

UNDERSTANDING AND MANAGING THE RISK OF INDUSTRIAL ACTION



*PRESENTATION TO THE 2012 IRMSA CONFERENCE
19 – 20 NOVEMBER 2012*

OUTLINE



- *AN INHERENT RISK*
- *DEBUNKING CONVENTIONAL WISDOM*
- *UNPACKING THE CAUSES OF INDUSTRIAL ACTION*
- *MITIGATING THE RISK*
- *CONCLUSIONS*



AN INHERENT RISK

INDUSTRIAL ACTION, AN INHERENT RISK



- *A constitutional right to strike*
- *A normal element of the collective bargaining process*
- *A means of balancing power in the employment relationship*
- *A risk with adverse consequences*



AN INHERENT RISK WITH ADVERSE CONSEQUENCES



- *Leads to breakdown of relationships*
- *Disrupts business continuity*
- *Adversely impacts productivity*
- *Causes loss of profits & loss of jobs*
- *Trade union rivalry and instability*
- *Marred by intimidation and violence*





DEBUNKING CONVENTIONAL WISDOM

DEBUNKING CONVENTIONAL WISDOM



Conventional wisdom lays the accountability and responsibility of industrial action and its consequences at the feet of Trade Unions solely

Experience has shown that the seeds for industrial action are, more often than not, sown long before the customary '48 hour notice' is issued.



UNPACKING THE CAUSES

SYMPTOM / EFFECT = INDUSTRIAL ACTION

**CAUSES = VARIOUS FACTORS INVOLVING
THE ROLEPLAYERS**



CAUSES WITHIN CONTROL OF EMPLOYERS



- *Unhealthy organisational culture*
- *Autocratic management style*
- *Outdated workplace practices*
- *Inequitable employment practices*
- *Managing industrial relations by proxy*
- *Abdicating the right to communicate*
- *'Lawyering up' as a first resort*



CAUSES WITHIN CONTROL OF UNIONS



- *Under organising / no organising*
- *Ineffective representation*
- *Lack of accountability to trade union members*
- *Reluctance to lead in times of crisis*
- *Ineffective / absent Strike Management*
- *Reluctance / refusal to speak out or act against violence*
- *Heat of Congress Fever*
- *Ignoring Worker Voice*



CAUSES WITHIN CONTROL OF BOTH PARTIES



- *Failure to show Leadership*
- *Ignoring Worker Voice*
- *Failure to agree Rules of Engagement*
- *Poorly defined bargaining unit*
- *Little / no joint preparation for collective bargaining*
- *Adherence to adversarial collective bargaining practices*
- *Over-familiarity between negotiators*
- *Failure to learn from successive collective bargaining rounds*



CAUSES OUTSIDE CONTROL OF BOTH PARTIES



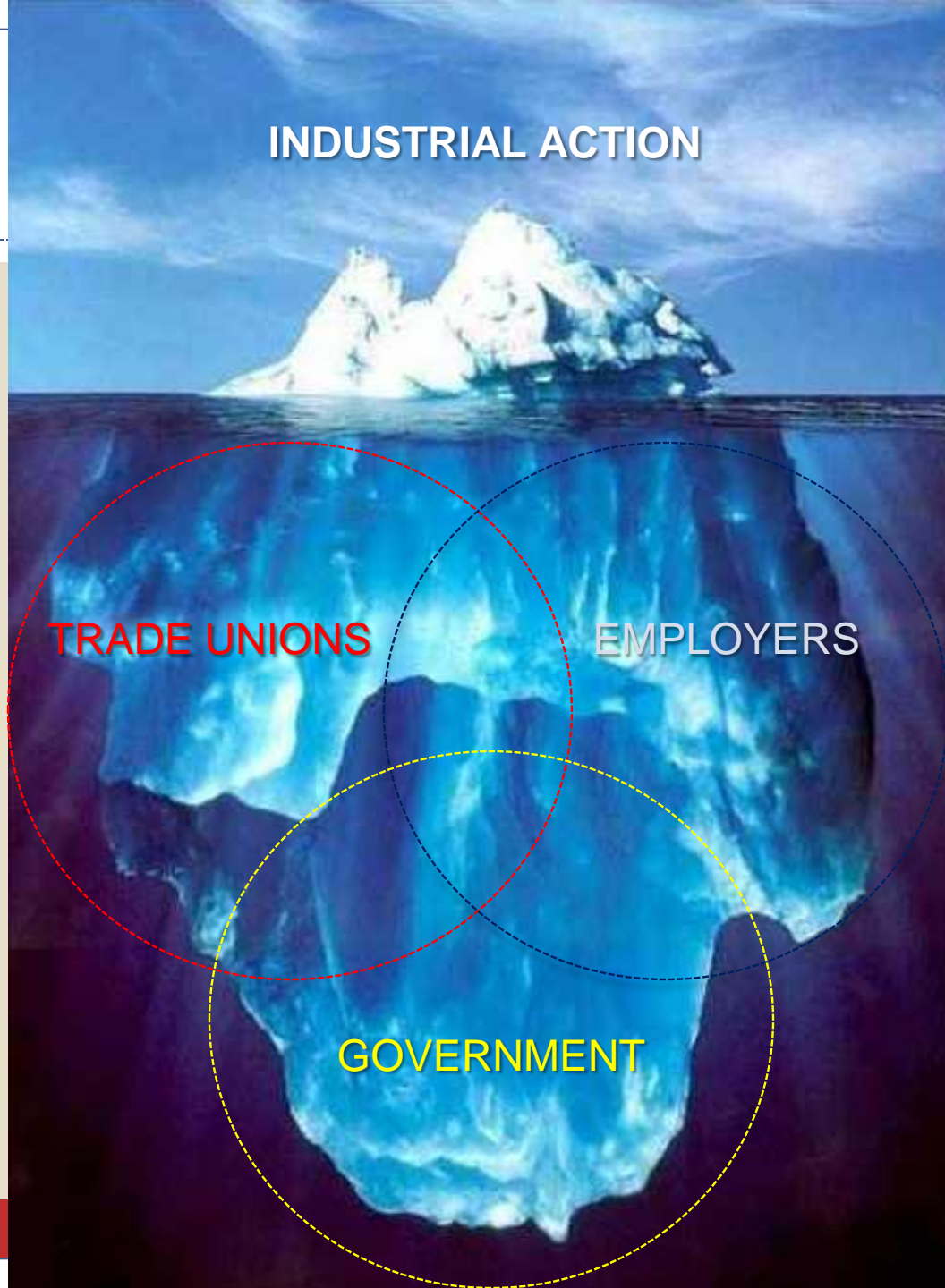
- *Marikana was not a labour dispute, but socio-economic frustration manifesting as labour dispute.*
- *Responsibility for Socio-economic issues vs Workplace issues?*
- *Rejecting the existing rule of law?*
- *What do employers and trade unions do while we wait on government to provide?*
- *Role and commentary of Media*

INDUSTRIAL ACTION

TRADE UNIONS

EMPLOYERS

GOVERNMENT





MITIGATING THE RISK

MITIGATING THE RISK– STRATEGIC LEVEL



- *Education & awareness raising regarding rights in law*
- *Managing conflict & resolving disputes in the workplace*
- *Effective communication with staff*
- *Bargaining Units effectively constituted & represented*
- *Progressive bargaining paradigm adopted*
- *Institutional drivers monitored*
- *Institutionalised commitment to peaceful industrial action*

MITIGATING THE RISK– OPERATIONAL LEVEL



BEFORE THE STRIKE

- *Command Centre*
- *Business continuity plan*
- *Picketing rules*
- *Media plan*
- *Plan for communication with workers*
- *Don't stop talking*
- *Visible leadership*

MITIGATING THE RISK– OPERATIONAL LEVEL



DURING THE STRIKE

- *Manage the media*
- *Constantly reassess options*
- *Be open to third party assistance*
- *Communicate with striking & non-striking workers*
- *Demonstrate respect to strikers*
- *Don't "lawyer up", keep talking*
- *Daily intelligence gathering, debriefing & planning*

MITIGATING THE RISK– OPERATIONAL LEVEL



AFTER THE STRIKE

- *Communication and the Return-to-work process*
- *Media announcement*
- *Reflect on causes of strike*
- *Evaluate efficacy of contingency plans*
- *Counseling and support*
- *Make up don't break up*



CONCLUSIONS

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- *Industrial action is an inherent risk associated with adverse consequences*
- *Accountability for industrial action must be apportioned between business and labour*
- *The risk can be mitigated through strategic and operational interventions involving both employers and trade unions*