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A Presentation on Collective
Bargaining Laws in RSA.

C B Mechanism.

- 1990-1994 Political Settlement.
- Social Dialogue. 'Pen is Mightier Than Sword.'
- Country ratified ILO Convention 87 & 98.
- Legislature overhauls lab/ind relate regime.
- Culture of human rights-Relative ind stability.
- Economic growth.
- Global competitiveness.

LRA No: 66 of 1995.

- Four Primary Sections.
 - Chapter (iii)
 - Section 64 read with Section 21.
 - Section 77 & 150.

Ancillary Laws.

- Basic Condit of Employ Act No. 75 -1997.
- Occupation Health & Safety Act No. 85 -1993.
- Compensation 4 Occupation Injuries & Diseases Act No 95 -1993.
- Occupation Health & Safety Act No. 83 -1993.
- Employment Equity Act No. 55-1998.
- Skills Develop Act No. 97 -1998.
- Skills Develop Levies Act No. 9 -1999.

Section 21. (LRA)

- A registered trade union may notify an employer that it seeks to exercise one or more of the rights conferred by this Part in a workplace.
- The notice referred to in subsection (1) must be accompanied by a certified copy of the trade unions certificate of registration and must specify-
- The workplace in respect of which the trade union seeks to exercise the rights;
- The representativeness of the trade union in that workplace, and the facts relied upon to demonstrate that it is a

Section 64.

- This section of the Act, among others gives a right of a legal industrial action in the event of a dispute of mutual interest between parties as well as interest as outlined in the other concomitant pieces of legislation that I have referred to in page two (2) of this paper.
- As a counter to a strike, the employer has recourse to “Lock-Out” the strikers. Both situations should be in conformity of a collective agreement (if any,) as entered into between the parties and that agreement must explicitly vary any of the two rights referred to in the foregoing, save for issues that are covered in the Basic Conditions of Employment Act No.75 of 1997, i.e.
- Unilateral averaging of hours by the employer.
- Overtime pay.
- Meal intervals.
- Daily and weekly rest periods.

Section 150. (Chapter VII)

- The Commission for Conciliation, Mediation and Arbitration generally intervenes in terms of Section 150 of the Act, to quell an existing dispute between the parties, if it is deemed that, that dispute has public interest, provided that the parties to a dispute give consent to this intervention.

Section 77.

- In RSA, a legislated Tri Partite structure in place
- “National Economic Development & Labour Council,
- A forum of serious engagements and hard bargaining between government, labour, community based organizations and business.
- It transcends the typical employer and employee collective bargaining .
- Caters for socio-economic and developmental issues. As per Sec 77 of the LRA No 66, of 1995.
- A registered trade union or a federation(s) of trade unions may lodge a 14 days notice to a strike.

Challenges.

- Employers refusal to C.B.
- Cite insufficient representivity.
- Employer resources vs union resources.
- Bribes.
- Subtle threats.
- Literacy levels.
- Young workers

Challenges Cont.

- Company relocations.
- Renewable, fixed term employ contracts.
- Labour broking.
- Youth 'Wage Subsidy.'
- Employers lament- 'Stringent, obligatory labour regime.'

Dark Side of the Law.

- No Work No Pay Rule.
- Production continues.
- Replacement labour.
- Right to strike.
- Property Clause (Section 25 of Chapter 2 in The Bill of Rights)
- Demarcate & impede picketing.
- T/U can be sued for damages.

- **Reference: Labour Relations Act No. 66. 13 December 1995.**
- **(Republic of South Africa.)**
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