



# NUPSAW VOICE

Official Newsletter of the National Union of Public Service and Allied Workers

Special Issue 2011

## National Congress 2011 Count Down

## PROVINCIAL CONGRESS REPORTS

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## NATIONAL UNION OF PUBLIC SERVICE AND ALLIED WORKERS (NUPSAW)

### 2011 SPECIAL ISSUE

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## Labour Dispute Prevention and Solution in the Public Service: Validation Workshop



**A904492 Turin (Italy), 27- 29 July 2011**

The Labour Relations (Public Services) Convention (no. 151) was adopted by the International Labour Conference in 1978 in a grand bargain in which worker federations gave up their demand for the right to strike in exchange for the opportunity to participate in the determination of working conditions and to resolve disputes in a peaceful manner, thus making strikes unnecessary. The Committee of Freedom of Association has also pointed out the need for consultation with public servants' representatives when making crisis-related measures which affect their terms or conditions of work. More than thirty years after the adoption of Convention 151, there is a large gap in terms of recognition of the rights embodied in it: while some countries have instituted highly developed mechanisms to advance the goals embedded in Articles 7 and 8 of the Convention, other governments determine working conditions unilaterally or have not been able to implement consultation mechanisms.

The lack of consultation mechanisms has played a major role in the occurrence of severe and very costly labour strife in some countries. The need for consultations is also dire in some countries where wages and working conditions of public servants lag behind their private sector counterparts, where public servants have not been paid for months at a time or where labour leaders risk their lives. Still other countries have ratified Convention 151 and/or adopted enabling legislation, but have not had the capacity to draft procedures to make this

grand bargain a reality. In addition, the economic crisis has acted as a "stress test" both for the ability of the national systems to facilitate change and for the maturity of the parties to embrace dialogue in a creative fashion.

Government and worker representatives proposed that the ILO develop a manual of best practices that countries would be able to review when devising their own mechanisms, as an outcome of the Action Programme to improve social dialogue in the Public Service.

### THE MANUAL

The ILO Manual of Best Practices on Dispute Prevention and Resolution in the Public Service aims at supporting the political will of governments who decide to adopt consultation and dispute resolution mechanisms. It provides examples that they may adapt to their national context and with ILO technical assistance when mutually agreed. It is not meant to be a tool to transplant mechanisms from developed countries to developing countries. At least sixteen countries have recently expressed their will to conform to these principles by ratifying Convention 151, adopting Legislation that conforms to it,2 or committing to do either one in their respective Decent Work Country Programmes3 The Manual provides examples from systems that have allowed governments and workers to face the challenges posed by economic crises.

## Components of Labour Relations System in the Public Service

The manual addresses the following components of labour relations system in the Public Service:

### Foundations:

Social dialogue; stakeholder recognition; engagement framework, Dispute Prevention: Joint training; joint research; productive bargaining; facilitated negotiations; promoting model workplaces; joint problem solving; effective change management; peace obligations; maintaining agreements; dealing with change.

### Dispute Resolution:

dispute resolution agencies; dispute system design; enlisting assistance; facilitated discussions; fact-finding; joint problem solving; conciliation & mediation; voluntary arbitration; med-arb; compulsory arbitration; industrial action; integrated dispute resolution; review and renewal.

The Manual includes examples of the topics listed above from around the world, and their practical application. It advises caution because institutions, policies and practices are truly products of their context, and seldom if ever open to ready adoption abroad. However, before adopting any specific model, decision-makers can find and extract workable designs and ideas from other systems, particularly when they have proved useful in inclusive consultative processes. The Manual intends to provide a spur for change in approaches to public sector labour relations.

### CONTENT

The validation workshop followed the structure of the Manual, covering the following topics:

1. Social Dialogue and Fundamentals of Bargaining
2. Bargaining Approaches and Preparing for Bargaining
3. Bargaining Mechanisms
4. Dispute Resolution System Design
5. Dispute Resolution Mechanisms

### FORMAT AND METHODOLOGY

The validation workshop was designed as an expert meeting,



**Success Mataitsane,  
Nupusaw General Secretary**

and, at the same time, an opportunity for participants to further strengthen their knowledge in the subject.

Each Unit of the Manual was dealt with in the following way:

- Illustration of the structure and main contents of the unit;
- Feedback and discussion concerning
- Experiences and good practices
- Needs in developing national laws/measures
- Practical suggestions concerning the improvement of the Unit (changes, examples to be included, additional references, etc)

The workshop will be based on full participation and open exchange of views, knowledge and experience among participants and ILO experts.

### OBJECTIVES

The main objective of the workshop was to validate the Manual of Best Practices on Dispute Prevention and Resolution in the Public Service and receive useful inputs from participants for the revision and finalization of the Manual. At the same time, the workshop provided participants with the opportunity to strengthen their knowledge in the field of labour relations in the public service and share good practices and experiences.

### PARTICIPANTS PROFILE

The workshop was bipartite, with one representative from Government (Public Service) and one representative of a public service union from the following countries: Argentina; Brazil; Cambodia; Macedonia; Namibia;

Philippines & South Africa. South Africa was represented by the NUPSAW General Secretary, Success Mataitsane.

#### FOLLOW-UP

SECTOR will produce a report of the workshop, using notes taken during the discussions. The results will be incorporated into the draft Manual. The report and a revised draft will be sent to the participants for comments, to make sure that their comments and suggestions are reflected in them. The resulting Manual will be used to promote the ILO Convention 151 during the 2012-13 biennium.

#### CONDITIONS AND PARTICIPATION

The scholarship offered by the ILO and its International Training Centre includes tuition, full board and lodging,

medical insurance, air fare (economy class), and airport transfers in Turin.

#### VENUE

The workshop was held at the International Training Centre of the ILO in Turin, Italy (detailed information on logistics will be sent to confirmed participants).

#### CONTACT INFORMATION

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email: socdial@itcilo.org www.itcilo.org

#### From NUPSAW President



PRESIDENT EZRA JOEL MFIGWANA

# Unions: whose interest are they serving?

Threats of one sector union is being spoken about every time, one would not object if this call was genuine

Unions has served their members interest well in the past, mandates where sought from members in engagements with the employer, the approach was a bottom up approach. Prior to 1994 unions not only served the working class but where a voice for the electorate and filled the void after political parties were banned. The problem started with the ushering of our democracy.

The workers gained political freedom and acquired the right to vote, but what workers did not gain was economic freedom. In this day and age in some work places workers are not allowed to organize, in fact our LRA does not recognize the right to bargain. Employers are allowed to plead poverty with no visible proof of this poverty, infact some own Porsches whilst their workers earn starvation wages, this with the blessing of the department of labour who lack capacity to monitor these sectoral determination which do not have a review period.

The Public Sector Unions are different species. It is dog eat dog. Since the introduction of Agency Fee, the COSATU Unions have become gate keepers, at a whim they introduce thresholds. We no longer face the employer but have to face challenges from our own comrades.

Threats of one sector union is being spoken about every time, one would not object if this call was genuine and was to allow the unions to form a formidable force, but its purpose is to deliver the workers to the government as employer, if this was to be allowed, boardroom negotiations would be order of the day. NUPSAW is an active member of the Public Health and Social Development Sectoral Bargaining Council (PHSDSBC), cur-

rently there are attempts to increase the threshold from ten thousand (10 000) to thirty thousand (30 000), rumour has it that the employer wanted the increase to be twenty thousand (20 000). PSA an affiliate in the Independent Labour Caucus (ILC) and a working together partner of NUPSAW in the General Public Service Sectoral Bargaining Council (GPSSBC) has contrary to the founding principle of the ILC forced the issue of a threshold increase. This union comrades has adopted a Baasskap mentality. We have approached their manager to point out that they are acting contrary to the slogan of a united workforce.

We are collective beggars in the public service, we enter into meaningless agreements that none want to enforce; we still have outstanding issues from Resolution 1 of 2007. The employer shift the time frame time and again, there is no willingness to enforce resolution of agreements. Unions seem to be content with this state of affairs. There is a tendency for labour to assume the role of labour chair in the PSCBC, this is used as career path, for after their term of office these individuals end up in government posts, the PSCBC is in fact a breeding ground for government as employer and this ascendance is at the expense of workers.

The call is to workers in general and as members of unions to wrestle control from leaders who have lost the plot and allow employers to do as they please. Workers must insist on a bottom up approach, mandates from workers should be mandatory. Comrades the slogan "it is not yet uhuru hold through for the past and the present, I am making a call to all workers of this country to unite, united we stand, divided we fall.



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## What does climate change have in store for jobs and conditions of working people?

There is talk about climate change with a number of people already saying they feel the effects of climate change. A lot of information has been generated if one takes into consideration that this is the seventeenth United Nations Climate Change Conference and the second to take place in the beautiful African continent. This conference shall begin on the 28 November 2011 in Durban. Governments from all over the world shall be attending. Civil Society organizations and Trade Unions are preparing in all manner of ways to make their voices heard with the hope that Governments shall not make it a useless talk shop with all only photo sessions and handshakes to remember.

There is a shared belief in the Trade Union world that adequate resources through Government Budgets must be allocated to minimize the purported negative effects of climate change.

In the last week of July 2011, South Africa witnessed some of the suggested effects of climate change with some parts of the country for the first time in recent memory covered with snow.

There were also predictions of more snow later in the year. In the same last week of July 2011 there was also a two day Trade Union workshop hosted by the International Trade Union Confederation in Durban. All four South African Trade Union federations CONSAWU, COSATU, FEDUSA & NACTU are affiliated to the ITUC.

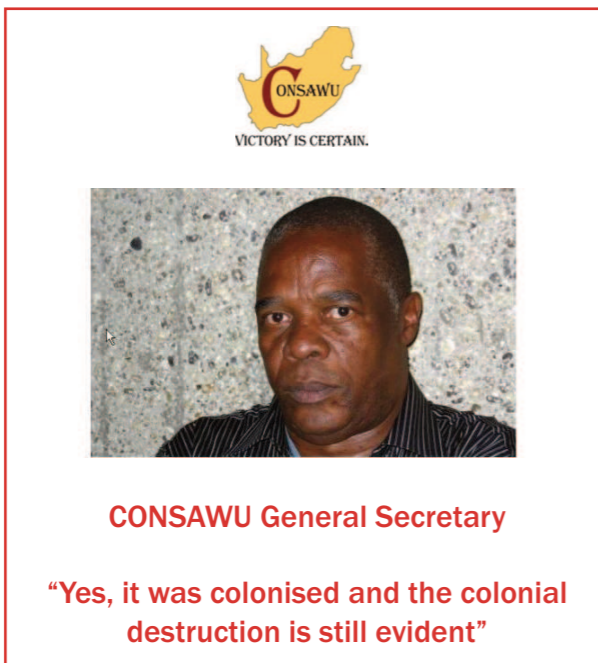
Climate change effects have been described in horror terms; some status quo scholars have been quick to suggest alternatives such as renewable energy, green economy, green capitalism etc. The status quo experts have also declared that negative effects of climate change are a direct consequence of 19th century industrial revolution. On the other hand the African continent through the AU declared that the continent

of Africa and its people have not benefited from the Industrial Revolution and Globalisation. Yes it was colonised and the colonial destruction is still evident for all to see. The North should, with the looted African resources be responsible for economic reconstruction of Africa and this must not be in loan terms but as reparations for the earlier destruction. Religious communities have endorsed this position of the Heads of States. The heads of states further said as African governments they should take whatever positive steps in

addition to the above to reconstruct production systems and the environment to minimise the negative effects on the people and the environment.

It needs to be stated that there is an alarmist tone in the talk about climate change. Yes it is said water levels shall rise to engulf certain arrears but in the case of the July 2011 snow in South Africa, the areas were left wet and green for some time, you be the judge. Suppose that the great Karoo suddenly have plenty of water. There is a school tone in the talk about climate change. There is a school of

thought that “the end is often the beginning” it continues to say “minimise the negative effect and maximise the positive effects.” These are general predictions of climate change. It’s important for the trade union world to establish what in specific terms does climate change have in store for jobs and conditions of working people.



**CONSAWU General Secretary**

**“Yes, it was colonised and the colonial destruction is still evident”**

### COP 17 Durban South Africa

People, who have access to software, please check COP17.com website and elsewhere.

The CONSAWU Deputy President is in the process as at the time of writing of preparing an information paper which shall be circulated before the end of August 2011.

## Southern Africa Public Service International



**Thembi Mngomezulu**

**Sub-regional Secretary, southern Africa**

The Public Services International (PSI) is a Global Union Federation for public sector trade unions which was founded in 1907, it represents about 20 million public sector trade unionists around the world providing services in central government, health and social care, municipal and community services and public utilities. It has about 650 affiliates in about 152 countries. PSI is an autonomous body, which works in association with other federations covering other sectors of the workforce.

### Campaigns of the PSI ..

PSI campaigns for:

- The interests of public sector workers. It coordinates public sector struggles for workers’ rights, social and economic justice and efficient and accessible public services.
- PSI represents the public sector case at the International Labour Organisation and other United Nations Bodies.
- PSI works closely with affiliated unions to protect and extend workers’ rights, including the freedom to join a union, to bargain collectively and other rights including gender equality, equity and diversity.
- PSI solidarity and union development projects help affiliated unions by providing training and capacity-building support on the ground especially in countries where unions are still fighting for recognition.

### PSI wants ...

- Quality public services for all
- Trade union rights for all public service workers
- Gender equality and employment equity for all Public alternatives to privatisation of services
- A strong and united trade union movement
- Social justice at the workplace
- Poverty reduction and debt relief

### How PSI works ...

PSI’s international office is next to Geneva on the French-Swiss Border. PSI has regional bases in Barbados, Belgium, Brazil, Chile, Colombia, Costa Rica, The Czech Republic, India, Japan, Lebanon, Malaysia, New Zealand, Romania, Russia, South Africa, Togo, Ukraine and USA.

The affiliates meet at congress every five years to develop a programme of action which informs the basis for all PSI work. The congress also elects an Executive Board.



**In South Africa the following public sector unions are affiliated to PSI:**

<b>DENOSA</b>	<b>HOSPERSA</b>
<b>NEHAWU</b>	<b>NPSWU</b>
<b>NUPSAW</b>	<b>SADNU</b>
<b>POPCRU</b>	<b>PAWUSA</b>
<b>SAMWU</b>	

## Provincial Reports

### Northern Province

#### PEC Report from the Provincial Congress at Polokwane Royal Hotel on, 30<sup>th</sup> July 2011

This report outlines the expected outcomes on the given responsibilities based on mandate given by the council for PEC elected into office on the 28<sup>th</sup> of July 2008 till today the 30<sup>th</sup> of July 2011.



The outgoing committee was constitutionally constituted by the following comrades:

Cde Ngobeni L.I. Provincial Chairperson  
Cde Mafhala M.E. Provincial Deputy Chairperson  
Cde Ramukumba L.A. Provincial Secretary  
Cde Ndanganeni A.S. Provincial Deputy Secretary  
Cde Ramagoma M.B. Provincial Treasurer.

#### OPERATIONAL OFFICES

Upon assuming the office, one of the mandates given to us as an executive committee was to make sure that the province is growing.

In September 2009 we were forced to close one of our two offices in Thohoyandou to open the door for one of the fast growing districts. In July 2010 we were forced to close our satellite office at Malamulele in preparation of opening another office for the second fast growing district. Triumphically, let me pronounce it to you that in July 2010 we managed to open an office at Mopani District which is situated at Giyani town. The office is well operational and 97% equipped for proper servicing of members around Mopani district.

In November 2010 we opened an office at Capricorn District in Polokwane city at 23 Rabe street, Casamia. The office is fully operational and fully equipped for proper servicing of members around Capricorn District. Comrade, we need to learn to work together as brother and sisters or else we perish together as fools, we don't want to only praise ourselves as angels but we need to reflect our backlogs and shortfalls. As it is an ongoing concern, offices should be established in the districts of Sekhukhune and Waterberg.

#### COMMUNICATION & FLOW OF INFORMATION

Comrades we have been communicating with you through the following methods: We reached you tele-

phonically, emails (though serves minority), SMS, circulars and Memos. In most of meeting communication was confirmed as mutual and reasonable.

We introduced clusters to try to reach those minority members at institutions.

#### The following stations covered NUPSAW events

Lonene, Thobela F.M. Jacaranda F.M and Univem F.M. We also want to thank BeeId, Mirrow and Sunday times for covering our union during the industrial action.

#### WELFARE CASES

We represented members by the Provincial team of case handling, Matodzi F. Musumvhi M. Nemu-

tanzhela T.C. Ndanganeni S. Mafhala M.E. Sumbana N.I. Ramukumba L.A. In our three years of office we were faced with 46 welfare cases, 41 cases won and 5 cases were lost. We learn as we grow. Never in our term of office a member was not represented in a welfare case at all levels of hearing and we are triumphically reporting that.

#### CONCLUSION

Comrades "Time is the most valuable thing on earth: Time to think, time to act, time to extend our fraternal relations, time to become better men and women, time to become better women, time to become better and more independent members of Nupsaw. Wish you the best, *GOD BLESS YOU...ALUCONTINUES.*



Newly elected Limpopo Secretary Cde A Ramukumba



### North West



Newly elected chairperson, Northern Province, Cde Kagiso Mokaila

In June North-West held the third provincial congress where they elected Provincial Executive Council (PEC) which comprises of Cde Kagiso Mokaila, the chairperson, his deputy M. Getlo while Oneilwe Garenamutsi was re-elected as the Provincial Treasurer. The position of secretary and deputy secretary is held by M Lecogo and E.P. Edwards respectively. NUPSAW commend the elections of woman in the leadership position of this union for their recognition and equal representation for all.

The province operates from the Mahikeng provincial office, with leading membership concentrated in Bojanala district in the health sector.

#### RECRUITMENT

In May of this year a workshop was held in effort to formulate a strategic plan focusing on recruitment and retention of members. The institutions that will be targeted are the Health sector; private, public and old age homes. Members in the said sectors complaint about ignorance of supervisors, non-compliance with policies and resolutions, cadre deployment in appointment and overtime pay.

The expected outcome is to ensure members within the institution understand the PMDS policy, Skill Development Act, Skills Development Committees and Recognition of Prior Learning. During the workshop a service delivery plan was formulated to track membership progress.

The objective is to create an enabling working environment which would be achieved through frequently staff meetings. Then improve effective communication between structures and members by institutional visits of Regional and Provincial leadership.

Finally, develop a capacity building programme by training shop-stewards, staff and management.

#### WHATS NEW

The PEC took a resolution to have a Bojanala sub-re-

gion fall under Gauteng for purposes of servicing members and case handling due to the geographical circumstances of the Madibeng and Temba areas which are nearer to Johannesburg and Pretoria but far removed from the western areas of the province.

Linda Phasiwe has been very excellent in representing members to the level of Arbitration. He has even represented members as far as the Northern Cape. The recently employed additional organizer will concentrate on recruitment in that area.

### RECOMMENDATIONS

That we establish a Think Tank in the Province comprising of able members especially,

- to assist in cases identify, develop and or nurture some of the committed members for leadership succession plan.
- ensure that we elect members who will push the agenda of NUPSAW first and not their own self-interests.
- that we ensure the establishment of Shop Stewards' Committees Guard against seasonal leadership.

## MPUMALANGA

MPUMALANGA NUPSAW has shown growth since it started the Recruitment drive during 2010 just before the FIFA World cup. During January 2011 there was a special recruitment training organised by Head Office through Raymond Mofolo. The training was a success because since then the recruitment team recruited more than 200 paid members.

The province also has more than 100 awaiting members since January 2011.

The targeted regions were eHlanzeni and Gert Sibande, at eHlanzeni region most targeted was based on correctional services and other departments.

At Gert Sibande the department of health was the most targeted, and other department also as the province agreed that no stone will be left unturned. It was difficult at the beginning but the comrades sat down and ironed out some challenges they face.

Mandla Khumalo has demonstrated much dedication to ensure the efficient operation of the entire provincial office.

The province is looking to employ a fulltime organizer. The position was advertised in the province newspaper but failed to attract qualified candidates.

NUPSAW rallied behind the Middleburg Hospital nurses when they took their protest to the Union Building in Pretoria. This protest follows as the result of the killing of Dr. Senzosenkosi Mkhize who was stabbed by the patient while on duty and died later that day from the wounds sustained. The suspect has since been arrested.



## Northern Cape



Cde Amogelang Mokwadi, NC Coordinator

NUPSAW Northern Cape established in the year 2000 in Kuruman is making strides by expanding and reaching areas like Kimberley. Chairperson Cde Mokwadi is heading the province. Currently Free State office serves as the designate reporting office for all administrative duties while the province is planning for their office opening soon.

### RECRUITMENT

To assist the province with recruitment the strategic meeting was organised in Bloemfontein on 01 June 2011. NUPSAW President and Deputy President were present to address the team and to put a plan in place that will ensure that the province meet its targeted goal.

To put the plan in action, the province embarked on a forceful recruitment in the various institutions including department of health and came out with compelling numbers. Tshwaragano Hospital recruitment drive was held in July and the team was able to secure additional recruits.

On June 29th, the Shop-steward committee meeting was held at Kimberley Hospital. This committee will be responsible for representing and assisting our members in the hospital. The meeting was extended to non-members who later resolved to join the union and were presented with NUPSAW's golf-shirts. The committee has since shown commitment as they are undertaking individual recruitment.

Another meeting held on 13 August 2011 in Bloemfontein, 30 Shop stewards from both NC and FS attended.

The following were discussed and resolutions were reached also.

- Union members be visible at work places(Shop-Steward must give feedback to other members after the every meeting)
- Training of Shop Stewards(CCMA be approached with this regard)

- Appointment letters issued after election of Shop stewards, and
- Media advertise

### GENERAL CHALLENGES

The attitude of the employer who simply ignore unions request correspondence which is tantamount to refusal to allow workers the freedom to associate and join a union.

### CASE PROFILE

NUPSAW fiercely defend and represent members against the exploitation and discrimination by the employer. In the same the union does not condone corruption and/or unethical behaviour whatsoever.

In the case of NUPSAW obo vs Department of Roads and Public Works. The member was charged with the misuse of state vehicle. During the proceedings this case turn-out to be a mistaken identity and the case was subsequently dismissed.

*Are you being treated like a human being?*

*Are your working conditions good*

*If the answer is no to any of the questions above, it now time to join NUPSAW*

## GAUTENG



## GAUTENG

### PROVINCIAL EXECUTIVE COMMITTEE REPORT ELECTED PROVINCIAL EXECUTIVE COUNCIL:

Chairperson Paul Motsego  
D. Chairperson Mike Mokgotloa  
Secretary Malebo Moswatsi  
D. Secretary Thabo Monakedi  
Treasurer Tebogo Sedumedi

In their first sitting the newly elected PEC deliberated various key issues affecting the province.

As expected the concern about membership; be it growth or decline is the union's primary focus. Membership variances is affected by various communal factors some of which are raised by the members all the time; the minimal or lack members servicing by organisers, limited dissemination of information and unions non-visibility. After diagnosing the provinces root problems affecting membership growth, the following was resolved; restructuring the administration filling and reporting system in place. This will allow for precise cap-

turing of central information such as meeting and minutes, correspondence, cases status and other related material, documents is inspected with precision and proper records are kept and recording of all programme activities.

Furthermore to increase membership one needs more personnel consequently an additional organiser was brought in to alleviate the workload carried by the current staff.

Gauteng is the smallest province with voluminous concentrated population as compared to the rest of provinces; it the economical hub of the country.

Which means this province should be leading as they have no excuse when coming to growing membership. Comrade Monakedi, GP deputy secretary believes that the intention is make sure that the union provides adequate service to members. And that is now for us to take the organisation to the people so workers know there is an alternative to COSATU.

The province has recently relocated to a new location in Pretoria West, members can access the office on foot just off Marabastad at 152 Lutttig Street.

## EASTERN CAPE

UPSAW Eastern Cape Provincial Congress was held on on 27th August 2011, at the Madzikane Kwa Zulu hospital in Mount Frere. The report term period is from the year 2008 to current.

### The PEC committee comprise of:

Chairperson G. Ntissa, Deputy Chairperson V. Malunga, Secretary L. Xhamela, Deputy Secretary N. Tuntulwana and Treasurer N. Bana.

In the past three years the province has managed to launch regional structures in Cadadu, Amathole, Chris Hani, Ukhahlamba, O.R Tambo and Alfred Nzo. The following institutional structures were formed; Livingstone Hospital, Dora Ngiza, Magistrate's Office-East London, Depart-



ment of Education in Queenstown, Treasury in Bisho and other locations.

Plans are afoot for the training of the shopstewards in case handling in order to ease the burden from the organisers who are currently tasked with the immense responsibility.

The EC provincial office is located in East London with the satellite office in Port Elizabeth both serviced by the organisers M. Hlazo and S.L. Getyese respectively. The administrator is S. Louw.

The newly elected PEC structure that will be serving for the next three years is in the following order: G Ntissa as the chairperson, S Sgola the deputy chairperson, LLB Xhamela the Secretary, , N. Magadla the D. Secretary and N. Katiso is the treasurer.

## Case Profile

### NUPSAW ON BEHALF OF MATHABATHA & OTHERS *versus* DEPARTMENT OF CORRECTIONAL SERVICES

Sowetan Newspaper published an advert for the position of Correctional Officers on February 17, 2004. The advert ad read as follows, "a rewarding salary based on qualification and relevant experience can be offered from R39,498 upto a maximum of R67, 887 per annum". On satisfaccory completion of the training the officers were to bepromoted from Student Correctional Officers to Correctional Officer grade III – salary level 6. After completing the training the applicants were not promoted from salary level 3 to salary level 6 (CoII).

Seemingly applicants had no other alternative but to lodge a grievance to the Respodent complaining that the latter failed to recognize their qualification and experience whereof violated their right to fair labour practice. The department had a policy on upgrading salary levels based on qualifications. Equally important the applicants were in possession of qualications including Diploma in Labour Relations, B.A in Administration, Honours in Adinistration.

The case *in supra* began as matter of POPCRU on behalf of Mathabatha and 6 others *vs* the Dept. of Correctional Services. The applicants representative member of POPCRU was in charge of the case through conciliation. Parties failed to reach an agreement and a certificate of non-resolution was issued. The applicants began to realised the representative lost interest in their case; a year had passed with the matter still pending. Hence the applicants approached NUPSAW for representation.

At this stage, only four members remain to the dispute at hand. The other two applicants had transferred to Gauteng and their matter respectively taken up by other representative.

NUPSAW's member representative; Master Nomx - anya, was now in charge of the case. This was a catch-22 situation. A year had passed and statutory limitations for referring the matter had subsequently expired. The representative had to file an application for condonation,

which is an application that falls outside the applicable time period prescribed in the Act. It is by far the most complex applications owing to the grounds of conditions considered. The council in granting the application take into account factors such as; reason for and degree of lateness, prospects of success on the merits and prejudice to both parties which includes the importance of the matter to each party. Nevertheless, the application was granted. The representative instructed the applicants to inquire with the council on the status of the application for the arbitration submitted by their former representative. The response from the council came as huge surprise; the council informed applicants that no such application was ever filed nor received by the council. This meant the POPCRU representative lied to the applicants.

NUPSAW began with the process; a series of meetings took place. During arbitration the employer raised two arguments firstly, that Bargaining Council lacked jurisdiction since the matter was a salary adjustment dispute and therefore a matter for Department of Labour. Secondly, that applicants at the time during training were not the employees of the employer. NUPSAW vehemently contended their former claim as there was no basis for that. In the latter claim it was argued that the employer was in effect training and developing his own employees for his utilization and benefit of his workforce. The employers elected to settle the matter.

The Responded agrees to retrospectively adjust the salaries of the Applicants from the appointment as follows:

Mr Mathabatha salary will be adjusted from date of appointment until the date of his promotion to SCO level The other 4 Applicants salaries will be adjusted from their respective dates of appointment until curently.

The parties consent to this agreement being made an arbitration award in terms of s 142A(1) of LRA



# NUPSAW OBO ADV. V. GOUNDEN versus DEPT. OF CORRECTIONAL SERVICES

This case relates to the transfer of a member. Advocate V. Gounden was employed as Deputy Director of Legal Services in the Department of Correctional Services. The post that which she occupied entails immense responsibilities of: rendering legal advice to all Directorates within the department, representing the Department at the General Public Service Sectoral Bargaining Council and the CCMA, Liaising with State Attorneys in defending the Department in litigation which arises from motion applications and drafting and scrutinizing memoranda of understanding and contracts entered into by the Dept. and various services provides and more.

In 2009 Gounden requested for the interdepartmental transfer which was declined. The reason put forth was

the non-availability of vacant post. The member requested transfer after what she allegedly refers to as unfair discrimination by her reporting supervisor. According to her there were numerous incidence where she felt disrespected and embarrassed in presence of her colleagues. The last straw was when she underwent a medical operation and the reporting supervisor made insolent remarks during the staff meeting implying that she had cosmetic surgery, which she took offence to.

The member approached the union for relief. In the bilateral meetings facilitated by the union the two parties agreed that the transfer was the best solution and should be carries timeously. The member was then transferred.

## Collective Bargaining

# Salary Negotiations 2011/2012

The public service bargaining for the 2011/12 commenced in February with the Independent Labour Caucus (ILC), and Congress of South African Trade Unions (COSATU) making their formal submissions to the Public Service Coordinating Bargaining Council (PSCBC).

The ILC is an organisation founded by NUPSAW and the following Unions, PEU, Hospersa, NAPTOSA, SAOU, SAPU, NPSWU, PSA and UNIPSA. The General Secretary of NUPSAW, Success Mataitsane, is the ILC Deputy Chairperson and Chief Negotiator in the PSCBC.

the employer failed to conduct a joint investigation as stipulated by the said resolution.

NUPSAW and other unions unanimously rejected the employer's meagre offer in its entirety. As a result the minister of DPSA held a meeting with labour and the latter raised concerns with regards to the slow pace of bargaining. A five day period to focus on bargaining was proposed. However, as provincial elections were imminent neither COSATU nor the employer could commit to concluding negotiations prior to May 18 as per the ILC and its affiliates proposal.

This was a setback for workers eagerly expecting the salary increase while faced with highest price hikes of food, petrol and Eskom tariffs amongst other things.

A proposal was tabled and accepted by labour to utilize the services of Brian Currin, the facilitator to facilitate the negotiations. In an effort to negotiating in good faith labour revised their wage demand to an attainable 9% and the employer move by an increment of 0.1% to 5.5% wage offer. Labour then declared a deadlock.

In order to break the deadlock, a facilitator had to be brought in. The minister wanted to do damage control by calling a meeting with labour to address the situation and seek common ground for parties to return to the bargaining table. It was clear that parties could not break the deadlock. NUPSAW and other ILC affiliates and COSATU resolved to issue a joint media statement in the public service. At that time, the employer table a 6% official offer and 6.8% as a settlement offer.

Parties however sidelined the facilitator during their last meeting.

### LABOUR INITIAL DEMANDS


- Wage increase 10%
- Insource of out-sourced services
- Childcare facilities in the workplace
- Equalization of medical-aid subsidy
- Shop-stewards leave increase to 25 days per annum
- Housing Allowance R1650 de-linked from spouses
- Overtime rate to be calculated on salary notch basis for PSCBC to conduct an independent study for compliance with OHSA
- Capped leave up to 60-days from the age 57 for the purpose of retirement
- Development of uniform Performance Management Development Systems (PMDS)
- Increase of pensioners medical-aid subsidy to R2224 per month de-linked from the other employee
- And more...

### THE EMPLOYER RESPONDS

On salary adjustment, 4.8% based on projected CPI+0.1%, which is a multi-term agreement with effect from 1 May 2011. Meanwhile on housing allowance the employer seek to abandon an agreement to implement the home ownership scheme with effect from 1 April 2011 in terms of Resolution 4 of 2010 and is now attempting to introduce a "home finance scheme". Then with regards to the equalization of medical aid subsidy


### WHAT NOW?

The employer finally tabled the formal offer of 6.8% wage increase exclusive of medical and housing allowance benefits. NUPSAW sought the mandate from members who responded by voting in favour of the offer. Consequently, NUPSAW and other unions accepted the employers offer.



## NUPSAW FUNERAL CARE PLAN

Providing Funeral Benefits...  
at affordable premiums



	MINIMUM COVER	MAXIMUM COVER	PREMIUM PER R1 000.00
Life Insured Up to the age of 59	R5 000	R18 000	R 1.35
Life Insured Age 60 - 64	R5 000	R18 000	R 4.10
Spouse Up to the age of 59	R5 000	R18 000	R 1.35
Spouse Age 60 - 64	R5 000	R18 000	R 4.10
Children Age 0 - 5	R1 000	R 5 000	R 0.90
Age 6 - 13	R1 000	R7 5000	R 0.90
Age 14 - 24	R1 000	R10 000	R 0.90
Parents / Additional Spouses / Extended Family Members Age 18 - 64	R1 000	R 8 000	R 3.50
Age 65 - 69	R1 000	R 8 000	R12.30
Age 70 - 74*	R1 000	R 8 000	R17.50
Death Income Benefit	R 100 pm	R 2 000 pm	R 5.25
Personal Accident Benefit	R5 000	R50 000	R 5.00
Assupol On-Call			R 1.14
Vehicle Access Benefit			R14.52

The Family Protection Plan provides funeral cover for the main member, spouse and children. Cover is also available for parents/in-laws and extended family under the same policy

### BENEFITS

<b>PERSONAL ACCIDENT BENEFIT</b> - Available only to the principle life assured - Min Cover R5 000 - Max Cover R50 000 - Benefit payable - total disability, loss of limbs and death	<b>PREMIUM WAIVER</b> - Available only to the principle life assured - This option waives the premium at death, disability and retirement - Waiver will be applicable for 6 months	<b>DEATH INCOME BENEFIT</b> - Available only to the principle life assured - Monthly benefit payable for 24 months - Min - R100 per month - Max - R2000 per month
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**VEHICLE ACCESS BENEFIT BY AVIS**  
 - For an additional R14.52 per month, in the event of the death of the Main Member, spouse or nominated children, a vehicle will be available for a period of SIX days from any AVIS branch nationwide.  
 - Vehicle Options: VW Polo 1.6; Toyota Corolla; VW Golf

FOR MORE INFO CONTACT KHULANI TODAY 0861 113 101

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You also enjoy the following benefits:

- You can **MISS 6 MONTHS' PREMIUMS** and not lose your policy.
- We will **PROVIDE ACCESS TO TRANSPORT THE DECEASED** from anywhere in the world to a funeral home closest to the place of burial in South Africa at **NO ADDITIONAL COST.**
- You also **GET CASH BACK EVERY FIVE YEARS** on selected policies, so that you can enjoy some of your money while you're still alive.

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