

VUSI LANDU

Facilitator: This is an interview with Vusi Landu, we are in Cape Town and the date is the 29th August 2010, interview is done by Brown Maaba. Thank you for your time, maybe you could give me a background of how you ended up in the union structures.

Respondent: Thanks for having me. Immediately when I graduated from the University of the Western Cape, I started as a prosecutor in the Justice Department, but I felt lost as a prosecutor and when the opportunity presented itself in terms of a position that was available in FAWU, I grabbed it with both hands, that's how I ended up in FAWU because the labour movement and labour law in particular have always been close to my heart.

Facilitator: What do you mean you were lost as a prosecutor?

Respondent: By that I mean that I felt that it is not what I intended to be, the criminal law field becomes clear that it is not my terrain.

Facilitator: How did you manage to connect to FAWU?

Respondent: Well it was a formal connection because I saw the advert, I applied, I got invited to an interview and then I was appointed as their then Provincial Legal Adviser in the Western Cape. I was tasked to do all their Legal relations matters in the province and I worked up my way to be the head of the department.

Facilitator: So you came in first as legal advisor and then later the head of department.

Respondent: Yes, I came in as a Provincial Legal Advisor and then later on I became the Head of the Legal Department.

Facilitator: When did you join the organization exactly?

Respondent: If my memory serves me well it was in 2002 in June.

Facilitator: And your impression of the place or your expectations.

Respondent: Then?

Facilitator: Yes.

Respondent: To my surprise I did not realize that unions were so formally organized, I just thought it was just on the terrain of our struggle. I found out that as much as it was a struggle terrain, the level of professionalism is so high, such that it does not go that far apart from your dominantly commercial world so to speak.

Facilitator: As a legal advisor what were you charged with?

Respondent: First and foremost it was to do the union's litigation, representing its members either at the CCMA, bargaining council or at the labour court. To advise union members on their contracts of employment or their collective agreements that they sign in the companies. I was charged with making sure that no collective agreement is signed at the

provincial level without passing me. I had to scrutinise and see whether it meets the union expectations and it complies with all the laws relating to labour in this country. That was basically my entry point of work.

Facilitator: And the challenges in this field?

Respondent: Well there are challenges you know, one of the challenge is the question of resources that the unions are basically relying on their main source of income, which is subscriptions from workers. You find that the budget of the union is biased towards its political work or its traditional trade unionism work. The main challenge is leadership who don't appreciate the major role of legal issues, who don't want to invest in legal issues. For instance you can't be a successful legal litigant if you don't have the necessary material, like the law library, the journals, etc, because you must do some research, you can't just operate without the necessary tools. The challenge that one had was to convince the leadership then that they had to invest in such resources if they wanted to be able to represent members adequately at any forum. Another challenge that one faced is the lack of understanding in members, wanting to politicize everything. When a worker is dismissed for instance, they would be quick to say they were dismissed because they are shop stewards, forgetting that as a shop steward there are obligations that they must fulfill as an employee of the company. Let's say for an example he doesn't work for a week without any authorisation, when management takes disciplinary measures then the shop steward thinks he is above the law. So those are the main challenges that one faced on a day to day basis.

Facilitator: Is it easy to overcome problems or everlasting problems, you talked about the library and other things?

Respondent: Well, in terms of resources, its not everlasting problems because they are overcome. They union realized and saw the need to invest in resources, but the one of members not understanding that there is a dichotomy between the law as it was and union activist, its still a challenge and the only way to overcome it is through training.

Facilitator: In terms of work, do you work with other legal structures or there's enough manpower in the legal division to handle everything that have to deal with human issues, FAWU's issues in this case.

Respondent: No there can't be enough manpower but we are trying. When I started in 2002, I think nationally there are only three of us and we have to go around the country. Now we have tried at least to make sure that each province has a legal officer/advisor. When I came in there was no legal department as it was, we were all reporting to the General Secretary, but now there's a fully fledged legal department, so I have provincial legal officers who are reporting to me, so we are moving although not all the provinces have legal officers but at least we identified the most needy areas that need legal officers and cannot cope in those provinces, we have deployed such people.

Facilitator: When did you move up the ladder?

Respondent: I started in this position in 2006, I was promoted to the head of the legal department.

Facilitator: Your responsibilities and problems and challenges that go with that?

Respondent: Mainly my responsibility is to supervise the legal officers that are in the different provinces. Secondly, it's to compile reports to the national executive council which seats quarterly and ultimately reports to the national congress which seats every four years. In the process I have also to advise the union on every issue that have a national character which needs a legal opinion, I am expected to provide such a legal opinion.

Facilitator: In terms of handling these cases for workers, is there a point in time where they feel that they are not being properly represented or misrepresented and so get into squabbles.

Respondent: Yes, oh yes it's very much an occurrence. If can tell you, recently we had a case of Blue ribbon employees who were retrenched by the company, we took their case to the labour court and it took almost a year before a judgment was delivered, and in the process there was pressure, the workers started to doubt me, saying that I had sold them out. Finally the judgment was delivered and it was in their favour, but it fell short of reinstating them, it only confirmed that their dismissal was unfair but it offered them compensation of twelve months. They then said they cannot accept the judgment because I had misrepresented them in court that's why they couldn't get reinstatement. We had to take the matter to the labour appeal; as we stand now the matter is at the labour appeals court. So you get those kinds of challenges. Other challenges that one faces, is the question of employees who feel that the organizers have not taken their cases to the CCMA, so they now sue the union, so

those are the challenges we are facing in so far as the lack ofis concerned.

Facilitator: You mentioned earlier, when you came in the union's budget was biased towards the workers, I am not sure what you meant by that.

Respondent: I meant that primarily the union is referred to as a worker control organization, now in order to exercise this worker control, the structures must sit, you must have your branch, provincial and national executive meetings and those structural meetings took huge chunk of union budget. You can imagine, a union like FAWU has got at least 8 provinces, more than 40 branches and if those branches in terms of the constitution have to sit every three months, now you have to budget for those branches to sit because you have to send money to those members to attend those branch meetings. Now if you have that situation, obviously those in power must make sure that those structural meetings are sitting and the only way to make sure that those structural meetings are sitting is to budget accordingly. The money that comes in must go into making sure that those structural meetings are sitting before anything else is attended to. There is this biasness towards affirming the issue of worker control, but if you have these meetings sitting three times or four times a year, but if those workers are dismissed and there is no adequate representation at the CCMA, the union will end up having less members because members get dismissed, the members would end up saying why are we with FAWU if we can't get sufficient representation and we can only get adequate representation if you have adequate resources that are able to deal with challenges as far as litigation is concerned.

Facilitator: The numbers of cases that are brought in yearly or monthly, are they putting much pressure on the legal division or are you guys able to deal with everything.

Respondent: Yes, when I came in, our legal bill stood at 4 million annually, but after I came in and strategised, employed people around the country, we managed to reduce it to 1.2 million, it's a manageable bill. It's unavoidable because there are issues that we have to outsource to outside lawyers because we feel that they are much more complex, we can't risk worker's livelihoods just because we want to save for the union. When I came in some CCMA cases were done by lawyers, but that has stopped, we only outsource minimal and certain cases, we don't outsource anything that comes our way, so we have managed at least to scale down a huge legal bill to a manageable degree.

Facilitator: Maybe I don't understand legal issues but why was the bill so high, 4 million compared to 1.2 million, how does it work?

Respondent: You see, one case for instance, that's what I was telling the union jokingly one day that you know if I am doing a review application for one person, I am saving for the union not less that R80 000. So imagine if every review application to the labour court was outsourced to the lawyers, currently there aren't even less than twenty review or other matters at the labour court, so now if mathematically those matters were handled by outside lawyers, just 20 x 80 000 you can just imagine how much that will be. We had one SAB case in 2004/2005 which we won, it was outsourced to lawyers, that case cost us R1.1 million, so you can just imagine if we took all our cases to outside lawyers we would have a bill of close to 20 million.

Facilitator: Are you coping with the internal staff with all those cases or you sometimes have to outsource?

Respondent: Yes sometimes we have to outsource, cases that are from these multi-national companies, e.g. ABI, Nestle, Parmalat and especially if they involve a many employees, those guys employ big firms like Deneys Reitz and Bellman; and if it is just me confronted by four councilors, you can't say there's a balance of scale, so those particular cases we do have to outsource to make sure that justice prevails. Those cases that have fewer members of 1 to 10, we do them ourselves. There is one case in Mpumalanga though that I am doing which has more than 110 workers, we look at the complexity of the matter and then decide that we will do it ourselves, but if we feel that this matter is legally complex, then we outsource it to outside lawyers.

Facilitator: In your perception, are the resources allocated to the legal department enough to deal with cases.

Respondent: They are not enough, I have been fighting with them that there's a vacancy in Durban that hasn't been filled for a while now, my junior staff is unhappy because I send them to Durban all the time for cases, it is hectic to be away from home for over a month, so there are those challenges, but I can tell you that the picture is changing.

Facilitator: The culture of employing lawyers into the unions; is it a different culture or is it something unique, how do unions operate?

Respondent: Its something unique, initially if you talk about COSATU affiliates, in fact most of them employ paralegals, but in FAWU and some other unions we are strict, in order to be employed as a legal advisor of the union, you must as a minimum a law degree, so the unions are beginning to see the need to have qualified legal officers but the pace is slow. Many of the affiliates are using paralegals, I understand that they have standard 10 and some standard 8 and they take them for 3-6 months training and are sent into the field to go and represent workers. FAWU is one of those exceptional unions who make sure that in order for people to apply for these positions they must have a law degree.

Facilitator: Do you know when this thing of having internal legal division started at FAWU.

Respondent: I can't really know but I think it started as early as 1990s when we started to move to work with these people, but they also started with paralegals, they started it as an in-house thing, then towards the end of the 90s then they started to employ qualified people.

Facilitator: Any specific reason for this kind of move.

Respondent: As I indicated earlier on, they found that they were not doing justice to workers because the paralegals have limitations, and they expected people who don't have degrees to go and argue with qualified lawyers.

Facilitator: What about other lawyer, what about other experts within FAWU do you have?

Respondents: In FAWU we have heads of departments; almost all heads of department with an exception of the bargaining secretary department are graduates. We have head of finance who is a qualified accountant, we have the head of education department who has a degree, then there's law, then there's a researcher who is a qualified person, the union has moved to recognize that some of the issues that they deal with require necessary skills hence they moved to hire people who have the necessary education and skills and expertise. Our media officer as well is a qualified journalist.

Facilitator: Does that mean that anybody without any worker experience is not standing in the way of graduates can just join the union, does it not cause tension between workers and graduates, where someone comes in claiming to be powerful than the workers.

Respondents: It is a challenge that we confronting, having people who have purely academic degrees but are not grounded with labour issues, a person who is a qualified lawyer but has no clue because once must contextualise the issues pertaining to law as it stands, but if I go to a plant I must understand when they say to them that is an unfair treatment, I can't say that in terms of section 65 this is right, I must begin to sympathise with them and understand where they are coming from. Sometimes we employ who don't understand how trade unionism work and I can tell you that those people don't last in the union.

Facilitator: Does the union get fed up with them.

Respondent: No, they feel that the environment is not what they thought it was and end up saying this is not my space.

Facilitator: You mean is a fun environment, how different is it to other environments.

Respondent: If you have a bit of a political background, then it is a fine environment, but if you have never in your life been involved in political activism then you will not find joy in the union.

Facilitator: In future will the union consider hire people who come from universities and so on.

Respondent: We have to because we live in a globalised world, for instance workers cannot just go and demand 10% because employers expect the union to unpack what is that informed the 10%. Workers cannot just talk about inflation related salaries; we need people who can advise and train people on the ground on what is meant by inflation related increases, what CPIX means for instance. I am not saying that people who do not have degrees cannot understand those issues but I am saying that you are more at an advantage if you employ people with necessary expertise.

Facilitator: Is there a chance of pulling people in from the workforce of FAWU to the central office, people who could get skilled and become managers in the process because or is it difficult.

Respondent: It's not difficult. Unions are basically run by people from the workplace so it can be an issue to pull the workforce, for instance most of the organizers that go through the ladders were former shop stewards, so it can't be an issue.

Facilitator: As of connecting all of these offices, you are based in Cape Town but there are offices in provinces, what does it take practically to get things going and making sure that this baby survives.

Respondent: It's a hell of a challenge, but it means that one must be able at least to visit these offices almost every two months, so that you are able to see that everything is intact. We also have departmental meetings were legal officers from all provinces; we meet and share challenges and experiences so that we are able to coordinate our work. Thirdly the structural meeting which is national executive council which sits quarterly, there you are able to get reports from provinces and the reports from the provinces deal with every issue from bargaining up to legal, so you are able to know what the challenges are in a particular province and be able to deal with them. Also the union has provided its officials with technology, in terms of laptops, cellphones so that you are able to communicate on a daily basis so that you are able to know what is happening in other provinces.

Facilitator: You mentioned that when you joined the union it was because of passion for the world of workers, what brought about that, you could have filled it up elsewhere.

Respondent: Yes I believe my political activism has made an impact in the career I have chosen, because as a young man growing up in the Eastern Cape I have always been involved in politics, from SAICO to the Youth League, up until the university level where I joined SASCO, so I guess politics have been my life hence when I joined the Department of Justice I didn't feel that space. Some people are asking me when I am going to move from FAWU because I have been here long, I ask them why I should

move from FAWU because I enjoy it here, its not always about money, yes we have to put bread on the table but its more about what makes you happy.

Facilitator: Just maybe the last two questions. Has your stay here been worthwhile?

Respondent: I believe so, without taking any credit, I single handedly revamped the constitution of FAWU for instance, when we went to our last congress that was in 2007, when I looked at the constitution I could pick up many loopholes, and I revamped the constitution of FAWU to what it is today, hence even now as we are going to the next national congress next year, strangely not a single province has made a proposal to amend any clause in the constitution because they feel that this constitution has once in their lifetime address issues that they felt were not addressed or lacking in the previous constitution.

Facilitator: What were the weaknesses of the previous constitution?

Respondent: There were many weaknesses, from typical things of numbering to typical things of clauses not making sense, people not being able to unpack what a particular clause means, to non-compliance with the labour relations act. For instance the labour relations act provides that every constitution of the union must at lease provide what duties of the General Secretary should be, it didn't have such clauses, so those were the weaknesses that the constitution had. Sometimes you would find that one clause talks about something and the other clause differs, so you find that the same constitution speaks two languages, it was a big challenge and we had to convince the congress,

because constitutions are changed by congress, but I was happy that the congress agreed to almost every amendment we proposed. It is traditional that in congress people come with amendments to the constitution, but I am happy to say not even one province has come with one amendment to the constitution.

Facilitator: Any general challenges faced by the organization, yesterday, today and tomorrow.

Respondent: Well, I think the bigger challenge of the union is the changing environment of the workplace, capitalists always change their tricks, in the past twenty years or so we didn't have an issue with labour brokers, but today labour brokers are an issue, it is not an issue only affecting those workers who work under labour brokers but an issue that affects the unions in terms of its objective of collective bargaining, its an issue that has be tackled head on by unions, hence the Polokwane resolution that talks to the banning of labour brokering and COSATU is so passionate about the issue labour brokering, so those are the challenges that are confronted by the unions today.

Facilitator: Any regrets?

Respondent: Personally on the path that I have chosen I don't have any regrets, I think I have played my role. I don't have any regrets really.

Facilitator: Is there anything else that you think is important which should have been part of this interview?

Respondent: No I think we have covered basically all areas.

Facilitator: Any closing words.

Respondent: One could say that we hope that even when we are at the end of our road in terms of our participation in the labour movement, the labour movement must not die, someone must take the baton and make sure that we move forwards, we concentrate less on power struggles and more on how to better working conditions of our workers.

Facilitator: Thank you very much for your time.

Respondent: Pleasure, you are welcome.

Collection Number: A3402

Collection Name: Labour Struggles Project, Interviews, 2009-2012

PUBLISHER:

Publisher: Historical Papers Research Archive, University of the Witwatersrand

Location: Johannesburg

©2016

LEGAL NOTICES:

Copyright Notice: All materials on the Historical Papers website are protected by South African copyright law and may not be reproduced, distributed, transmitted, displayed, or otherwise published in any format, without the prior written permission of the copyright owner.

Disclaimer and Terms of Use: Provided that you maintain all copyright and other notices contained therein, you may download material (one machine readable copy and one print copy per page) for your personal and/or educational non-commercial use only.

People using these records relating to the archives of Historical Papers, The Library, University of the Witwatersrand, Johannesburg, are reminded that such records sometimes contain material which is uncorroborated, inaccurate, distorted or untrue. While these digital records are true facsimiles of paper documents and the information contained herein is obtained from sources believed to be accurate and reliable, Historical Papers, University of the Witwatersrand has not independently verified their content. Consequently, the University is not responsible for any errors or omissions and excludes any and all liability for any errors in or omissions from the information on the website or any related information on third party websites accessible from this website.

This document forms part of a collection, held at the Historical Papers Research Archive, University of the Witwatersrand, Johannesburg, South Africa.