A Comparative Analysis of Collective Bargaining in the Public Sector: Lessons from Botswana and South Africa

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Abstract: Collective bargaining remains a cornerstone of employment relations, serving as the principal mechanism for mediating the inherent power asymmetry between employers and employees. Despite the centrality of collective bargaining to workplace democracy, comparative scholarship on its institutional development in Southern African public sectors remains limited. This study provides a systematic comparative analysis of collective bargaining in the public services of Botswana and South Africa, examining three analytical dimensions: the legal and constitutional framework, the composition and dynamics of bargaining parties, and the institutional structures through which bargaining is conducted. The study adopts a qualitative, interpretivist methodology grounded in a comprehensive review of constitutional texts, labour legislation, policy documents, and secondary academic literature from both countries. Guided by a pluralist theoretical framework, the study argues that while both countries share a colonial legacy and membership of the International Labour Organisation, their collective bargaining trajectories have diverged markedly. South Africa, propelled by its post-apartheid democratic transition, has constructed an elaborate, multi-tiered collective bargaining architecture anchored in the Labour Relations Act of 1995 and overseen by the Public Service Coordinating Bargaining Council. Botswana, by contrast, despite enacting the Public Service Act of 2008, has experienced institutional regression: the Public Service Bargaining Council, established in 2011, collapsed by 2017 and has not been reconstituted. The study identifies four factors that explain this divergence: constitutional entrenchment of bargaining rights, structured mandate processes, coordination mechanisms across bargaining levels, and political will to sustain institutional integrity. Drawing on South Africa's experience, the study offers evidence-based recommendations for institutional reform in Botswana, while acknowledging the limitations and criticisms of the South African model. The findings contribute to broader debates on the preconditions for effective public sector collective bargaining in developing democracies.

Keywords: Collective Bargaining; Public Sector; Bargaining Councils; Employment Relations; Pluralism; Southern Africa; Botswana; South Africa

Introduction

The study of collective bargaining occupies a central position in employment relations scholarship, reflecting the enduring significance of negotiated agreements in structuring the relationship between capital and labour (Budd and Bhave, 2010). Since the concept was first articulated by Beatrice Webb in 1891 (Godfrey et al., 2010), collective bargaining has evolved from a descriptive term for workers' coordinated negotiations into a fundamental right recognised in international law, national constitutions, and statutory frameworks worldwide. The International Labour Organisation (ILO) has been instrumental in this evolution, with Convention No. 98 (1949) establishing the right to organise and bargain collectively, and Convention No. 154 (1981) extending the promotion of collective bargaining to all branches of economic activity, including the public service.

In the public sector, collective bargaining is particularly complex. Unlike private-sector negotiations, public-sector bargaining operates within the constraints of parliamentary budgets, political mandates, and the public-interest imperative (ILO, 2013). The employer is the state, which simultaneously serves as legislator, regulator, and service provider, creating tensions between its roles as a sovereign authority and as an employer at the bargaining table (Adair and Albertyn, 1998). These complexities are amplified in developing countries where democratic institutions are still maturing, where fiscal constraints are acute, and where the historical legacy of colonial and authoritarian governance has shaped the relationship between the state and organised labour (Fashoyin, 2010).

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Against this backdrop, this study undertakes a comparative analysis of collective bargaining in the public sectors of South Africa and Botswana. The choice of these two countries is analytically motivated. Both are Southern African states that share a British colonial heritage, are members of the ILO, have ratified core conventions on freedom of association and collective bargaining, and underwent significant labour law reforms in the post-independence period. Nevertheless, their collective bargaining trajectories have diverged sharply. South Africa, following its democratic transition in 1994, constructed a sophisticated, multi-level collective bargaining architecture that remains one of the most elaborate in the developing world (Godfrey et al., 2011). Botswana, despite enacting the Public Service Act of 2008, experienced the collapse of its only public-sector bargaining council in 2017, leaving the country without a formal collective bargaining structure in the public service (Bodilenyane et al., 2024a).

The study addresses two research questions. First, what are the key institutional, legal, and structural differences between collective bargaining in the South African and Botswana public sectors? Second, what factors explain the relative institutional resilience of the South African model and the fragility of the Botswana system? To answer these questions, the study adopts a comparative analytical framework that examines three dimensions: the legal and constitutional framework, the composition and dynamics of bargaining parties, and the institutional structures for collective bargaining. The analysis is guided by a pluralist theoretical perspective, which recognises the inherent conflict of interest in the employment relationship and the necessity of institutional mechanisms to mediate that conflict (Fox, 1974; Salamon, 2000).

The study makes three contributions. First, it provides a systematic comparative analysis that moves beyond the predominantly descriptive accounts that characterise much of the existing literature on collective bargaining in Botswana. Second, it identifies specific institutional design features that distinguish resilient from fragile bargaining systems in the public sector. Third, it offers evidence-based recommendations grounded in comparative analysis rather than normative prescription.

Theoretical Framework: Pluralism and Collective Bargaining

Employment relations scholarship has traditionally been organised around three competing theoretical perspectives: unitarism, pluralism, and radicalism (Budd and Bhave, 2010). The unitary perspective conceptualises the employment relationship as a partnership characterised by shared objectives, viewing conflict as aberrant and trade unions as unnecessary intrusions (Fox, 1966). The radical or Marxist perspective, by contrast, understands workplace conflict as a manifestation of deeper structural contradictions inherent in capitalist relations of production (Hyman, 1975). Between these poles lies the pluralist perspective, which serves as the theoretical foundation of this study.

Pluralism, rooted in the foundational work of Sidney and Beatrice Webb in England and John R. Commons in the United States, proceeds from the premise that a plurality of competing interests inherently characterises the employment relationship: workers seek higher wages, employment security, and safe working conditions, while employers pursue lower labour costs, operational flexibility, and productivity (Fox, 1974). Conflict, in this view, is neither pathological nor revolutionary but an inevitable and legitimate consequence of these divergent interests. The pluralist prescription is not the elimination of conflict but its institutionalisation through mechanisms that enable the orderly expression and resolution of competing claims (Clegg, 1975).

Collective bargaining occupies a central position in pluralist theory. It is the institutional mechanism par excellence through which the power imbalance between individual workers and employers is counterbalanced, enabling negotiated compromises that both parties can accept (Flanders, 1968). In Flanders' (1968) influential formulation, collective bargaining is primarily a rule-making process: it establishes jointly determined rules that govern the employment relationship, replacing unilateral managerial prerogative with bilateral regulation. This rule-making function is particularly significant in the public sector, where the employer's sovereign authority creates an even greater power asymmetry than exists in private employment (Bach and Bordogna, 2011).

The pluralist framework offers three analytical insights directly relevant to this study. First, it directs attention to the institutional architecture through which bargaining is conducted, recognising that the design of bargaining structures shapes outcomes (Clegg, 1976). Second, it highlights the importance of legally protected organisational rights for trade unions, without which collective bargaining cannot

function effectively (Webb and Webb, 1920). Third, it acknowledges the state's role not merely as an employer but as the architect of the institutional framework within which bargaining takes place (Dunlop, 1958). These three dimensions, bargaining structures, party composition and rights, and the legal framework constitute the comparative analytical framework employed in the sections that follow.

It must be acknowledged that pluralism has its limitations. Critics have argued that the pluralist focus on institutional mechanisms can obscure deeper structural inequalities, and that in contexts of extreme power asymmetry, collective bargaining may function more as a legitimating device than a genuine equalising mechanism (Hyman, 1975; Kelly, 1998). In the Southern African context, where colonial and post-colonial power structures continue to shape employment relations, these critiques carry particular weight. Nevertheless, pluralism remains the most analytically productive framework for examining the comparative institutional development of collective bargaining systems, precisely because it foregrounds the institutional design choices at the heart of this analysis.

Methodology

This study employs a qualitative, interpretivist research design, utilising a comparative case study approach (Yin, 2018). The comparative method is appropriate because the research questions concern institutional differences and the factors that explain them, requiring in-depth contextual analysis rather than statistical generalisation (Ragin, 2014). The two cases, South Africa and Botswana were selected according to a "most similar systems" design (Przeworski and Teune, 1970): the countries share significant background characteristics (colonial heritage, ILO membership, Southern African location) while differing on the outcome of interest (institutional development of collective bargaining), enabling controlled comparison.

Data were drawn from secondary sources, employing a desk review methodology (Bowen, 2009). The primary sources comprised constitutional texts (the Constitution of Botswana and the Constitution of the Republic of South Africa, 1996), labour legislation (the Labour Relations Act 66 of 1995; the Public Service Act 30 of 2008; the Trade Disputes Act of 2016; the Employment and Labour Relations Act of 2025), ILO Conventions and Recommendations, collective agreements and bargaining council constitutions, and policy documents from both countries. Secondary sources included peer-reviewed academic articles and journals, research dissertations, government reports, and publications from the Botswana Institute for Development Policy Analysis (BIDPA) and the ILO.

Sources were analysed using thematic content analysis (Braun & Clarke, 2006), organised around the three analytical dimensions identified in the theoretical framework: the legal and constitutional framework, the composition and dynamics of bargaining parties, and the institutional structures for collective bargaining. The comparative analysis proceeded iteratively, moving between the two cases to identify patterns of convergence and divergence.

Several limitations should be acknowledged. First, reliance on secondary data means the analysis does not capture the perspectives of bargaining participants; future research incorporating primary interviews with negotiators from both countries would enrich the findings. Second, the study is limited to two cases, which constrains the generalisability of the findings, though the analytical framework could be applied to other Southern African public sectors. Third, the study focuses on formal institutional arrangements and cannot fully capture informal practices, power dynamics, or the lived experience of collective bargaining on the ground.

International Labour Standards and Collective Bargaining in the Public Sector

Before examining the country cases, it is necessary to outline the international normative framework that shapes collective bargaining obligations for both Botswana and South Africa. As ILO member states, both countries are bound by the principles enshrined in the ILO's core conventions on freedom of association and collective bargaining, which provide the benchmark against which domestic arrangements can be evaluated.

Three ILO instruments are particularly relevant. The Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) establishes the right of workers and employers to establish and join organisations of their choosing without prior authorisation and without interference

from public authorities. The Right to Organise and Collective Bargaining Convention, 1949 (No. 98) calls upon member states to take measures appropriate to national conditions to encourage and promote the full development and utilisation of machinery for voluntary negotiation between employers and workers' organisations for the regulation of terms and conditions of employment through collective agreements. The Collective Bargaining Convention, 1981 (No. 154) defines collective bargaining and extends its promotion to all branches of economic activity, including the public service, while acknowledging that the special characteristics of the public sector may require different modalities of implementation.

Botswana joined the ILO in 1978 and has subsequently ratified 15 conventions, including all 8 fundamental conventions and 3 conventions specific to freedom of association, the right to organise, and collective bargaining (Conventions 87, 98, and 151). South Africa was a founding member of the ILO in 1919, withdrew in 1966 during the apartheid era, and rejoined in 1994 following democratisation. South Africa has ratified twenty-eight ILO conventions, of which twenty-three are fully implemented (ILO, n.d.). The ratification records of both countries signal a formal commitment to international labour standards, but, as the analysis that follows demonstrates, formal ratification and effective domestic implementation are distinct phenomena.

The ILO's framework also acknowledges the distinctive challenges of public sector collective bargaining. Because public sector wages and conditions have fiscal implications and affect service delivery, negotiations are frequently centralised and subject to budgetary oversight by parliamentary and executive bodies (ILO, 2013). The multiplicity of stakeholders, including finance ministries, line departments, and political principals, creates accountability complexities that do not exist in private-sector bargaining. These structural features of public-sector employment shape bargaining arrangements in both South Africa and Botswana, as discussed in the sections that follow.

Comparative Analysis

The Legal and Constitutional Framework

South Africa

The legal framework for collective bargaining in South Africa cannot be understood apart from the country's broader democratic transition. The dismantling of apartheid and the advent of constitutional democracy in 1994 created the political conditions for a fundamental reconfiguration of labour relations, including in the public sector, where workers had previously been denied basic organisational and bargaining rights (Molahlehi, 2005).

The constitutional foundation is provided by Section 23 of the Constitution of the Republic of South Africa, 1996, which guarantees a general right to fair labour practices and confers on every trade union, employers' organisation, and employer the right to engage in collective bargaining. As Cheadle et al. (2002) have observed, this constitutional enshrinement of collective bargaining rights is distinctive in comparative constitutional law, representing an open-ended commitment to the institution of collective bargaining that is not commonly found in constitutions of comparable states. Section 23(5) can be disaggregated into three component rights: the freedom to bargain collectively, the right to exercise economic power through strikes or lockouts, and the possibility that the right imposes a positive duty to bargain (Cheadle et al., 2002).

The principal statutory instrument is the Labour Relations Act 66 of 1995 (the LRA), which came into effect on 11 November 1996. The LRA was a landmark statute that, for the first time, brought labour relations in both the public and private sectors under a single legislative framework, repealing the fragmented earlier dispensation comprising the Public Service Labour Relations Act, the Education Labour Relations Act, and the South African Police Services Labour Relations Regulations (Du Toit et al., 2015). Section 1 of the LRA states that one of its purposes is to provide a framework within which employees and their trade unions, employers and employers' organisations can collectively bargain to determine wages, terms and conditions of employment, and other matters of mutual interest.

The LRA promotes centralised collective bargaining through three principal mechanisms: collective agreements (Section 23), bargaining councils (Sections 27–37), and statutory councils (Section 39). Bargaining councils are statutory bodies that provide a platform for centralised bargaining and set standardised minimum terms and conditions across specific sectors (Van Niekerk et al., 2021). Once

a collective agreement is concluded within a bargaining council, Section 31 of the LRA gives it binding legal force on all parties to the agreement, thereby transforming negotiated outcomes into enforceable obligations. The significance of this mechanism cannot be overstated: it converts voluntary collective agreements into instruments with the force of law.

Botswana

The legal framework for collective bargaining in Botswana presents a markedly different picture. The Constitution of Botswana, in Section 13(1), protects the freedom of assembly and association, including the right to form or join trade unions to protect one's interests. However, this protection is qualified by Section 13(2), which permits legislation that limits the enjoyment of freedom of association provided it is "reasonably justifiable in a democratic society." Critically, unlike the South African Constitution, the Constitution of Botswana makes no express provision for collective bargaining. As noted by Mogalakwe et al. (2008, p. 225), neither the Public Service Act nor the Constitution provides for collective bargaining. This constitutional silence represents a fundamental structural weakness in Botswana's collective bargaining framework, leaving bargaining rights dependent on ordinary legislation that can be amended or repealed without the supermajority requirements that protect constitutional rights.

The principal statutory instrument is the Public Service Act 30 of 2008 (the PSA), which came into operation between 2010 and 2011. The PSA represented a significant legislative consolidation, merging disparate employment laws for public servants and, for the first time, granting public sector workers the right to unionise, to participate in collective bargaining, and to receive protection against unfair labour practices (Bodilenyane et al., 2024b; BIDPA, 2011). Section 50 of the PSA establishes a Public Service Bargaining Council (PSBC), and Section 52 stipulates that the council shall consist of representatives of the government as employer and representatives of admitted trade unions. In these respects, the PSA mirrors certain features of the South African LRA.

However, the institutional trajectory has been one of regression rather than consolidation. The PSBC was established in 2011, and pursuant to Section 51 of the PSA, a collective agreement on the council's Constitution was concluded between the government and the seven registered and recognised trade unions. The PSBC operated between 2011 and 2015, during which period it concluded collective agreements on salaries and working conditions. Yet tensions between bargaining parties intensified: the employer was accused of disrespecting the council and undermining its authority, while trade unions were embroiled in internal factional disputes (Bodilenyane et al., 2024a). These centrifugal pressures culminated in the collapse and deregistration of the PSBC in 2017, leaving Botswana without any formal collective bargaining structure in the public service, a situation that persists to date.

It is worth noting that Botswana enacted the Employment and Labour Relations Act (ELRA) in 2025, which represents a further effort at legislative consolidation. While a full analysis of the ELRA is beyond the scope of this study, its enactment signals a recognition that the existing legislative framework was inadequate and that reform is necessary. Future research should examine the extent to which the ELRA addresses the structural weaknesses identified in this analysis.

Comparative Assessment

The comparison of legal frameworks reveals a fundamental divergence. In South Africa, collective bargaining rights are constitutionally entrenched (Section 23), given detailed statutory expression through a single comprehensive statute (the LRA), and supported by institutional mechanisms that convert collective agreements into binding legal obligations. In Botswana, collective bargaining rights rest on ordinary statutory provisions that lack constitutional protection, and the institutional framework has proven fragile, unable to withstand the centrifugal pressures of inter-party conflict. This divergence supports the pluralist proposition that the institutional design of bargaining frameworks—including the degree of legal entrenchment and the comprehensiveness of statutory support—is a significant determinant of bargaining system resilience.

The Composition and Dynamics of Bargaining Parties

South Africa

In the South African public sector, the employer is the state, represented at the bargaining table by the Chief Negotiator from the Department of Public Service and Administration (DPSA). The employer's negotiating team also comprises chief negotiators from sectoral bargaining councils, representatives from national departments, and representatives of provincial administrations. The total employer delegation at the PSCBC numbers thirty-five (PSCBC Constitution, 2003). A distinctive feature of the South African system is the structured mandating process: the Minister of Public Service and Administration convenes and chairs a Mandating Committee comprising key public service ministers (Education, Health, Safety and Security, Justice, Constitutional Development, Defence, and Finance). This committee, which reports to Cabinet, provides mandates to the Chief Negotiator on bargaining issues, ensuring that the employer's negotiating position reflects a coordinated governmental position rather than the views of individual departments (Molahlehi, 2005).

On the employee side, the PSCBC Constitution requires that any trade union applying for admission must meet a threshold requirement of 50,000 members and be admitted to a sectoral council. Currently, eight trade unions are admitted to the PSCBC. The council operates on a principle of equal representation, with the employer holding 50 per cent of the votes and labour holding the remaining 50 per cent. An agreement requires the support of the employer plus at least 51 per cent of labour's vote, a decision-making rule that ensures majority trade union support for any concluded agreement (PSCBC Constitution, 2003).

A further institutional innovation is the agency shop agreement. Section 25 of the LRA provides that a representative trade union and an employer may conclude an agency shop agreement requiring the employer to deduct an agreed fee from the wages of eligible non-union employees. The PSCBC has operationalised this provision through Resolution 1 of 2005, subsequently amended through Resolutions 2 of 2010 and 1 of 2011. The agency shop mechanism addresses the perennial free-rider problem, non-union employees benefiting from collectively bargained terms without contributing to the costs of bargaining, while respecting individual employees' freedom of association by not compelling union membership (Du Toit et al., 2015).

Botswana

In Botswana, the PSA establishes the government as the employer, represented by the Directorate of Public Service Management (DPSM). The PSA recognises public service trade unions as employee representatives at both the constitutional negotiation stage and in subsequent collective bargaining. The PSBC constitution provided for equal representation of eight employer and eight trade union representatives, mirroring the 50/50 principle found in the South African system (PSA, Section 52).

However, two critical institutional deficits distinguish the Botswana system from its South African counterpart. First, the identity and authority of the mandate provider remain unclear. According to Bodilenyane et al. (2024a), employer negotiators frequently attended bargaining meetings without a clear mandate, leading to stalled negotiations and eroding the credibility of the bargaining process. The absence of a structured mandating process, comparable to South Africa's Mandating Committee, meant that the employer's chief negotiator lacked the authority to make binding commitments at the table, fundamentally undermining the bargaining process. Second, Botswana's public sector lacks an agency shop agreement. As Bodilenyane (2004) has documented, this has permitted extensive free riding by non-union members, who benefit from collective bargaining outcomes through the default erga omnes effect without bearing any of the costs of union organisation and bargaining activity.

Comparative Assessment

The comparison of bargaining parties reveals that while both countries have adopted the formal principle of equal employer–labour representation, the operational effectiveness of bargaining is determined by features that go beyond formal parity. South Africa's structured mandating process ensures that the employer bargains with authority and coherence, while the absence of such a process in Botswana has been a proximate cause of bargaining dysfunction. Similarly, the agency shop mechanism in South Africa strengthens trade unions' organisational capacity and addresses the free-rider problem, whereas its absence in Botswana weakens unions' financial and organisational base.

These findings reinforce the pluralist insight that effective collective bargaining requires not merely the existence of bargaining parties but the institutional conditions that enable them to bargain effectively and in good faith.

Institutional Structures and Levels of Collective Bargaining

South Africa

A multi-tiered, coordinated structure characterises South Africa's public sector collective bargaining architecture. At the apex of the national-level institutional framework sits the National Economic Development and Labour Council (NEDLAC), established by the NEDLAC Act 35 of 1994. NEDLAC is a social dialogue body comprising representatives of government, organised labour, business, and community organisations, and serves as a forum for tripartite negotiation on economic, labour, and development policy (Cheadle, 2005). While NEDLAC is not a bargaining council, it plays a critical pre-legislative function. All proposed labour legislation must be considered by NEDLAC before introduction into Parliament, ensuring that social partners have a voice in the formulation of the rules that govern their relationship (Van Jaarsveld and Van Eck, 1998).

The principal bargaining structure for the public sector is the Public Service Coordinating Bargaining Council (PSCBC), established under Section 35 of the LRA as a bargaining council for the public service as a whole. The PSCBC serves as the "mother body" for public sector collective bargaining, with authority to designate sectors, establish sectoral bargaining councils, and resolve inter-sectoral disputes. Under the PSCBC's umbrella, four sectoral bargaining councils operate: the General Public Service Sector Bargaining Council (GPSSBC), the Safety and Security Sector Bargaining Council (SSSBC), the Public Health and Social Development Sector Bargaining Council (PHSDSBC), and the Education Labour Relations Council (ELRC) (Oodit 2014). This sectoral differentiation enables bargaining on sector-specific issues while maintaining coordination on cross-cutting matters such as salary adjustments and conditions of service.

The evolution of this structure has not been without difficulty. The original LRA provisions led to the creation of thirty three (3)3 departmental and provincial bargaining councils, whose collective agreements frequently duplicated or conflicted with agreements concluded in other structures. This proliferation was resolved through amendments to Section 37(1) (a) and (b) of the LRA, which granted the PSCBC the power to disestablish provincial and departmental bargaining councils. In 2003, the PSCBC exercised this power, replacing the proliferating councils with coordinated chambers and sectoral bargaining councils (Du Toit et al., 2015). This episode illustrates an important institutional design principle: bargaining systems require mechanisms for self-correction and rationalisation, without which fragmentation and incoherence can undermine the system's overall effectiveness.

Complementing the bargaining council system is the Commission for Conciliation, Mediation and Arbitration (CCMA), an autonomous dispute resolution body established under the LRA. The CCMA provides statutory conciliation and arbitration services for disputes that cannot be resolved through bargaining, serving as a critical safety valve that prevents unresolved conflicts from destabilising the collective bargaining framework (Godfrey et al., 2007).

It is important, however, to acknowledge that the South African system is not without its critics. Concerns have been raised about the extension of bargaining council agreements to non-party employers, particularly smaller organisations that lack the capacity to comply with negotiated terms (Godfrey et al., 2011). Furthermore, the PSCBC has itself experienced significant tensions, as illustrated by the Public Servants Association v Minister of Public Service (2021) case, which raised questions about the enforceability of collective agreements and the employer's compliance with bargained outcomes (Nkuna-Mavutane et al., 2024). These criticisms do not invalidate the institutional model but do highlight the ongoing challenges of sustaining effective collective bargaining even within a well-developed institutional framework.

Botswana

Botswana's institutional landscape for collective bargaining stands in stark contrast. At the national level, there is no equivalent of NEDLAC or the CCMA. The existing structures consist of a Labour Advisory Board, a Minimum Wage Board, and a High-Level Consultative Committee chaired by the President, which operates as a policy-level forum rather than a bargaining structure (Bodilenyane,

2012). These bodies serve advisory and consultative functions but do not possess the institutional capacity or legal authority to conduct collective bargaining or resolve disputes arising from bargaining.

The collapse of the PSBC in 2017 eliminated the only formal collective bargaining structure in the public service. Crucially, neither sectoral nor national bargaining councils exist, meaning there is no institutional mechanism for coordinated bargaining on cross-cutting issues, no forum for sector-specific negotiations, nro structured dispute-resolution process linked to the bargaining framework. The absence of an overarching coordinating body comparable to the PSCBC means that even if individual bargaining councils were to be re-established, there would be no mechanism to prevent the duplication and conflict that plagued the early South African system before the 2003 rationalisation.

Mogalakwe (1994) characterised the state-society relationship in Botswana as a complex fusion of repression, corporatism, and paternalism. This characterisation has particular resonance for collective bargaining: the combination of a presidential and unitary system of government, the constitutional permissibility of legislative restrictions on freedom of association, and the absence of a constitutionally protected right to collective bargaining creates an institutional environment in which the state retains a decisive and largely unilateral capacity to shape the terms of the employment relationship. Bodilenyane (2012) has observed that this system leaves little space for genuine collective bargaining in government, a conclusion that the collapse of the PSBC appears to confirm.

Comparative Assessment

The structural comparison yields three key findings. First, South Africa's multi-tiered architecture, from NEDLAC at the apex through the PSCBC to sectoral bargaining councils at the operational level, provides a comprehensive institutional ecosystem for collective bargaining, whereas Botswana lacks any operational bargaining structure. Second, the existence of coordination mechanisms (the PSCBC's authority to designate, rationalise, and oversee sectoral councils) is a critical institutional design feature that prevents fragmentation and ensures coherence across levels of bargaining. Third, the availability of statutory dispute resolution (the CCMA) provides a necessary complement to bargaining institutions, offering a mechanism for managing conflict that might otherwise destabilise the system. The absence of all three features in Botswana helps explain the institutional fragility of its bargaining arrangements.

Discussion: Explaining Institutional Divergence

The comparative analysis reveals four principal factors that explain the divergent trajectories of collective bargaining in the two countries.

Constitutional entrenchment. The most fundamental difference lies in the constitutional treatment of collective bargaining. South Africa's Constitution embeds collective bargaining as a justiciable right, providing a normative anchor that ordinary legislation cannot easily displace. Botswana's Constitution protects freedom of association but is silent on collective bargaining, leaving bargaining rights dependent on ordinary legislation that is vulnerable to political revision. This finding aligns with the broader comparative literature, which suggests that constitutional protection of labour rights enhances institutional stability (Mundlak, 2007).

Structured mandating processes. South Africa's Mandating Committee ensures that the employer bargains with coherence and authority, while the absence of such a process in Botswana has been a proximate cause of bargaining dysfunction. The mandating process is more than an administrative arrangement: it reflects a political commitment to treating collective bargaining as a serious governmental function that requires coordinated preparation, rather than a peripheral activity delegated to officials without clear authority.

Institutional coordination mechanisms. The PSCBC's authority to designate sectors, establish and disestablish bargaining councils, and resolve inter-sectoral disputes provides a mechanism for institutional adaptation and self-correction. The absence of any comparable mechanism in Botswana meant that when the PSBC encountered difficulties, there was no overarching body with the authority or capacity to intervene, mediate, or restructure the arrangements.

Political will and institutional culture. Underlying these structural factors is the question of political will. South Africa's collective bargaining architecture was forged in the crucible of the anti-

apartheid struggle, in which organised labour played a central role. The resulting political culture assigned high value to collective bargaining as an expression of workplace democracy and a bulwark against arbitrary authority. In Botswana, where the state-society relationship has been characterised by paternalism and where organised labour played a more peripheral role in the independence movement, the political impetus for robust collective bargaining has been weaker (Mogalakwe, 1994; Selolwane, 2012). The collapse of the PSBC, attributed in part to the employer's disrespect for the council's authority, may be understood as a manifestation of this underlying deficit of political commitment.

Conclusion and Recommendations

This study provides a systematic comparative analysis of collective bargaining in the public sectors of South Africa and Botswana, examining the legal and constitutional frameworks, the composition and dynamics of the bargaining parties, and the institutional structures through which bargaining is conducted. The analysis, guided by a pluralist theoretical framework, has identified significant divergences between the two countries and four factors that explain them: constitutional entrenchment, structured mandating processes, institutional coordination mechanisms, and political will.

The findings carry both scholarly and practical implications. At the scholarly level, the analysis contributes to comparative employment relations by demonstrating that institutional resilience in collective bargaining systems is not simply a function of legislative enactment but depends on a constellation of design features that include constitutional protection, structured decision-making processes, multi-tiered coordination, and a political culture that values bargaining as a legitimate mode of governance. These findings are consistent with and extend the pluralist theoretical framework by specifying the institutional conditions under which pluralist prescriptions are most likely to be realised.

At the practical level, the analysis suggests several directions for institutional reform in Botswana, each grounded in comparative evidence rather than in normative prescriptions alone. First, serious consideration should be given to the constitutional entrenchment of the right to collective bargaining, which would provide a more secure legal foundation than dependence on ordinary legislation. Second, a structured mandating process, perhaps modelled on South Africa's Mandating Committee but adapted to Botswana's governmental structure, should be established to ensure that the employer bargains with coherence and authority. Third, the re-establishment of the PSBC should be accompanied by the creation of a coordinating body with the authority to oversee sectoral councils and prevent the fragmentation that undermined the original arrangement. Fourth, an agency shop agreement should be introduced to address the free-rider problem and strengthen trade unions' organisational capacity. Fifth, establishing an independent dispute-resolution mechanism analogous to the CCMA would provide a necessary complement to the bargaining framework.

It must be emphasised that these recommendations are offered with an awareness of their limitations. The South African model, while institutionally more developed, is not without significant challenges, including tensions over the enforceability of collective agreements, concerns about extending bargaining council agreements to non-parties, and the persistent difficulty of reconciling collective bargaining outcomes with fiscal constraints. Institutional transplantation, the wholesale adoption of one country's institutional arrangements by another, rarely succeeds without adaptation to local conditions, political structures, and institutional capacities (Trebilcock, 2011). Any reform in Botswana must therefore be sensitive to the country's specific political economy, governmental structure, and institutional culture.

Future research should pursue several avenues. Primary empirical research incorporating interviews with bargaining participants in both countries would provide insights into the lived experience of collective bargaining that documentary analysis cannot capture. A broader comparative study encompassing additional Southern African public sectors, such as Namibia, Zambia, and Zimbabwe would test the generalisability of the analytical framework developed here. Finally, the recent enactment of the Employment and Labour Relations Act of 2025 in Botswana warrants close scholarly attention as a potential turning point in the country's collective bargaining trajectory.

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