

PSCBC 20TH CELEBRATION 2017

ROUND TABLE DISCUSSIONS



THE SENZ'UMEHLUKO STRATEGY
Making a Difference

CCMA STRATEGIC APPROACH TOWARDS TRANSFORMING AND DEMOCRATISING WORKPLACES



PRESENTED BY
CONVENING SENIOR COMMISSIONER:
ARNAUSE MOHLALA



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LAYOUT OF PRESENTATION

- ☐ **CCMA as Dispute Resolution Body**
- ☐ **Shift in Strategic Focus**
- ☐ **Dispute Management & Prevention**
- ☐ **Facilitation of Improved Collective Bargaining**
- ☐ **Capacity Building and Outreach**
- ☐ **Employment Security Strategy**
- ☐ **Conclusion**



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CCMA MANDATORY AND DISCRETIONARY FUNCTIONS

The CCMA's mandatory powers are drawn directly from Section 23 of the Constitution of the Republic of South Africa and Section 115 of the Labour Relations Act of 1995 (LRA), as amended:

**CONCILIATE AND
ARBITRATE WORKPLACE
DISPUTES**

**ASSIST WITH THE
ESTABLISHMENT OF
WORKPLACE FORUMS &
ESTABLISH PICKETING
RULES**

**COMPILE AND PUBLISH
STATISTICS AND
INFORMATION ABOUT ITS
ACTIVITIES**

**ADMINISTER THE
ESSENTIAL SERVICES
COMMITTEE**

**CONSIDER APPLICATIONS
FOR ACCREDITATION AND
SUBSIDIES OF BARGAINING
COUNCILS AND PRIVATE
AGENCIES**

- ☐ It is estimated that some 72% of the employed in South Africa fall under jurisdiction of the CCMA (Van Niekerk, 2006).
- ☐ Hence it can be said that the CCMA manages the majority of disputes that arise in the labour market.
- ☐ As at 2017, there are **22** offices nationally, with **2** being added
- ☐ A total of **188 449 (721 per day)** cases were referred during the **2016/17** financial year **5% more** than in **2015/16**.
- ☐ The high referral rate reflects the challenging state of the SA labour market.

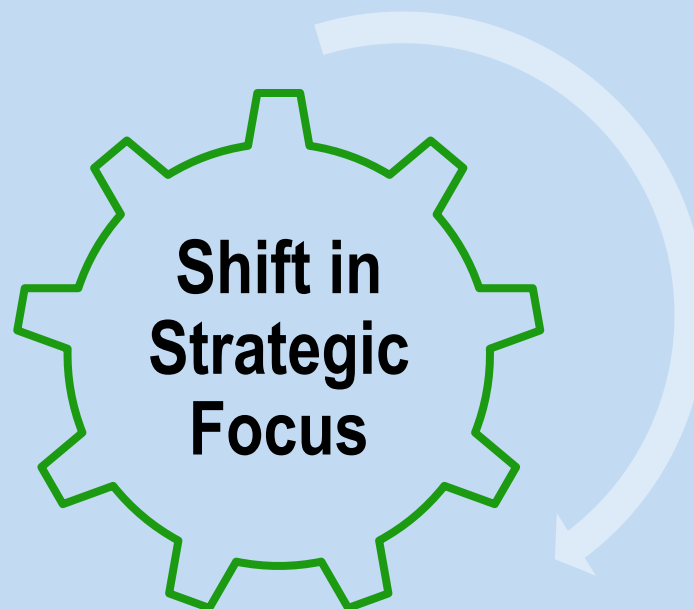


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THE CCMA AS DISPUTE RESOLUTION BODY



- ❑ On average, the CCMA took **24** days (legislated date is 30 days) to deal with conciliation cases and **60** days (target is 60 days) to deal with arbitration cases
- ❑ Since inception, the CCMA has:
 - Registered a total of approximately **2,5 million referrals and 1, 6 million cases;**
 - Heard **760 000 arbitrations and 1, 7 conciliations;** and
 - Settled **996 000 cases.**





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SHIFT IN STRATEGIC FOCUS OF THE CCMA



RENEWAL STRATEGY (pre 2010):

Transforming relations in the
labour market

TSOSO STRATEGY (2007 – 2010) :

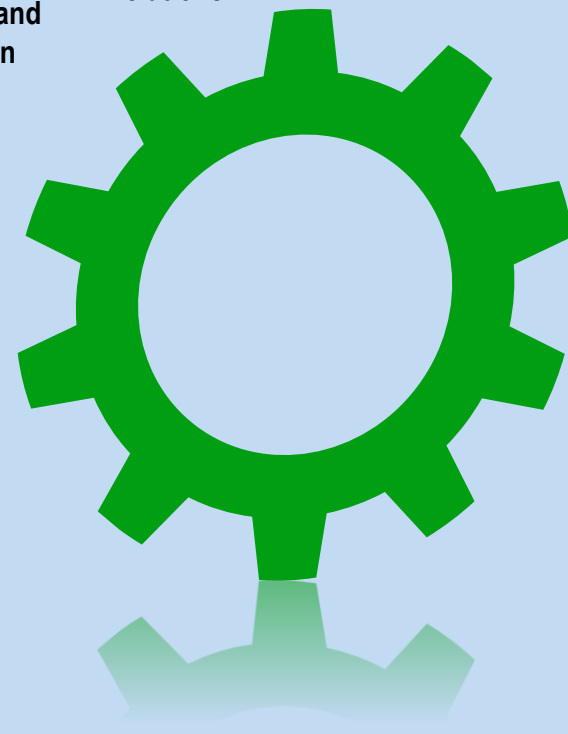
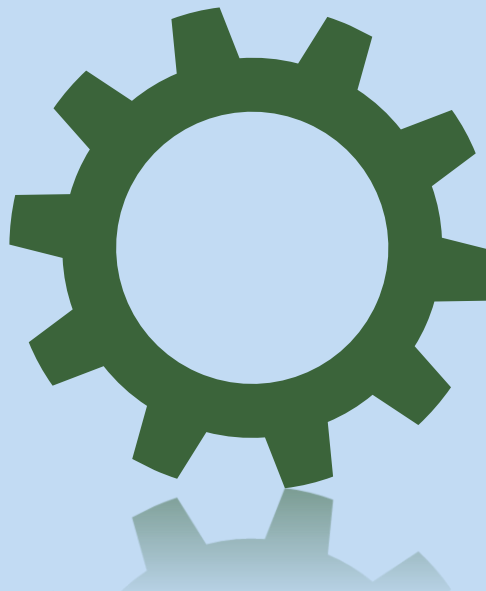
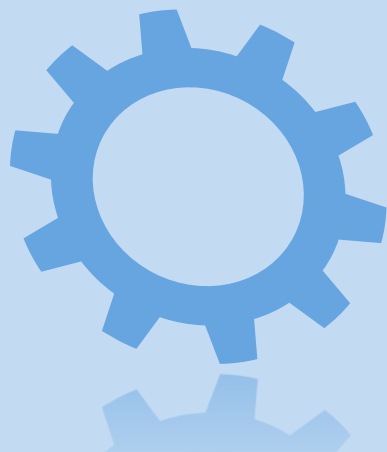
Facilitate the transformation
of labour relations and
promote social justice and
fairness in the workplace

SIYAPHAMBILI STRATEGY (2011 – 2014):

To be the premier dispute
prevention, management and
dispute resolution organisation

SENZ'UMEHLUKO STRATEGY (2015 – 2020):

Make a difference by changing
working life and workplace
relations



Reasons for the shift in strategic focus:

- ☐ SA workplaces are experiencing polarization and conflict, resulting in high numbers of disputes being referred to the CCMA on a daily basis.
- ☐ The CCMA's International Dispute Resolution Agency partners express surprise when learning about the high number of cases that are received by the CCMA.
- ☐ The high number of disputes is unsustainable in an environment marked by inequality, job losses, economic slowdown, poverty and inequality. It calls for different approach – a shift in strategic focus.
- ☐ The CCMA has made the strategic shift towards dispute prevention and capacitating and empowering workplaces to resolve their own disputes and practice fair labour practices. Promotion of a change of attitude – dispute resolution in the workplace first.
- ☐ What this means is that the CCMA's **discretionary functions** now come to the fore



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SHIFT IN STRATEGIC FOCUS OF THE CCMA DISCRETIONARY FUNCTIONS



Advise a party to a dispute
about the procedures to
follow

Assist parties to a dispute to
obtain legal advice,
assistance or representation

Provide administrative
assistance to employees
earning below the stipulated
threshold

Publish guidelines on any
aspect of the LRA and make
rules

Supervise ballots for unions
and employer organisations

Conduct and publish
research on its functions

Provide training and
information relating to the
primary objectives of the LRA

Offer to resolve a dispute that
has not been referred to the
CCMA

How does the CCMA propose to play a more proactive role in addressing the high levels of workplace conflict, disputes and job losses?

- ☐ Facilitation of the creation of an environment in which parties have the knowledge and skills to resolve their impasses at the workplace.
- ☐ Early intervention and detection of potentially volatile situations where, by means of capacity building (e.g. training), “home grown” dispute prevention strategies can be implemented and managed at the workplace.



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SHIFT IN STRATEGIC FOCUS – MOVING BEYOND THE HEARING ROOMS

- ☐ The dispute prevention and management initiative was conceptualised in 1998 and operationalised in 2000
- ☐ Over the period 1999 to early 2004, “dispute prevention” was used to describe the initiative. However, it was realized that a combination of prevention and effective management of disputes was needed for maximum impact
- ☐ A broader strategic approach was adopted that encompassed the conflict handling, problem solving and dispute resolution pathway from point of origin in the workplace to CCMA hearing room
- ☐ In 2007 this evolved further, informed by the learning that a stronger focus was needed on the root causes of problems at workplace level

SHIFT IN STRATEGIC FOCUS – MOVING BEYOND THE HEARING ROOMS

From 2010 the strategic direction of Dispute Management & Prevention (DMP) function focused on the following:

- ☐ **Intensifying public compliance with Dispute Resolution processes.**
- ☐ **Ongoing analysis and intervention into ‘social justice roadblocks’.**
- ☐ **Facilitation of social dialogue in addressing labour market issues.**



SHIFT IN STRATEGIC FOCUS – MOVING BEYOND THE HEARING ROOMS

Dispute Management & Prevention Continued...

- ☐ Active promotion of approaches to address job insecurity and business distress
- ☐ Championing the ongoing transformation of workplace relations
- ☐ A dedicated focus to address all forms of workplace discrimination





FACILITATION OF IMPROVED COLLECTIVE BARGAINING

Collective Bargaining is established through Section 1 of the LRA.

The CCMA plays a role by:

- ☐ Providing a framework to determine wages and conditions of employment and other matters of mutual interest
- ☐ Giving effect to the right of workers and employers to organise and bargain collectively (Section 23 (2) and (3) of the Constitution)



Three tier model of collective bargaining:

**Industry or Centralised Bargaining
Bargaining Councils, Industry Bargaining Forums
(Private Security, Contract Cleaning, Gold Mining)**

**Plant Level Bargaining
Retail / Hospitality**

Company or Enterprise Bargaining

COLLECTIVE BARGAINING HISTORICAL REALITIES AND SOCIO-ECONOMIC DYNAMICS

- ☐ **Collective bargaining has met with increased strikes over the past 10-15 years**
- ☐ **Detrimental tendency of businesses to cut costs resulting in business closure and job losses**
- ☐ **Multi-term agreements are few, which raises questions of labour market stability and its effect on investor confidence**
- ☐ **The tendency to revert to industrial action further polarises parties and hardens attitudes, often with violence following, threatening the attainment of labour peace**
- ☐ **Industrial action results in revenue loss and limits potential for sustained growth**

FACILITATING IMPROVED COLLECTIVE BARGAINING CCMA LABOUR MARKET SUPPORT

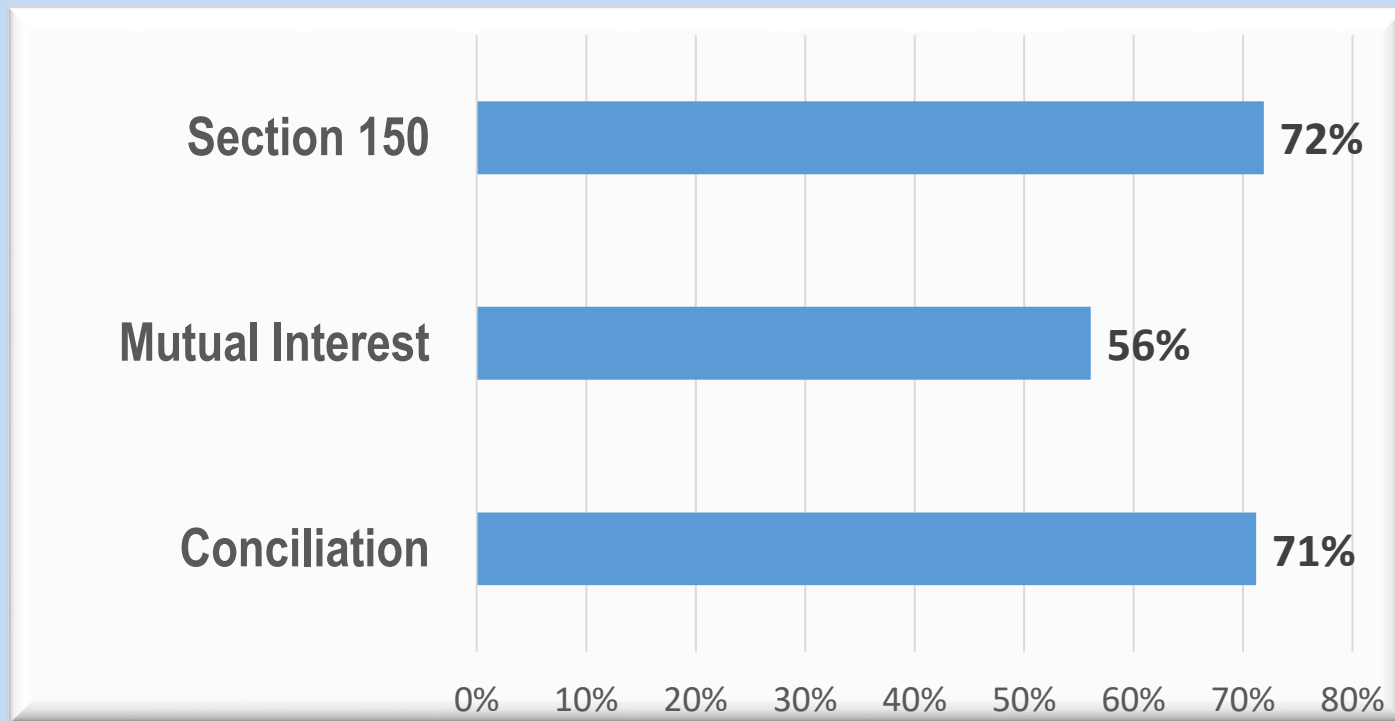
- ☐ **Pre -wage facilitations**
- ☐ **Pre / post dispute facilitated task teams on identified issues**
- ☐ **Collective bargaining improvement process**
- ☐ **Industry sustainability processes**
- ☐ **Statutory conciliation / offer of assistance in terms of s150**
- ☐ **Advisory arbitration awards – s135 (3)(c)**

FACILITATING IMPROVED COLLECTIVE BARGAINING CCMA LABOUR MARKET SUPPORT

- ☐ **Building workplace relations (BWR) – Dispute Management & Prevention**
- ☐ **Managing conflict in the workplace**
- ☐ **Negotiation skills course**
- ☐ **Overview of the Code of Good Practice: Collective Bargaining, Industrial Action and Picketing (new course)**



FACILITATION OF IMPROVED COLLECTIVE BARGAINING SETTLEMENT RATES APRIL – JUNE 2017





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FACILITATION OF IMPROVED COLLECTIVE BARGAINING QUALITY INDEX APRIL – JUNE 2017



Settlement Quality is assessed by perusing the quality and enforceability of settlement agreements

Conciliation Quality is assessed by random observation of individual conciliation processes

Settlement Quality Index	97.4%
Conciliation Quality Index	100%



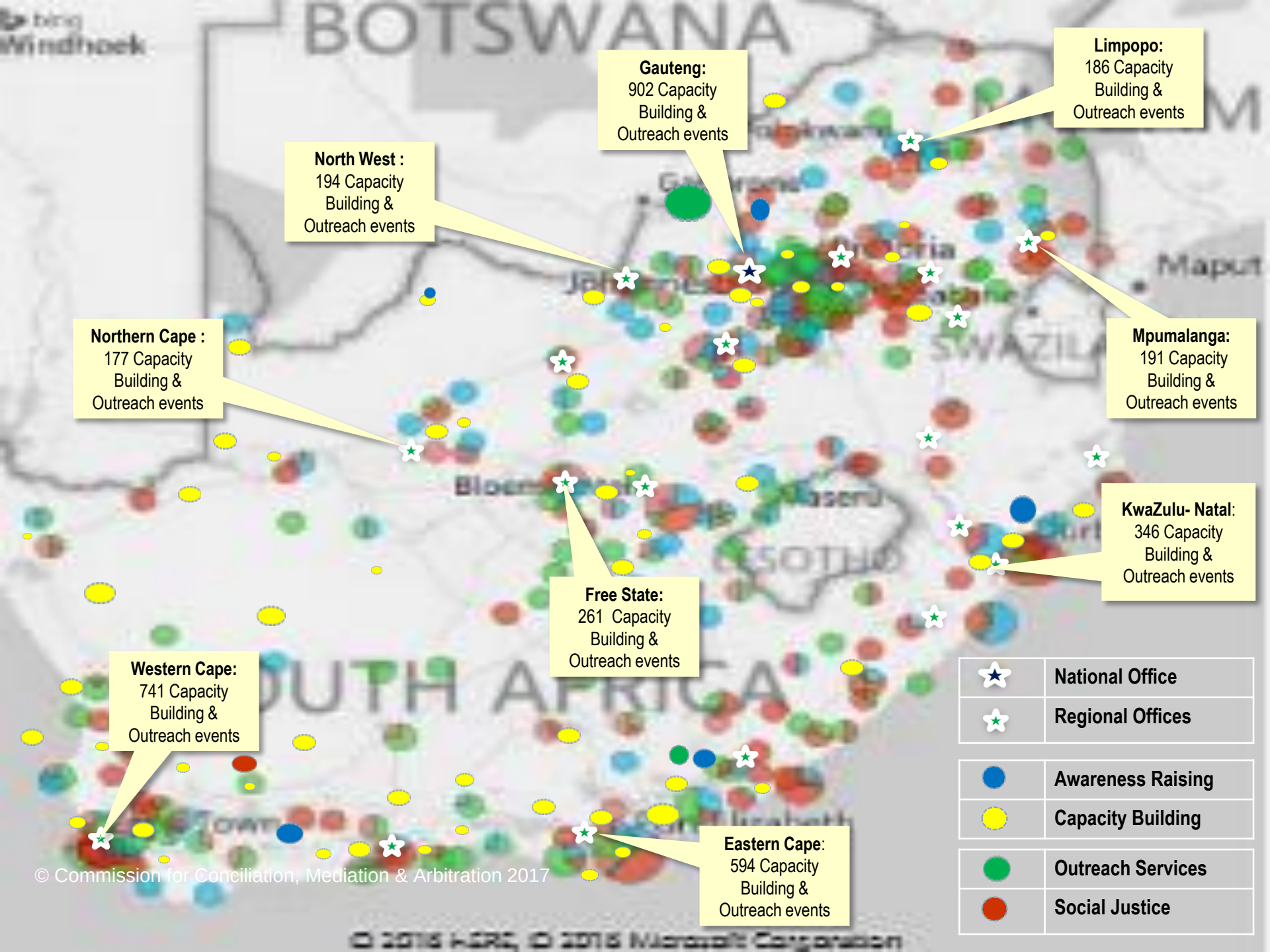


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CAPACITY BUILDING & OUTREACH EVENTS



The following map sets out our latest capacity building and outreach initiatives undertaken to enhance accessibility with our social partners



CAPACITY BUILDING INITIATIVES DEVELOPED AND DELIVERED

- Building workplace relations
 - Managing conflict in the workplace
 - Dealing with Retrenchments
 - Best Practice use of the CCMA and the Law
 - Effective Negotiation Skills
- Dealing with Diversity in the Workplace
 - Dealing with Discrimination in the Workplace
 - Management of incapacity and misconduct in the workplace

CAPACITY BUILDING INITIATIVES DEVELOPED AND DELIVERED

- **Preparing for and Representing Parties at Arbitration Hearings**
 - **Workplace Mediation**
 - **Conducting workplace disciplinary enquiries**
 - **Sexual harassment as a form of unfair discrimination**
- **2014 amendments courses:**
 - **Non-standard employment**
 - **Employment Equity Act**
 - **Organisational Rights**



ENHANCING AND EXPANDING EMPLOYMENT SECURITY

- ☐ **As part of the five (5) year Senz'umehluko Strategy, the CCMA, over and above its legislated mandate, has prioritised employment security as one of its strategic drivers**
- ☐ **Large- scale retrenchment referrals to the CCMA increased by 34% between the 2014/15 to 2015/16 financial years. This poses significant demands on CCMA resources**
- ☐ **The Mining and Metal Sectors contributed the highest numbers of cases**

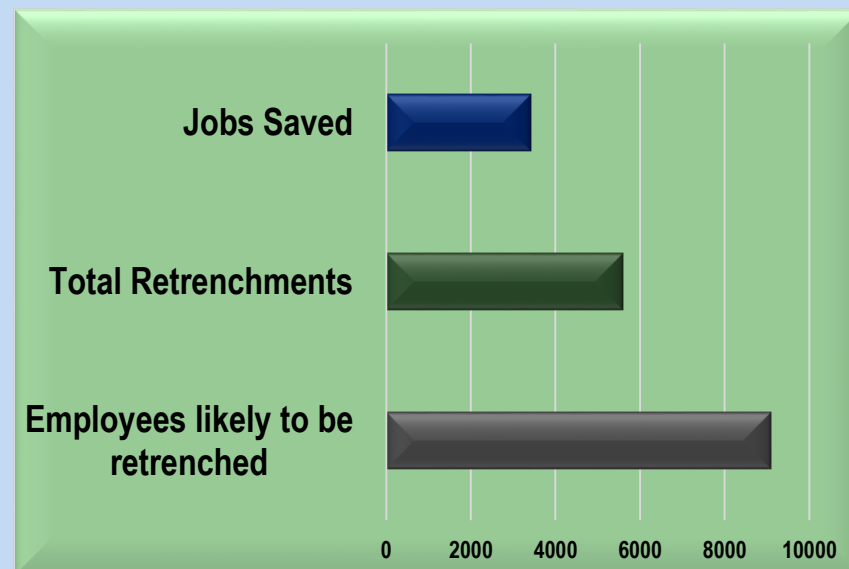
ENHANCING AND EXPANDING EMPLOYMENT SECURITY

- ☐ **CCMA s189A facilitated processes resulted in 52% (25,196) jobs saved of those likely to be retrenched (48,448) with actual retrenchments reported at 22,293 for the 2016/2017 financial year**
- ☐ **The number of jobs saved was considerably above the strategic target of 20%, reflecting the commendable efforts by s189A facilitators**
- ☐ **During 2015/2016 the highest number of job losses were reported in the Mining sector (7,576), Building/Construction sector (2,247) and Food/Beverage (1,992) sector**
- ☐ **Small scale retrenchment (s189) referrals to date (1591) decreased by 17% compared to the same period of 2015/2016 (1928)**

ENHANCING AND EXPANDING EMPLOYMENT SECURITY – JOBS SAVED 2016 / 2017

☐ **CCMA s189A facilitated processes resulted in 38% (3,425) jobs saved of those likely to be retrenched (9,098) and actual retrenchments were recorded at 5,583.**

☐ **The highest number of job losses were recorded in the Mining (1,817), Business/Professional Services (691) and Metal (618) sectors.**



CONCLUSION

- ☐ **The CCMA has become the largest dispute resolution body in the world**
- ☐ **Yet the labour market continues to present challenges which require a change in mindset and approach beyond hearing rooms**
- ☐ **The shift in strategic focus is therefore necessary to transform workplaces and to thereby change lives**
- ☐ **The CCMA, through its Senz'umehluko Strategy, is well placed to meet these challenges, to make a difference**

Making a Difference

