

**Ministry**

**Employment & Labour**

**Republic of South Africa**

Private Bag X499, PRETORIA, 0001. Laboria House 215 Schoeman Street, PRETORA Tel: (012) 392 9620 Fax: 012 320 1942

Private Bag X9090, CAPE TOWN, 8000. 120 Plein Street, 12th Floor, CAPE TOWN Tel: (021) 466 7160 Fax 021 432 2830

[www.labour.gov.za](http://www.labour.gov.za)

**NATIONAL ASSEMBLY**

**WRITTEN REPLY**

**QUESTION NUMBER: 138 [NW141E]**

**138. Dr M J Cardo (DA) to ask the Minister of Employment and Labour:**

Whether, with reference to sections 26 and 32 of the Labour Relations Act, Act 66 of 1995, which deals with closed shop agreements and the extension of collective bargaining agreements respectively, his Ministry and/or his department have ever considered, are considering, or are willing to consider (a) amending one or both of the abovementioned provisions with the goal of diminishing the influence of such agreements on the labour market and/or (b) removing one or both of the abovementioned provisions in their entirety from the specified Act; if not, why not, if so, what are the relevant details to the questions respectively? NW141E

**REPLY:**

Honourable Cardo must note that South Africa is a Constitutional democracy whereby the Constitution of the Republic of South Africa is the supreme law of the land. The Constitution protects the right to engage in collective bargaining and freedom of association. Therefore, the Honourable Dr Cardo is calling on the government to act unconstitutional by diminishing and/or removing the right to engage in collective bargaining.

It is sad that certain members lament constitutional violations in other countries and with the same breath are calling for the Government to act unconstitutional.

The Honourable member must note that our labour market policies are decided and agreed upon by way of consensus by NEDLAC social partners consisting of Organised Business, Organised Labour, Organised Community and Government. The Government does not dictate to social partners which policies are best suitable to govern their environment.

Dr Cardo must remember that bargaining councils are voluntary arrangements. It is parties themselves within the sector and understanding their dynamics within their sectors that conclude these collective agreements best suited for them.

Notwithstanding that, it is parties to the bargaining council without the intervention of government that conclude collective agreements best suited for their sector,