

# FROM ADVERSARIALISM TO COOPERATION: KEY IMPLICATIONS OF THE NEW SOUTH AFRICAN LABOUR DISPENSATION FOR THE LIBRARY AND INFORMATION SECTOR

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## **ABSTRACT**

The concept of co-determination, which is a fundamental principle underpinning the new South African labour dispensation, is examined. Co-determination represents a deliberate move away from adversarialism to cooperation. As the intention of the legislation is to have employers work together with employees, who are organised collectively into trade unions, the present article examines the effect of the trade union movement on the library and information services (LIS) sector. It identifies factors in the international literature that are seen to have an influence on the growth of trade unionism and traces these within the South African LIS context in relation to four key statutes in the Labour Relations Act. The LIS sector in South Africa is represented by a myriad of “generic” unions and a professional association and this dichotomous system of representation has severely limited its opportunities to exploit the progressive labour dispensation. The sector should therefore re-examine the opportunities offered by the new dispensation. The article focuses in particular on the tertiary education sector.

## 1. INTRODUCTION

Library associations have played a significant role in addressing the professional issues of the library and information services sector (Havard-Williams 1972; Sullivan 1976; Fisher 1994; Frank 1997; Oppenheim & Pollecutt 2000), while trade unions have tackled its industrial concerns. The South African workplace is dominated by trade unions that focus primarily on the industrial issues of employees. The library and information services (LIS) sector is not precluded from this dominance by trade unions. However, it is represented by two structures, the professional body representing the professional interests and trade unions representing the industrial concerns. Some professional librarians and support staff belong to industrial unions, while others are members of the professional association, namely the Library and Information Association of South Africa (LIASA). This dichotomous representation has worked against the sector maximising the liberal privileges of the new labour dispensation. With the current environment promoting worker representation through trade unionism, and with trade unions accorded unprecedented rights through legislation, this parallel representation is unlikely to serve the best interests of the sector in the longer term.

The last decade has seen phenomenal changes in the South African labour dispensation, commencing with the enactment of the Labour Relations Act (LRA) 66 of 1995. This Act introduced an equality-based industrial relations system that actively promotes the formation of trade unions and which creates an environment so conducive to collective bargaining that some staff associations have chosen to become trade unions to reap the benefits. Through legislation, the issue of adversarialism (see definition of this term and of cooperation in section 3), which was a significant factor working against the growth of unionism in the sector, is now potentially limited and a spirit of cooperation through the practice of co-determination prevails.

The research problem explored in the present article was to determine the potential that the new Labour Relations Act has in encouraging unionisation as a means to cooperation rather than adversarialism in the LIS sector; in other words, to examine the effect of the trade union movement on the LIS sector. In seeking to elucidate this problem, the present article therefore proceeds as follows:

- (1) It identifies factors in the international literature that are seen as having an influence on the growth of trade unionism and traces these within the South African LIS context.
- (2) The above factors, namely employment concentration, legislation as the manifestation of government policy, employer recognition of unions and economic imperatives (see definitions in section 5), are examined in relation to four significant aspects of South African labour law in order to

determine how well the new labour dispensation addresses, for example, issues of decision making (co-determination) and of acceptance by employers of trade unions.

- (3) Workplace forums are reviewed in relation to the critical underpinning principle of co-determination.
- (4) The commonly held view (Hovenden 1972; Haug & Sussman 1973; Schlachter 1976; Hovenkamp 1997) that unionism is incompatible with professionalism is questioned. The present authors suggest that the new labour dispensation, which provides an abundance of opportunities in the workplace, including opportunities for democratisation and the promotion of co-determination, should be exploited to the advantage of the LIS sector.

## **2. THEORETICAL FRAMEWORK AND RESEARCH METHOD**

At the heart of the theoretical framework of the study is the Universal Declaration of Human Rights of 1948. Devenish (1997:1) points out that the Declaration is the most revered human rights instrument in the world. The Declaration and other human rights instruments however remained remote for South Africans because of its system of apartheid. However, as Devenish (1999:7) argues, the Constitution of the Republic of South Africa is one of the most progressive in the world. A significant contributor to this status is the Bill of Rights (chapter II of the Constitution), which embodies universally accepted fundamental rights and civil liberties.

The Bill of Rights guarantees the citizens of South Africa the right to fair labour practices, which right includes, among others, the rights to equality, freedom of assembly, expression and association (Currie & de Waal 2005:499). The Labour Relations Act, the Basic Conditions of Employment Act and the Employment Equity Act are the chosen vehicles for giving expression to the above-mentioned rights (Du Toit et al 2003:60).

The Labour Relations Act 66 of 1995 (LRA) marked a major transformation in South Africa's statutory industrial relations system. Following the transition to political democracy, the LRA encapsulated the new government's aim of reconstructing and democratising the economy and society in the labour relations arena. It therefore introduced new legislation with the intention of giving employers and workers an opportunity to break with the intense adversarialism that had characterised their relationship in the past.

The research method used for the study was the literature review. Systematic searches were carried out using *Library and information science abstracts*, *Library literature* and the theses database of the Library of Congress. The first two databases provide substantial coverage of the literature of Europe,

the Americas and Australasia and a large number of writings on the unionisation of the LIS sector was retrieved. This literature was critically reviewed in line with the research problem outlined above.

### 3. DEFINITION OF TERMS

The following terms describe core concepts that are used in the present article. Other terms used in the article are defined as they arise in their particular context.

**Adversarialism** describes a relationship involving, or characterised by, conflict or opposition (*Concise Oxford English dictionary* 2002:19). In the context in which it is used in this article, it is closely related to the term “co-determination”, which is in effect union participation in aspects of management. “Co-determination” describes the consultation and joint decision making between employee and employer – normally via a workplace forum – rather than a more adversarial relationship (Barker & Holtzhausen 1996:24).

**Cooperation** is a noun derived from the verb “cooperate”, which means to work jointly towards the same purpose or aim (*Concise Oxford English dictionary* 2002:313); hence “cooperation” relates to the joint working relationship required for co-determination.

In terms of the Employment Equity Act, **designated group** refers to black people (which include Africans, Indians and “Coloureds”), women and people with disabilities (*Labour legislation service* 1998:2609).

**Dispute of interest** refers to the situation that arises when there is disagreement regarding terms and conditions of employment, or regarding the renewal of those that have expired. Disputes arising out of collective bargaining processes, such as annual salary negotiations, are also disputes of interest (Barker & Holtzhausen 1996:41).

**Dispute of right** refers to a dispute relating to the interpretation, implementation or violation of existing rights. These are rights that may emanate from statutory law, collective agreements or individual employment contracts, for example the right to unionise (Barker & Holtzhausen 1996:41).

### 4. THE NEW LABOUR DISPENSATION IN SOUTH AFRICA

After South Africa’s first democratic elections in 1994, the newly elected government introduced the new constitution for the Republic. Section 23 of

chapter II of the Constitution deals specifically with labour relations. This section sets out the rights of employees and their trade unions and of employers. For example

- everyone has the right to fair labour practices, that is, to form a trade union, to participate in the activities and programmes of a trade union and to strike;
- every employer has the right: to form and join an employers' organisation and to participate in the activities and programmes of such employers' organisation;
- every trade union and every employers' organisation has the right to determine its own administration, programmes and activities, to organise, and to form and join a federation;
- every trade union, employers' organisation and employer has the right to engage in collective bargaining, and so on (South Africa 1996:9).

The rights enshrined in section 23 protect workplace rights; hence the Constitution has laid the foundation for a new labour dispensation. To give effect to this dispensation, a number of statutes have been enacted.

## **5. KEY STATUTES IN A NEW LABOUR DISPENSATION**

The core of the dispensation was created by way of four statutes:

- the Labour Relations Act 66 of 1995, which revolutionised industrial relations in the country;
- the Basic Conditions of Employment Act 75 of 1997, which prescribed minimum conditions of employment;
- the Employment Equity Act 55 of 1998, which was aimed at correcting the demographic imbalance in the workplace, at removing barriers and at advancing the development of employees from disadvantaged backgrounds;
- the Skills Development Act 97 of 1998, which was promulgated for the purpose of developing the skills of the workforce.

At the centre of this quartet of statutes is the Labour Relations Act 66 of 1995, which represents a watershed in the often troubled history of labour relations in South Africa (Botha & Mischke 1997:134). The other three Acts serve as a support structure to ensure the success of the new dispensation, which is centred on the LRA (Raju 2005). Given South Africa's track record with regard to industrial relations, there had to be statutory support mechanisms to compel employers and employees, via their unions, to improve industrial relations; hence the reason for the enactment of the other three statutes.

## **5.1 THE LABOUR RELATIONS ACT 66 OF 1995**

Those drafting the LRA drew heavily on the German and wider European experience. The Act envisages changing the labour-management relationship in South Africa in three ways:

- moving from adversarialism to cooperation;
- changing from intermittent dealings between employer and employee to a continual, ongoing interaction;
- shifting from a zero-sum to a positive-sum (“win-win”) approach.

This ambitious agenda represents a radical break with the past, raising complex challenges for all parties, especially for trade unions which are accustomed to adversarialism, sporadic interaction and “win-lose” approaches (Baskin & Satgar 1995:46). The principal aims of the LRA signify a noteworthy departure from past legislation and are consistent with the fundamental rights contained in the 1994 Constitution and in International Labour Organization (ILO) conventions (Finnemore & Van Rensburg 2000:262). The general purpose of the LRA is to advance economic development, social justice, labour peace and the democratisation of the workplace. The Act achieves this by giving effect to the fundamental rights conferred by the Constitution and to the obligations incurred by South Africa as a member state of the ILO (see section 1, South Africa 1995).

When the primary objectives of the LRA are analysed with reference to the general provisions, a number of broad policy objectives as outlined below become apparent.

### **5.1.1 THE NEED TO SIMPLIFY COLLECTIVE BARGAINING**

The rules regulating labour law prior to the enactment of the LRA resulted in a system of collective labour law that was fragmented, complex and confusing (Basson et al 1998:18). The LRA of 1996 simplified and streamlined labour law and brought uniformity to it, as all sectors now fell within the jurisdiction of this Act.

### **5.1.2 COMPLIANCE WITH THE CONSTITUTION AND INTERNATIONAL OBLIGATIONS**

The provisions of section 23 of the Constitution are the core principles guiding the LRA. South Africa is a member of the ILO and therefore has to comply with ILO conventions, which the LRA does.

### **5.1.3 EFFICIENT AND EFFECTIVE DISPUTE-RESOLUTION PROCEDURES AND MECHANISMS**

The intention of the new LRA was to provide for more effective dispute-resolution procedures and mechanisms in respect of both disputes of right and disputes of interest. At the core of the dispute-resolution scheme is the process of conciliation, which is very simple to engage in. The new LRA requires virtually all disputes that arise between employer and employee to be subjected to a conciliation process before any other dispute-resolution procedure is followed.

### **5.1.4 THE PROMOTION OF COLLECTIVE BARGAINING**

A central theme of collective labour law and of the new LRA is that collective bargaining be the preferred method of establishing and changing terms and conditions of employment and for resolving interest disputes.

### **5.1.5 THE PROMOTION OF WORKPLACE DEMOCRACY**

In terms of the new LRA, employees are afforded an opportunity to engage in the governance of the workplace. Participation in the governance of the workplace is via workplace forums, which are discussed below (Botha & Mischke 1997:135; Basson et al 1998:18).

(All of the above objectives indicate that the aims of the LRA are wider and more ambitious than those of its predecessor, the emphasis of which was on avoidance of industrial unrest. While, under the LRA of 1956, the labour courts sought to encourage collective bargaining as the preferred method of resolving workplace disputes, the 1996 Act expressly commits employers and employees to the active promotion of participative management and joint decision making (Grogan 2001:257).)

### **5.1.6 VOLUNTARISM AND WORKPLACE FORUMS**

It is clear that the Act promotes unionism by providing a greater degree of protection for employees and unions, and yet it seeks to maintain, as far as possible, the principles of voluntarism and free collective bargaining. To enhance employee protection and to further employee participation in the organisation, the Act makes provision for the formation of a workplace forum should a majority union request one. The onus is on employees to engage in consultation and co-decision making, via workplace forums, on certain prescribed matters, and the onus is on the employer to disclose information required for the purpose of collective bargaining. By promoting this kind of cooperation and information sharing, the Act should promote voluntarism and, ideally, industrial peace (Bendix 2001:115).

Workplace forums are intended to promote participative management – rather than adversarial bargaining – between the union and the employer within a particular organisation. The shift is towards joint problem solving. It has been stated that workplace forums are charged with promoting the interests of all employees in the workplace, not just those of union members. A forum is entitled to be consulted by the employer about matters relating to, for example

- the restructuring of the workplace, including the introduction of new technology and new work methods;
- changes in the organisation of work;
- a partial or total plant closure;
- mergers and transfers of ownership as far as these have an impact on the employees;
- the dismissal of employees for reasons based on operational requirements;
- job grading;
- criteria for merit increases or the payment of discretionary bonuses;
- education and training.

Joint decision making goes much further than consultation. The employer is prohibited from implementing any proposal without the forum's agreement. Further, the employer cannot implement a proposal until consensus is reached (Grogan 2001:278). Clearly, legislation has sought to limit the matters reserved for joint decision making to issues that have a direct bearing on the conditions of service of employees. A simplistic evaluation of the LRA reveals that the Act does achieve the following: its general purpose of advancing economic development by promoting collective bargaining; its social justice purpose by removing discriminatory practices from the workplace and by promulgating supporting legislation; labour peace by improving the dispute-resolution mechanism; and democratisation of the workplace by introducing revolutionary principles in the provision pertaining to workplace forums.

## **5.2 THE BASIC CONDITIONS OF EMPLOYMENT ACT (BCEA) 75 OF 1997**

The purpose of the Act is in line with that of the LRA, which is to advance economic development and social justice. Whereas the LRA provides a broad framework governing labour relations, the BCEA provides specifically for one area of labour law, namely that of minimum conditions of employment. The BCEA achieves this by establishing and enforcing basic conditions of employment. These conditions, as laid down by the Act, form part of every contract of employment, unless they have been replaced, varied or excluded in accordance with the Act. Further, they can be expanded by way of more



favourable conditions negotiated between employee and employer (Du Toit et al. 2000:514; Nel 2001:103).

The Act works towards the achievement of economic development and social justice by

- establishing a set of basic conditions of employment that apply to most South African employees;
- creating institutions and mechanisms to enforce these basic conditions of employment;
- defining the limits within which these basic conditions of employment may be varied (Du Toit et al 2000:514; Benjamin 2002:BB1–1).

The Department of Labour has described the BCEA’s approach as one of

“regulated flexibility” in which the protection of basic rights is balanced with demands for higher productivity, improved efficiency and the promotion of flexibility.

### **5.3 THE EMPLOYMENT EQUITY ACT (EEA) 55 OF 1998**

The EEA gives effect to section 9(4) of the Constitution, which states that “(n)ational legislation must be enacted to prevent and prohibit unfair discrimination”(South Africa 1996:7). To this end, all employers are obliged to promote equal opportunity by eliminating discrimination in all employment policies and practices. The Act further prohibits discrimination on any arbitrary grounds, including, but not limited to, race, gender, sex, pregnancy and marital status. Harassment can also be classified as unfair discrimination.

The EEA aims to correct the demographic imbalance in the local workforce by compelling employers to remove barriers to the advancement of the designated group and to promote this category of the workforce in all areas of employment by way of affirmative action. In terms of the LRA, affirmative action is subject to co-decision making between the employer and the workplace forum. Thus, where a forum exists, the employer has to consult jointly with this body and the trade union where both exist (Bendix 2001:135).

### **5.4 THE SKILLS DEVELOPMENT ACT (SDA) 97 OF 1998**

The SDA expands on, and supports, areas of the EEA by encouraging employers to develop persons who were previously disadvantaged. The SDA seeks to develop the skills of the workforce and thereby increase the quality of working life for workers, improve the productivity of the workplace, and promote self-employment and the delivery of social services. The Act further

seeks to encourage employers to use the workplace as an active learning environment and to provide opportunities for new entrants to the labour market to gain work experience.

The objectives of the SDA are

- to develop the skills of the South African workforce;
- to increase the return on such investment;
- to encourage employers to use the workplace as an active learning environment so that employees can acquire new skills and new entrants can gain work experience;
- to encourage workers to participate in learnerships and other training programmes;
- to ensure the quality of education and training in the workplace;
- to improve the employment prospects of those who were previously disadvantaged;
- to assist work seekers and retrenched persons to find employment;
- to assist employers to find qualified workers.

(Bendix 2001:139–140)

All employers have to buy into the skills development process, as they have to pay a levy equivalent to 0,5 percent of the payroll of the company. The levy is collected by the Sectoral Education and Training Authority (SETA). Twenty percent of these funds are paid into the National Skills Fund. The remaining 80 percent is retained by the SETA to fund accredited training. By obliging all employers to contribute to regionally based training funds and by providing that funds for training may be released only for approved programmes, the Act aims to ensure that money spent on training has the necessary effect (Bendix 2001:140). The Act provides for the establishment of various structures to advise on and regulate industrial training and these structures are discussed in the sections that follow.

#### **5.4.1 NATIONAL SKILLS AUTHORITY (NSA) AND SECTORAL EDUCATION AND TRAINING AUTHORITIES (SETAs)**

The NSA constitutes an overarching body the function of which is to advise and report to the Minister of Labour on policy, on strategy, on the allocation of funds and on regulations. It liaises with the SETAs and conducts investigations into any matters arising from the application of the Act (Bendix 2001:140). The Act allows the Minister to establish a SETA for any national economic sector. SETAs are composed of representatives from trade unions, employer organisations, relevant government departments and, if the Minister approves, representatives from interested professional bodies and the

bargaining council that has jurisdiction in that sector (Bendix 2001:141). The SETAs perform the following functions:

- developing and implementing a sector skills plan within the framework of the national skills strategy (This entails establishing learnerships, approving workplace plans, and allocating grants to employers and to education and training providers.);
- monitoring and assuring quality of provision in a sector;
- promoting learnerships by identifying workplaces for obtaining practical experience, by supporting the development of materials and by assisting with the conclusion of learnership agreements;
- registering learnership agreements;
- liaising with the NSA, the Director-General of Labour and the employment services division of the Department of Labour  
(Bendix 2001:141)

It is clear that there is a commitment on the part of government to ensure that the workforce becomes more skilful. A skilful workforce will go some way towards fulfilling the LRA's general purpose, that is, of advancing economic development. Moreover, it should also enhance the employment equity process, thereby complying with the social justice component of the general purpose of the LRA.

## 6. THE LRA'S IMPACT ON TRADE UNIONISM IN THE LIS SECTOR

The new labour dispensation is union-friendly (Baskin & Satgar 1996:104). The wide scope of the LRA, with its emphasis on conciliation and co-determination, indicates government's intention that labour and management should maintain a close working relationship.

The literature revealed that the history of unions in libraries – which dates back to the early 1900s – was influenced by the growth of unionisation in general (Bain 1970).

Bain's empirical study (1970) reflects the following as being key factors in the growth of trade unionism:

- (i) **Employment concentration:** The growth of libraries has resulted in high levels of bureaucratisation, which has reduced employee participation in decision making. Unions are therefore seen as assisting in ensuring that employees are engaged in decision making.

- (ii) **Legislation as the manifestation of government policy:** As government introduces new legislation protecting employees, employees become organised.
- (iii) **Employer recognition of unions:** Those sections of the Act which compel the employer to recognise and work with trade unions (Basson et al. 1998:37–39) can only serve to influence the growth of unionism.
- (iv) **Economic reasons:** These are underpinned by collective bargaining for better salaries and better conditions of service. The achievements of unions in addressing economic issues have influenced the growth of unions (Bain 1970).

These four factors are used to underpin the discussion in the next four subsections.

Another factor potentially affecting the growth of unionism within the sector, that is, the widely perceived notion that the LIS profession is fragmented (Walker 2005), provides the foundation for the fifth subsection.

## 6.1 EMPLOYMENT CONCENTRATION

South Africa has witnessed substantial restructuring in the workplace in recent years. The amalgamation, or incorporation, of districts to form larger metropolises has had a ripple effect that has impacted on libraries as well. The merging of tertiary educational institutions as a direct response to government's restructuring of higher education has also affected libraries. Such restructuring of major employers such as metropolitan and academic libraries has had a considerable effect on employee concentrations.

The diminished level of interaction in a bureaucratic structure, which is the direct result of such concentration, has alienated the employee from the decision-making process. Library employees have complained that the lack of consultation on professional issues has reduced their contribution as professionals (see the empirical study in Raju 2005). However, the isolation of employees from management is addressed in the LRA. The fundamental principle of co-determination, that is, of employees and employers working together for the benefit of the organisation and, in the case of libraries, for the library as an organisation, utilises the workplace forum as the primary conduit for its application. Moreover, joint decision making and consultation can also take place outside the workplace forum.

Workplace forums are aimed at facilitating a shift from adversarial collective bargaining on all matters to joint problem solving and participation regarding certain issues. Wages and terms of employment are seen as the primary domain of collective bargaining between employers and trade unions, preferably at sectoral level. Non-wage matters, such as restructuring, the

introduction of new technologies and work methods, and changes in the organisation of work can be dealt with in workplace forums.

The union movement in libraries was spearheaded by professional librarians seeking to exercise greater control over professional issues. The understanding was that the power of unions could compel library management to share in decision making and to listen to employees, a process that has the potential to create an environment of confrontation and conflict. However, the South African labour dispensation makes it a statutory requirement for management to consult and jointly make decisions with employees. In this way, the element of adversarialism is removed in order to allow for a more cordial relationship between employers and employees.

The provisions regarding the workplace forum can only serve to improve industrial relations in the library environment. Workers traditionally regarded as white-collar workers, including librarians, seem loath to unionise because of the adversarialism stigma that unionism appears to bring with it. The removal of adversarialism from the employer-employee relationship can only augur well for improved services as a result of the anticipated absence of conflict between employee and employer. Workplace forums are intended to democratise the workplace and thereby enhance efficiency. The rationale is that employees, through their unions, will engage employers in the management of the organisation. Decisions taken jointly would commit the union and its members to ensuring that these decisions are implemented successfully.

How the workplace forum will be implemented in practice in the South African LIS environment is difficult to predict. The character of such a forum would depend on what library management and staff decide is needed and how it should be implemented. It would have to be driven by a worker-based representative body to ensure that it is given a chance to succeed in an environment where some managers still closely adhere to the principle that they alone should manage the institution. There are provisions in the LRA allowing employees to have a say in the management issues of their libraries. However, such provisions can be utilised only after a registered trade union has initiated a request for the establishment of a workplace forum.

## **6.2 LEGISLATION AS THE MANIFESTATION OF GOVERNMENT POLICY**

Bain (1970) regards legislation as playing a significant role in the growth of unionisation. The present South African labour dispensation is seen by many as creating an environment that encourages unionisation. In arguing that the LRA is union-friendly, Baskin and Satgar point out that, for the first time,

South Africa has a “dispensation which accommodates unions as equal partners”(1996:104, 106). The LRA aims to strengthen unions, to give greater structure to the employment and bargaining relationship and to make disputes easier to resolve. If it achieves this, it should make a major contribution to industrial and social peace, which, in turn, are vital for economic growth and the rule of law (Baskin & Satgar 1996:106–107). Every effort has been made by the drafters of the Act to achieve greater interaction between union and employer and to minimise conflict, which should encourage unionisation.

Guyton (1975), Mika (1980) and Coleman (1988), writing in the international context, argue that legislation has a role to play in influencing the growth of unionisation in libraries. It is stated by Guyton (1975) that the pattern of unionisation in libraries is, to a large extent, determined by relevant labour legislation. There is, states Guyton (1975:169), a “strong relationship between labour legislation supporting public employees’ rights to organise” and the formation of a library union. As protective legislation becomes more widespread, and as unionisation becomes a more accepted institution among all employees, the conditions for union formation among librarians becomes more favourable (Guyton 1975:169).

### **6.3 EMPLOYER RECOGNITION OF UNIONS**

Section 21 of the LRA compels employers to recognise registered trade unions (South Africa 1995:17–20) and provides protection for employees to become members of a registered trade union. The Act subscribes to the principle of freedom of association, which is essentially the freedom on the part of employees to join a trade union or to take part in the formation of a union. The Act also affords protection to employees against discrimination and victimisation for exercising this right. Section 5(1) of the Act states that “(n)o person may discriminate against an employee for exercising any right conferred by this Act” (South Africa 1995:4).

Although the Act provides for freedom of association, the provisions of the Act vest considerable authority in trade unions (Finnemore & Van Rensburg 2000:267). Bendix (2001:124) reaffirms the Act’s support of trade unions when she argues that “all [organisational] rights in terms of the Labour Relations Act are granted only to registered unions and employers’ associations. It is to be inferred that a body which remains unregistered [with the Registrar of Labour Relations] will have no status within the statutory labour relations system”. Du Plessis (1996:218) concurs by stating that “(r)egistration of a trade union or an employer’s organisation is required in order to exercise the [organisational] rights contained in the Act”.

An unregistered trade union, however, does have a number of rights. These are set out in section 8 of the LRA and include the right to

- determine its own constitution and rules;
  - plan and organise its administration and lawful activities;
  - participate in forming a federation of trade unions;
  - affiliate to an international workers' organisation.
- (South Africa 1995:7-8; Stilwell 2005)

Despite the fact that the LRA does in fact provide for unregistered trade unions, Basson et al. (1998:35) state that “only registered trade unions may exercise organisational rights, conclude collective agreements, apply for the establishment of a bargaining council or a statutory council or apply for a workplace forum ...”.

Although South Africa has a very progressive labour dispensation, the LIS sector has not made use of the relevant statutory provisions to the benefit of the sector. The sector has however discussed the fact that there is an urgent need for the professional body (LIASA) to acquire statutory status in order to ensure that the sector can reap the benefits of such progressive legislation (Walker 2005).

#### **6.4 ECONOMIC FACTORS CONTRIBUTING TO THE GROWTH OF UNIONISM**

The primary reasons for forming a union are to increase the strength of employees' bargaining position with employers concerning economic issues, including compensation and benefits, job security and institutional fairness (Wood 1999:12). Duda (1981:120) argues that “we all want better wages and working conditions and fair treatment on the job”. Negotiating better wages and working conditions through collective bargaining is a key responsibility of any union. Kleingartner and Kennelly (1975:15) support these views and argue that wages, hours of work and other terms and conditions of employment for librarians will increasingly be established through negotiations between the employer and a recognised union. However, the industrial concerns of the LIS sector in South Africa are currently addressed by industrial, “generic” unions that represent a number of sectors and have limited knowledge of the LIS sector (Raju 2005). Raju argues that the professional body needs to assume the role that the respective trade unions are currently playing in addressing the industrial concerns of the sector. Employees of the South African LIS sector “are of the opinion that their representative organisation must have knowledge of the sector and the discipline as opposed to experience and knowledge that the generic trade unions possess in negotiation” (Raju 2006:134).

If the professional association were to acquire statutory status through registration via the LRA, it would then have the necessary jurisdiction to

address the industrial concerns of the sector as well as the sector's professional concerns. The employees of the sector have the capacity, experience and knowledge to exploit the relevant labour statutes to the benefit of the sector. Registration as a sector-specific trade union has the potential to increase union membership of the sector drastically, as the employees concerned would benefit from the liberal provisions of the South African labour dispensation.

In terms of the said labour dispensation, the BCEA prescribes minimum conditions of employment. However, the union and the employer could engage in negotiations to expand and improve on the minimum conditions prescribed by the BCEA. A typical extension would be the expansion of study leave benefits to enhance the provisions of the Skills Development Act. Such negotiations could be conducted by a sectoral union that could be applicable to all staff employed within libraries.

The erosion of job security is an important factor steering professional librarians towards the acceptance of unionism (Guyton 1975:110). In terms of South African industrial relations, employers cannot terminate a contract of employment on arbitrary grounds. Job security is also protected by the LRA under the provisions relating to termination on account of operational requirements. However, the mere fact that the law prohibits arbitrary dismissal of employees does not necessarily mean that employers will not dismiss on arbitrary grounds. Belonging to a registered trade union could help to ensure that employers abide by the respective labour laws.

Employers are frequently compelled, for economic reasons, to review their staffing levels and to terminate the employment of some of their employees to effect savings (Grogan 2001:185). While employers undoubtedly have the right to do so for economic reasons or for reasons related to their organisational structures, this form of termination, which is generally known as retrenchment, has the same social and economic ill-effects as other dismissals. Dismissals based on operational requirements are expressly regulated in section 189 of the LRA, which must be read together with certain other provisions relating to trade union rights, workplace forums and severance pay. Section 189(1) provides that, before retrenching, an employer must consult any person whom the employer is obliged to consult in terms of a collective agreement, or a workplace forum or any registered union whose members are likely to be affected by the proposed dismissals. Even minority unions are entitled to be consulted if their members face retrenchment.

## **6.5 FRAGMENTATION OF THE LIS PROFESSION**

Another factor that can potentially work against the growth of unionism in South Africa is the fact that the LIS profession is widely perceived to be a



fragmented one (Walker 2005). In New Zealand, the problem of fragmentation among LIS workers was addressed by creating an environment conducive to unionisation. Management was encouraged to engage in communication to resolve issues, thus ensuring that the employees could, through their union, play a more meaningful role at their place of work (Coleman 1988:271). Fragmentation may be reduced through consolidated representation by a single body.

The fundamental purpose of unionism is the unification of employees for the principle purpose of representing such employees at the workplace. It is clear from the above discussion that the intention of the South African LRA is to give trade unions greater recognition and to provide them with the opportunity to work with the employer for the economic upliftment of the workplace and the country. While the LIS profession may be divided in terms of its various user bases, it could be unified in terms of the representation of its employees. As there is sufficient evidence to conclude that the LRA is union-friendly, it would be advisable for the LIS profession to consider organising itself into a structure that will be in a position to utilise the progressive labour dispensation to its maximum. The form that such a structure could take is discussed in depth in Raju, Stilwell and Leach (2006). Questions remain about the role of a professional body representing the LIS sector given that only registered unions enjoy particular rights under the LRA. Lockhart (1967:250), for example, argues that professional associations serve the fundamental purpose of resolving problems through a cooperative approach.

Bird and Johnson (1983:20) add further dimensions to the principles of voluntarism and cooperation within a professional context when they state that professional organisations obtain their strengths from a volunteer membership characterised by diversity, dynamism, education and training and should be especially sensitive to their multidimensional character: "To maintain their vitality and justify member commitment, they must be responsive to the evolving standards, attitudes and values of their members and the profession they represent".

The issue of unity is fundamental to a professional association, as is the commitment to the membership (Oppenheim & Pollecutt 2000:187). Professional associations act as a focus for the members of the profession, bringing together individuals into a collective body to serve society. It is generally accepted that professional associations focus on professional issues and it must be assumed that these professional issues are substantial and lend weight to the retention and growth of the membership of the organisation. Raju (2005) focuses on the role of the professional association leading up to the formation of a single body in the form of LIASA. Such weighty matters

need to be addressed to take the benefits of the LRA for the LIS sector forward in the most effective manner.

## 7. CONCLUSION

This article has examined the factors that were identified by Bain (1970) as influencing or negating the growth of library unionism in relation to four significant aspects of South African labour law. Further, it has examined the benefits to be gained, in terms of cooperation rather than adversarialism, from the new labour dispensation in South Africa and has demonstrated that the new labour dispensation's sympathetic stance towards unions stems from the commitment by the South African government to limit adversarialism and promote cooperation between employees and employers. However, the fragmentation of the LIS profession, including representation by a myriad of industrial, "generic" unions and a professional association, has limited the sector's opportunities for exploiting the progressive labour dispensation. Central to achieving the ambitious plans of such a dispensation is a new philosophy governing labour relations in a country that has been plagued by adversarialism in the workplace. It could be assumed that the LIS sector is still stuck in the adversarialism paradigm, as it has not been able to embrace the underlying principle of co-determination to any large extent. Further, the sector does not have a single, unifying representative body.

The role played by the professional library association in South Africa should be examined in the context of a country in which both legislation and government are biased towards trade unions. The principles of unity and representivity are central to bringing the profession together, especially as regards the librarians in the profession.

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