, intra-worker, discrimination cannot be underestimated. It was frequently recounted, with bitterness, by interviewees as an example of what they had been fighting against.

## 5.6 Labour Broking: A Dirty Secret in Plain Sight

Nobody sat down and designed the labour broking system in the SAPO. Rather, it emerged from attempts to meet contradictory imperatives, a sustained failure of governance, incompetent management, sclerotic unions, rapacious entrepreneurs, and an almost inexhaustible supply of people desperate for employment.<sup>38</sup> What was created dramatically changed the composition of SAPO's workforce. Yet that change was concealed from view. By 2011 some 8,000 workers were all but invisible. Although SAPO only submitted Employment

**Fig 1: South African Post Office Employees**  
2008-2013 Employment Equity Reports



Source: SAPO Employment Equity Reports

Equity reports from 2008, the data (Figure 1) shows how the statistically recorded workforce of the organization was gradually declining, since it excluded the increasing number of labour broker employees. This constituted a clear breach of the Employment Equity Act that requires companies to include TES workers employed for longer than three months in their equity reports.<sup>39</sup> In 2013 some 8,000 labour broker employees, who had been 'statistically disappeared' from SAPO's workforce suddenly appeared as the April 2012 agreement reached with the Mabarete unfolded. This marked the end of labour broking in the Post Office, though, as explored in Section 9.1, it did not bring about equal employment conditions for the statistically reappeared.

The statistical leap that occurred when it was finally revealed, in 2013, that around 8,000 previously unreported 'non-permanent' workers were in the Post Office makes a mockery of Employment Equity reporting. These workers, the employees of labour brokers, had been invisible; not least in their ability to voice their concerns, a key issue for this report. However, like most dirty secrets, it wasn't that hard to see. Even if you didn't visit depots, or work in the finance offices

where the labour broker invoices were processed, there were plenty of clues. As permanent workers were replaced by labour broker employees, this was captured within managerial systems as 'unfunded posts.' By 2011 this number was approximately 5,000.<sup>40</sup> You didn't need an MBA to ask how the organization was managing to operate with 5,000 vacant positions. But, like most dirty secrets, the reality was that everybody knew; it was just that nobody wanted to say. The Post Office's dirty secret covered an ever growing lie. The lie was of course convenient; it was purchasing employees at 'three for the price of one.' But, as is often the case, short-sighted actions generate long-term problems; the price of the lie was a catastrophic rupture of workplace order when those who had been enslaved finally rebelled.

## Six

# A History of the Mabarete

## 6.1 The Emergence of Casual Workers Committees in Gauteng

The organisation of casual workers within SAPO was long and complex. Gauteng Province was, unsurprisingly the center of this process; the province employs a significant proportion of the organizations employees who, given the province's urban geography, work and live in close proximity. Gauteng is also the fast-paced province with intense competition over status and success. This is acutely felt by internal migrants from Limpopo, the Free State, Kwazulu-Natal and elsewhere who are consciously seeking a better life. For labour broker employees, with effective second-class citizenship and wages that could not pay the monthly bills, let alone build a future for themselves and their families, the situation was not easy to accept.

Nevertheless, the establishment of what were initially called 'Casuals Committees' or simply 'Workers Committees,' beginning as early as 2005, was a highly fragmented, erratic and fluid process. At its simplest, two, sometimes rival sometimes merged, committees emerged. One was based on the West Rand and the other on the East Rand. This however, is a simplification. The East Rand was divided into two: a highly organized group of six depots in the Tembisa area (known, confusingly as the East Rand or, less confusingly, The Tembisa Line<sup>41</sup>), and the 'Far East Rand,' the remaining and much large portion of the East Rand.<sup>42</sup> A committee emerged in Pretoria that was linked initially to the West Rand and then to the Far East Rand committee. Further, a committee in the Vaal area was linked to the West Rand

committee particularly the Soweto section, which itself was sometimes distinct from the 'Far West Rand' committee members.

Even this oversimplifies matters; other parts of Gauteng, such as Johannesburg and Randburg, never established stable committees, but there was sporadic organization and some industrial action in these areas. Further, just because there was a committee in a particular area didn't mean that casual workers would respond to a committee's call for action. Committees could be fractious (as illustrated by the changing configurations of support for different strikes), individual depots sometimes took their own contrary decisions, and it was not uncommon, especially in the early phases of organization, for strike calls to be ignored or for strikes to collapse almost as soon as they had begun.

This working paper focuses on the rise of the Mabarete, the group forged in the 2011/2012 strike, as the most effective organization to emerge and the group which can be credited with ending labour broking in the Post Office.

## 6.2 *Come September*: The Communications Workers Union (CWU) and Casual Workers

The CWU, a COSATU affiliate, mounted no effective opposition to the introduction of labour brokers into the Post Office.<sup>43</sup> Despite this, casual workers, who were being employed in increasing numbers, looked to CWU to address their concerns. CWU was, after all, the only union operating in the Post Office. Casual workers were however not employed

by the Post Office but by one of almost a dozen labour brokers supplying labour. CWU did not have a recognition agreement with these labour brokers, nor did it make any serious attempt to conclude such agreements. Thus, despite casual workers filling in CWU membership forms, some on multiple occasions, neither the Post Office, nor the labour brokers deducted their union subscriptions.<sup>44</sup> Indeed, the labour broking companies generally took a hostile stance to any unionization threatening employees with dismissal should they unionize. As a result, casuals were never able to become *bona fide* members of CWU. Rather, until the point that they realized that CWU was not going to help them, but was in fact standing in their way,<sup>45</sup> they acted as 'supporters' of CWU or as long-term 'members not in good standing.'

After a CCMA case (see Section 5.3) labour brokers were required by SAPO to hold disciplinary hearings, rather than summary

dismissals, CWU shop stewards assisted casual workers at disciplinary hearings and in resolving depot level grievances. However, this was as colleagues and not union officials. The union didn't negotiate wages or conditions of employment,<sup>46</sup> the casuals' chief concern, which were set by the labour brokers (albeit in line with what SAPO dictated<sup>47</sup>). What CWU did do, however, was to promise, from 2005, to bring labour broking to an end. Their repeated promises in this regard were eventually ridiculed by casual workers as 'Come September.' Come September (approximately when negotiations were concluded), permanent employees would get a salary increase<sup>48</sup> and, despite promises, casual workers remained casual workers.<sup>49</sup>

CWU repeatedly reached agreements with SAPO over labour brokers which are summarized in Box 1. The problem was that these agreements were not enforced; a point that is self evident given their constant re-statement.

### **BOX 1: CWU-SAPO Agreement over the end of labour broking**

From the 2005/6 collective agreements between CWU and the Post Office outlined how there would be a redeployment process in which first permanent part time employees (PPTs), then fixed-term SAPO employees (S32s) and then casual worker would be deployed into permanent positions.

- The 2005/6 agreement set the deadline for completion for the 30th October 2005
- The 2006/7 agreement set the deadline for the end of December 2006
- The 2007/8 agreement set the deadline for 30th September 2007
- The 2008/9 agreement specified a 'fast tracking' of the process
- The 2009/10 agreement stated that the two sides would 'engage on the conversion of current employees whose primary employer/s are Labour Brokers...into permanent positions with specific focus on Mail Business Unit and using the criteria of two (2) years and longer continuous service in the same position.'
- In a report back to members in February 2010 on discussions for the 2010/11 agreement CWU's Gauteng Provincial Office stated that 'After CWU reiterated its position of the conversion of labour brokers' employees...SAPO also confirmed their commitment and urgency derived from the level of the Board to address the matter speedily.'
- The 2011/12 agreement repeated the same clause contained in the 2009/10 agreement almost verbatim: 'The parties agree to the conversion of current labour broker employees into permanent positions using the criteria of 2 years and longer...'

### 6.3 The 2009 Postal Strike: A Watershed

In 2009, CWU called a national strike in the Post Office which casual workers, particularly in Gauteng, enthusiastically joined, believing that their conversion to permanent positions was central to the strike. The strike ended messily after several weeks and SAPO brought an interdict against CWU when strikers in the Wits region, primarily casuals, refused to go back to work.<sup>50</sup> The settlement agreement had a clause on the conversion of casual workers, but this simply formed part of the long list of un-kept agreements documented in Box 1.

Compared to later strikes, that of 2009 was 'soft.' SAPO's official end of strike communication outlined that 'even at times when the crowd was hurling abusive comments, non-striking Sapoans maintained their professionalism.' When the strike didn't in fact end, stones were thrown at the Tshwane Mail Centre and some depots were damaged. However, the only recorded assault was on CWU's second deputy president, Mathapelo Mphuti, by *bittereinders* who believed that she had sold them out.

For many casual workers the 2009 strike was a watershed; their faith in CWU was now exhausted. Some abandoned CWU completely; others maintained contact but kept their options open by 'double footing' (building their own worker committees while continuing to attend CWU meetings). Regional CWU office bearers sympathetic to the casual workers had agreed to demands from casual workers that they send their own representatives to the monthly shop steward council meetings. Typically, depots would now send two representatives: the official shop steward and a 'member not in good standing' who would represent and report back to casual workers. Many of these unofficial casual shop stewards attended the shop stewards council

meetings to get information; casuals committee meetings, held in parks and other open spaces over weekends, now talked about the need to 'fight their own battles.'

Another outcome of the 2009 strike was the emergence of a second union in the Post Office, the South African Postal Workers Unions (SAPWU). The union had been established prior to the strike, but dissatisfaction with how CWU had managed the strike, along with long running dissatisfaction with CWU, especially among higher skilled employees, boosted the new union's membership. After years of CWU's rearguard actions within the companies IR system and in the courts, SAPWU achieved recognition in the company. However, it initially paid no more attention to casual workers in the organization than CWU.<sup>51</sup>

### 6.4 Exploring Every Avenue

Despite a growing realization that they would have to fight their own battles, what is evident is just how many attempts casual workers made to resolve their problems within the South African constitutional framework; the much praised inclusive post-1994 social pact. The number of organizations approached and strategies attempted, summarized in Box 2, was multiplied because different casuals committees ran through a range of initiatives, sometimes in parallel. Some of these were fleeting liaisons, others constituted sustained engagement. The list reflects considerable patience on the part of many individuals who, despite repeated setbacks, attempted to raise their plight in legitimate ways.

## **BOX 2: Organisations Approached and Strategies Attempted by Casual Workers**

### **Attempts to negotiate as workers committees**

- Attempts to negotiate directly with the Post Office
- Attempts to negotiate with labour brokers, particularly TAS Appointments (2009 and 2010) as the largest labour broking company in Gauteng

### **Attempts to get official bodies to intervene/adjudicate**

- Department of Labour/Minister, resulted in a Ministerial enquiry in 2007
- Department of Labour public hearings on labour broking: SAPO casual workers imputed into hearings held in Germiston and Sebokeng in October 2009
- CCMA
- Gauteng Premier
- Labour Court
- Minister of Communications
- The Public Protector

### **Attempts to get help from trade unions**

- COSATU<sup>52</sup>
- COSAWU (now de-registered, was linked to DSM)
- LEWUSA (Labour Equity General Workers Union of South Africa)
- CWU (see section 6.2)
- SAGWUTI (South African General Workers Union & Textile Industries)
- SAPWU<sup>54</sup> (South African Postal Workers Union, later SAPAWU)

### **Attempts by unions to get recognition with labour brokers**

- Individual CWU office bearers in the Wits Region
- COSAWU
- SAGWUTI

### **Attempt to establish their own union**

- National Communications and Allied Workers Union (NACAWU) was an initiative by the Vaal Committee. Registration was declined by the Department of Labour.

### **Political parties/organisations asked for assistance**

- ANC
- ANCYL
- SACP
- YCL
- African Peoples' Congress (APC)<sup>54</sup>
- Democratic Socialist Movement (DSM)<sup>55</sup>

### **Advice Centers**

- The Germiston-based Casual Workers Advice Office (CWAO) provided office facilities and research assistance from late 2011

Given the number of avenues explored it is not possible to explore all in detail. However, of note was that attempts to enlist COSATU's help were perhaps the most frustrating. A march to COSATU House was organized without the knowledge of CWU in May 2011. The COSATU officials that they met were sympathetic, but did little other than outline the national campaign COSATU was heading to ban labour brokers and refer them back to CWU, along with advise to follow the 'proper channels.' In the words of one of the worker leader, 'COSATU was USELESS in capital letters.' Among the casual worker leadership, the view was that, like CWU, COSATU was calling for the banning of labour brokers, but that this amounted to no more than 'singing the same hymn again and again.'

The casual workers had, in fact, explored and exhausted the 'proper channels' available to them. Initial attempts to raise the issues of salaries, benefits, uniforms and other concerns with the Post Office were first diverted to the labour brokers as the causal workers employees. The response from labour brokers was that they were constrained by the terms of their contracts with SAPO. This established what was to become a familiar 'pillar to post' strategy in which responsibility for casuals' grievances was denied.

The Vaal Workers Committee had since 2007 attempted to explore proper channels. In March of that year, after much pestering, the Department of Labour established a Ministerial Enquiry<sup>56</sup> that on the 20th February dealt with the complaints raised by the committee against TAS Appointments, by far the largest labour broker in mail delivery in Gauteng. TAS was found guilty of only one of the ten complaints; that it had not provided employees with contracts. It was ordered to do so by the 15th March 2007. None of the other complaints were upheld. On the central issue of different terms and conditions of employment the report

simply explained the status quo: 'this issue was clarified... the Post Office did not employ them [the casual workers] but rather outsourced its services to TAS...better benefits should be negotiated with the agent [TAS] as their employer.' In other words, the Department of Labour perpetuated the pillar to post situation.

Eventually, in 2009, talks did take place with TAS. They were a one-sided affair that resulted in a 50 cent an hour pay increase being granted. In 2010 there were again talks but they quickly stalled. It was explained by TAS management that the workers committee was not recognized 'as per collective bargaining' and that salaries could not be increased because of the 'laws of labour broking.'

The Vaal Committee went to the CCMA. They drew on TAS's failure to provide them with their contracts as instructed three years early and the deadlock in negotiations. What they wanted was a certificate of dispute that would allow them to mount a protected strike. However, the CCMA Commissioner said that the case was complex and instead told them to approach the Labour Court.<sup>57</sup> Despite the difficulties of such an undertaking, the committee, assisted by a student lawyer from VUT,<sup>58</sup> filed papers and the case was heard on 2nd February 2011 in Johannesburg.<sup>59</sup> Judge Lagrange, who, as an advocate had represented SAPO over the 2009 strike interdict, seemed to have had little patience with the workers' amateur approach to the bench. The matter was postponed *sine die* (indefinitely) and the applicants had a month to re-file papers if the case was not to be closed. Doggedly, the committee persevered. With assistance from the court's pro bono office, they submitted a revised application.<sup>60</sup> A second court date was set for August. But by the time August came things were different. The strike wave of mid-2011, despite its defeat,

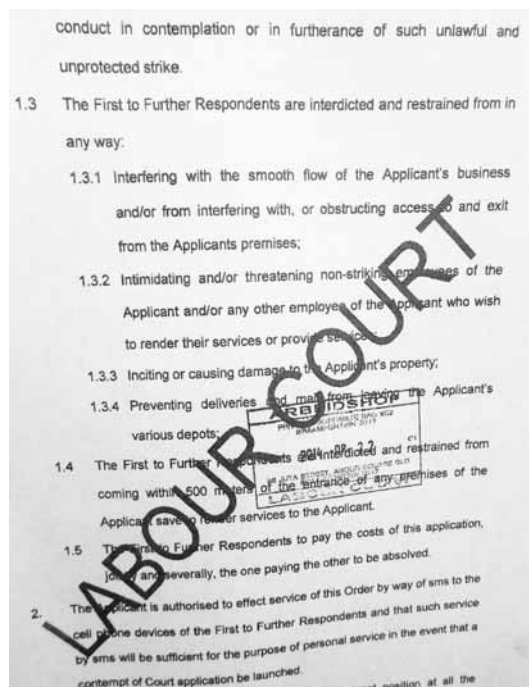
had contrasted the long, frustrating and one-sided route of 'proper procedures' to the power of taking to the streets.

What the casual workers now began to realize was that for all the rhetoric of South Africa as a constitutional democracy they stood outside the industrial relations framework. They did not, in reality, legally exist and few people were willing to help. Most promises to assist petered out, or it became clear that the intention was to use casual workers as pawns in others' agendas. Only a few organizations genuinely asked how they could help the casual workers who approached them.<sup>61</sup>

For the institutions of post-1994 South Africa: the CCMA, the Labour Court, the Department of Labour, the established unions, the ruling party and its allies, government Ministers and others, the casual workers of the Post Office were an embarrassing manifestation of a dirty South African secret: an underclass of workers without rights. Or, in the handwritten notes from a casual workers meeting: 'We are slaves used by everybody, but owned by nobody.'

## 6.5 *We are the Union Ourselves!* The Strike Wave of Mid-2011 and its Defeat

Between June and August 2011 a series of unprotected strikes by casual workers erupted across Gauteng. The most significant of these originated in the Tembisa area. A worker committee linking six postal depots, which had met regularly in a piece of open land, resolved to strike. This was not easy; on the first day only a handful of the 130 workers in the six depots joined the strike. It took a week to bring out the six depots. But with close to total cessation of postal deliveries in the Tembisa area, the strike spread rapidly across the East Rand, Vaal, and isolated depots in the West Rand. The leadership of the West Rand Committee, however, noticeably failed



*Labour Court Interdict*

to rally until the very end of the strike. This was the first sustained casual workers strike. Workers who had initially planned to remain at work were brought out by delegations of strikers, often becoming enthusiastic strikers as they challenged years of frustration. Empowered by their own success they adopted the slogan, 'We are the union ourselves!' They would resolve their own problems.

The strike, however, crumbled, without a single concession. Labour Court interdicts brought by the Post Office were key to this conclusion.<sup>62</sup> Initially, SAPO cited the labour broking companies, since its contract with them for labour was not being honoured. When the labour brokers proved that their best efforts to recruit replacement workers was impossible because of intimidation, SAPO lawyers focused on the strikers. Among the strike committee there was confusion; some thought the case was the one brought by the Vaal Committee and that the Post Office that would be 'on trial.' Striking workers turned up on the appointed day *en mass*.

When they arrived at the Labour Court the Post Office lawyer got the details of six strike

leaders. These six now became the primary respondents for a second interdict. By the time they realized their mistake it was too late; they were facing jail for contempt of court. Their initial defiance, recorded verbatim in the second interdict by the Post Office lawyers, now evaporated. In a humiliating climb-down they turned to CWU, with the help of the West Rand Committee who still remained in contact with the union, for representation in the court. On the 27th July, they apologized to the court and were bound over for six months. The strike collapsed.<sup>63</sup>

Although the strike ended in defeat, what the workers committees had gained were valuable lessons. Three were prominent: the first was to stay away from the courts, in future the leadership would remain hidden; the second was a realization that they needed to focus on the Post Office, and not the labour brokers, if they wanted to achieve their objectives, the third came from piloting a series of techniques and strategies to prevent mail delivery, particularly in townships. In short, they now knew how to fight their own battles.

## 294: The Mabarete Strike (December 2011 - April 2012)

### 7.1 The Strike that Ended Labour Broking in the Post Office

The collapse of the mid-2011 strike routed and demoralized the worker committees. Their defeat was driven home when three worker leaders, believing wrongly that the Labour Court had given the go ahead for talks to proceed, were dismissed by TAS after pointing out, to Post Office regional management, that the causes of the strike remained unresolved.<sup>64</sup>

While there was a tacit agreement among the leaders of the causal workers that they should see out the Labour Court six month suspended sentence before returning to the fray, the West Rand Workers Committee jumped the gun commencing another unprotected strike on the 12th December 2011. The committee's timing was driven by internal dynamics. Although they had largely stayed aloof from the Tembisa initiated strike, they had in May 2011 mounted their own one-day demonstration-cum-stayaway at COSATU House. TAS had implemented disciplinary action against those who had participated for absconding. A handful of workers stood their ground and refused to apologize for their absence from work. They were dismissed. With their backs against the wall they had launched the strike.

The timing of the strike played into the rivalry between committees that had plagued the casuals' organization since the very beginning. It also drove a wedge between those in the wider East Rand who had wanted to continue the previous strike in defiance of the Labour Court and those who had been cowed by the

interdict. In the end a few hundred strikers, down at one point to just 294, a figure that has attained mythological status, remained out in a long, bitter and violent, but also extraordinarily creative strike. While its full ramifications are still playing out, there is no doubt that what it did achieve was the end of labour broking in the Post Office.

### 7.2 A Focused Campaign

From the myriad strategies and campaigns that had been tested in previous years, the strikers distilled a program which they pursued with determination. Their focus was disrupting mail delivery across Gauteng. They were no longer interested in talking to the labour brokers. Rather, their aim was to push them aside and force the Post Office to take them on as permanent employees.

They were now no more interested in union support than they were in applying for a strike certificate. They were through with the system that had failed them. The structures of the workers committee was now adapted to meet the needs of the struggle that they prosecuted. The only leaders with any visibility were protected by 'Chinese walls' within the strikers' structure that provided them with plausible deniability over actions that might take place the ground. But overwhelmingly the strike leaders were simply invisible. SAPO tried again to interdict the strike,<sup>65</sup> but was now unable to pin down individuals; court interdicts were ignored and attempts by the Sherriff to serve summonses were met with denials that the individual lived at the address. The success of the previous interdict was put down to the evidence provided by physical damage done to Post Office property and in a macabre twist

the strikers resolved that property would not be damaged, instead people would be the target of their actions.<sup>66</sup>

On the ground, a process of trial and error created a flexible field structure in which a myriad of roles emerged around personal character, local knowledge, and street savvy. Codes of conduct were established, including secrecy to prevent advanced warning of activities that would reduce their effectiveness. Communication relied heavily on cell phones, including an 'office phone' that was rotated around the leadership and which provided a centralized point of communication without the number linked to any individual.<sup>67</sup> What emerged was a quasi-militarized and cohesive group. At some point the name Mabarete<sup>68</sup> (The Berets) stuck. There are different accounts as to how this came about, but there is agreement that it was a reference to the then Minister of Police, Bheki Cele's paramilitary Tactical Response Team, nicknamed for their berets, that operated in the townships melting out corporal punishment. Nobody had a problem in seeing a parallel between the two groups.

At their peak there were perhaps 500 Mabarete, overwhelmingly men. As the strike progressed, some succumbed to pressure and returned to work, some found work elsewhere, and some became disheartened and drifted away. By March 294 remained. All had been dismissed; most received notice via sms. They could now soldier on or accept total defeat.

Legally, there had been nothing stopping the labour brokers replacing the strikers given that their action was unprotected. Now the strikers were no longer even employees of the labour brokers, however the impact of the strike was not based on the withdrawal of their labour, as industrial relations theory outlines, but on their proactive ability to disrupt the business of the Post Office.

The prospect of success was not, however, immediately apparent, either to the Mabarete or to the majority of casual workers in Gauteng who remained at work. This strike failed to match the scale of the previous one when 'everybody' (i.e. the majority of Gauteng casual workers) was involved. Some people joined this strike for a day or two but then returned to work, unconvinced or suspicious of the organizers motives. As the strike dragged on, divisions hardened and with the exception of a couple of East Rand depots that joined the strike long after it was underway casual workers across Gauteng divided into two hostile camps.<sup>69</sup>

The Mabarete strike can be divided into four, sometimes overlapping, phases: mobilization, *ho tsoma* (hunting), home visits, and, finally, negotiations.

### 7.3 Mobilization

The initial phase of mobilizing involved persuading workers to join the strike. The primary concern in this regard was not in making a case for the strike; every casual worker well understood themselves to be second class employees. They didn't need convincing that they had a raw deal. Rather, the major obstacle to joining a strike was casuals' vulnerability. In the absences of any effective industrial relations system, striking equaled absconding and absconders would be dismissed. Given this, joining a strike amounted to convincingly showing that you had to join. To strike you had demonstrate that you had no choice but to join the strike.

The initiating of a strike therefore consisted of what can be termed 'mutual mobilization' - one group of workers would arrive at the workplace of another group and ask them to join. In context, such requests, sometimes forcefully delivered, were best agreed. Whether the strike was genuinely supported would only become apparent the next day; would the



*The Tembisa Line arrives at Witspos (July 2014)*

mobilized workers report back to work or report to the strike assembly area?

The initial step in such mobilization was the trickiest. It was a Catch 22 situation; you needed a strike before you could have a strike. Even some of the best organized areas, such as Tembisa, struggled with this step and had to resort to ingenious ruses. Without the establishment of personal networks within and between the workers committees, it is possible that this initial difficulty could never have been overcome. The challenge that initial mobilization represents for vulnerable workers is one factor that accounts for the long gestation of industrial action among casual workers in SAPO.

However, even with a group of workers on the march from depot to a depot it was not automatic that their arrival would see the casuals there join the strike. It was more complicated than that. Mobilization generally required coordinated internal and external activity. Casuals in the depot would already know that a group was coming. This would be done though activists in contact by phone. The internal activist would prepare their workmates. Joining was then only a formality; they were covered from charges of absconding.

But they didn't have to join, as the Mabarete strike well illustrates. If casuals were opposed to participating they could lock the depot gates and keep out of sight until the strikers moved on in frustration. And if such open defiance was seen as too risky, there was always the option of joining the strike for the day and then drifting back to work.

Supervisors at the depots had only limited influence on this initial process of mobilization. Some who sympathized with the casuals made the process easy, others pragmatically stayed out of the way, only a few made the process difficult. Supervisors real power to break a strike lay in dealing with strikers on a one-on-one basis by ringing them in the evening to explain the consequences of their actions and, for example, telling them that they were the only one of a handful in their depot still on strike. Once a worker pitched back at work, they would not be able to re-join the strike unless another mobilization exercise was mounted.<sup>70</sup>

#### 7.4 *Ho Tsoma* (To Hunt): Preventing Delivery in the Townships

Mobilization, and re-mobilization, took place during December of 2011 and January 2012 with limited success: the majority of casuals remained at work and labour brokers were hiring replacement labour. Drawing on lessons from the mid-2011 strike the Mabarete now began to *tsoma* (hunt) in the townships. In essence this involved groups of varying size patrolling townships to track down and confront anybody delivering mail. Such confrontations ranged, depending on circumstances, from warnings, to forced stripping, to beatings.<sup>71</sup> The key objective was to prevent mail delivery by making it a risky activity; replacement labour, or *amagundwane* (scabs), and working employees, whether casuals or permanents, were on notice that they risked humiliation or a hiding if they ventured out to deliver.

The successful implementation of this strategy multiplied the impact of a few hundred strikers. Though a combination of changing tactics, mobility and secrecy it was all but impossible to know where the Mabarete were operating on any particular day, or if, indeed, they were operating in several locations. Non-striking postmen and women could insist, on the grounds of safety, that they could not deliver. Over large parts of Gauteng deliveries stopped with non-strikers turning up for work, but unable to deliver mail.

This was a new technique to apply pressure on the employer. Previously, the backbone of postal strikes had been the main sorting hubs, whose workers were always canvassed (by CWU) before industrial action was initiated. With the sorting hubs at a standstill no mail reaches the depots. The *ho tsoma* technique operated lower down the mail system; at the final step in the process.

The geographical reach of this action was limited by a number of factors. Striking casual workers were *tjhonne* (broke) almost from the beginning of the strike and the only transport that they could access was the Metrorail system. For the most part this network links Gauteng townships, but even when it traverses CBDs or suburbs these areas were, generally, avoided. Groups of African men moving around the township attract little attention, but in town and suburb alarm bells are soon ringing and police alerted.

The technique therefore affected primarily township residence and, typically the mail they receive; municipal bills, store accounts, bank loan statements, DSTV subscriptions, UNISA study material and so on. Attempts were made by the Mabarete to appeal for solidarity from fellow township residents.<sup>72</sup> There were also creative efforts to make the strike visible beyond the townships. The Post Office initially refused to acknowledge that a strike was occurring. Rather, SAPO's public communications minimized the scale of disruption and denied that this was industrial action but, rather, the criminal acts of a handful of former workers.<sup>73</sup> The casual workers had been invisible when working and to a frustrating extent they remained invisible when striking.

One attempt to break this silence was when they joined COSATU's national march against labour brokers and e-tolls during the strike. Unlike the other marchers who joined wearing union T-shirts, the Mabarete 'hijacked' the even by wearing SAPO bibs. They were the only marchers to identify a company using labour brokers and the media focused on them to the embarrassment of the Post Office. The Mabarete also had to prove their strike to the major clients of the Post Office whose mail was piling up. On one occasions, with photographs of UNISA study material sitting in depots strikers had gone to the university's

campus in Pretoria as students (which some were) to complain that they weren't getting their course material because of the Post Office strike.

As the UNISA ploy illustrates, the *ho tsoma* technique was a means to an end: to get their grievances heard. That it involved violence against co-workers, even within the context of everyday township violence that they were embedded in, was not something that sat easily with many of the Mabarete and a range of justifications were developed.<sup>74</sup> At the same time, the process of *ho tsoma* was also a liberating activity for many who, after years of humiliation, were now pitting their wits against far stronger forces. Not surprisingly, deep bonds of comradeship developed among the active strikers.

## 7.5 Home Visits

Even as the Mabarete were able to disrupt mail delivery, their message, primarily delivered though the punishment they meted out to *amagundwane*, was not getting through. The stark reality was that the Post Office put little value on its labour broker staff; whether working, striking, or in ICU wards. Moreover, the disruption caused by the Mabarete was confined to the townships; largely away from elite scrutiny, SAPO's strategy appeared to be to ride out the problem.

The change of tactics from *ho tsoma* to home visits emerged over just three incidents. The first was spontaneous. A group of strikers were passing the Tembisa house where the mother of TAS's owner, Colleen Ramaphakela, lived. They made a phone call to Ramaphakela telling her where they were and that if she didn't drop her contract with the Post Office they would be back. It was an act of bravado, but it ticked off the first of a trinity of targets; the labour brokers, CWU, and SAPO management.

The second target for a home visit was CWU. The visit to Clyde Mervin's house, then the Chair of CWU's Gauteng Region was planned. Several hundred strikers made their way to his house.<sup>75</sup> Mervin wasn't in, but members of his family were and they were traumatized by the experience. The message given to Mervin was that the casual workers were now fighting their own battles; he should stay out of their strike. The Mabarete saw him as complicit with labour broking. CWU was 'indirectly oppressing' them.

The third home that they visited was that of E. T. Mpai, the SAPO Wits Region mail manager, who lived in a gated complex on the East Rand. Some strikers thought that he had the power to hire, as they knew he had to fire. They speculated that he might hold the key to what was by March 2012 a desperate situation. Senior leaders of the Mabarete were away seeking support elsewhere when the decision was made in the strikers' morning meeting to take their message directly to Mpai. They knew his address; postmen know everybody's address. On arrival at the complex's security boom they posed as Mpai's employees who had come for unpaid wages. After a delay, and despite police being called, the security guards had little option to allow them past. Mpai was not in, but as with the visit to Mervin's house, family members were. The thinly disguised message was that they were hungry and would be coming back 'to eat' with Mpai. By chance, a working postman was delivering in the complex that would normally have been seen as safe territory. The strikers left his bike on Mpai's gate and took the unfortunate man with them.

The results were beyond their wildest expectations. As interviewee after interviewee explained, the visit to Mpai's house 'changed everything.' They had not even reached the Metrorail station before a call, brokered via an intermediary, came through to the office phone; Mpai wanted to meet.

## 7.6 Negotiations

Mpai could no longer go along with the organization's denial over labour broking; his family was now on the front line of an industrial war. He confronted senior management with the situation and it was agreed to talk to the Mabarete. The Mabarete were, however, despite their long campaign, unprepared for talks. The skills that had been honed over the course of their struggle were not those of negotiation; the initial meeting broke down in an angry exchange.

The Mabarete turned to SAPWU,<sup>76</sup> then still seeking recognition from SAPO.<sup>77</sup> The SAPWU team, lead by Tutu Mokoena<sup>78</sup> worked with the leadership of the Mabarete, which had now coalesced into a group of nine, the 'Top 9',<sup>79</sup> and helped to shape their demand for permanent positions into a form that SAPO could take on board. The initial challenge, however, was management's need to know that they were, in fact, talking to the strikers. The Mabarete had covered their tracks well. None of the Top 9 knew anything about the visit to Mpai's house. Even the person who had taken the call on the office phone was unknown to them. To resolve this problem it was agreed that the group's credentials would be tested. The Mabarete marshaled their members to sit in Germiston's Golden Walk car park for a week. No incidents were reported and the management knew it was talking to the right people.

After that agreement came quickly. There were two clauses, though nothing was put on paper. This is, of course, extremely unusual, especially given the presence of experienced negotiators on both sides. However, the negotiators faced the problem of provoking CWU, still the only recognized union in SAPO at the time, and that the first clause breached existing collective bargaining agreements.<sup>80</sup> It was hoped to manage the process discretely and quietly;<sup>81</sup>

a hope that quickly evaporated.

The first clause was that the Mabarete, all long since fired from employment by the labour brokers, would be employed directly on short term contracts by the Post Office. The S32 status<sup>82</sup> that they would be given would be paid at a rate equal to the fee labour brokers had been paid. This was, more or less, cost neutral for SAPO, but it meant an approximate doubling of the Mabarete's salary to some R4,000 a month. It was also agreed that the newly appointed S32s would be converted to permanent positions within three months.

The second clause, insisted upon by the Mabarete representatives, was that all labour brokers employees would follow a similar process to that outlined for themselves in the first clause. The Post Office agreed,<sup>83</sup> but argued that because of its contractual obligations it would have to give three months notice to the labour brokers before those currently working for them could follow this path.<sup>84</sup>

## 7.7 After the Settlement

The first clause proceeded largely as planned. Since nobody, other than the Mabarete, knew who their members were, they were asked to compile a list of who should be re-employed. In the end a list of 411 individuals were submitted: the core 294 and those who had left the strike but were deemed to be *amaqabane* (comrades). The Mabarete returned victorious to their old depots as S32 employees of the Post Office. In the following turbulent years most, though not all, of the Mabarete have been converted into either permanent or PPTE positions.<sup>85</sup>

The second clause, relating to the far larger group, perhaps 8,000 strong, of labour broker employees in the Post Office proved more problematic. Almost immediately the Mabarete returned as S32 employees many of those

casual who had remained at work now launched their own strike with the initial demand that they all be employed as permanents immediately.<sup>86</sup> The 'Second Strikers' adopted and developed the tactics pioneered by the Mabarete, a pattern that has been repeated since by other groups. However, they returned to work in early June with a (written) agreement essentially in line with that reached with the Mabarete. By July, four months after the Mabarete strike ended, all labour broker employees were converted to S32 employees of the Post Office.

## 7.8 Evaluating the Mabarete Strike

The Mabarete strike deserves the epitaph 'historic.' It achieved, at least within the Post Office, what the COSATU federation of some two million members and close links to the ruling party had failed to achieve after almost a decade of campaigning. It represents one of very few cases in South African History where casual worker have successfully organized to end an exploitative system. Beyond this recognition the strike can be viewed in different ways. It was, without doubt, heroic. But viewed from the perspective of a cornered *igundwane* (scab) it could be horrific. The strike needs to be placed within the context of the structural violence that the system of labour broking imposed upon thousands of Post Office employees and millions of workers across South Africa.

Despite contestation over the details of the final negotiated settlement, the strike brought about an end to labour broking in the Post Office. It was not, of course, the only factor in this regard. Other forces, much larger than the 294 Mabarete strikers were pushing for an end to labour broking, or at least its regulation. What propelled the Mabarete was impatience at the grindingly slow progress and a liturgy of broken promises. Indeed, even

after the strike settlement it is clear that Post Office management had not abandoned labour broking. In an addendum to the written Memorandum of Understanding with the Second Strikers, written in June 2012, Janras Kotsi, then Group Executive of Mail Business,<sup>87</sup> explained that 'the purpose of the... memorandum was to...create a suitable environment for the Post Office to develop an appropriate strategy for labour brokerage.'<sup>88</sup>

However, any hope that the system of labour broking that had developed over twelve or so years in SAPO could somehow be salvaged were misplaced. The Mabarete had let the genie out of the bottle. Thereafter various groups within SAPO were to push, often in competition, to finish what had been started. A process that is still unfolding.

The agreement reached between the Mabarete and SAPO drew on the expertise provided by (then) SAPWU officials and office bearers. In particular they were able to put forward the strategy of insourcing, or cutting out the 'middle man' of the labour broking companies, which provide a much more palatable approach (at least in what turned out to be initial steps of a process) that the SAPO negotiators were able to 'sell' to their principles in senior management.<sup>89</sup> However, if there was a magic wand that transformed the lives of labour broker employees in the Post Office it was the power resources engineered by the Mabarete.

## Eight

# Strategies and Tactics for Precarious Workers

### 8.1 Does the Mabarete's Struggle Matter?

Exactly how many precarious workers, including those employed through labour brokers, there are in South Africa is impossible to know. Clearly however, the labour broking industry is huge and, as the case of SAPO illustrates, it can operate at a massive level almost invisible to official statistics. In addition to casual workers in the public and private sector we can add the army of township-based stipend workers whose situation is not very different. These people do real jobs, but for a fraction of the pay that others receive.

The LRA Amendment Act of 2014 is the product of a decade of debate and is designed to, 'restrict the employment of more vulnerable, lower-paid workers by a temporary employment service to situations of genuine and relevant "temporary work."'<sup>90</sup>

The Act introduces a number of significant reforms to TES:

- TES and client are jointly and severally liable for contraventions of employment laws
- Employees are treated as the employees of the client if they work for a period in excess of three months (with permitted exceptions). Termination of employment to avoid this will be considered as unfair dismissal
- After three months employment there must be equal pay for equal value work.

Should these reforms be enforced, labour brokers would be reduced to assisting companies with short-term placements.<sup>91</sup> The important question, however, is whether this legislation can and will be enforced. Enforcement of any labour regulation depends primarily on three agencies: companies regulating their own activity, inspection by the Department of Labour, and the watchdog function of trade unions.

The case of casual workers in SAPO, and experience elsewhere, makes for pessimism over the actual impact of these labour law amendments. The Post Office, a state owned entity, professes among its values that, 'we treat each other with respect, dignity, honesty and integrity' and that 'we recognise and reward individual contributions.'<sup>92</sup> Clearly, none of this actually meant anything; when it came to employment practices there was just a dirty secret. The Department of Labour failed the SAPO casual workers when approached (See Section 6.4), and it is common cause that the Department's inspectorate is inadequate and unable to enforce existing legislation. Finally, CWU, a COSATU affiliate, was at best slumbering while casual labour entered the Post Office. At worst, it was implicit in maintaining the two-tier labour system. There is little reason to see why these factors should be very different elsewhere.

Given this, it makes sense to outline the lessons that can be learned from the Mabarete's experience and which other precarious workers could put into practice. While all workplaces are different and a direct translation of lessons

should not be expected, some general principles will be of assistance. One of the striking features of the early years of casual organisation in SAPO was the multiple and sometimes parallel initiatives that took place because different worker committees operated in silos. This wasted time and effort as the wheel was re-invented, in some cases several times. To help prevent this repetition a number of key themes are briefly outlined.

## 8.2 Mobilising and Focusing Minds

For injustice to be challenged individuals must share a collective understanding of what is wrong. Moreover, this anger must be focused. Without this little will change. Rather, dissatisfaction will take the individualised forms: grumbling, slander, sabotage, fraud and theft. Those employed by labour brokers

with SAPO quickly understood that they were at the end of a raw deal, but it took almost a decade for this anger to be channelled in an effective way. Despite constant mantras over the South African Constitution and workers' rights, on the ground an extraordinary degree of legitimacy has been given to labour brokers. This was reinforced by casuals' fear of losing their jobs should they step out of line. A fear made all the more real by the failure of the institutions charged with ensuring that the post-apartheid labour system operate in the interest of all workers. Labour broker's legitimacy was, however, one largely claimed for themselves. In the Op-Ed pages of *Business Day* this has come in the form of pious pieces by economists and business cheerleaders.<sup>93</sup> On the ground, at the rough end of employment relations, managers in mom n' pop labour brokers simply made up the law to suit themselves and bluffed workers into compliance.



Meeting of DEPAU members in Tembisa (July 2014)

In SAPO such bluffing worked for a while. Initial protests were quickly suppressed by labour brokers' disciplinary procedures; workers pleaded ignorance and contritely apologised. They knew that if they didn't they were out of a job. It took time before they stood their ground. Sending workers from 'pillar to post' also bought the labour brokers time. Indeed it was the confusion over who really was responsible for the casuals' situation that long delayed their rebellion. This confusion was clearly stoked by individual managers, but the state institutions charged with providing a level industrial playing field; the Department of Labour, the CCMA and the Labour Court, effectively sat on their hands and did nothing. In the end, through a long process of trial and error, the workers committees realised that they were wasting their time with the labour brokers, the established unions and the legal system: they needed to speak directly to the organisation that they worked within. That was not easy, but it was the approach that eventually worked.

The jointly and severally liable status of labour broker and client in the amended LRA may assist precarious workers in the future. However, the general lesson to be drawn from the Mabarete's success is that action should not be guided by the legal frameworks, but, should rather focus on the organisations, and individuals within them, most susceptible to pressure.

### 8.3 Applying Pressure

Any conflict between precarious workers and the employer nexus: i.e. the labour broker(s), client company and, likely, established unions, is going to be asymmetric. Precarious workers, even when they have a focused strategy will be at a disadvantage. Nevertheless, as the Mabarete's victory demonstrates, such struggles can be won. If the legislative framework is to be put aside (a point taken

up shortly), what remains in the conflict between management and workers is their respective power resources. Within classical industrial relations theory, workers key power resource is the withdrawal of their labour. The Mabarete withdrew their labour, but it was not this act that was their real power source. Rather, it was the way in which they were able to deny the Post Office its operational ability in large areas of Gauteng. This denial of service rested only in small part on the withdrawal of their labour. Of much more importance was the *application* of their labour in the *ho tsoma* campaign. Later, they applied pressure differently, targeting, after some trial and error, Post Office management, threatening them with personal consequences. Consequences that the *ho tsoma* actions gave credibility.



Leaflet against labour brokers in SAPO (2011)

Both these tactics involved the use or threat of violence. This did not sit comfortably with the Mabarete leadership, but they saw no other option and this form of pressure was only applied after exhausting available legal channels. Given this context, blanket condemnation of violence as an instrument of struggle is likely to cut little ice. This is especially so when delivered by individuals who live in relatively secure environments to those who reside in townships where everyday life is steeped in insecurity and violence. Indeed, such lectures only reveal the disproportionate fear of violence that the secure classes harbour; something illustrated by the instantaneous reaction to the home visit of Mpai described in Section 7.5.

However, the Mabarete explored a wide range of actions not all of which involved violence. The UNISA ploy (see Section 7.4) is a good example of where they sought to embarrass the Post Office and so advance their cause. Any effective struggle will make pragmatic evaluations over the effectiveness of all available strategies. The active (rather than passive) denial of service is almost certainly going to be high on any strategic agenda, but other options, such as shaming and reputational assaults have a part to play.

## 8.4 Protecting Unprotected Strikes

As outlined in Section 6.4, despite strenuous efforts, it had been impossible for casual workers in SAPO to mount a protected strike; the institutional and legal hurdles were too onerous. In fact many Mabarete leaders came to see the requirements necessary to organise a protected strike as mechanism to keep them enslaved. This in turn led to a wider cynicism over the practical value of the South African Constitution. They came to see that unprotected strikes were a more realistic form of struggle and one much more likely to bring

success. Their own experience vindicated unprotected strikes and, drawing also on other examples, this became axiomatic to their understanding of industrial relations.

Nevertheless, they were mindful of their vulnerability, either to dismissal or imprisonment. Although it was not their initial intention, the Mabarete ended up honing a range of techniques to protect unprotected strikes; that is ways in which to avoid the consequences of mounting a strike without a CCMA certificate of dispute. These techniques included:

- Mounting ‘mutual mobilization’ in which workers in one operation bring out workers in another, geographically or otherwise distinct, operation. This allows workers to legitimately claim that they had no option but to join the strike.
- Focusing on key points of pressure, starting with, though not restricted to, preventing the operations of the company they work for (and not the labour broker employer).
- Understanding that the impact of their activity is not limited to the withdrawal of their labour, but the application of their labour in ways that apply pressure on their targeted company/companies
- Continuing with the principle of geographical separation of applying pressure which could lead to sanctions.
- Keeping leadership hidden from view to avoid victimisation and organisational ‘decapitation.’
- Staying clear of legal processes.
- Establishing structures that allow leaders to plausibly deny involvement within any activity vulnerable to legal or other sanctions.
- Using communication mechanisms that prevented activities been undermined by strike participants leaking information.

None of these techniques were entirely original. In different forms they have long formed part of the repertoire of industrial action, protected and unprotected, in South African and elsewhere. The Mabarete case illustrates, however, how each group of workers needs to learn them for themselves, and for their own context, if they are to be successfully used.

A key feature of the Mabarete strike within SAPO likely to differ from that of other precarious workers is the nature of the Post Office as a workplace. First, multiple sites (particularly postal depots) in which there are concentrations of workers facilitated mutual mobilization. Secondly, the delivery of mail provided an extremely dispersed workplace which was in certain environments, noticeably urban townships, almost impossible for SAPO to protect from Mabarete activity. To some extent these difficulties could be overcome by casual workers based in different companies (whether employed by the same or different labour brokers) combining to achieve mutual mobilization and the application of pressure.

## 8.5 Uniting Everybody Vs. Leading by Example

The logic of united action is a powerful one; the more people standing together the greater their power. However, this is not an unqualified principle; the quest for unity can delay action, possibly indefinitely. Prior to the strikes of 2011 and 2012, leaderships of the various worker committees were constantly reaching out for help to a range of organisations. What they realised again and again was that their own concerns were subordinated to the plans of others. In the name of unity, they were constantly asked to fight other people's battles.

Differing opinions as to the legitimacy of these various claims on their own resources was a major factor in preventing the workers



*Labour Court notices, Witspos, September 2014*

committees uniting with a common platform. Much time was wasted with changes in strategic direction, a problem compounded by the autonomy of different workers committees. Indeed, in the end, unity among Post Office casual workers in Gauteng (never mind nationally) was not achieved. The high point of unity was the, unsuccessful, June/July 2011 strike, but even this did not fully include all the established workers committees.

In the end, it was a vanguard group, the 294 members<sup>94</sup> of the Mabarete, which brought about an end to labour broking in SAPO. Others then followed up on their success. This grouping represented a degree of unity between many, though not all, leaders of several workers committees, but it involved only a fraction of the casual labour force. The politics of the underdog, such as precarious workers, is always fraught. While unity should be strived for this should not be to the exclusion of other consideration. It may be necessary for sub-sets of precarious workers to fight their own battle and, in doing so, show others the way.

## 8.6 To Unionize or Not to Unionise?

The casual committees attempted very hard to join a recognised union. With the exception of a handful of regional office bearers, CWU, the only recognised union in SAPO until 2012, effectively rebuffed them. SAPWU, established in 2009, showed no interest in the casual workers until March 2012 (see Section 7.6).

The workers committee members joined various registered unions, but none were able to assist them. They even tried to set up their own union, but had its registration denied by the Department of Labour.

Their disenchantment with CWU, and other unions, was uneven; the East Rand for example, struck out alone long before the West Rand. Eventually, however, all but a handful of leaders from the various workers committees realised that they were on their own. What then emerged was a different form of organisation to a union as commonly understood and defined in legislation. While this was out of necessity, it ended up providing an effective vehicle for the successful Mabarete strike. Its form was, like its membership, marginal. Meetings were held in liminal spaces; parking lots, waste ground, public parks, and dusty township football fields. Finances were raised on an *ad hoc* basis with activists popping out contributions from their own pockets.<sup>95</sup> Most importantly however this structure enabled

the organisation to apply pressure and to protect unprotected strikes. These strategies and tactics were not possible for a registered union. The Mabarete strike could not have succeeded if they had been organised as a union.

One way to analyse this, in line with the vanguard role that the Mabarete played within the wider body of SAPO casual workers, is that they were developing new forms of worker organisation that could operate within an economy dominated by precarious forms of labour. An extension of such an argument is that such organisations form the nuclei of revolutionary formations opposed to capitalism. Given the uncharted and turbulent territory that South Africa is currently entering this thesis may have merit.

However, this was not the objective of the Mabarete. Their primary goal was not to permanently cripple the Post Office, or overturn the wider economic system that it serves. Their objective was to become full



Worker meeting, Tembisa (July 2014)

members of the organisation or, as it was colloquially expressed, 'to enter the House of the Post Office.' They wanted to be permanent workers with the privileges that this entailed; primarily a wage on which they could raise a family and build a better life.<sup>96</sup> What they needed was a very different organisation than a registered union. Section 9.2 briefly outlines how, having entered the House of the Post Office, albeit not immediately with full permanent status, they re-formed, not without difficulties, along the lines of a conventional union.

A second way of approaching the question of appropriate organizational forms for casual workers, one which helps explain why the legacy organization to the Mabarete has had to cope with a range of internal tensions, is to look at the nature of workers demands, in particular the degree to which they are common across the organization's membership.

In the early stages of casual workers' organization, different worker committees competed with each other and operated in silos. This was in part the result of geographical location and individual rivalry. However, it was also driven by a multiplicity of grievances that differed from area to area, in part because of local SAPO and labour broker practices and in part because workers committees differed tactically over what was important. The demand that brought about unity was the realization by most, though not all, worker leaders that they needed to focus on ending labour broking. This provided a platform for united action.

With this demand secured, key demands again started to differ as workers were differentiated by employment statuses within SAPO (S32s, later converted to AAs, PPTes, and Permanent employment categories). Dealing with the often competing demands generated by these different positions has proved difficult for the

DEPACU union created by the merger of the Mabarete and SAPWU officials and office bearers. Once the conversion to permanent positions is fully complete, it should prove easier to represent them with a conventional union format. Such an analysis suggests that workers need to carefully assess what form of organization is appropriate for them in their particular situation.

## Wider Reflections

This working paper focuses on events up until April 2012 and the agreement to end labour broking in the Post Office. This section briefly outlines four issues of wider relevance.

These are the massive levels of industrial conflict in SAPO since April 2012, the conflicting traditions of the workers committees and conventional union organization within DEPACU, the successor organization to the Mabarete, how the 'technologies of struggle' developed by the Mabarete have been taken up by other groups within this conflict, and what the adoption of such struggles by other groups of casual workers may mean for South Africa.

### 9.1 Industrial Conflict in SAPO Since April 2012

Agreement between the Mabarete and SAPO in April 2012 did not bring industrial peace. Far from it. As has been outlined, the 'Second

Strikers' (labour broker employees who had waited out the Mabarete strike) immediately took to the streets on their own protracted strike. Since then there has been an ongoing series of strikes that have, without exaggeration, brought the Post Office to the point of collapse. All industrial relations environments are characterized by period conflict, but events in the Post Office had been exceptional.

A significant component of this labour unrest has resulted from the incomplete nature of the April 2012 settlement. Simplifying, some 8,000 labour broker employees were converted to Post Office employees, initially as casual, S32s, and later at a newly created AA grade. The S32 and AA positions do not pay at the same rate as the full-time permanent position. While the salaries of former labour broker employees have been improved there is not yet parity with the permanent employees despite them doing the same work. Simplifying even further, and using the 8:4:2 salary model outlined in Section 5.3, labour brokers were getting a quarter loaf (compared to permanent employees). After the Mabarete strike they



SAPO employees waiting to hear about conversion to permanent positions, Braamfontein, October 2014

got half a loaf. While it may be true that half a loaf is better than no loaf, nobody will accept receiving half a loaf when others receive a full loaf for doing the same job. Thus, much of the industrial conflict over the last two and a half years has been a continued push by workers to obtain parity with their permanent colleagues.

This process has been exacerbated by the piecemeal and often chaotic approach to the problem by SAPO management. While the Post Office is clearly in financial crisis, the salaries increases of senior managers have done nothing to dampen demands. The process has also been fueled by the fragmentation of the workforce with, currently, three recognized unions and a number of other groupings, including IICUSA,<sup>97</sup> which emerged from the Second Strikers, all seeking to recruit members. The full conversion to permanent status has become a point of competition between these organizations.

The most recent agreement signed by DEPACU and SAPWU<sup>98</sup> is for a two-year timetable to complete the conversion process. Whether this agreement will bring industrial peace, given that both CWU and IICUSA currently remain outside the agreement, remains to be seen.

## 9.2 DEPACU: A Tale of Two Cultures

The Democratic Postal and Communications Union, DEPACU emerged from the Mabarete in partnership with a number of SAPWU (now SAPAWU) officials and office bearers. The Mabarete origins of DEPACU are clearly demonstrated within the organizations logo (Figure 2) with the legendary 294 number in the center of a radiating signal.

While DEPACU is only one of several organizations representing workers within SAPO its unique feature is the marriage



Fig 2: DEPACU logo featuring the 294 Mabarete legacy

between these two very different cultures and ways of working: worker committee activism and the structure of a registered and recognized union.

The formation of this union in April 2014<sup>99</sup> opened up the question of when different organizational formats are most appropriate. As outlined in Section 7, the structures developed by the Mabarete were able to achieve objectives impossible for a conventional union. Those techniques become impossible when a formal union structure is adopted, though other, different, advantages are gained. Given the staggered process of full conversion within SAPO, there was never going to be a 'right' time for such a transformation. Inevitably, there are tensions within the organization between these competing traditions. The situation also provides, however, the potential for re-invigorated collective action that combines features pioneered by the Mabarete along with the long-tested structure of registered unions.

## 9.3 Technologies of Struggle

Not all industrial conflict in SAPO since April 2012 has been over the conversion process. Other significant causes of strife have been pension funds and salaries. As well as the tactic of linking these and other demands to the question of conversion, a further factor in explaining the extraordinarily turbulent industrial relations has been the diffusion of technologies of struggle initially developed by the Mabarete.

It took an extensive process of trial and error for the Mabarete to develop effective techniques able to deny SAPO operational ability over large areas of Gauteng. However, once created and established as technologies of struggle they are easily picked up and used by other groups. Indeed, other groups have not only adopted them but also adapted and improved their effectiveness. Thus, for example, the Second Strikers developed the technique of removing the 'strips' (on which street names and house numbers are printed) from the presses where postal workers sort mail in the depots,<sup>100</sup> an action that makes sorting impossible until new strips are printed and issued.

In short, irrespective of the grievances at stake, any organization that can command a few hundred determined strikers willing to take some risks, can close down Post Office operations over significant areas of the country. Indeed, that is exactly what happened during the September to November 2014 period in which a series of groups mounted rotational, competing strikes using these techniques.

#### 9.4 Casual Workers' Rebellions: South Africa's Best Bet?

For those hopeful of radical restructuring of South Africa's economic system the turn of the Mabarete towards conventional unionism after their victory may be disappointing; rebellion followed by incorporation rather than revolution. However, the impact of widespread success along the lines of the Mabarete's campaign within SAPO should not be underestimated. The single biggest problem facing South Africa is economic inequality. The most successful attempts to address this, through social grants, have mitigated the situation, but not changed the underlying dynamics. Moreover, they have contributed to widespread dependency which has brought its own problems. The most effective way of

addressing inequality in South Africa may well be the upgrading of precarious workers' jobs, in the public, private and voluntary sector. After all, they are doing real jobs, just not being paid real wages. A national minimum wage would be an important step in this direction, but just as we should not expect legislation alone to end labour broking, we should not expect legislation alone to bring about a national minimum wage.<sup>101</sup>

Changing precarious work into decent work<sup>102</sup> will inevitably necessitate income redistribution if the chaos of hyper inflation is to be avoided. The record of the last twenty years indicates with crystal clarity that the rich, both old and new, have no intention of handing over what they have. It will be up to casual workers, fighting their own battles, to force their hands. The Mabarete's struggle hopefully provides both inspiration and guidance in this regard.

## Ten

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## Eleven

### Endnotes

- <sup>1</sup> See Section 4 for descriptions of the triangular employment relationship created by the use of TES.
- <sup>2</sup> And/or develop alternative cheap labour strategies.
- <sup>3</sup> Casual worker was the commonly used term for labour broker employees in SAPO and is used throughout this report. It should be noted however that there are different meanings that can be ascribed to the term 'casual.' Casual, often refers to part-time workers or short-term contract workers; in the case of SAPO labour broker employees this was in general far from the case. Typically such 'casuals' were in fact 'permanent casuals.' Further, with the end of labour broking in SAPO these former labour broker employees were taken into the Post Office on short-term contracts. They were still therefore 'casuals' but now casuals of the Post Office.
- <sup>4</sup> This list is not conclusive and more than one non-standard criterion may be present in any situation. See Benjamin and Department of Labour (2011), Department of Labour (2004), (Theron, 2003, 2005, 2008) and Webster (2010) for explanations of non-standard employment.
- <sup>5</sup> Or under the control of the client company. This is, of course, relevant for SAPO since a significant part of postmen/womens' work is on the streets.
- <sup>6</sup> Benjamin and Department of Labour (2011) and Mhone (1998).
- <sup>7</sup> Benjamin and Department of Labour (2011), Cohen (2008), Kenny (2004, 2007), Rees (2011) and Tomren (2012).
- <sup>8</sup> Standing (2011), Von Holdt (2010) and (Webster, 2010).
- <sup>9</sup> Benjamin and Department of Labour (2011), Brandt (2013) and Pike (2012).
- <sup>10</sup> The LRA of 1956, amended in 1983.
- <sup>11</sup> Benjamin and Department of Labour (2011). Schroeder (2000) makes a more general argument that post 1994 labour legislation is, in fact, less worker friendly than early regimes.
- <sup>12</sup> Department of Labour (2004) and Mhone (1998).
- <sup>13</sup> Department of Labour (2012, p. 30).
- <sup>14</sup> Possibly combined with utilizing alternative cheap and vulnerable labour such as immigrants.
- <sup>15</sup> And NACTU, see COSATU and NACTU (2012).
- <sup>16</sup> Albeit stronger that the enacted amendments with the call for the banning of labour broking.
- <sup>17</sup> COSATU (2009).
- <sup>18</sup> See Rees (2011), Tomren (2012) and Von Holdt and Webster (2008).
- <sup>19</sup> The introduction of FICA and RICA requirements, including providing proof of residence, further increased the necessity of an address for effective social inclusion.
- <sup>20</sup> 2013/2014 financial year.
- <sup>21</sup> This is based on approximately 8,000 full time postal workers employed via labour brokers at an, again, approximate cost of R4,000 per month compared to the average entry level wage for permanent employees of some R8,000 a month.
- <sup>22</sup> An outline of the governance failures that allowed this tragedy to unfold lies beyond the scope of this research report.
- <sup>23</sup> Not always without problems. There was a strike at Witspos by contracted labour, demanding to be employed as permanent Post Office workers, shortly after it commenced operations in 1995.
- <sup>24</sup> Mataboge (2013).
- <sup>25</sup> 2010/5594: South Gauteng High Court. 11th March 2010.
- <sup>26</sup> At least 11 (and probably more) TES provided labour to SAPO: TAS Appointment & Management Services, ITP, Marula Staffing, Autenmas Placements (ATM), Vulavulani Technologies (VVT), T&T Appointments, T&L (which split to form TAS and T&T), Workforce Management, Quest Staffing Solutions, N.T. Ngidi Consulting and Interim Consulting.
- <sup>27</sup> Shilubana (2011).
- <sup>28</sup> See J112/12. Labour Court. Pages 55 and 56 for letters to N.T. Nigid and Marula to this effect.
- <sup>29</sup> BCEA: S29.
- <sup>30</sup> JS 1048/10: Labour Court.
- <sup>31</sup> Clause 37 of Department of Labour (2012) Memorandum of Objectives on Labour Relations

Amendment Bill 2012.

- <sup>32</sup> The extent to which this happened lies beyond the scope of this working paper.
- <sup>33</sup> CWU was formed by the merger of three unions: POTWA, PEASA, and SAPTEA. Two other unions had a presence in the Post office: the largely white PNL and SAPA. These latter unions were squeezed out of SAPO when a 30% +1 criterion for recognition was agreed between CWU and SAPO along with an agency shop agreement. PNL was later absorbed, within Telkom, into the Solidarity union.
- <sup>34</sup> The long period between SAPWU's establishment in 2009 and its eventual recognition by SAPO in 2012 was largely the result of a protracted rearguard campaign by CWU using SAPO's industrial relations system (for example raising the recognition threshold to 40% + 1) and the courts to thwart the breakaway.
- <sup>35</sup> Such a view would help explain why CWU failed to address what amounted to a hollowing out of its membership and financial base within SAPO: each permanent worker replaced by a casual meant one less union member and one less monthly subscription.
- <sup>36</sup> I.e. while employees of the Post Office could elect not to join CWU, they would still have to pay a monthly subscription, equal to that of membership, to cover expenses incurred by CWU in conducting collective bargaining on their behalf. They would not however be entitled to representation by the union in the event of disciplinary action.
- <sup>37</sup> I note the extensive and controversial outsourced cleaning, maintenance and other services at my own university, Wits.
- <sup>38</sup> Again, the details of this process lie beyond the scope of this working paper.
- <sup>39</sup> Employment Equity Act: Section 57.
- <sup>40</sup> The balance of the some 8,000 casual workers, being accounted for by the dramatic expansion in postal delivery services.
- <sup>41</sup> The term Tembisa Line refers to the Metrorail infrastructure which, as outlined, in Section 7 played a critical role in the geography of the casual workers struggles.
- <sup>42</sup> Adding further to the confusions is that these spontaneous demarcations of worker organization only partly correspond with the organizational system used by SAPO, which in turn does not correspond with those used by CWU.
- <sup>43</sup> Even when temporary employees (S32s) of the Post Office who were paid at the same rate as permanent employees, including their own members, were transferred to labour broking companies with a massive cut in salaries.
- <sup>44</sup> With the exception of one of the smaller labour brokers, ITP, which did agree to allow stop orders.
- <sup>45</sup> This was a staggered, oscillating and never complete process, further complicated by the 'two footing strategy' employed by casual workers (see Section 6.3) and the presence of individual officials and office bearers in CWU who made strenuous efforts to assist casual workers. Broadly speaking, the East Rand committees broke with CWU before the West Rand.
- <sup>46</sup> CWU did put casuals' wages on the negotiating table on a number of occasions (in the form of what SAPO would instruct labour brokers to pay). However, this demand would come off the agenda which proceeded to hammer out increases in salaries and benefits for permanent workers. CWU did not have a legal mandate to negotiate on behalf of labour broker employees and to do so in earnest would have been to limit what it could achieve for its membership.
- <sup>47</sup> SAPO imposed an effective common rate for labour broker employees following problems in which workers hopped between different labour brokers within a depot to exploit marginal differences in rates of pay. This provides yet more evidence showing that the supposed independence of the TES within SAPO was a fiction.
- <sup>48</sup> Along with whatever increases in benefits were negotiated and a payout from a gain sharing incentive scheme.
- <sup>49</sup> Some conversions to permanent positions were made from 2005 onwards. However, the few appointments that were made had no significant impact on the number of casual workers. In addition to the strong economic incentives for continuing with the employment of casual workers, they were at the bottom of the hierarchy in which conversion to permanent positions was negotiated. In 2005 they were third on the list, behind Permanent Part Time Employees (PPTes) and Fixed Term Contracts (employees of SAPO) (S32s). By 2011 they were fourth in line with the addition of Supernumerary Employees (resulting from restructuring within the organization) at the top of the list.

- <sup>50</sup> J 1905/09 SAPO vs. CWU. Labour Court.
- <sup>51</sup> This was for similar reasons to CWU (see Section 6.2), though its membership profile further distanced it from casual workers concentrated in entry level positions, such as postman (or women).
- <sup>52</sup> A direct approach in May 2011 was unsuccessful, strikers joined the 2012 COSATU march against labour broking, see Section 7.4.
- <sup>53</sup> SAPWU was initially viewed with suspicion by casual workers. Later officials within SAPWU played a critical role in negotiations between the Mabarete and SAPO in March 2012, see Section 7.6.
- <sup>54</sup> The APC assisted, *inter alia*, with the 2012 approach to the Minister of Communications.
- <sup>55</sup> The DSM made considerable, unsuccessful, efforts to unify workers committees.
- <sup>56</sup> Employees vs. Post Office G/S 8141. Department of Labour.
- <sup>57</sup> GA JB 28361-10. CCMA Vereeniging Office.
- <sup>58</sup> Vaal University of Technology.
- <sup>59</sup> J 1048/10 Workers Committee obo Members vs. TAS Appointment and Management Services. Labour Court.
- <sup>60</sup> This was, in legal terms, only a marginal improvement on the first attempt.
- <sup>61</sup> The clearest example here is the Germiston-based CWAO.
- <sup>62</sup> J 1208/11, J 1355/11 and J 1493/11. Labour Court.
- <sup>63</sup> Though a strike in the Pretoria region, beginning in late July continued into August and was subject to a third indict (J 1493/11)
- <sup>64</sup> Marcus Makhura, Mzwandile Mdlungu and Petrus Morenamele. Despite taking their case to the CCMA they were never re-instated.
- <sup>65</sup> J112/12. Labour Court,
- <sup>66</sup> Like all rules, especially one operated by quasi-secret structures, there were times when this rule was compromised on the ground.
- <sup>67</sup> Communication in later strikes has made extensive use of Whatsapp groups in addition to cell phones.
- <sup>68</sup> Alternatively *Amabarete* or The Berets.
- <sup>69</sup> While permanent workers by and large remained on the sidelines.
- <sup>70</sup> This is another reason why striking workers were expected to report for strike duty, rather than limiting their strike activity to staying at home. In addition to the denial of postal services it prevented strikers from becoming isolated and being lured back to work by supervisors' threats, allegations, and promises.
- <sup>71</sup> The extent of beatings is hard to establish given secrecy in this regard. Numerous charges were laid as a result of strike action. However, none of these resulted in successful prosecution. There was one documented death during the strike. This was of a policeman who was electrocuted when he climbed onto a train in which strikers were travelling and were believed to have 'hostages' (i.e. strikebreakers) in their custody (Moune, 2012).
- <sup>72</sup> Thus, a leaflet produced by the 'Post Office Mail Delivery Strike Committee' in February 2012 explained that, 'We know that our communities have been affected by our strike. Mail has not been delivered for weeks now...We regret that our struggle against the Post Office bosses and their labour broker friends is affecting our communities in this way...We ask for the support of our communities against the Post Office...Do not accept mail from the *Amagundwane* (non-strikers or scabs) during the strike and ask them why they are not part of our struggle.'
- <sup>73</sup> Technically this was correct: the strikers had all been fired by the labour brokers.
- <sup>74</sup> These ranged from the pragmatic, 'it wasn't nice, but it was necessary' through to sophisticated, creative and sometimes playful narratives that blended religious ideas with class consciousness.
- <sup>75</sup> Again, as so often in this strike, cunning came into play. On arrival in the area they had reported to the police station and asked for an escort, telling them they were going to see their employer. The police told them to proceed on the basis that any group that came to ask for permission wasn't going to cause problems.
- <sup>76</sup> CWU was in the words of one interviewee a 'no go area' for the Mabarete given their hostile stance to the union.
- <sup>77</sup> In particular they turned to a group within SAPWU based around Tutu Mokoena, SAPWU's legal adviser, and Wits regional office bearers: Siphwe Nenzhelele, Malandela Radebe, Benjamin Rakoto, and Seun Tshabalala. This group broke with the National SAPWU leadership in 2013, following a long-running dispute within the union, and along with the Mabarete, who were for a short while SAPWU members, formed DEPAU.

- <sup>78</sup> Who had previously been an office bearer in CWU before becoming SAPWU's legal adviser.
- <sup>79</sup> The Top 9, at that point, consisted of: Thabiso Bopape, Caphus Chauke, Moraba Choshi, Bheki Dlamini, Velaphi Mabena, Mkwabe Mabulane, Russel Mutavhatsindi, Alfred Mosito, and Sipho 'Levi' Zwane.
- <sup>80</sup> Additionally it is likely that Post Office management were seeking to buy time during which time they would reduced the financial exposure of converting casuals to permanents by reducing the headcount of the casual workforce while they were still labour broker employees.
- <sup>81</sup> At least this was the agreement. On the side of the Mabarete/SAPWU negotiators there was the hope that a legal challenge in the CCMA by casual workers not covered by the first clause would result in a ruling of unfair labour practice and the second clause being made an order of court. In the event, as outlined in Section 7.7, casual workers outside of the Mabarete pursued this claim via industrial action.
- <sup>82</sup> S32 was the SAPO form used for short-term contract employments. Historically, such positions were paid at the same cost-to-company basis as the equivalent permanent rate. The category was, however, re-invented with pay equivalent to what the labour brokers had been receiving.
- <sup>83</sup> Representatives on different sides of this negotiation give different accounts of how firm this second clause was. However, irrespective of these differences, there has, since the agreement, been an ongoing process of conversions (see Section 9.1).
- <sup>84</sup> This was based on legal advice, even though they were operating monthly agreements with the labour brokers. This further supports the argument that SAPO was buying time with the intention of reducing the headcount of casual workers before conversions took place.
- <sup>85</sup> These PPTE posts were almost full-time positions; they were negotiated at seven (rather than eight) hours a day, with pro-rata benefits. In some areas of SAPO, PPTE positions, with a range of hours stipulated, suit particular operational requirements. In this case, however, they were always regarded as a stepping stone to full-time permanent employment.
- <sup>86</sup> The unwritten agreement reached with the Mabarete meant that reassurances over conversion, within three months if not immediately, were difficult to make. In addition, issues of inter-group rivalry, along with the desire for revenge over the beatings that had taken place, also contributed to the 'second strike.'
- <sup>87</sup> Kotsi was suspended from the Post Office in October 2014.
- <sup>88</sup> Kotsi (2012).
- <sup>89</sup> Although this solution was brought in by SAPWU, along with detailed knowledge of the finances involved, the idea had been floated, as early as September 2011 by CWU which belatedly declared a dispute (though no action) over labour broking (Mogalane, 2011).
- <sup>90</sup> Department of Labour, (2012: 30).
- <sup>91</sup> And probably providing companies with a three month 'probation period' for prospective employees.
- <sup>92</sup> SAPO's Vision, Mission & Values statement (SAPO, 2013).
- <sup>93</sup> Such as Loane Sharp previously of Adcorp who neglected to mention that her company was part of SAPO's dirty secret, via their subsidiary company Quest Staffing Solutions.
- <sup>94</sup> See Sections 7.2 and 7.7 for a fuller explanation of the number of Mabarete.
- <sup>95</sup> Only in Tembisa, by far the best organized worker committee, was it possible for levies to be raised from all casual workers in the area rather than only those present at meetings.
- <sup>96</sup> What Lenin described as 'trade union consciousness' in *What is to be Done?* Though in this case, without having a union - at least along the lines of South Africa's industrial relations legislation.
- <sup>97</sup> The Influential Information and Communications Union of South Africa. The organization obtained registration with the Department of Labour on 16th January 2015, but is not at the time of publication recognized by the Post Office. Nevertheless, it is a significant player within SAPO's industrial relations environment.
- <sup>98</sup> Leadership Forum Agreement: 14th November 2014.
- <sup>99</sup> The Mabarete had previously joined SAPWU before a long-running tension in this organization resulted in the creation of DEPACU.
- <sup>100</sup> Such an exercise involves, of course, entering depots without warning and in sufficient numbers to overwhelm any possible resistance. The Second Strikers preferred nickname of 'The

Stormers' and motto, 'A Storm is Coming' refers to this technique of storming depots during the post-Mabarete strike.

<sup>101</sup> It is not hard to find case where sectoral wage determinations are massively undercut, in for example the retail sector, even after inspections by Department of Labour officials.

<sup>102</sup> See Webster, Budlender, and Orkin (2015 Forthcoming) for a detailed exploration of what constitutes decent work.



# Fighting their own battles

## The Mabarete and the End of Labour Broking in the South African Post Office



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