

Harnessing Dispute Resolution in a Metropolitan Bargaining Council of South Africa

A J de Bruyn

Collective Bargaining and Negotiation
SABPP: Master Employment Relations Practitioner
Department of Human Resource Management: Employment Relations
College of Economic and Management Sciences
UNISA

N Sotshononda

Employment Relations
SABPP: Master Employment Relations Practitioner
Department of Human Resource Management: Employment Relations
College of Economic and Management Sciences
UNISA
South Africa

ABSTRACT

This article reports on a qualitative, interpretivist case study resulting from a university community engagement intervention enquiring into the low labour dispute settlement rate at a South African Local Government Bargaining Council (SALGBC) in a metropolitan district. The aim was to enable the BC to increase the dispute resolution settlement rate, by identifying and providing feasible solutions for the underlying problem of a declining annual rate. The purposive sample included representatives from management and trade unions. Data was collected through a pre-drafted focus group intervention and analysed by means of content analysis. The findings suggest that the main reason why the labour dispute settlement rate dropped below two per cent included an inability to obtain the required mandates to make decisions swiftly and effectively. This resulted in the

*Corresponding author

high financial and time costs which are invariably associated with the non-settlement of labour disputes. External powers interfering in the normal execution of activities in the employer organisation (experienced by all parties) compromised official human resource management (HRM) processes and policies. Challenges in obtaining the required mandates, and the extent of the freedoms granted to individual BCs (to change activities in the resolution process) also surfaced. In addressing the main causes, the written delegation of authority to the parties' decision makers, the decline of political influence in labour disputes, procedural compliance and the upskilling of the various parties' representatives to deal with labour disputes were found to improve the settlement rate, as was evident in the implementation of the high-performance work practices (HPWPs) and increased settlement rate. This article thus contributes to an understanding of the causes of, and possible solutions to, labour conflict and disputes within metropolitan BCs.

Key words: *ADR, bargaining council, community engagement, high-performance work practice (HPWP), municipality*

INTRODUCTION

Protecting collective and individual human rights and maintaining international peace and security are two of the main activities of the United Nations (UN) aimed at creating flourishing communities around the world (UN, 2016). Appreciating the importance of social justice in securing worldwide peace (after WWII), formalised agencies such as the International Labour Organisation (ILO), were established as specific peace keeping initiatives to enable social dialogue in the various communities around the globe. However, one major risk challenging peace and human rights globally, and particularly in sub-Saharan Africa, is the likelihood of the failure of national governance causing profound social instability and the potential for state collapse (WEF 2016:2). In an ongoing effort to reduce this risk, South Africa, being one of these sub-Saharan African countries, has ratified the Right to Organise and Collective Bargaining Convention, 1949 (No. 98) of the ILO, and through the implementation of various forms of labour legislation, followed numerous ILO recommendations such as the Labour Relations (Public Service) Recommendation, 1978 (No. 159), the Consultation Recommendation (Industrial and National Levels), 1960 (No. 113), and the Collective Agreements Recommendation, 1951 (No. 91). However, with the leadership in the national government displaying inconsistencies regarding compliance to the *Constitution of the Republic of South Africa*, 1996 (Act 108 of 1996), as well as the South African



cabinet's formal request (utilising the Instrument of Withdrawal) for South Africa to withdraw from the Rome Statute, which established the International Criminal Court (CCT 143/15; CCT 171/15 and SAnews), the ratification of these and other international recommendations may be at risk. Simultaneously, as a consequence, internal country legislation such as the Constitution and labour related laws could subsequently be imperilled if the foundation to the legal system is challenged. Specifically, South Africa's declaration to the establishment of an African Court on Human and Peoples' Rights, (the Protocol) in February 2016, without any South African judicial representative, may signal a new preferred trend in African concord. (African Court 2016).

Despite earlier objections raised by Ngambi (2004) and Mbigi (2004) regarding their observation of Africa's poor institutional planning, and Basheka's (2015:470) call for an indigenous African governance architecture, the authors of this article assert that Eurocentric and Afrocentric leadership has provided the merger of a unique, customary, legal foundation for workplaces in South Africa to meet the requirements of its citizens, the ILO by means of labour legislation (in particular the LRA) and its continental obligations. Scholars agree that conflict prevention frameworks are a necessity to foster peace and avert conflict (Coleman 2016:149; De Bruyn & Nienaber 2013:315). Several authors (Paletz, Schunn, & Kim 2013; Riaz & Junaid 2013) have noted the potential benefits of conflict, including a better quality of group decision-making, increased innovation and creativity, and team effectiveness. Some evidence shows that conflict management (prevention and handling) plays a critical role in enhancing team effectiveness and performance (Furumo 2009). Conflict transpires in many contexts and can take various forms (Turner 2016:145–167). One such a context is within workplace and organisational designs and structures specifically associated with people in the organisation.

One such structure specifically orientated towards the groups represented in the employment relationship, is a bargaining council (BC) (Bischoff & Wood 2013:496). In measuring the effectiveness of the current enforcement capacity, dispute resolution processes and structures of BCs, the rate of dispute settlement is a key indicator of the general condition of the employment relationship within particular sectors in a country (Di Paola & Pons-Vignon 2013:635). Within the context of BC legislation, the State functions not only as a key role player in providing the necessary infrastructure for the operation of BCs in compliance with the country's ILO responsibilities, but it also functions as an employer in view of its bargaining partner responsibilities in some of the biggest collective bargaining structures. Of the 55,7 million people in South African, 2,16 million are employed in the public service, 15 663 of whom are employed at the local level (municipalities) and 1 230 at the City of Tshwane Metro Municipality (StatsSA, 2016:(1)). Government, represented as the employer in local authorities,

significantly contributes towards the establishment of the necessary conditions for the realisation of effective service delivery (Hanyane & Naidoo 2015:241). Although alternative dispute resolution mechanisms between councillors and municipal officials in municipalities have been explored, the causes for the current low dispute resolution settlement rate at a particular Metro BC has not yet been comprehensively identified (Jantjies 2016) The low dispute resolution settlement rate of less than 2% (compared to the national average of 77%) in the identified BC signals a serious void which requires both the exploration of the primary causes and the identification of suitable solutions to address these causes amicably (CCMA 2016:20).

In order to better understand the underlying causes of the low dispute resolution settlement rate at the South African Local Government BC (SALGBC) Tshwane Metropolitan District (Tshw), this article will be structured as follows:

Firstly, a general literature corpus on dispute resolution is presented. This is followed by a contextualisation of BCs within municipalities in South Africa (SALGBC). Next, the dispute resolution process is empirically explored based on a qualitative, interpretative case study (SALGBC (Tshw)). Data were collected through a focus group intervention and analysed by means of content analysis to attain themes. In conclusion, the article presents the relevant findings based on a discussion of the actual “lived” experiences and information shared by the participants. This is followed by some thoughts on the implementation of the recommended solutions, need and guidance for further research.

LITERATURE CORPUS ON LABOUR DISPUTE RESOLUTION IN SOUTH AFRICA

In dealing with conflict, parties to the employment relationship are strongly encouraged to resolve conflict as near and as quick as possible to the point of origin (Werner 2016:332–333). However, being a democratic and legalistic state, labour legislation specific to the South African context, in particular with regard to the Labour Relations Act 66 of 1995 (LRA), also provide specific engagement directions on formalised dispute resolution processes and collective bargaining structures which were created to resolve conflict that has escalated to the level of disputes and deadlocks.

In terms of dispute resolution processes, the main purpose of the LRA is to provide formal but simple resolution procedures through statutory conciliation, mediation and arbitration, and through independent alternative dispute resolution services accredited for that purpose (LRA, s1(d)(iv)). Further, the LRA also promotes and facilitates collective bargaining at the workplace and at sectoral level, and promotes employee



participation in decision-making in the workplace (LRA, s1(d)). The classification of disputes, (such as disputes on rights or interests), guides parties in the employment relationship to follow the correct resolution processes and structures (LRA, part C). Processes to resolve labour disputes include conciliation, mediation, facilitation, arbitration, adjudication and negotiations. Whereas independent third party intervention through conciliation assists parties to resolve their dispute through voluntary agreement, mediation focuses on finding a mutually acceptable settlement (Bendix 2015:496–500). Facilitation involves a neutral third party assisting the parties to a conflict to find ways to manage conflict between them, as described in s189A (LRA), with specific reference to an employer contemplating the dismissal of more than 50 workers due to operational requirements. Arbitration and adjudication are normally associated with decisions related to rights disputes (LRA, chapter 6 parts C and D). In arbitration, an independent third party resolves disputes between the parties through a final and binding decision called an arbitration award (Du Plessis & Fouche 2014:383–384). Adjudication requires a judicial decision after hearing the parties' evidence and arguments (Patelia & Chicktay 2015:58). Collective bargaining (CB) is a form of negotiations specific to the formalised legislative employment relationship procedures of a country, with the specific intent to reach a collective agreement. In South Africa, BCs address various aspects such as organisational rights, collective agreements and BCs' statutory councils and general provisions (LRA, chapter 3). The processes around industrial action are regulated by the LRA (LRA, chapter 4). These dispute resolution processes are specifically applied in group-related processes in organisations with reference to conflicts such as grievances and discipline. A grievance is defined as a complaint which arises when, within the day-to-day work environment, an incident has occurred leaving the employee with a general sense of disappointment such that there is reason to believe that the employee's rights have been contravened (Bendix 2015:245). Subsequent to these processes, the structures include the Commission for Conciliation, Mediation and Arbitration (CCMA), the Labour Court (LC) and the Labour Appeal Court (LAC) (LRA, chapter VII). LC and LAC structures are associated with adjudication procedures and are normally concerned primarily with rights disputes. The CCMA has extensive powers allowing for intervention into rights and interests disputes, and it has the ability to extend some of those powers to registered BCs and statutory councils in specific sectors to exercise certain tasks independently on its behalf (Smit & Madikizela 2016:85–88).

BCs facilitate the negotiation process between unified employees (typically trade unions) and employers (or employers' organisations) on matters such as working conditions and wages for particular sectors (LRA, s127(1)). Specifically, accreditation of the BC governing body allows for the exercise of powers related to statutory dispute resolution through mediation and arbitration (LRA s127(1)). BCs are required to officially

register and submit a constitution (LRA, s29). The South African Local Government BC (SALGBC) is one such a registered BC.

UNDERSTANDING LEGISLATURES AND THE SCOPE OF THE SALGBC

In 1996 South Africa had more than 800 municipalities (Nealer 2009:74). Today, there are fewer than 300. Bargaining takes place within the SALGBC, which has been delineated into fourteen regions, each with political and administrative components as stipulated in the Regional Councils Act 109 of 1985 (as amended) and the Local Authorities Act 23 of 1992 (as amended). These regions deal specifically with labour matters within the context of Local Government, by BC agreement (LRA, s35–38, and Schedule 2). One of the regions is Tshwane, situated in Gauteng, the smallest, but economically the most active province of the country, being the administrative capital of the country (Constitution 2016, ix). Although a collective agreement between the parties to SALGBC has been drafted, approved and signed by the parties, it has never been formally ratified by the bargaining committee as stipulated in the SALGBC constitution. This would suggest that the agreement is not yet valid or binding (LRA, s31). However, the LC found that BC agreements may be differentiated from ordinary collective agreements to form part of an employee's conditions of employment (*City of Cape Town vs Imatu* 2016, 37 ILJ 147 LC). Only the disciplinary procedure and code was specifically declared by the LC as not binding. The effect of this LC decision was that SALGBC (Tshw) and some of the other municipalities subsequently followed the guidelines of the Systems Act 44 of 2003, Schedule 2, and the guidelines of the LRA Code of Good Practice, Schedule 8, for disciplinary cases, as opposed to the BC agreement. Dispute resolution in SALGBC regions is conducted by a designated, external panel of CCMA commissioners associated with each region. Recently, the quality of the decisions by some of these commissioners and the cost of frequent postponements of dispute resolution meetings, have been severely questioned. Of particular concern was the cost incurred by a SALGBC region if a party fails to attend the dispute resolution meeting, or if an arbitrator's decision, following a review, is found to be inaccurate (*SALGBC (JHB) v Ally No & another* (2016 (36) (ILJ 223 (LC))). It was found that these particular recovery costs cannot be ordered against the levies of other parties to the SALGBC region.

Due to the principles guiding the establishment of SALGBC, and specifically those addressing the political components, the influence of political interference in decision-making, the types of decisions, and the styles and characteristics of decision-making in SALGBC, cannot be underestimated. The political model of decision-making often promotes self-serving and unethical practices. These include the hedonistic approach



to do whatever is in the individual's best personal interest, and the conventionalist principle of taking advantage of legal opportunities and practices, for instance, the might-equals-right-principle where individuals are parties with sufficient power to disrespect social rules and customs (Werner 2016:375).

METHODOLOGY

This article presents an exploratory study, duly registered and ethically cleared as a University community engagement project, with the aim of elucidating the underlying causes of the consistently low annual dispute settlement rate in the unit of analysis, being the SALGBC (Tshw). In addition to the literature review, a face-to-face focus group was conducted prior to the 2016 municipal elections, with representatives of all three parties present. Simultaneously, collaborative efforts were stimulated by the researchers to enhance a more effective and conducive working relationship and culture between the parties in settling disputes.

The primary research objective of this research was to explore the causes for the low annual dispute settlement rate. To achieve the primary objective of this study, the following secondary objectives were formulated:

- To understand the various parties' perceptions of the purpose and role of the particular Bargaining Council in relation to Collective Bargaining in South Africa.
- To understand the various parties' perceptions of the aspects that contribute towards the effectiveness of dispute resolution within the BC.
- To understand the challenges the various parties have with dispute resolution within the BC.
- To explore solutions, which could assist in addressing the challenges experienced by the parties regarding dispute resolution.

A qualitative, interpretivist focus group research methodology was deemed appropriate as it allowed members of SALGBC (Tshw) the opportunity to engage with each other and to share their actual experiences. The research philosophy followed a methodology that allowed for immediate interpretation and clarification by both the participants and the researchers (Richards & Morse 2013; Seymore 2012). The design explores a contemporary phenomenon in its real-life context (Saunders, Lewis, & Thornhill 2012; Seymore 2012). Thus, a qualitative research methodology, which is in line with the predominant research approach within the interpretivist philosophy, was used for data collection (Denzin & Lincoln 2013; Richards & Morse 2013).

Sampling procedures and data collection method

As defined by Salkind (2012), in this article the population comprised the parties falling under the scope of the SALGBC. For practical reasons and with due regard for the time and budget constraints, a non-probability (purposive/judgment) sample was chosen based on the problem at hand (Salkind 2012; Saunders *et al*, 2012). This included the trade union representatives of both trade unions and the employer at SALGBC (Tshw). The two participating trade unions were the Independent Municipal and Allied Trade Union (IMATU) and the South African Municipal Workers' Union (SAMWU). Management was represented by the South African Local Government Association (SALGA). All members were operating within SALGBC (Tshw) according to the legal protocol of BC (such as equity in party membership and representivity status). This population and sample were considered to be the most appropriate for the purpose. The SALGBC (Tshw) representatives are specifically responsible for dealing with disputes in SALGBC (Tshw) on behalf of their party, and are also indirectly part of the larger national bargaining structure (SALGBC) through their representation.

Method, discussion and analysis

In order to observe the SALGBC (Tshw) communication agenda and procedural protocols, a focus group was established consisting of SALGBC (Tshw) representatives from the three parties. It was imperative for all parties to be involved in order to validate both the reason for and the method used to gain the relevant information (Werner 2016:174). Both prior to and at the inception of the focus group, the researchers assured all participants that all information disclosed during the discussion session would be treated as confidential and that anonymity would be guaranteed. No names or party affiliations would be revealed and the research would focus purely on the contributions made by participants. It was also explained that participants' contribution(s) would be used for research purposes. Accordingly, and to increase the transparency of the process, a written agreement was obtained from the Secretary of the SALGBC (Tshw) to conduct a focus group session, and an undertaking was given that an executive report would be made available as a feedback protocol to SALGBC (Tshw) prior to using the data for research purposes. Participants were informed that discussions would not be recorded but that the flip charts used would be held in a lock-up storage system for a period of 5 years as proof that the focus group did indeed take place, as well as to confirm the transparency, authenticity and integrity and proper triangulation of the data.

Parties were informed that discussions would be divided into four main phases (i.e. neutral, constructive, challenges and strategic alliance) lasting approximately 30 minutes each. No evaluation of responses would be allowed, but clarification questions



could be asked. The purpose of each phase, its findings and the data analysis would be reported sequentially to ensure coherence. The focus group template and questions are available from the researchers upon written request.

The purpose of the **neutral phase** was to establish common grounds in terms of the purpose/place/role of the BC in relation to collective bargaining in South Africa. This phase required participants to share their personal reflections on why SALGBC (Tshw) was needed in the first place, and to suggest what form the future SALGBC (Tshw) should take to ensure greater effectiveness. A variety of reasons were given by the parties in support of the relevance of the SALGBC (Tshw). For example, they indicated that the BC was “a vehicle for dispute handling between employees and the employer”. They also viewed the BC as an “affordable structure to manage the relationship between the employer and employees”. Additionally, they indicated that the “structure of the BC enabled the enforcement of agreements between the parties” and allowed for “neutral people to deal with conflict resolution” [should the need arise]. All parties agreed that they would like to see an “increase in the number of disputes settled at conciliation level rather than by arbitration” [which should be minimised]. Parties were very concerned about the “time spent to reach agreement on disputes” and indicated that an effective “BC would utilise its time more effectively”. The parties indicated that “financial sustainability” would be a key contributor to the effectiveness of the BC. They indicated that the evidence of “fair engagement would be enhanced by transparency between the parties, effective communication and an atmosphere of respect and trust” which, in their view, would culminate in good workplace relationships. Parties were adamant that this BC would be most effective if the employment relationship was “free from political interference and displayed clean administration”. In analysing the findings, the themes of legality, compliance and common ground emerged. In analysing the findings, the legal understanding of all the parties to the BC in terms of its purpose and processes, was fundamentally sound and complied with the functions as required by the LRA (s 27–34). It was also noted that sufficient common ground existed between the parties, and this contributed to greater collaboration between parties allowing them to operate as a team, which led to improved performance and effectiveness (Werner 2016:167). Furthermore, it was observed that there was a free exchange of relevant information (verbal and visual), which encouraged fluid group processes in the forming and norming phases, and this allowed for venting long-suppressed hostilities, emotions and ideas without the risk of being criticised (Bonebright 2010:110–120).

The purpose of the **constructive phase** was to establish a common understanding of the historical background to dispute resolution by the BC. This was done to promote a better understanding of the challenges involved and the techniques used to solve these recurring challenges, and to recognise opportunities to improve dispute resolution processes.

Although the parties to the BC have essentially remained unchanged over its existence, the individual representative tenure tended to be more flexible, and that for reasons outside the scope of this study. A shared understanding of the historical dispute corpus of the BC could aid in finding common ground. This phase required participants to share their personal reflections on the primary challenges facing the BC, both historical and current, and to propose ideas on new techniques that could be utilised to increase the level of dispute resolution by particular BCs. It also included discussions on whether the various parties would be willing to participate in interventions to increase dispute settlement. A high level of interaction was expected of the participants. Participants were informed that all would have the opportunity to raise all of their concerns.

In the findings a number of challenges currently facing the effective working of BC were identified. These included the lack of a “pre-sought mandate” at the dispute resolution meetings, “parties coming to dispute resolution meetings unprepared, capacity challenges” and various specific procedural problems. The capacity challenges were further elucidated in that there was a “perceived lack of skill and knowledge by nominees (operational staff) representing management to deal with conflict situations”, particularly in employment-related processes (such as grievances and discipline). This lack of skill and knowledge lead to the notion that leadership was not committed to the agreed-upon processes, was indecisive and were using their non-compliance as a “stick” to “punish” employees. The capacity to deal with dispute resolution was further reduced by a “lack of sufficient suitably qualified people in the supporting structures” (HR-related) to advise management. A main contributor to the ineffectiveness of the SALGBC (Tshw) was noted as being the “centralised, structural changes (SOP)”, which decentralised divisions into the centralised operations of the employer. SALGBC (Tshw) did not question the right of the employer to manage its operations. However, the supportive processes, policies and procedures which are typically required following a substantial restructuring process, “seemed not to have been implemented in order to ensure the alignment, particularly of HR-related processes throughout the organisation”. The cause for concern for the BC was the “non-alignment and unpredictability of HR-related norms, processes and procedures” throughout the organisation, which resulted in the perception of “unwillingness” and “unethical behaviour, wrong delegations of authority and power struggles” at management level, as observed by subordinates. The seriousness of the non-alignment of HR processes, practices and procedures ultimately resulted in “line management ignoring internal expert advice”, which inevitably gave rise to an increase in disputes. One division was cited specifically as a non-aligned division. The quality of the grievance or disciplinary procedures was not questioned. Two aspects (related to both these procedures) were identified as being root causes of the ineffectiveness of these processes, namely “nominee authority” and “time management”. Nominee authority relates to people delegated to deal with HR-related matters



and who have the mandate to make final and binding decisions on behalf of a bargaining party. Timelines relate to the “adherence “and respect of “officially agreed timelines by parties, between various levels in the respective processes”. Despite these serious challenges, all of the bargaining partners, that is, SALGA, UMATU and SAMWU, indicated their “willingness to participate in interventions” to increase dispute settlement. This “willingness to participate” was recognised by the parties as a valuable bargaining foundation for good future relationships. Regarding the techniques utilised previously to increase dispute resolution, the bargaining partners indicated that they were following the national dispute settlement process as prescribed for SALGBC. This process included “arbitration and labour court judgments” in an attempt to finalise disputes. However, these are not deemed to be effective as both processes are “time-consuming and costly and do not settle disputes optimally”. A significant number of “arbitrations are sent back for review” and “there seems to be a culture of non-adherence to Court orders”. Since there is also a perceived failure to “discipline people for being instrumental in the non-compliance with dispute resolution processes”, the SALGBC (Tshw) needs a “different intervention mechanism to ensure compliance and respect for the agreed-upon processes”. The “centralisation (SOP)” of decentralised processes and structures was recognised as a technique to encourage dispute settlement. However, at this stage it was perceived to be the underlying cause of the majority of disputes, as is evident in the nature of the increased dispute rate. There was also an attempt to request political parties to intervene in the settlement of disputes. However, these interventions resulted in an increased dispute rate.

In analysing the findings of this phase, it became evident that the functionality of the organisational structure was being questioned by the participants. The nature of the comments suggests that the Metro may have turned from being an organic institution to what may be classified as a traditional, mechanistic organisation (Werner 2016:11). Specialisation in tasks is viewed as narrow, technical and rigid. Authority levels are centralised with a high degree of hierarchical control, and with a primarily authoritarian decision-making and communication style, experienced as top-down. Rigid, specific formal rules exist where a high degree of obedience and loyalty is expected. Participants experienced a loss of democratic and participative decision-making, accompanied by a lack of task and rule flexibility. Capacity, the disciplinary and grievance processes, and restructuring emerged as themes. The legal understanding of all the parties to the BC regarding its purpose and processes was fundamentally sound. Sufficient agreement between the parties was noted in the fundamentally effective collaboration between the parties. In this phase the group dynamics presented a constructive and productive level of responses characterised by humour and requests for clarification, which is indicative of the parties’ willingness to work together to solve challenges and to be held accountable for their actions (Werner 2016:181).

The purpose of the **challenges phase** was to categorise the challenges noted in the previous step and to identify the most important elements of these challenges which need to be addressed. No evaluation of responses was allowed. Clarification questions were allowed from participants. This phase required participants to share their personal reflections and opinions on how to solve any of the elements that tended to prohibit or slow down the process of dispute resolution. Five themes from the previous phase emerged namely, particular costs associated with the non-settlement of disputes, the non-performance of parties relating to disciplinary cases, the challenges to obtain mandates, the extent of freedom by the BC to change activities in the dispute resolution process, and the types of power struggles experienced by parties to BC. Cost associated with non-settlement were identified as costs paid to commissioners irrespective of the outcome of the meeting, "postponement costs, interest on arbitration awards", the practice of "compensation paid to offenders pending the outcome of arbitrations, administrative costs, the cost of interpreters" and the accuracy of the "financial statements" of the BC. Regarding discipline, "time delays, the lack of measures to deal with non-compliance and a laxity in process commitment" were revealed as primary issues. The issue of mandates sparked highly emotive responses from the participants, which could be perceived as indicative of a very serious issue in urgent need of being addressed. The clarification ranged from basic ambiguity regarding the "identification of the appropriately mandated person, to mandates not given in writing, including mandated parties turning up without wide enough authority to contribute meaningfully to the meeting, the mandated decision-makers not making decisions, and mandates being overturned/ignored/not respected by the person/people who supported the given mandate". The extent to which parties needed the freedom to change whatever activity in the dispute resolution process, indicated engagement, involvement, buy-in and proposals as means to influence decision-making. Four types of power struggles were experienced by parties. It was explained that despite all three parties to the BC working hard to obtain "settlement agreements" between them, the "agreement is often overruled as a consequence of political interference by individuals". Hence, parties perceived that "mandated [principles] are reluctant to take ownership of decision-making" and it is "unclear precisely what delegated authority" entails. Political interference is further viewed as "non-adherence to official processes, policies and even of structures" to which the bargaining parties were party by means of an established bargaining process. Furthermore, "political interference is contrary to the provisions of the Systems Act" (Local Government: Municipal Systems Amendment Act 44 of 2003). Other kinds of power interferences observed related to (1) legitimacy power, such as "duplication within regions", unclear "direction given", unnecessary "replacements; (2) reward power, with "management bringing in their own personnel and not using the duly appointed incumbents"; and (3) knowledge power, that is, "not knowing who the custodian of a process is". These kinds of power interferences substantially "influence[s] decision-making power".



In analysing the findings of this phase, the identified challenges facing SALGBC (Tshw) seem to concur with the findings of Ijeoma and Ogochukwu (2016:59) regarding the effect of the power struggle between political parties. These struggles have a negative effect on the administrative performance of the local government.

The purpose of the **strategic alliance** phase was to identify the most relevant ideas proposed to solve some of the issues. BC protocol was observed in allowing equal representation in presenting and ranking solutions. The following solutions were presented and ranked per observed challenge. As a solution to reduce the financial costs associated with the non-settlement of labour disputes, the majority of participants agreed to limit “arbitrations by endeavouring to settle grievances at the final stage [stage 3] of the internal grievance procedure”. Parties were encouraged to seek “formalised mandates in writing, prior to conciliation and the pre-arbitration” phases. Lastly, the solution to “manage post-ponements” and “arbitrator’s claims more effectively” and not to “question the arbitrator’s performance” regarding unsuccessful “mediations and conciliations”, were “agreed upon by participants”. Solutions to deal with disciplinary cases ranged from “establishing a functional case management by departments”, “punitive measure to be introduced in cases of non-compliance”, and the “employer party (SALGA) to appoint sufficient employees responsible to deal with grievances and conciliations”. To a lesser degree, participants sought a “change in bad attitude and commitment to the disciplinary process”. In finding solutions to deal with the acquisition of mandates, the majority of participants agreed to the proposal of “formalising the mandate prior to conciliation” to include a “clear, reasonable and applicable mandate to resolve” the dispute, and the acceptance by “delegates that conciliation must take responsibility for decisions taken during the dispute resolution process”. Of the four proposals for solutions to change activities during the dispute resolution process, all the parties agreed “to seek and propose solutions” as the main method to reach agreement. In terms of dealing with power struggles, the parties made it clear that “delegations were to refrain from engaging in power games”, and that the roles and responsibilities of the departments and regions needed to be clearly defined.

In analysing the participants’ choice for various solutions, the majority of participants supported “written delegations for step 3 chairperson of the dispute resolution process” [as per collective agreement]. This was followed by “political interference to be stopped in line with Systems Act”, and “monitor departmental implementation of step 3 resolution”; “report non-compliance to CM [City Manager] for disciplinary action” and the “appoint[ment] of officials to be [nominees] with the necessary skills and expertise to deal with cases/matter”.

From the above it is evident that members of the bargaining council preferred to take ownership by settling disputes in-house within the BC, rather than to refer disputes

for external conciliation by a third party. Procedural compliance with, and respect for mutually agreed-upon processes and policies were endorsed, with support to address non-compliance through each party's in-house disciplinary processes. Finally, a repetitive theme of issuing truthful official mandates throughout the dispute resolution process to the individual(s) representing each party at dispute resolution, was considered as essential in dealing with the low dispute settlement rate. Biographical information analysis of participants is available upon request.

RECOMMENDATIONS

It is evident from the data that parties to SALGBC (Tshw) face many challenges resulting in a high level of inefficiency in resolving disputes. This is not unique to the Metro as suggested by 2016 LC adjudications. As the study was conducted prior to the 2016 municipal elections, it may be necessary to conduct a follow-up study, both within the same Metro and within the broader framework of other Metros in South Africa, to determine more comprehensively the reasons for the low dispute resolution rate. It is further recommended that management in the Metro should endeavour to align processes (such as communication and authoritative processes) prior to restructuring, as the parties to the BC experience the non-alignment of processes as contributing to the vagueness in terms of issues such as goal setting in departments, duplication, cost inefficiencies, dealing with grievances and discipline and mandates. Perceptions observed by subordinates and raised by the representative parties, such as "unwillingness" and "unethical behaviour", "wrong delegations of authority" and "power struggles" at management level, resulted in line management ignoring internal expert advice, which inevitably led to the increase in disputes, needs to be addressed within the Metros. It is advocated that South Africa deserves to have the employees of its municipalities, function under the protection of a valid, contemporary collective bargaining agreement and as such the current BC agreement may need revision. Finally, partnerships between universities (through community engagement involvement) and municipalities/metros regarding labour dispute resolution, could present greater opportunity for enhanced employment relations. However, the potential conflict escalation of such co-operations would need specialised, employment relations practitioners to facilitate such interventions. As such, professional registration of facilitators with the SA Board for People Practices (SABPP) is promoted.

CONCLUSION

The objective here was to enable the BC to increase the dispute resolution settlement rate, by identifying and providing feasible solutions for underlying causes leading to a



declining annual rate. Parties in other metros have pinpointed some of these challenges in the LC, but this study offers deeper insights from different parties within a non-legal setting. The duly-appointed delegates identified the underlying causes as including a failure to exercise greater discretionary decision-making powers during the dispute resolution process, insufficient process alignment and interference by external powers. This study attempted to generate solutions aimed at ensuring that BCs achieve their main functions, which are to prevent and resolve disputes. Solutions include the written delegation of authority to decision makers, the termination of political influence in labour disputes, procedural compliance and the upskilling of party representatives. Although the findings of this study were intended for use by a particular BC, the reach is broader in that other LGBCs may benefit from applying the same methodology. Dispute resolution structures, in particular, should attempt to address disputes as quickly and as closely to the point of origin as possible. Resolution should not be imposed; rather, parties should search for workable solutions within the existing legal, social and economic boundaries.

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