

*Every child is a National Asset*

**THE EFFECTIVENESS OF COLLECTIVE BARGAINING  
IN THE EDUCATION SECTOR IN STRENGTHENING  
DEMOCRATIZATION IN THE WORKPLACE.**

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# INTRODUCTION

- Democratization vs Transformation.
- **Transformation** is about strategically reinventing our existential core to assert our position in society [Vice Chancellor : University of Technology]
- **Democracy** or in this context **“Workplace Democracy”** is generally understood as the application of democratic practices, such as voting, debate and participatory decision-making systems, in the workplace.
- There is clearly a conceptual difference between the two terms. The one deals with **“reinventing”** and the other with **“participation”**.

# BACKGROUND

- Employment in the South African public sector has reached the stage where it can be regarded as fairly democratized.
- State acknowledges key interest groups such as public employees, external stakeholders, unions etc. as important role-players in the procedures, systems and structures of government.
- Not a simple process.
- Urgent need to reform the labour relations framework that governed the public service. This was achieved through the finalisation of the Labour Relation Act, 1995. For the first time in South Africa, the same statute that governs labour relations in the rest of the economy now also regulates the public service that includes education.
- This led to the establishment of bargaining councils in public service. PSCBC, ELRC etc.
- Collective bargaining is not a right in private sector. Offset against a right to strike.
- In public sector: Collective bargaining is a right ito LRA.

# Democracy in Education.

## ***Q How democratic is South Africa in education?***

- An educational partnership has been established between state and community. The community is represented by a democratically elected school governing body (SGB). An SGB consist of parents, teachers, non-educators, learners from grade 8 and higher and if needed co-opted members. Their establishment, powers and functions is enshrined in the South African Schools Act. The preamble of the Act reiterates the fundamental value of equity of treatment and opportunities in a democratic education system.
- The Act also advocates a partnership between all stakeholders who have an interest in education including but not limited to the state, parents, learners educators and other members of the community usually within the vicinity of school.
- Another key stakeholder in education are the labour unions.
- Other Stakeholders: RCLs, SACE, Principal Associations.

# COLLECTIVE BARGAINING AND SOCIAL DIALOGUE

- ***What Is The Difference Between Collective Bargaining And Other Forms Of Social Dialogue?***
  - According to the ILO, social dialogue can take many forms, it defines social dialogue as all types of negotiation, consultation or simply exchange of information between, or among, International labour standards. It encompasses bipartite or tripartite consultations and negotiations taking place at all levels.
  - Collective bargaining is at the heart of social dialogue.
  - Collective Agreements Recommendation, 1951 (No. 91) 4 COLLECTIVE BARGAINING. A policy guide representatives of governments, employers and workers, on issues of common interest.
  - South Africa subscribes to the latter.

# Collective Bargaining in Education

- ***“How effective or which role collective bargaining in the education sector can play in strengthening democratization in the workplace?”***
- Collective Bargaining and Legislation.  
Since 1996 over **120 national Collective Agreements and 88 Provincial Collective Agreements** were reached in the education sector.
- Unions in Education.

Initially, the ELRC consisted of eleven (11) labour organizations. Threshold increase led to a number of teacher unions to co-operate with each other and became known as Combined Trade Unions (CTU/ATU). The other trade union is the South African Democratic Teachers Union (SADTU).

## Collective Bargaining in Education (2)

- Union involvement in education related matters.
  - ❖ Observer status in appointments.
  - ❖ Cases of poor performance and illness.
  - ❖ Union involvement in disciplinary cases.
  
- Trade Unions and the right to strike.
  - ❖ Section 23 of the constitution provides for a right to strike and this right also includes education.
  
- Collective Agreements in Education.
  - ❖ Not confined to wages, working hours and conditions of service.
  - ❖ At times includes policy related matters. EG MTEF Processes.

# Collective Bargaining in Education (3)

- Union and other stakeholders involvement on other aspects of legislation.
  - ❖ NEDLAC and Union Participation.
  - ❖ Employment Equity and Skills Development Committees.
- Protection of Education Democracy through the Courts.
  - ❖ The courts in South Africa has also protected the principles of education democracy.
  - ❖ *FEDSAS vs the Gauteng Department of Education*
  - ❖ *Point High School & Another // The Head Of The Western Cape Education Department & 4 Others*

# COLLECTIVE BARGAINING AND STRENGTHENING DEMOCRATIZATION IN THE EDUCATION SECTOR.

***Q. What more or bigger role can collective bargaining play in further strengthening democratization in education?***

- Student achievement.
- Parents, unions, community etc. should become joint owners of the system and their schools.

***Q. How can we achieve this?***

- Alignment of educational programme to the country's goals specifically relating to ITC, mathematics, science and technology;
- Empowerment of personnel in the sector with the knowledge, skills and the right environment to enable effective outcome-based sustainable education;
- Expansion and enlargement of studies to improve new career paths and long skills development with the focus on job learning initiatives;
- To improve the negative perception of the tertiary sector;
- Looking at and putting in place new mechanisms and devices to encourage learners to become providers enablers and supporters to the South African society;
- Play a fundamental role in terms of identifying and dealing with the infrastructure needs of schools;
- School safety. Here partnerships and co-operation can take place with the safety and security bargaining council;
- Generation of financial resources through public, private initiatives; and
- Enforcement of good governance and accountability.

# Coalescence of workplace and societal issues

## *Q. What should we be mindful of in Education?*

- ❖ Slow pace of collective bargaining.
- ❖ High levels of violence perpetrated by learners against one another and learners against their loco parentis.
- ❖ Easy access to technology is beginning to expose issues that have long plagued our education system, our classrooms have become nests of all sorts of misdemeanours by teachers and learners.
- ❖ Unions are beginning to demand things employers of educators never prepared for.
- ❖ Many of these issues are not collective bargaining matters. Leading to unintended risks between employer and unions.

# COLLECTIVE BARGAINING IN ESSENTIAL SERVICES.

## ***Q. Is Basic Education An Essential Service To The Extent That Strikes Can Be Prohibited?***

- ❖ Many supporters for and many against.
- ❖ ILO (International Labour Organisation) had repeatedly confirmed that education cannot be considered an essential service whatever the circumstances.
- ❖ This would affect democratization.

# Some risks impacting on relationships

- The 2017/18 risk assessments conducted thus far have identified **strategic and operational risks** depicted in the tables below, indicating both inherent and residual risk ratings.
- These risks have a potential of affecting collective bargaining leading to unintended tensions between labour and the employers and therefore need to be mitigated:

## SOME STRATEGIC RISKS IN THE BASIC EDUCATION RISK REGISTER

Risk Description	Inherent Risk Rating	Residual Risk Rating
Failure to conduct self-diagnostic test	High	Medium
Ineffective Organisational Design	High	Medium
Ineffective delivery of Curriculum	High	Medium
<b>Incidences of violence in schools</b>	High	Medium
Unreliable information / data collection tools to monitor filling of critical vacancies, provision of basic tools of trade and profiling of district officials.	High	Medium

# THE 2017/18 OPERATIONAL RISKS

Risk Description	Inherent Risk Rating	Residual Risk Rating
'Ineffective management of recruitment process and human resources (Retention and attraction of skilled staff, employment equity, training)	Medium	Low
Ineffective monitoring of performance	Medium	Low
Inefficient management of Discipline	High	Medium
Ineffective management of Grievances	High	Medium
Inability to provide capacity building programmes (skills development and bursaries)	Medium	Low
Poorly drafted legislation.	Medium	Low
Non-compliance with legislation.	High	Low
Lack of support to employees and failure to create a conducive work environment	Medium	Low
Non functionality of QLTC structures	High	Medium
Lack of suitable time to train teachers.	High	Medium
Inability of Provinces to place teachers	Medium	Medium
Delays in finalisation of bargaining agreements.	Medium	Medium
Delayed resolution of disputes.	Medium	Medium



# CONCLUSION

- Education has evolved into a democratically elected system in which various stakeholders has played key roles.
- The ELRC, through collective bargaining has played a key role shaping this principle through negotiations.
- The system in the main has not produced the desired results in the form of learner performance, school safety, infrastructure and meeting the current economic need of the country.
- Consider expanding the definition of matters of mutual interest to include policy and learner related matters.
- The focus would then not only be focused on educators but include learners.
- This paper has shown that education already has a vibrant democracy process in place that has been shaped over a period of time.

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*Thank you!*

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