

*Perceptions of grievance and disciplinary
procedures: A study of a union's members at a
tertiary institution*

By
Shadrack Themba Mzangwa

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Supervisor: Dr. Charles Puttergill

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DECLARATION OF ORIGINAL WORK

I, Shadrack Themba Mzangwa, declare that this mini-dissertation is my own original work. Where secondary material has been used (either from printed material or from an internet source), this has been acknowledged and referenced in accordance with the requirements of the Department of Sociology, Faculty of Humanities, University of Pretoria.

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ABSTRACT

Employee organizations or trade unions play an important role in the labour relations of various institutions. A crucial function, amongst others, fulfilled by trade unions is their involvement on issues of grievance and disciplinary procedures in the workplace. This study aims to understand the perceptions of rank and file union members, particularly regarding the handling of grievance and disciplinary procedures. The study examines the understanding of the functioning of a union, as well as the approach of a union in representing its members during grievance and disciplinary procedures. In particular, the study looks at the challenges faced by the leadership of the union in dealing with the management of an institution during grievance and disciplinary procedures.

Various circumstances which, lead to the lodging of grievances and the scheduling of disciplinary hearings in the workplace were observed. These circumstances could occur in any workplace of any given institution. It is for this very reason that the appropriate measures should be taken in resolving disputes. The measures should be followed and applied by the management of an institution when dealing with grievance and disciplinary procedures regarding its employees. Such procedures must be followed before an employee may be given a warning or be dismissed. Recognized unions represent their members during such proceedings. This study analyzes the understanding of labour relations, regarding issues of grievance and disciplinary procedures, as applied to a tertiary institution.

The handling of these procedures and the experiences of union members, during their representation by a union, are assessed. Due to the diversity of scope and the composition of unions (representing both academic and non-academic staff members) which operate in a tertiary institution, the study was limited to one labour union. This research was conducted within the structure and scale of a single union (NEHAWU) operating in an institution.

The study found that union representatives faced particular challenges while defending their members during disciplinary hearings. These challenges are apparent when union representatives are confronted by legal experts on labour matters. Union members expressed their dissatisfaction and their lack of confidence in their representatives during grievance and disciplinary proceedings. The union members rated the union poorly, particularly regarding the leadership of the union. They felt that more cases were lost than won. However, despite the low ratings, union members (in general) felt strongly about the right to belong to a union, believing that disciplinary processes were largely affected by "race". This is simply because most of the union members were black subordinates serving under most white supervisors.

Key words: Trade union, grievance procedure, disciplinary procedure,

OPSOMMING

Werknemerorganisasies of vakbonde speel 'n belangrike rol in arbeidsverhoudinge in verskeie instellings. 'n Kritieke funksie, onder andere, wat deur vakbonde vervul word is hul betrokkenheid by griewe- en dissiplinêre prosedures in die werkplek. Hierdie studie beoog om die persepsies van gewone vakbondlede, in besonder met betrekking tot die hantering van griewe- en dissiplinêre prosedures te begryp. Die studie ondersoek die begrip van die funksionering van 'n vakbond, asook die benadering van 'n vakbond in die verteenwoordiging van lede tydens griewe- en dissiplinêre prosedures. In besonder, word die uitdagings wat die vakbondleierskap in die gesig staar in die oorlegpleging met bestuur tydens griewe- en dissiplinêre prosedures, oorweeg.

Verskeie omstandighede wat tot die oplegging 'n grief en die skedulering van 'n dissiplinêre verhoor in die werkplek, lei, is waargeneem. Hierdie omstandighede kan by enige werkplek in enige instelling ontstaan. Dit is om hierdie rede dat gepaste maatstawwe geneem moet word om sulke dispute op te los. Die maatstawwe behoort gevolg en toegepas te word deur die bestuur van die instelling wanneer griewe- en dissiplinêre prosedures, met betrekking tot werknemers, hanteer word. Sulke prosedures behoort gevolg te word voordat 'n werknemer 'n waarskuwing gegee of ontslaan word. Erkende vakbonde verteenwoordig hul lede tydens sulke prosedures. Die studie ontleed die begrip van arbeidsverhoudinge, met betrekking tot griewe- en dissiplinêre prosedures, soos deur 'n tersiêre instelling toegepas word.

Die hantering van hierdie prosedures en die ervaringe van vakbondlede gedurende hul verteenwoordiging deur die vakbond word geassesseer. As gevolg van die omvang van reikwydte en die samestelling van vakbonde (wat beide akademiese en nie-akademiese personeel verteenwoordig) wat in die tersiêre instelling funksioneer, is die studie beperk tot een vakbond. Die navorsing is onderneem binne die struktuur en skaal van 'n enkele vakbond (NEHAWU) wat in die instelling werksaam is.

Die studie het bevind dat vakbond verteenwoordigers bepaalde uitdagings in die gesig gestaar het in die verteenwoordiging van hul lede tydens dissiplinêre verhore. Hierdie uitdagings is duidelik wanneer die vakbond verteenwoordiger gekonfronteer word deur regskenner oor arbeidsaangeleenthede. Vakbondlede het hul misnoeë uitgespreek en min vertroue in hul verteenwoordigers tydens griewe- en dissiplinêre prosedures geopper. Vakbondlede het die unie, in besonder die leierskap, as swak beoordeel. Hulle voel dat meer sake verloor as gewen is. Ten spyte van hierdie lae taksering, voel vakbondlede sterk oor hul reg om aan 'n unie te behoort (in die algemeen), en glo hulle dat dissiplinêre prosesse deur 'ras' beïnvloed word. Dit is eenvoudig omdat meeste vakbondlede swart ondergeskiktes is wat onder wit toesighouers werk.

Sleuteltermes: Vakbond, griewe prosedure, dissiplinêre prosedure

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“Ncutu MaZangwa, Khwalo, Mlanjana!!!”

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List of Acronyms

ANC	-	African National Congress
BCEA	-	Basic Conditions of Employment Act
BEC	-	Branch Executive Council
BOB	-	Branch Office Bearer
CCMA	-	Council for Conciliation, Mediation and Arbitration
COSATU	-	Congress of South African Trade Unions
ERA	-	Employment Relations Act
HRA	-	Human Resources Administration
IFP	-	Inkatha Freedom Party
ILO	-	International Labour Organisation
LRA	-	Labour Relations Act
NEC	-	National Executive Council
NEDLAC	-	National Economic Development and Labour Council
NEHAWU	-	National Education, Health and Allied Workers' Union
NIA	-	National Intelligence Agency
ORA	-	Organisational Rights Agreement (Recognition Agreement)
PEC	-	Provincial Executive Council
REC	-	Regional Executive Council
SACP	-	South African Communist Party
SALB	-	South African Labour Bulletin
SALG	-	South African Labour Guide
SANDF	-	South African National Defence Force
SASS	-	South African Secret Service
ULR	-	Unit for Labour Relations
UMO	-	Union Member - Ordinary
USO	-	Union Shopsteward - Official
USOB	-	Union Shopsteward – Office Bearer
UWUSA	-	United Workers' Union of South Africa

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CHAPTER 1

General introduction

1.1 Introduction

Numerous studies have been conducted on trade unions in South Africa (Bendix, 2010; Buhlungu, 2006; Nel, 2002; Adler & Webster, 2000; Van Dijk, 1997). These studies range from describing the functions and roles of trade unions to examining the socio-economic impact of trade unions in South Africa. The relationship between employers and employees, employers' associations and trade unions as well as perceptions of workers about the Commission for Conciliation Mediation and Arbitration (CCMA) cases have been explored thoroughly. Less research has been conducted on the perceptions of union members regarding grievance and disciplinary procedures in the workplace.

During the Public Sector' strike of 2010 involving members of several trade unions affiliated to the Congress of South African Trade Unions (COSATU), the government as an employer made the threat of instituting disciplinary measures against the striking workers (Martin, 2010: 1-11). The minister of Public Service and Administration and the President of the country announced that all workers who would carry on participating in the strike would be disciplined or dismissed should they fail to report on duty. At that point in time, the unions' demands were not yet addressed and or agreed upon (BuaNews, 2010; Hutchings, 2010). This threat illustrates the conflictual and adversary relationships in the workplace. It furthermore demonstrates the unequal relationship between the employer and the employee. Hence, in the light of such threats, sound work procedures regarding the handling of disciplinary measures should be established (Martin, 2010: 1).

The public sector strike of 2010 emphasized that the relationship between employers and employees remain strained. It furthermore demonstrated high levels of dissatisfaction and frustration by employees with regard to their working conditions and status in society.

There is still a number of workers employed by various institutions who are not happy about how their employers respond to their needs (Tshiki, 2005: 24). In spite of the existence of bodies such as National Economic Development and Labour Council (NEDLAC), an institution established in the context of democratic transition with the society, with the aim of promoting participation instead of unilateral decision-making, the labour disputes suggest failure. These fora do not seem to have addressed issues adequately to resolve disputes or hostile labour relations (Friedman, 2002: 53).

The Labour Relations Act, (Act 66 of 1995) (hereafter referred to as the LRA), sanctions discipline and dismissal, as well as industrial action. More importantly, chapter three and five of the LRA encourages an ethos of consultation and negotiation between the parties in the labour relationship. Workplace forums have been introduced in many institutions for consultation between employers and employees to ensure inclusive and transparent decision making (Nel, 2002; Olivier, 1996).

Nurse and Devonish (2006: 90), point out that a grievance procedure, in the absence of union representation, may exhibit some weaknesses, allowing management to be both judge and plaintiff. They argue that without union representation, the employee with a grievance is unlikely to find satisfaction. Fair management should recognize the existence of a union and its representatives, as they represent and accompany members who are involved in a grievance and/or disciplinary matter.

According to Jordaan and Stander (2004: 4) employee dismissal in the workplace is a major concern of both unionized and non-unionized members. There are various matters that may lead to dismissals of employees from the workplace. They further portend that grievance and disciplinary procedures are processes that can be followed before an employee is dismissed and that the trade union's role is to represent its members who are involved in grievance and disciplinary actions against the management in the workplace.

1.2 Discussion of key concepts

Trade unions have a crucial responsibility in representing their members in resolving differences between the employer and employees, particularly with regard to grievance and disciplinary issues. It is therefore, vital to clarify some key concepts to lay foundation to this study.

1.2.1 Trade union

Trade unions are voluntary associations formed to protect the common interests of members and promote their interests in relation to employers. Their primary function is to see to it that employees are protected against unfair labour practices. Unions use their collective power to negotiate with employers on various issues that relates to their members. These issues may include employees' payments, job security, working hours, leave, etcetera (Trade Union Readcast, 2009: 2). Trade unions may even engage in political activity where legislation affects their members (Johnson, 2000: 330).

The following objectives listed from the Trade Union Readcast are worth noting since they outline a strong view which to a large extent is what trade unions are formed to achieve:

- a) “Representation – If an employee feels he is being unfairly treated, he can ask the union representative to assist to sort out the difficulty with the employer. A legal representation is offered by the union should it be so needed.

- b) Negotiations – Is where union representatives discuss with management issues which affect employees to find out a solution to the differences. There is a formal agreement between the union and the organization stating that the union has the right to negotiate with the employer. Unions are said to be recognized for collective bargaining purposes.

- c) Voice in decisions affecting workers - Unions intervene and have their say in the decision making of management to safeguard the interests of their members. This includes economic security of employees determined by management’s policies which directly affect workers. These could include selection of employees for layoffs, retrenchment, promotion and transfer.

- d) Member services – Unions run training courses to educate their members on employment rights, health and safety and other issues. Unions assist illiterate members with basic education by offering courses on basic skills. They even negotiate with management to provide resources to assist members in this regard.

- e) Legal assistance - Unions offer legal advice to members through consultation with legal experts if so required and unions give help to their members with matters like housing, wills and debts and other insurance through which members could have joined via the employer or on their own will” (Trade Union Readcast, 2009: 4).

The common function of a trade union is to assist members who face hardship or difficult circumstances.

1.2.2 Grievance procedure

Nurse and Devonish (2006: 91) stipulate that a grievance procedure should be one of the prerequisites for a collective agreement. In any conflict arising in the

workplace between the employer and an employee, the grievance procedure should be regarded as an institutional device, as well as a better practice for handling and resolving conflict. Reinforcing their argument, they maintain that this has become institutionalized by management and employees in general, acknowledging the differences which derive from unavoidable conflict between workers and employers. Grievance procedures are thus specifically designed to resolve conflict and secure peace in the workplace.

In defining grievance, Britton (1982:12) clarifies it as:

“Any dispute that arises between an employer and the employee which relates to the implied or explicit terms of the employment agreement or contract.”

A grievance is a formal complaint, which may be defined through a specific institution’s policy on conflict resolution, as outlined by the formal process to address day-to-day complaints or problems. Hunter and Kleiner (2004: 86) suggest that the rationale for making a grievance depends upon whether or not there is just cause or reason for such a complaint.

In many countries, including South Africa, the collective agreement settled between labour organizations and the employers consists of terms and conditions governing the various stages in handling a grievance (Nurse & Devonish, 2006: 91). This practice is applicable in both the public and the private sectors, though the distinct stages are more likely to be established in the unionized sectors and as more formalized systems.

A grievance may be filed by any employee who is a member of a labour organization or association against or on behalf of such an organization. The most commonly reported grievances from employees are complaints about a broken employment agreement between the two parties (employer and employee), unfair treatment by the employer, and defamation. For a grievance to

be resolved effectively, the employer is obliged to follow certain guidelines (HRA, 2011: 2; Hunter and Kleiner, 2004: 86-88). The grievance procedure comprises a number of steps at various levels which need to be followed before the matter can be resolved. The first step is mainly informal, offering an opportunity for the worker and the line-manager to sort out the dispute with the assistance of a union shopsteward. The next step is a formal written grievance, in which the worker or the union appeals to the higher management of the organization. If the matter remains unresolved after the second step, an appeal is made to a neutral arbitrator (HRA, 2011: 4).

Hunter and Kleiner, (2004: 85) emphasize that in most instances, grievances are resolved at the very first two steps of the procedure if all parties are willing to reach an arbitration. This was confirmed by findings of a study conducted by Lewin and Peterson (1988) on grievance procedure at a specific company in New York, where the majority of cases reached arbitration. In particular, they found that expedited grievance reached settlements more rapidly.

1.2.3 Disciplinary procedure

In defining a disciplinary procedure, Albrecht and Thompson (2006: 454) state that it is a structured approach which an employer uses to deal with ill-discipline at workplace. The objective of the disciplinary procedure is to warn individuals whose conduct gives cause for dissatisfaction in the workplace, and this practice is applied in order to improve their behavior or their performance (Farnham, 2000: 79).

Many institutions use criteria guided by policy and labour laws to determine how an organization has to discipline an employee (BNA Editorial Staff, 1959-1987: 1). According to Hunter and Kleiner's (2004: 89) analysis, complaints by employers which most commonly lead to a disciplinary action against employees are absenteeism, misconduct, insubordination, and substance abuse, for

example where employees are found drinking alcohol during working hours. Other complaints include unsatisfactory performance, as well as safety and health violations in the workplace. Warnings, temporary suspension from work, and permanent release from occupation are typical penalties imposed by management to discipline workers.

Folger and Cropanzano (1998: 26) argue that implementation of the disciplinary code and procedures in an organization entail the application of justice in the workplace. This implies fairness concerning the methods, procedures, and processes that are used to determine fair outcomes on disciplinary issues.

Organizational justice in the workplace thus involves a consideration of what issues are perceived to be fair towards bringing changes taking place. These changes could be social or economic and may involve the employee's relations with the supervisors, co-workers and any other workers generally in an organization as a social system (Beugre, 1998, xiii).

1.3 Research problem

Changes in the role and functions of trade unions have occurred (Thakathi, 1993). From the pluralist perspective, differences of interest and conflict do exist in many organizations and this situation is resolved through negotiations (Haralambos and Holborn, 2000: 718).

The basic tenets of pluralism in labour relations singled out by Finnemore and Van der Merwe (1996: 7) are considered as backdrop to structuring grievance and disciplinary procedure in the workplace;

- a) Conflict is acknowledged as a normal part of the relationship between workers and employers, but a general understanding of the advantages and benefits of the organization makes cooperation much more achievable.

- b) Trade unions and employer organizations are seen as legitimate and functional organizations through which employees and employers protect and further their interests within a framework of rules provided by the State.
- c) The existence of countervailing powers supported by the employees' and employers' rights, e.g., a right to strike for the employees and a right to lock out for employers, is seen as ultimately conducive to maintaining the balance of power between the parties.

The pluralist tenets imply that employment relationships, as subsystems of the society, are in fact platforms in which the diverse and conflicting interests of employees and employers are harnessed towards compromise and consensus. The mutual benefit derived from these relationships make consensus the lifeblood of such a subsystem. It is therefore, important for South African organizations to develop people management strategies that will enhance productivity levels for the employees with regard to people management strategies. Many employers benefit through diverse tools of solving work related problems which lead to improved employment relations (Ndala, 2002: 6).

Researchers have primarily explored the influence of trade unions in the labour market and dispute resolution matters at the CCMA (Thakathi, 1993; Hobo, 1999). Hobo (1999: iii) indicates that the CCMA was successful in preventing many strikes and resolving labour disputes. The large number of cases accumulating in the CCMA awaiting resolution due to incapability of the employers and trade unions in handling labour disputes is a cause of concern.

Reasons mentioned for the high referral rate to the CCMA (Bendeman, 2001: 6) include incapacity of the employees, incapacity of the employers and the trust of employees in the system (CCMA). Bendeman (2001: 7) suggests the following:

- a) "Incapacity of employees refers to the fact that applicants do not have knowledge of the system or their rights and obligations, and are poorly advised by trade unions, labour consultants and the Department of Labour,

who lead employees to believe that they have a good case and that they should pursue the matter further.

- b) Incapacity of the employers implies that they lack knowledge of labour legislation, have a total disregard for substantive and procedural requirements for fairness, and find it easy to replace dismissed employees. Employers are ignorant of their responsibilities and do not have, or do not use, their internal grievance and disciplinary procedures.
- c) Trust implies that employees have faith in the system of dispute resolution as embodied in the CCMA”.

Although investigation of this research study is not necessarily based on issues of the CCMA as such, the above mentioned information as identified by Bendeman (2001) indicates that there are many labour disputes that need to be handled appropriately by the employer and employees or employee representatives. Not much research has been conducted to find out how grievance and disciplinary matters are handled by unions and the management in the workplace before reaching the CCMA. Studies have been conducted by Van Dijk (1997), Bendeman (2001), Tshiki (2005) and Saundry *et al.* (2008). If issues of grievance and disciplinary procedures are handled effectively by the employer and employee or employee representatives, this can help to minimize the number of cases referred to the CCMA. This can also improve relationships in the workplace. A relationship between trade unions and management, though they may differ in their views is very important in the work environment. Management and trade unions are the key role players concerning labour matters and to resolve labour related conflicts and misunderstandings.

The current position of trade unions in relation to their responsibility towards serving their members needs to be reviewed or thoroughly studied. Research has shown that as the number of members in the trade unions have fallen, the capacity of the trade unions to bargain with the employers of their members over the issues at hand have fallen as well, and the influence that they currently have with the national government is low (Gani, 1996: 54-65; Howard & Stephen, 2003: 2; Chris, 2007: 1). The literature on this topic suggests that the

performance of trade unions is currently not as effective as it was in the past. This view is important in a sense that the trade unions seem to be lacking the capacity to represent their members effectively (Malcolm, 2000: 87).

This study seeks to find out what role the union representatives play during grievance and disciplinary procedures and how effective union members perceive this role to be. Thus, the study seeks to find what union members' perceptions are regarding their representation during grievance and disciplinary procedures. The study aims to contribute towards a literature on union members' perception on issues of grievance and disciplinary procedures in the workplace.

1.4 Objective of the study

Pertinent to the problem statement and the subject matter of this study, objectives of the study are of utmost importance to mention. The research methodology to be followed in the process of scientific research is determined by objectives of the study (Reid *et al.*, 2007: 273).

The primary objective of this study is to gain an understanding of rank and file union members' perceptions of grievance and disciplinary procedures. The secondary objectives are:

- a) To determine the views of the union's representatives concerning grievance and disciplinary procedures at the workplace,
- b) To ascertain whether workers differ in their views on how the union represents members during grievance and disciplinary hearings,
- c) To build understanding of labour relations regarding issues of grievance and disciplinary procedures as it applies to a tertiary institution.

1.5 Research questions

The key question that this study seeks to address is the extent to which trade union members and union officials understand grievance and disciplinary procedures at their workplace. Therefore, a number of issues concerning protocol and steps involved in grievance and disciplinary procedures need to be considered.

The primary question in this research is how union members perceive the way in which grievance and disciplinary matters are handled. Further research questions are developed in an attempt to guide the researcher as outlined by Taylor (2000: 70). The study will seek to answer the following sub-questions:

- a) Do union leaders or union officials and representatives have the appropriate knowledge necessary to handle or represent their members in grievance and disciplinary procedures?
- b) Have matters of grievance and disciplinary procedures been dealt with to the satisfaction of the workers by their union representatives?
- c) Is there any difference between the manner in which highly educated and less educated union members (workers) view the way the union represents them during grievance and disciplinary proceedings?

1.6 Purpose of the study

The purpose of this mini-dissertation is to analyze the perceptions of members of a trade union pertaining grievance and disciplinary procedures in the workplace and the involvement of trade union representatives in this regard. Aspects that will receive attention in this study will include;

- a) The regulatory framework governing labour relations, investigation and clarification of the labour legislation and the role of trade union applicable in the South African public sector; and

- b) Structures and mechanisms to facilitate cooperation in dealing with grievance and disciplinary matters.

A further interest of this research is linked to aspects of the fair treatment of employees and the creation of fair working conditions, as stated by Nurse and Devonish (2006: 93). This study is thus motivated by the concept that fairness and honesty are equally important to both employees and employers.

1.7 Scope of the work

One trade union operating at a specific institution is analyzed to gain understanding on how members, both union officials and ordinary members perceive representation (by the union) in resolving issues of grievance and disciplinary procedures. In agreement with Flyvbjerg (2004: 423), the study does not seek to generalize or oversimplify but rather to provide a balanced overview of the significance of challenges since the study links theoretical concepts to empirical work.

1.8 Outline of the chapters

This study comprises of six chapters.

Chapter 2 Theoretical approaches on trade unions' influence in the workplace

This chapter reviews theoretical frameworks relating to trade unions' operation and how union membership impact on industrial relations in South Africa.

Chapter 3 Legislation and industrial relations in South Africa

Chapter three addresses what constitutes the recognition of trade unions at various institutions in South Africa. This chapter describes the scope of the

legislative framework regulating industrial relations and focuses on the role of trade unions as well as what is expected of a union in order to comply with representing their members in dispute matters.

Chapter 4 Research design and methodology

Chapter four outlines the research design underpinning the study, such as the selection of participants, choice of data collection method and interpretation of data. This chapter also pays attention to the consideration of ethical issues applied to the study.

Chapter 5 Experiences and representation of employees

Chapter five which deals with workers' experiences considers the interviewees' accounts of their experiences regarding representation, the handling and outcomes of grievance and disciplinary procedures. The experiences of the union members and union officials or representatives (employees) is analyzed and discussed in this chapter.

Chapter 6 Summary and conclusion

Finally, chapter six incorporates an overview of the findings and identifies some limitations of the study. This chapter provides a summary, recommendations and draws a conclusion for the entire study.

CHAPTER 2

Theoretical approaches on trade unions' influence in the workplace

2.1 Introduction

In this chapter, unionization at a higher education institution in South Africa will be discussed to contextualize this study and then followed by an exposition of the theoretical perspectives drawn on this study. The three theoretical perspectives discussed are the unitary perspective, radical perspective and pluralist perspective in particular, which underpins this study.

2.2. Unionization at a higher education institution in South Africa

According to Gunnigle *et al.* (1998: 431) unionization may be referred to as an ongoing relationship amongst workers within an organization or an institution. This workers' relationship aims to improve and sustain working conditions and the living standards in the workplace with a level of recognition from the institution or the employer.

The extent of union recognition and level of union membership are critical factors impacting on the nature of employment relations. The South African public sector and the higher education institutions are unionized. The majority of unionized members in the public sector and the higher education institution belong to NEHAWU which is affiliated to COSATU. NEHAWU is one of the public sector unions involved in the coordinating Bargaining Council and negotiating structure for the public service employees in South Africa (Nehawu, 2011).

Higher education institutions are characterized by relatively high levels of unionization. However, some of these institutions have lower levels of union penetration. Thus, union branches vary in size, strength and branch capacity as well as union density (Wood & Glainster, 2008: 439). Unions represent employees in many different positions and these members have different perspectives on many issues affecting organization. Unions address political and educational issues. They seek to ensure job security and improve working conditions of their members. Part of the unions' tasks and responsibilities is to represent and assist their members during grievance and disciplinary actions (Trade Union Readcast, 2009: 4-8).

Saundry and Antcliff (2006: 52) argue that even though unionization is likely aligned to procedures and rule bound, due to the large union mass, disciplinary sanctions and dismissals occur in the workplace which links the union to these negative charges. They further explain that in order to understand this context clearer, it is viewed that a large number of union members make management alert and vigilant about their use of discipline in the workplace. In this perspective, effective union representation could promote resolutions of issues that lead to formal grievance and disciplinary actions being taken whereby formal, fair and correct procedures are followed. This may reduce the likelihood of sanctions posed to the union.

2.3 Scientific management and unionization

The scientific management principles introduced by Taylor are contributing factors on the degradation of work (Opp, 2009: 9). Taylor's importance as leader of the movement which gave the world, time and motion studies has to be set in historical context. The increasingly rationalized division of tasks and the mechanization of work reached a point at the beginning of the twentieth century where the need to co-ordinate human work efforts, not surprisingly, invited the

attention of those interested in applying scientific and engineering criteria to the human sphere as they had to the mechanical (Watson, 1987: 33).

An indication acknowledged from the Sociology Dictionary Index (2010) is that, as developed by Frederick Winslow Taylor, scientific management is a set of ideas which primarily involves simplifying and bringing workers' actions together so as to be most productive and generate highest profit for an organization. This to a large extent fuelled unionization in many trades and business organizations around the world due to the fact that various collective movements were opposed to the implementation of these principles (Abrahamson, 1997: 504).

Watson's (1987: 33) argument on scientific management views:

“The worker as basically an economic animal, a self-seeking non-social individual who prefers management to do their job-related thinking...” (Watson, 1987: 33).

Based on this description, the above notion is meant for efficient way of organizing work and then ties the monetary rewards of the work to the level of output achieved by the individual employee. He further makes indication that, this would produce results which would benefit the employer and the employee alike, removing the likelihood of conflict and the need for labour unions.

Marx and Engels (1977) argue that human-beings achieve the fullness of their humanity through their labour. Through labour, a social process, the human world is created and this is the basis of Marx's materialism (Watson, 1987: 52). Braverman (1974: 85-138) describes scientific management as the degradation of work in capitalism for accumulation of capital. The upsurge is exploitation of labour which leads to deskilling and intensification of work, more management control and less resistance with proliferation in productivity and profitability. Gani (1996: 54-55) argues that Marxist theorists explain the membership of the union according to workers' unhappiness and disappointment of the present system as

well as workers' political will to bring down the "exploitative order". She further argues that in this sense workers criticize the dominant approach applied by the capitalistic elite being the unitary approach.

Nel and Holtzhausen (2008: 4) portend that the early attempt to define the field of industrial relations was made by Dunlop based on the work of various sociologists from the systems perspective. Dunlop cited in Nel and Holtzhausen (2008: 4), regards the industrial relation system as follows:

"It is comprised of certain actors (managers, workers, and specialized government agencies) certain contexts (technological characteristics, the market and the distribution of power in the society), ideology which binds the industrial relations system together, and a body of rules created to govern the actors at the workplace and work community" (Nel & Holtzhausen, 2008: 4).

According to Nel and Holtzhausen (2008: 5), since the early primarily sociological perspectives, it is clear that the focus has been on rule-making and work-control processes in an employment context. Gradually, different perspectives developed, and thus they argue that since the 1980s the definition and scope of *industrial relations* have attracted renewed interest and debate. Furthermore, in the early 1990s the debate was taken a step further when it was termed *employment relations*.

Gough *et al.* (2006: 30) argues that any analysis of employment relations needs to be understood in a context of broader theories about society and organization. Complex society and organization requires human to understand employment relations with an open mind.

2.4 Theories on trade unions' operation

Henslin (1999: 19) cites the need for theories to provide explanation that tie together many research findings but avoid sweeping generalization that attempt to account for everything. In explaining theoretical perspectives, he further states that a theory is an explanation of how two or more facts are related to one another and, thus, by providing a framework which fit observation, each theory interprets reality in a distinct way (Henslin, 1999: 20).

According to the ILO-A (2011: 1-6), the three major theoretical perspectives in industrial relations differ regarding interpretation and the manner in which they are analyzed and applied in workplace relations. In sequence, these three theoretical perspectives are unitary perspective, pluralist perspective as well as the radical perspective. The role of unions, work place conflict and job regulation are primary aspects outlined and explained differently regarding how they are applied in each perspective. The radical perspective is also known as the conflict model, whilst the pluralist perspective views conflict as normal and natural in the workplace. The radical perspective is often associated with Marxism although it is not limited to it.

Conflict theory, which has variants such as Marxism and pluralism, assumes that there is a divide between the owners and controllers of capital and the working class. The owners and controllers of capital represent employers whereas those who sell their labour are employees. For the working class, collective action counters the power of capital since interests of the employers and employees differ. Conflict resolution tends to apply rational action in resolving differences between the employer and employees (ILO-A, 2011: 1; Opp, 2009: 9).

2.4.1 Unitary perspective

The unitary perspective in employment relations assumes that employers and workers operate in teamwork for attainment of common objective within an organization. This perspective views an organization as a combined unit whereby employers and workers have equal understanding. Thus, all parties form one team with similar intention. In this regard, there is no need for 'third party' or union interventions. Unions are perceived as unnecessary and divide employee loyalty. The unitary perspective disputes that there is a meaningful role for conflict in the workplace. Unitarists posit that employer should set the rules and employees should cooperate in complying with the rules. If conflict does arise, it is seen as disruptive and regarded a fault of poor employee management or communication problems (Van Gramberg, 2002: 208; ILO-A, 2011: 6).

Unitarists emphasize team-work when conceptualizing the nature of the employment relationship (Fox 1974: 249). Since unitarists expect a harmonious workplace, comprising of committed and loyal employees, conflict is considered a threat and must be eliminated (Van Gramberg, 2002: 208). The fundamental elements of the unitarist context includes a commonality of interests between owners and workers, acceptance of the political, social and economic culture and focuses more on resolving conflicts than the actual cause of the conflict. This perspective is criticised for being viewed in denial of the existing basic antagonism in the employment relationship, though its tenets influence the attitudes and behaviour of employers towards employees (Huczynski and Buchanan, 2001: 772).

2.4.2 Pluralist perspective

The pluralist perspective views the employing organization as a coalition of individuals and groups with diverse objectives, values and interests. The underlying assumption with this perspective is that individuals in an organization

combine into a variety of distinct sectional groups, each with its own interest, objectives and leadership. The different groups in an organization are competitive in terms of leadership, authority and loyalty. In this regard conflict put the organization in a permanent state of dynamic tension (Swanepoel *et al.*, 2005: 404). This is where mainly the trade unions fits-in and it is through pluralist perspective that unions have a platform to exercise their rights unlike when an institution or an employer applies or exercises the unitary perspective.

The observation made by Nel and Holtzhausen (2008: 7) is that pluralist perspective recognizes the mutual dependence of the two groups. The assumption made is that the conflict between management and labour is not therefore fundamental and unbridgeable so that the parties will fail to cooperate. In this regard, they argue that the key lies in the regulation of the employment relationship. Hence this is how to institutionalize conflict in order to contain and control its impact on the parties and their relationships.

The pluralist perspective is perceived to be made up of strong and dynamic sub-groups. Each sub-group has its own objectives and leadership with rightful loyalties to represent their group. Usually the leadership of each sub-group represents their members on the basis of a mandate determined by its members or primarily comprised of the set objectives (ILO-A, 2011: 1-6). It is further stated that the two predominant sub-groups in the pluralistic perspective is the management and workers' union.

The various roles of managerial staff members of an organization and employee groups are the primary source of some form of competitive behavior or even conflict between management and labour. Management is responsible for the efficiency, productivity and profitability of the institution. The concerns of the individual employee are wider regarding job security and meaningful work. The competitive conflict between management and labour is seen as rational and expected to occur in the work environment. It results from industrial and

organizational factors rather than from individual personal factors, such as a personality clash between a supervisor and the subordinate (Nel & Holtzhausen, 2008: 7).

Based on pluralism, in one hand the role of management or employer relates mainly towards influencing and bringing about togetherness within the institution, and is viewed little inclined to be obligatory and dominant. On the other hand, unions are regarded as the rightful representatives of the workers. Both management and the union negotiate through collective bargaining whereby differences which leads to conflict are resolved collectively. Conflict in this regard is perceived not to be a terrible incident. However it is viewed as an advancement towards a constructive solution concerning differences, only if it is well handled (ILO-A, 2011: 1-6).

According to Gani (1996: 54-65), at the heart of trade unionism lies the decision of an individual to join the union. Keeping in mind why labour unions developed, it seems workers join and support unions because of dissatisfaction with their employment situation and status in society. Drawing on Maslow (1968: 12), a vast range of unfulfilled needs of workers may induce or influence the decision to join or support a trade union, such as basic economic and security related needs, or even those related to social and self-fulfillment.

The basic objective of a trade union is to protect and promote the interest of the working class in general. For this reason, workers' reaction to the trade union membership will be related to their belief that membership will decrease their frustration and anxiety, improve their opportunities and lead to the achievement of better standard of living (Nel & Holtzhausen; 2008: 49)

Huczynski and Buchanan (2001: 773) identify the holders of pluralism as those who reject the unitarist belief that, employees have the same interests as management. Pluralists believe many parties within an organization will have

different goals to that of the organization. A pluralist view sees conflict as inherent and purely being an inevitable course of action within the organization. Thus, conflict can be resolved through compromise to the benefit of all. Unions have a legitimate role in the workplace.

According to Williams and Adam-Smith (2005) pluralists regard conflict in an organization between employers and workers as the result of different intentions and interests from both parties. Interests of each party are negotiated collectively and accepted, leading towards decisions being made commonly between the competing parties. Differing views are considered to be rational and lead towards success of the relationship between employers and unions. Therefore, effective communication processes which allow workers to have their views and concerns voiced to the management should be made possible by the employer. This practice avoids and prevents damaging the organizational performance between the two parties.

The pluralist frame of reference is a perspective which recognizes the existence of a basic animosity in the employment relationship, and hence the inevitable potential for conflict. The concept of pluralism is derived from political theory, where it is used to capture the way in which states and governments have to mediate between a potentially highly diverse range of competing interest groups when formulating their policies. Having to accommodate the views of a diversity or plurality of interest, it means that political power is not exercised in a straight forward top down manner. The political power is more diffuse, linked to the respective influence of different interest groups over policy outcomes (Williams & Adam-Smith, 2005).

Pluralism recognizes the potential for conflict, but tends to focus on how it can be contained by the development of procedures, collective bargaining arrangements in particular. The pluralist perspective allows workers to exercise their power based on decisions which affect them in the workplace. This is what makes

employment relations valuable and constitutes towards collective bargaining being viewed as most effective process to control work relations. Thus, in this regard the Donovan Commission (1968: 54) stated the following:

“Where it was properly undertaken, the collective bargaining is the most effective means of giving workers the right to representation in decisions affecting their working lives, a right which is or should be the prerogative of every worker in a democratic society” (Donovan Commission, 1968: 54).

According to Flanders (1975), based on the practice of the pluralist perspective which enables existence of collective bargaining, workers are able to voice out any work related matters affecting them in the workplace. In this case, managers of an organization (employer) are able to control conflict which then allows them to keep conflict at limit and extend their control. With regard to employment relations, pluralism recognizes that employers and employees may have different interests, which need to be reconciled if the organization is to function effectively. The principal concern of pluralists is ensuring that any conflict that arises from these differences of interest is managed appropriately, and contained in a way that prevents it from causing too much disruption. Thus there is an emphasis on developing procedures that are designed to resolve conflict, in particular the establishment of bargaining relationships with trade unions, given the array, or plurality, of interests that potentially exist within the organization.

The pluralist frame of reference was enormously influential in the development of employment relations as an academic field of study (Ackers & Wilkinson, 2003; Hyman, 1989). The emphasis on employment relations as the “study of the institutions of job regulation” (Flanders 1975), noted above, was informed by a belief in the legitimacy of trade unions, and accorded a special role to collective bargaining as the means by which they secured their goals, something that became the ‘dominant paradigm’ (Ackers & Wilkinson, 2003: 7).

From a pluralist perspective, the solution was not, as the holders of unitary views would argue, to resist the encroachment of the unions as a means of reasserting managerial authority. Rather, stronger bargaining relationships between employers and unions should be encouraged, given the advantages of developing robust and effective procedures for containing, or institutionalizing, conflict through the joint regulation of the workplace. According to one leading pluralist, the paradox, which management have found difficult to accept is, they can only regain control by sharing it (Flanders, 1975: 172). Flanders (1975) argues that until the 1970s, the pluralist perspective exercised an important influence over both public policy and management attitudes towards employment relations, though not at the expense of the employers' fundamentally unitary beliefs.

Flanders (1970), Clegg (1975), and Fox (1966) contributed towards establishing a distinction between unitary and pluralist "frames of reference" in employment relations. These frames of reference are perspectives that can be applied to employment relations (Blyton & Turnbull, 2004). Fox (1966: 10) articulated them as "ideologies of management", beliefs held by managers that influence their approach to employment relations. They can be likened to lenses used to "perceive and define" the nature of the employment relationship, thus influencing and shaping actions (Fox, 1974: 271).

Most senior managers, if asked their views about the nature of the employment relationship, would articulate a unitary perspective, stressing the importance of common interest (Williams & Adam-Smith, 2005: 13). Evidence that the unitary perspective influences developments in contemporary employment relations is observed in a study of hotels conducted by Head and Lucas (2004) cited in Williams and Adam-Smith (2005) which found that employers (management) expressed hostility towards trade unions. Employers rejected the notion that there was hostility in the employment relationship, instead they emphasized the extent to which their organization was a "happy team". In substantiation of such

evidence Williams and Adam-Smith (2005) refer to research at a food company which attempted to secure the loyalty and cooperation of its employees, and thus rendered trade unions unnecessary by offering relatively good benefits.

2.4.3 Radical perspective

The radical perspective is referred to as the Marxist approach. This notion rejects the pluralist frame of reference. Van Gramberg (2002: 209) states that the Marxist view is to achieve annihilation of the suppressive social order and unions are seen as vehicles of this social revolution. Based on radical perspective, a belief is that almost certainty remains that conflict will constantly take place between employer and the workers due to occurrence of basic disparities. In this perspective, employers and workers are opposed to cooperate and a hostility principle prevails. Workers distinguish themselves as “us employees against those employers”, which shows that resistance of working together (Williams & Adam-Smith, 2005).

According to ILO-A (2011: 1-6), observation of radical perspective in industrial relations is viewed as anchored with the character of capitalist society. Workplace relation is noticed against conditions underlying within the boundaries of interest between capital and the employees. Through this perspective disparities of power and economic affluence are perceived as the fundamental nature of the capitalist society. Thus, it is then just normal for unions to react on behalf of workers who are exploited by the capitalist, and in this regard, conflict is expected. At the institutions where joint regulation is applied, there would times of common understanding. Management’s position is not limited but enhanced as they presume continuation of capitalism than opposing it.

Williams and Adam-Smith (2005: 14) indicate that during the late 1960s and the 1970s, a number of sociological studies of workplace employment relations were strongly influenced by the radical perspective.

The radical perspective, which developed from a critique of pluralism, perhaps over-emphasizes the degree of conflict and disorder in employment relations. Collective bargaining is assessed as promoting workers' militancy within the confines presumed to be tolerable to the employers. Conflict is deemed to be legitimized in the organization, which is contrary to the workers' interests. Based on radical perspective, unions implement their basic conservative practice of negotiation as they become entangled with management. Their involvement in bureaucracy and management is seen as deflecting their attention from advancing issues of interest of their members. In the bargaining process, leadership of the union would prefer to pay more attention on establishing and improving a balanced relationship with employers. By so doing, the union is able to sustain the confidence and protection within the institution, rather than challenging it. The common interest of the workers is primarily to improve working conditions and to influence decisions in the workplace (Hyman, 1989).

2.4.4 Radical criticism of pluralism

The main challenge to the pluralist employment relations orthodoxy of the 1960s and 1970s initially came from the development of radical perspectives on employment relations. These perspectives share with pluralism a belief in the essentially antagonistic nature of the employment relationship. However, they do not accept its assumption that conflict can be resolved by the development of procedures, or even the desirability of attempting to do so.

In criticising the pluralist perspective they argued that pluralism fails to address the issue of power adequately, assuming that, in an environment where bargaining relationships have been established, a balance of power exists between employers and unions. Employers, by virtue of their ownership of, and control over, the production of goods or delivery of services, enjoy far greater power than even the most well organized union (Fox, 1974; Clegg, 1975).

Adherents of the radical perspective contend that pluralism is an essentially conservative ideology, concerned with upholding the existing order in society rather than challenging it (Fox, 1974; Goldthorpe, 1977). Thus, while pluralism ostensibly appears to advance the interests of employees, by recognizing the desirability of union organization and collective bargaining, it ensures they are kept within narrow limits, and do not challenge the economic power of employers. Joint regulation contains conflict, resolves it, and thus ameliorates its potential for disruption in a way that helps the interests of capital rather than those of labour.

During the 1960s and 1970s, the pluralist orthodoxy developed in the context of the emergence of employment relations as an important public policy issue (Ackers & Wilkinson, 2003; Hyman, 1989). Governments were concerned that particular characteristics of Britain's system of employment relations, most notably the growth of workplace bargaining between union representatives and managers, generated unnecessary levels of disruptive industrial conflict and inflationary wage increases.

The third key criticism against pluralism is that it neglects the important substantive outcomes for employees by focusing on procedural reform. In other words, pluralism is more concerned with the system of joint regulation than whether or not it produces anything worthwhile for employees. However, it is suggested that the radical approach places an unwarranted emphasis on conflict and disorder in employment relations (Ackers & Wilkinson, 2003; Hyman, 1989).

Since the 1980s, the influence of radical perspectives has decreased or declined (Ackers & Wilkinson, 2003), in the United Kingdom largely because of the marked deterioration in the level of trade union membership and organization, decreasing strike levels, and the dwindling extent of collective bargaining activity. The main challenge to pluralist orthodoxy in employment relations come from elsewhere such as changing forms of work and a resurgence of unitary thinking

associated with the rise of human resource management techniques. Contemporary “human resource management follows the unitarist belief that effective management policies can align the interests of employees and employers and thereby remove conflicts of interest” (Budd, 2004: 6).

2.5 Basic concepts in a unionized environment

According to the theory of Marx and Engels (1977), employee relations could be interpreted as part of an extensive analysis of industrial society in particular the production and the dynamics of capital accumulation. They also point out that, “the mode of production in material life determines the general character of the social, political and spiritual process of life.” The Marxist view is predominantly concerned with the historical expansion of influential relationship between wealth and workforce, to which employment relations is important and the worker participation has a role (ILO-A, 2011: 1-6).

2.5.1 Employment relations

In the United States of America, where elimination of labour unions has a long tradition, a focus of the current research is understood to be the beginning of new models of workers’ representation and involvement, which symbolizes collaboration and support within the workplace (Kochan & Osterman, 1994: 163). Although such initiatives are likely seen to be in place, advanced efforts which makes unionization to be unsuccessful and less effective are found to be at high level of practice. This is primarily meant to limit workers’ preference regarding their representation on labour issues. Employers contributed immensely in opposing any existence of unionization. This has significantly made a huge gap in representation that might be filled by any successful set up plans of emergence of alternative organizational forms or union renewal (Barry & May, 2004: 205).

In South Africa post 1994, the LRA sets out aspects of employment relations as practiced in the country. The external role and functions of the labour ministry involves NEDLAC, which plays an important role in influencing and shaping the labour laws of the country. Therefore, employment relations exercised in South Africa emerged from negotiation at NEDLAC and continues to evolve as conditions change in the external environment (Nel and Holtzhausen, 2008: 10). This notion implies that there are more involved role-players and bodies which constitute towards building relations for a common interest of developing the economy, creating employment and ensuring sustainability through work relations envisaged by a pluralist perspective (Nel & Holtzhausen, 2008; Bendix, 1996).

Initiatives pertaining employment relations contain significant repercussions of emergence of contemporary representational developments as well as for the established unions. With reference to the studies conducted in Great Britain, employers have achieved valuable objectives through employment relations all over a number of countries (Brown, 1999: 153). If worker participation and involvement is recognized, it harmonizes the work relations effectively.

2.5.2 Employees' participation and involvement

Wood and Glaister (2008: 442-443) consider factors that promote employee participation and involvement in the workplace. Employers experiment with participation and involvement in order to weaken or find alternative mechanisms of employee representation, instilling what Wood and Glaister (2008: 443) describe as the "hard Human Resource Management" strategy. They argue that this is high value added model in line with distinctive dynamic strategy implied by a unitary perspective. This strategy could be implemented by employers for the deterioration of the established system and the workers cooperative representation in order to regain power and continue dominating.

Based on Kelly's (1998: 52) point of view, employee participation demonstrates the magnitude to which union members realize and value the importance of the union. The union is perceived as strengthening the principles of unity and serves as a base for the articulation of new values in changing working conditions. This includes the presence of effective structures for collective representation, like workplace representation by a union official or shopsteward being a key role during grievance and disciplinary representation. Regular attendance to the union's meetings and consistency of the representatives on the union's issues is very important. Thus, the representative structures of the union remain accountable and robust as expected by the members who elected them (Wood & Glaister, 2008: 443).

According to Wood and Glaister (2008: 436-451), in an attempt to create settlement and maintain a strong union presence, employers could use substitutional ways of workers' participation. The main purpose in this regard, being to keep relation and gain attention of the union. Involvement of workers has more to do with building solidarity and a sense of belonging to a group they can trust, where active participation could be accepted and be rendered. In workplaces with a robust and confrontational union members' participation, innovative developments in much constructive forms are most likely found.

Based on Knudsen's (1995) observation, employee participation gives workers a real input into how the organization is governed. In the process of participation there is no right to use industrial conflict to influence the other party. Employees are exposed to consultation and they are at the receiving point of information which helps in the co-decision making processes. Despite the fact that employers and unions could be in opposite stance regarding what each party stands for, they enjoy interdependence and have common interests. Thus participation gives workers a say to express their concerns within the institutions and their involvement makes it feasible for them to raise their views on board through

consultation. Flanders (1975), argues that employee participation is mainly direct or via representatives of the labour union and this applies in a pluralist environment.

The workplace employees' participation and involvement fulfils a level of agreement in a collective bargaining approach. Unions prefer consultation regarding employment processes, policies and co-decision making with the employers. Such relationship could be the grounding for cooperation or between the employers and employees' representatives (Knudsen, 1995).

2.5.3 Conflict resolution

The existence of grievance and disciplinary procedures as well as the practice of thereof indicates realism that differences occur in workplace between employers and employees and such incident is unavoidable. According to Nurse and Devonish (2006: 90), the use of grievance and disciplinary procedure in the workplace sets up a mindset that expectation of conflict is likely to happen but orderly means of settling disputes are in place. In arguing this notion further, Freeman and Medoff (1984: 108) state that in accordance with the employees' standpoint, the practice of grievance and disciplinary procedures provides an opportunity for the use of the expression from the parties concerned. In this regard, through legitimate channels of communication, conditions under which workers and their union representatives can assert and protect job rights under against management.

The conduct of grievance and disciplinary procedures in an organization helps in dealing with improper, unbecoming and offensive behaviour by resolving a conflict or disagreement over facts. Although in some instances, workers instigate these processes based on observations that the handling of management is unjust to their member. Thus, through implementation of legitimate institutional processes which are equivalent to handle differences

between the worker and the employer, grievance and disciplinary procedures are legitimately applicable. Their implementations seek to redress issues of differences pertaining offenses occurring in the workplace but through appropriate ways executed (Nurse & Devonish, 2006: 91).

If there is information and consultation agreement in place between the employer and the workers, the duty of management to notify and consult workers or union representatives on changes made in the workplace still remains. By so doing, the management of an organization will have to inform and consult the union regarding any proposed redundancies with the employees' organization or the union to resolve matters of dispute (BIS Acas, 2010).

2.6 Trade unions in South Africa

Current employment relations practices have been influenced by colonial and post-apartheid experiences in the workplace, resulting in changing work organization and the managerial strategies in South Africa. Wood and Glaister (2008: 239) refer to the Congress of South African Trade Unions (COSATU) an umbrella organization of independent trade unions, representing the largest 'most effective' union federation in South Africa with approximately 1 800 000 members (Cosatu today - 2010: 1). The federation played a key role internally in the struggle for democracy. As part of the ruling alliance, with the African National Congress (ANC) and South African Communist Party (SACP), COSATU shares a commitment to the objectives of the National Democratic Revolution, and the need to unite the largest possible cross-section of South Africans behind its objectives (Cosatu today, 2009: 1-3)

Unions are recognized in the Constitution of South Africa (Act 108 of 1996), which guarantees the right to join trade unions, and for unions to collectively bargain and strike. Unions with approximately 3 100 000 members represent at

least about twenty five percent of the formal work force in the country and therefore remain influential (STATS SA, 2005: 37).

The record of unions' reputation, competency and its good standing in South Africa as renowned may have deteriorated since the early 2000s. Notwithstanding the fact that the concept of unions' understanding, its rates and infiltration are viewed to be relatively high, the economic environment since then have negatively influenced credibility of the unions. The state of affairs on the unions' stance lately demonstrates that the public service sector unions are no longer effective as before, whilst unions which represent the private sector based membership have a strong concentration and are robust compared to those in the public sector. Low union participatory level and reluctance to the public sector union-based membership in associating themselves on union issues have gained momentum (Wood & Glaister, 2008: 439).

An industrial conflict which could result to workers withdrawing from their occupations in the workplace is an indication of dissatisfaction and disagreement of workers against the employers. Such disagreement or conflict refers to disputes which need to be redressed within an organization (Williams and Adam-Smith, 2005). According to Butler (2004: 61) three institutions have been created to reduce conflict in employment relations and eliminate unfair discrimination. These institutions are NEDLAC, the Labour Court and the CCMA. They were established within the broader policy framework to redress the past discrimination which led to the social inequality as a result of the apartheid regime in the workplace in South Africa. NEDLAC played a major role through involvement of all stakeholders or rather most parts of the society in formulating policies to benefit the majority (Wood & Glaister, 2008: 441-442; African History Newsletter, 2011: 1).

The investigation of this study focuses on employees of an institution who belong to the labour union. A particular concern to this study is to consider the

challenges faced by unions representing skilled and unskilled workers during grievance and disciplinary cases against highly educated management.

2.7 Summary of basic assumptions in this study

Adler and Webster (2000: 77) argue that the strength of labour unions during the era of resistance was judged more by the militancy of the labour unions' membership. However, changes and transitions in politics took place over time, particularly from the late 1980s (Ndala, 2002: 4). Within the context of the emergence of a democratic society, attention shifted from challenging the system of apartheid to the objectives of focusing on workers' demands and representation in cases against their employers.

The shift of the political paradigm led to a change in the manner in which labour unions operate. This has been attributed to an increase in membership, of more literate (mostly skilled) members (Heinecken, 1992), compared to the large number of the mostly unskilled members labour unions represented in the past. Unions' operation includes involvement in negotiations and introduction as well as implementation of LRA in post 1994. The union represents workers and is concerned with advancing the rights of workers in the workplace as stipulated in chapter two of the Constitution. Amongst these representations, unions also defend their members in situations such as grievance and disciplinary matters (Ndala, 2002: 4).

The presence of a labour union in a workplace is crucial. Labour unions negotiate work related issues and stand for workers' rights to maintain tolerable working conditions in the workplace. Membership of a labour union forms its constituency. Their participation underpins the labour union's strength and this impact on the union's capacity to bargain with the management (Gani, 1996: 61).

The driving force behind the changes to the current membership and even the leadership of labour unions depends on what motivates people to join the unions. The interests of the members of the labour union may differ (Deery & De Cieri, 1991: 59). Skilled members may view certain issues differently than unskilled members and this may cause divisions in the union.

Lever and James (1987) argue that where more skilled employees join labour unions which have traditionally served unskilled employees, tensions could emerge. Evidence from research (Gani, 1996: 63; Visser, 1988) indicates that workers with a higher level of education have a tendency of being individualistic. Such employees are likely to see their personal progress as the only beneficial factor towards their advancement and promotions at work, and that has nothing to do with collective bargaining (Handley, 1989: 336). Union office-bearers may be intimidated by the skilled members and consequently focus on their needs. Therefore, unskilled members in particular, may feel neglected where they perceive their needs receiving less attention. Leadership therefore, needs to work strategically in order to maintain a balance.

This study discusses grievance and disciplinary procedures in accordance with the way how members of union who are employed at a tertiary institution perceive their representation. The handling of grievance and disciplinary procedures is an important aspect in the labour relations. Allen and Keaveny (1993: 17) suggest the study of the attitudes, relationships, practices and procedures developed by organized labour and management to resolve or to control their conflicts is the central focus of labour relations. It is within this context that a sub-section of the LRA deals specifically with grievance and disciplinary procedures, in support of schedule 8 of the Constitution of the country.

Conflict cannot be avoided within an organization, thus it needs to be controlled so that it does not escalate and this is one of the vital principles endorsed by pluralist perspective (Nel & Holtzhausen, 2008; Bendix, 1996). For this study the

following two aspects are taken into consideration, firstly the nature of regulation and secondly environmental factors. It is therefore imperative to note that in the higher education institutions or higher learning sectors a unitary perspective is easily applied (Shattock, 2003: 178). In the processes of higher learning institutions, management often makes the decision rather than participate in a joint decision making through collective bargaining (Shattock, 2003). In order to assess the involvement of a union in handling grievance and disciplinary procedures in a higher education institution, environmental factors are noteworthy.

This research study focuses on examining a labour union operating within a particular higher education institution representing unskilled workers and some skilled workers. During the past decade, the membership of the labour union has changed from workers mainly in lower categories of employment (e.g., gardener) to the higher employment categories (e.g., senior administrative officers and teaching professionals) as well. Through this study, an attempt will be made to find out whether union members and in particular, the union leadership understand the processes of grievance and disciplinary procedures.

2.8 The affinity between pluralist perspective and this research

Theories and techniques required to promote employment relations effectively are based on the pluralist perspective (Bressers & Ringeling, 1995; Gani, 1996; Nel & Holtzhausen, 2008; Bendix, 2010).

According to Nel *et al.* (1998: 146), the issue that may lead to conflict between management and unionized workers could vary. Some degree of conflict is inherent in every union-management relationship. This ranges from differences in goals and value systems, to methods used to reach the goals. The bargaining process, irrespective of the overall relationship between an organization and the

labour union, will inevitably generate conflict, because the parties have different desires and expectations with regard to the final solution. It is generally conceded that the workers most likely to be susceptible to union-organized appeals are those who are dissatisfied. Dissatisfaction may relate to income, unfair treatment, etc. There are a number of problems which characteristically arise and contribute to union-management conflict, namely misconception and differences in personalities, background and motives of the management and union negotiators (Nel & Holtzhausen, 2008: 179).

Due to the diverse labour, social and political issues which unions find themselves engaging on, their character and role as workers' representatives aligns them even more and broader to the political fraternity as well as social challenges. They also take into account their organizational strength which is primarily their membership which is politically or socially inclined too. Thus, unions in some countries are closely aligned with political parties as this is the case with COSATU and the ANC and the Inkatha Freedom Party (IFP) aligned to United Workers' Union of South Africa (UWUSA) around the 80's and 90's (African History Newsletter; 2011: 1-3).

Significance of the unions or workers' organizations is noticeable and could be better described based on their memberships' representation and what they strive for. As an organization with membership oversee, they have a stronghold and organized structures with well defined responsibilities of their leadership and protocols. Union leadership in the workforce takes the lead in campaigning for the union alongside confronting management.

Nel and Holtzhausen (2008: 7) view that the pluralist perspective recognizes the mutual work relations between the unions and the employers' organizations. Unions and employers' organizations are a blend of the pluralist perspective. The involvement of labour union to engage with management in representing their members and to stand for their rights is primarily meant to resolve the

possible differences between employers and employees (Swanepoel *et al.*, 2005).

2.9 Conclusion

Conflict exists in the workplace and in various organizations. However, pluralist perspective within an organization encourages mutual benefit derived from a relationship developed between the employer and the employees' organization in order to negotiate and accept conflict as natural. This in essence promotes employment relations within the organization regulated by legislation.

CHAPTER 3

Legislation and employment relations in South Africa

3.1 Introduction

To contextualize the practice of employment relations with direct reference to handling grievance and disciplinary procedures, a clear grasp of the context of labour legislation is required. Von Holdt and Webster (2005: 3) indicate that the approach to grievance and disciplinary actions taken in the workplace is constituted through compliance to the legislation. The processes set out by the labour legislation must be followed by the employers and employees. This chapter provides an overview of employment relations and labour law in South Africa.

3.2 Scope of legislative framework regulating employment relations in South Africa

The Constitution of the Republic of South Africa (Act 108 of 1996), the Labour Relations Act (LRA) (Act 66 of 1995) and the Basic Conditions of Employment Act (BCEA) (Act 75 of 1997) and their subsequent amendments provide the context of the grievance and disciplinary procedures. Together these three pieces of legislation constitute a guide to the application of the labour laws in South Africa. Employers are obliged to include details of any workplace grievance and disciplinary procedures in terms of employment of their employees. The Disciplinary Code and Procedure in the LRA sets to promote respect as well as uphold the common law and statutory rights of both the employer and the employee in the workplace or the institution (Saundry & Antcliff, 2006; Antcliff & Saundry, 2009).

Section 4(1) of the Code of Good Practice (Schedule 8) of the Labour Relations Act 66 of 1995 states that investigations must be conducted by the employer in order to find out whether there are justifiable reasons for a dismissal. The involved employee should be informed by the employer about the accusations against him or her in language which can clearly be understood by the employee. The employee should be given a chance to make his or her own statement about the allegations. The employee is entitled to be given sufficient time to prepare a response and given the choice whether to ask for assistance from a union representative or fellow employee. Once the enquiry has taken place and a judgment has been made, the employer must communicate the decision to the employee and the employee's representative. This should be given in the form of a written notification (ULR, 2006a: 20).

The participation of workers in decision-making, as well as the obligations pertaining to issues of labour relations, are contained in the LRA. It promotes industrial peace while achieving social justice, worker protection and worker participation. The LRA guided by the Constitution has a priority over other labour laws. The BCEA specifies the basic conditions of employment in order to protect the workers from malpractice possibly implied by the employers (Bendix, 1996: 120).

The above mentioned legislation established the right to fair labour practice as well as the right to participate in the activities and programmes of a labour union. Labour unions in South Africa have gained the recognition by the State and other institutions for their members. As such, labour unions are essential links between employer and employee in their relationship and in the regulation of labour relations. They play a pivotal role in the preservation of industrial peace and social progress (Frauenstein, 1993: 1).

Through the provisions of the LRA, bargaining councils are formed, primarily to deal with collective agreements between workers and employees. Such councils

are formed by registered unions and employers' organizations. Among other responsibilities, they handle disputes and make proposals on labour laws and policies regulating labour processes. Sectors which are excluded from the bargaining councils are the South African National Defence Force (SANDF), the National Intelligence Agency (NIA) and the South African Secret Service (SASS) (Moore, 2006: 365).

Sections 85 and 86 of the LRA make provision for consultation between employer and employee and matters requiring joint decision-making within a workplace forum. Labour unions and employee organizations play an important role in the labour relations of large organizations. Much of the emphasis of labour relations in the current legislative climate in South Africa is on the facilitation of communication between employees and employers (Olivier, 1996; Nel, 2002).

The LRA also confers registered unions with the power to negotiate collective agreements. It accommodates both the employer and employees' right to negotiate employment relations, enabling unions to negotiate on behalf of their members. It is a legal requirements applied to engage on any matters in collective bargaining (Barry & May, 2004: 206).

3.2.1 Conditions of work

The BCEA stipulates the minimum conditions of employment in order to protect employees against exploitation. It specifies the time an employee could work, overtime, time-off duty or leave days of an employee per annum. Thus, it covers the main conditions of employment and as such, when the organization develops conditions of service, the management considers the BCEA. The BCEA confers power on labour inspectors to enforce basic conditions and compliance (Wille *et al.*, 2007: 394). The BCEA of 1997 and subsequent amendments, forms the pivot of labour legislation in post-apartheid South Africa.

3.2.2 Legislation and the role of trade unions

Employers are obliged to include details of any workplace grievance and disciplinary procedures based on the legal requirements stipulated on the LRA. In this regard, formal grievance and disciplinary procedures are common in most, if not all workplaces or institutions. Saundry and Antcliff (2006: 29) are of the view that the introduction of the legal handling of grievance procedures and dismissal in the workplace has tightened and secured regulatory practice all over the industry. Union representatives are now legally allowed to assist their members in many organizations, and this principle is regarded as appropriate in dealing with grievances and discipline in the workplace.

In support of the assertion made above, Salamon (1998: 175) argues that recognition of the labour union is possibly the most significant stage in the development of an organization's employment relations system. He further states that such acknowledgement confirms the unions in the exercise of their rights and ensures their capacity to fulfill their role. Thus the right to represent and protect union members' interests is acknowledged by the employers, while they (the employers) become involved in the control and practice of employment relations in the workplace.

Once it has been recognized in the workplace by the employer, a union can visit its members in various constituencies and freely gain access to the premises. This allows the union to meet with its members without hindrance, and discuss a variety of labour issues with them. Feedback on resolutions taken between union and management is easily communicated to the members, so their mandate reaches the union structures (Barry & May, 2004: 206). Since the LRA has made provision for the statutory recognition procedure, an increase of voluntary labour union recognition agreements has occurred. It appears that the statutory model has encouraged capacity growth and increased the unions' strength in engaging in discussions with employers (Wood, 2008: 329; Moore, 2006: 367).

When an employee is lodging a grievance matter, he/ she have a right to consult fellow worker for assistance. Employees have the right to be accompanied to attend a disciplinary hearing. Any employee can choose to be accompanied by a co-worker or a union official. Often, the union official will be a workplace representative who is also a co-worker (BIS Acas, 2010). According to Barry and May (2004: 206) the objectives of the Employment Relations Act (ERA) applied in New Zealand are similar to that of the LRA applied in South Africa.

Von Holdt and Webster (2005: 336) indicate that the main focus of a union is to look after its members and ensure that the members' mandate is carried out as required. They conclude that, while not all unions appear to have entirely satisfied their membership, they have made their mark through championing labour policy planning, its control and the approach to engaging employers. Unions need to expand their communication channels and raise concerns relating to existing imbalances and inequalities in an attempt to secure the rights of marginalized communities.

3.2.3 Dispute resolution and lodging of grievance and disciplinary issues

The center piece of the dispute resolution system in South Africa is the Commission for Conciliation, Mediation and Arbitration (CCMA) as introduced through the LRA. The dispute resolution system provides a means whereby councils may become accredited to resolve various types of disputes in the public sector and various or any other types of workplace dispute by means of conciliation and arbitration. In this regard, the statutory council is established on application by either the representative trade union or the employers' organization. Thus, should a member of union have a dispute against employer, the union representative is allowed to accompany their member to declare their

dispute to the CCMA with an aim to get the matter resolved externally (Godfrey *et al.*, 2010: 97).

According to Antcliff and Saundry (2009: 101), it is a statutory right and is important that an employee be accompanied within grievance and disciplinary hearings. They are of the opinion that by providing access to employees' representatives in the workplace, practical care would be given, most justifiably in the case of employees facing grievance or disciplinary processes.

A grievance can either be initiated by the employee or the supervisor. A supervisor should intervene when employees are unable to settle differences on their own and in such cases morale could be uplifted amongst the subordinates (ULR, 2006b: 1). Table 1 below presents a standard form that must be completed by the complainant (aggrieved party). The other involved role-players must also complete the form before the grievance proceedings could unfold or take place.

Table 1: A typical template which is completed in reporting a grievance

NAME:		EMPLOYEE NUMBER:
NATURE OF GRIEVANCE:		SOLUTION REQUIRED:
Date on which grievance was reported: _____ 20 ____		To Supervisor (name): Date of receipt by Supervisor: _____ 20 ____
SIGNATURE OF AGGRIEVED EMPLOYEE:		SIGNATURE OF SUPERVISOR:
FOR USE BY SUPERVISOR		
HANDLING OF GRIEVANCE		
DATE:	STEPS TAKEN:	SIGNATURE:
FOR USE BY LABOUR RELATIONS		
Stage completed:	Code:	Duration:
REMARKS		Step 1: Step 2: Step 3:

Source: (ULR, 2006b: 1-4 Annexure 1 B-iv)

Handling grievances successfully requires commitment. A situation where the conflict affects the productivity or service and morale of other employees is an indication of an escalation of the situation. A superior must then intervene where employees are not making an earnest effort to get the issue resolved, and are deadlocked. When employees are unable to resolve disputes and grievances on their own, it is the supervisor's responsibility to take charge and implement the appropriate action.

A grievance can be filed by any member of staff who is permanently employed in an institution. Any other employees who are still on probation, being newly appointed in the institution, are obliged to complete their employee evaluation period before they can qualify to file a grievance. Such employees do not yet have access to the grievance procedure, for instance on problems of corrective action or layoff, as well as termination. Filing a grievance is viewed as a practice through which employees exercise their rights in their employment relationship without fear of retaliation, harassment or negative impact (HRA, 2011).

When filing a grievance, time restrictions are stipulated for each stage of the proceeding, to guide the complainant regarding the process. Any extensions to the time limits can only be allowed if both parties concur on the amount of time required. Importantly, the complainant must file the grievance in less than ten working days from when the incident occurred about which he or she is complaining. It can take three to seven days to seat for a grievance matter to be resolved and it could take more days depending on the person who is supposed to preside the process. Grievances must be presented in writing, and you may use a grievance form. Any employee can get the grievance from the Human Resources Office of his/ her employer. After completion of the appropriate sections on the grievance form, it could be presented to the immediate supervisor or the line manager of that particular department (HRA, 2011).

Steps in grievance procedures are followed internally and if the matter happens not to be resolved internally, it could be referred to the external bodies. Table 2 below exemplifies steps followed during grievance proceedings.

Table 2: Diagrammatic representation of steps on grievance proceedings

			NOTES
STEP 1 (Informal)	SUPERVISOR		The Supervisor investigates. Action must be taken within 3 working days of the grievance being reported. If the grievance remains unresolved, proceed to Step 2.
↓			
STEP 2 (Formal)	SUPERVISOR'S LINE MANAGER		The Supervisor's Line Manager investigates. Action must be taken within 3 working days of the referral of the grievance. If the grievance cannot be resolved by the person to whom it has been referred, proceed to Step 3.
↓			
STEP 3	LINE MANAGER'S IMMEDIATE SUPERIOR		The Line Manager's immediate superior investigates. Action must be taken within 3 working days of the referral of the grievance. If the grievance cannot be resolved by the person to whom it has been referred, proceed to Step 4.
↓			
STEP 4	EXECUTIVE MEMBER; PERSONNEL MATTERS OR HIS/HER PROXY		The Executive member responsible for Personnel matters or his/her proxy investigates. Action must be taken within 3 working days of the referral of the grievance. If the grievance cannot be resolved by the person to whom it has been referred, proceed to Step 5.
↓			
STEP 5	CCMA*		
	CONCILIATION		
↓			* Commission for Conciliation, Mediation and Arbitration
↘	ARBITRATION		
			LABOUR COURT

Source: (ULR, 2006b: 1-4 Annexure 1 B-i).

Antcliff and Saundry (2009: 101) maintain that effective representation of employees in the workplace is crucial. Such representation reduces conflict, making it feasible to resolve individual disputes successfully. The steps in disciplinary procedures are progressive as portrayed in table 3 shown below.

Table 3: Delegation of authority in respect of the imposition of disciplinary procedure

Disciplinary measure	Deputy Director & or Divisional Head of Department	Director	Chief Executive Officer, Executive Director
Verbal warning or reprimand	@	@	@
Written warning	@	@	@
Final written warning	Recommend	@	@
Suspension without pay	Recommend	Recommend	@
Demotion	Recommend	Recommend	@
Dismissal (including summary dismissal)	Recommend	Recommend	@

Source: (LRC, 2000: 5).

First is a verbal or oral warning, followed by a written warning, then a final written warning, and lastly a dismissal or suspension without pay or demotion depending on the merits of the case. The sign or symbol (@) on the table shows that the manager concerned has the authority to execute or enforce the sanction concerned. In some instance it will depend on the type of an offence committed which could lead to dismissal, for example theft. Given the procedure, an employee may be entitled to receive full payment while on suspension, while the investigation against him or her is pending. Disciplinary instances vary, as each case has its own merits; thus there are more serious actions where dismissal could be declared at an earlier stage (LRC, 2000: 5).

Effective employee representation could extend beyond the narrow margins of accompanying workers to formal disciplinary hearings. An argument is made that effective management could assist in resolving workplace disputes. However, previous research, using data from Workplace Employment Relations Survey,

found little association between management practices and unions regarding disciplinary outcome issues (Edwards, 1995; Knight & Latreille, 2000). Nonetheless, good relations between employers and trade unions is underpinned by presence of fair management as suggested by Edwards (2000) cited in Antcliff and Saundry (2009: 108). He further argues that it is important to shape both formal notions of disciplinary procedures and the development of self-discipline.

Table 4: Disciplinary hearing proceedings (South African Labour Guide)

Disciplinary hearing proceedings (SA Labour Guide, 2010)
<p>Confidentiality: Discipline is a confidential matter, therefore</p> <ul style="list-style-type: none"> • Hearings are held in camera, and • Only those persons permitted in terms of the disciplinary procedure may be present <p>Laying the charge: During the 3 hearing steps, the employee is confronted with the relevant facts by</p> <ul style="list-style-type: none"> • Laying the charge(s) • Calling of witnesses and • Submission of any relevant documents <p><i>The employee and his representative is given the opportunity to study any documents and cross-examine witnesses</i></p> <p>Presenting the defense</p> <p>The employee and his representative must be given the opportunity to</p> <ul style="list-style-type: none"> • Submit evidence • Submit relevant documentation, and • Call witnesses <p>Returning a verdict of guilty</p> <p>If the employee is found guilty as charged, the chairperson of the hearing must advance reasons for finding the employee guilty as charged;</p> <ul style="list-style-type: none"> • Give the employee/ representative opportunity to present mitigating circumstances; • Decide on applicable disciplinary action to be taken against the employee; • Furnish reasons for deciding on the disciplinary action; and • Give the employer/ representative opportunity to address him on the applicable disciplinary action

Source: (South African Labour Guide, 2010: 1).

The steps or stages in table 4 are the established and acceptable procedures in South Africa (SALG, 2010: 1). All employees appointed by the institution must have access the policy and procedure document which contains clear guidelines regarding grievance and disciplinary procedures. The employer must ensure if the employees or the union are aware of the policy and procedures' document and that they understand the content thereof.

It is stipulated in the disciplinary code and procedure document (ULR, 2006a: 20-34) that every manager is responsible for the discipline of the staff members (subordinate – employees) who report to him/her. This responsibility includes the duty to act as chairperson in disciplinary inquiries concerning the employees reporting to such particular manager or superior at managerial position. Furthermore, where at all possible, disciplinary action should be initiated at the lowest level subject to delegation of management authority as set out in specific paragraph relevant to disciplinary in the document itself.

3.2.4 Code of good practice in the workplace

A Code of Good Practice is applied in many organizations, as outlined in Schedule 8 of the LRA. The Code is designed to guide employers and workers, as well their union representatives, on the ethics which should be applied in an organization. These general principles or ethics are translated into practical form in the grievance and disciplinary procedures. Clear guidelines on the application, the best practice and effect of such procedures, are outlined (LRC, 2000: 3).

According to the SALG (2010: 2), Schedule 8 of the LRA under section 3 stipulates that "all employers should adopt disciplinary rules that establish the standard of conduct required of their employees." The disciplinary code and procedures of an organization must be made accessible and conveyed to all employees within the organization. It must be made available in the form of writing using language that is clearly understood by employees. This is to avoid

instances in which employees are subjected to disciplinary action for breaking a rule of which they are unaware. The employer must therefore make the organizational policies clear and accessible to all.

The management of an organization should thus have clear policies on how to address and implement disciplinary measures when offences occur. Commonly occurring offences in the workplace, which employees either commit or find themselves tempted to commit, include but are not limited to insubordination, absenteeism, fraud, consumption of alcohol on the premises, consistent late-coming at work, and the taking of a legally forbidden substances such as a narcotic (SALG, 2010: 2).

To ensure the fair application of the Code of Good Practice for both employees and employers, clear definitions and descriptive aspects are outlined. These include, for instance, the definition of an 'employee representative', who could be either a union representative or a fellow colleague requested by an employee. It indicates which workers' organization is eligible to represent a member, e.g., a registered trade union, but excludes any other person or body unconnected with the organization. The Code of Good Practice gives a number of stages which must be followed in handling a grievance or disciplinary matter. The stages include deciding with whom the employee can raise the matter, usually his or her line manager in the first instance. The process can be taken further if the matter does not receive the attention it deserves. Thus, depending on the particular reported incident, the steps taken may involve more senior management of the organization, until the problem is resolved. This would be an internal process, but if the matter is not resolved appropriately and/or internally, it could then be referred to a third party or externally, in accordance with locally agreed arrangements (LRC, 2000: 4).

In complying with the processes of the Code of Good Practice, the employer-employee relationship plays a role. In South Africa, the legislation makes clear

provisions in this regard. There are countries in which the relationship between the rule of law and the practice in industrial relations has been debated for a long time, for instance in Great Britain. According to the British traditional “voluntarist” perspective, the law has no power in industrial operations, and this is perceived to be what both the unions and the employers prefer (Howell, 2004: 102). According to Moore (2006: 364), citing Brown’s (2004) analysis, collective bargaining is the most viable way of guaranteeing minimal legal intervention in industrial relations.

The disciplinary Code and Procedure of any institution should not set down rigid rules which could be applied unquestioned. It should make consideration of the working conditions as well as circumstances associated particularly with the organization’s commonly divergent activities (ULR, 2006a: 20). Saundry and Antcliff (2006: 17) contend that the Code of Good Practice sets out principles for handling grievance proceedings and disciplinary hearings in a straightforward way, making them uncomplicated for all the involved parties. Both employees and employers should find it helpful to use the Code of Good Practice, given its clear guidelines on how to handle various grievance or disciplinary matters. All members of management at the various levels as well as employees, particularly union representatives, are strongly advised to familiarize themselves with the disciplinary code of their respective organizations. Everyone in the organization or institution is obliged to adhere to the disciplinary code (LRC, 2000: 3).

3.5 Conclusion

In concluding this chapter, the remarks expressed by Antcliff and Saundry (2009) that the rationale of accompanying employees during grievance and disciplinary hearings is to promote equity and efficiency is worth noting. They emphasize that employees receive needed support and advice at a difficult time in the workplace. Those involved in making decisions in the workplace, particularly employers, should not be deterred from making excessive decisions if these comply with the

legislation and are viewed as beneficial to the organization and its employees. Thus, involvement of union official or representative plays a major role in building a support towards representing members during grievance and disciplinary proceedings. The legislation makes provision and allows such practice in the workplace.

CHAPTER 4

Research design and methodology

4.1 Introduction

The purpose of this chapter is to discuss the methodology followed in conducting this study. A qualitative research approach was followed to investigate the perceptions of union members of the grievance and disciplinary procedures.

4.2 Qualitative research

Bryman (2004: 19) suggests that the research strategy that informs the focus on understanding workers experiences in their employment is a qualitative research approach since it is a social science research orientation which emphasizes textual data collection and analysis. In order to enable the researcher to consider experiences from the interviewees' perspective, a qualitative research approach was used in this study.

Qualitative research takes the complex social contexts that shape human experience and actions into account (Harisarsad, 2004: 39; Schofield, 2000: 77). According to Bassey (1999: 52), a qualitative research methodology is capable of accommodating and accounting for the myriad of differences and complexities that are involved in organizational settings. Qualitative research does not ignore but rather addresses the complexities of the various aspects of organizations and takes account of different objective experiences and subjective perspectives (Harisarsad, 2004: 39; Yin, 1994). In support of this notion, Bryman and Teevan (2005: 153) portend that the main concern of qualitative researchers is reporting reality through the perceptions of people being studied. They further argue that the subject matter of social sciences, people, could

attribute meanings to happenings in their environment. Hence there is a need to understand people's reflection in their social world.

The choices made in conducting this study were informed by the theoretical orientation of the study, the scope of this study, the available resources pertaining time and other circumstances, both anticipated and accidental which conditioned the way in which this study was executed. Since qualitative research methodology is concerned with individuals' own accounts of their attitudes, motivation and behaviour (Hakim, 1987: 26), the adoption of the qualitative research methodology was informed by the theoretical framework of this study as outlined in chapter two of this research study. Hakim (1987: 26) explains as follows:

“The qualitative research offers richly descriptive reports of individuals' perceptions, attitudes, beliefs, views and feelings, the meanings and interpretations given to the events and things as well as their behaviour, display how these are put together, more or less coherently and consciously, into frameworks which make sense of their experiences and illuminates the motivations which connects attitudes and behaviour, or how conflicting attitudes and motivations are resolved in a particular choices made”.

The drive to understand employees' perceptions on issues of grievance and disciplinary procedures in their work environment based on their experiences is imperative and therefore, the above description by Hakim (1987) is a suitable approach to this study. Since the researcher is interested in the experiences and meanings that the research participants ascribe to grievance and disciplinary procedures the interpretive paradigm will be discussed as it informs the method and principle applied in this study.

4.2.1 Interpretivism

The interpretive paradigm ensures that a qualitative approach focuses upon interpretation rather than quantification. Bryman (1988: 52) argues that there is

an emphasis on subjectivity rather than objectivity and there is flexibility in the process of conducting research which implies an orientation towards process rather than outcome.

Interpretivism advocates the subjective meaning and understanding of social action and the social world, whereas the social world is not independent of the social actors but the function of their interpretation (Bryman, 2004: 11; Burrell and Morgan, 1979). The intention of interpretivism is not simply to describe but also to interpret the experiences of participants in human terms rather than through quantification (Rubin and Rubin, 2005: 27).

4.3 Research design

According to Denzin and Lincoln (1998: 29) research design refers to a shift from a particular paradigm that informs the study to operational decisions. In this regard, the research design outlines the plan or the strategy specifying the procedure to be used in seeking answer to the research question in the study. Remenyi *et al.* (1998: 32-35) argues that it is important for the researcher to discover the details of the situation in an organization. The focus of this study is to consider ordinary union members and union officials' experience and perceptions of grievance and disciplinary procedures.

4.3.1 Selecting a research site and participants

First, a single higher education institution was purposively selected as a research site. All campuses in this institution were included. Given the complexity of the institution and diversity, only one of the unions operating here was selected. In line with the objectives of this study, 34 research subjects were interviewed. The interviewees were drawn from the list of staff members employed at the institution belonging to the union. At the time when this research was conducted,

there were about four hundred and seventy (470) NEHAWU¹ members in the institution.

- a) I was permitted to conduct research by the institution which employed the interviewees,
- b) I gained access to the office of the union and to all branch office-bearers of the union by the union,

A purposive sample selecting union officials was drawn. Systematic random sampling was used to select union members. The union membership list was used to select the first name of union member by chance and thereafter every fourteenth member. Where a member chosen in the sequence of the list was a union official, his/ her name was replaced by picking the next name on the list.

Regarding the preparatory phase of this study, letters requesting permission to conduct the study were written to the union and the management of the institution (see Appendix C attached in this document). Interviews commenced after the approval of the submission for ethical clearance for the research by the faculty committee. The research questions required the participants to share their experiences. In semi-structured interviews I developed a relationship of trust to make interviewees feel at ease and confident to talk to me. Lack of trust and confidence could have hindered interviewees from providing information pertaining to their experiences in the work environment. As a result, no problems were experienced in gaining access to the interviewees in conducting the study.

Accessing interviewees was not problematic as I belonged to the union. In this regard, I was seen as an insider in terms of category membership. This as well as union support for the research, contributed to establishing rapport. The bond between me and the union did not encourage any effect which could influence any bias in the conduct of the research and the response of the interviewees.

¹ Permission was given by the union (NEHAWU) to mention its name.

According to Muller and Glassner (2004: 125), one of the challenges of conducting interview is building rapport and trust of the interviewees in order to facilitate the interview interaction. Thus, the building of rapport and trust is in turn affected by who we are as researchers in relation to the interviewee.

Field work regarding in-depth consultations with all parties involved in this study, commenced after permission was granted by the Research Proposal and Ethics Committee of the Faculty of Humanities in the University of Pretoria. The interviews were conducted in 2009 and 2010. All institutional ethical requirements of the University of Pretoria were strictly adhered to as required.

4.3.2 Data collection method and qualitative interviewing

Data was collected from the union members and union officials. Interviews were collected by me outside work hours. In order to avoid distractions and other complications that could have led the participant not being at liberty when responding to questions, venues that were less noisy were selected. I conducted the semi-structured interviews personally (Bryman, 2004).

The interview schedule was designed around key themes covering the views and opinions regarding grievance procedures and disciplinary measures. Interview questions covered the labour union members' understanding of grievance procedures and disciplinary measures and the union members' views about worker representation. In conducting the interviews I endeavoured to get interviewees to reflect on the experiences and the understanding of the subject matter studied. Furthermore, in facilitating this conversation with union members, I drew my own experiences about labour unions.

Interviews aimed to generate self-reflexivity among the interviewees, leading to the generation of collective narratives (Muller & Glassner, 2004: 137; Langdridge, 2007). In addition, Muller and Glassner (2004: 137) argue that interviews could

provide access to realities in a form of what they call “collective stories” or the account of contradictory stories.

Interviews took a form of what Stacey (1969: 134) calls “the focused interview”. The interviewer had a list of questions or topics covered. The questions were designed to assist in the probing of individual’s experiences in the workplace regarding issues of grievance and disciplinary procedures, how these procedures are handled and how do members view their representation. In order to probe and encourage more elaborations of responses from the interviewees, the formulated questions had been written on an interview schedule to ease the researcher in getting responses based on various opinions.

4.3.2.1 Structure of the interview

The interviews commenced with questions concerning the union's membership, the work that union officials or representatives performed and their experience and knowledge on handling grievance and disciplinary issues. The interviews then explored the activities the union performed at the workplace. Questions about whether the labour union members experienced any difference on how they were represented by the union representatives were posed. The researcher explored the nature and extent of the services provided by union representative or union in dealing with grievances and disciplinary procedures or the handling of dispute issues with interviewer (Barry & May, 2004: 205).

The interviews lasted between 30 minutes to slightly more than an hour. Besides tape-recording interview discussion with the participant, notes were taken as a backup. The interview schedule for union members had three sections, the first part dealt with biographical information, the second part dealt with grievance procedures and the third part dealt with disciplinary procedures. A similar structure was followed for the interview schedule to union officials (see Appendix B).

Participants were allowed to express themselves in English, isiZulu, Setswana or Sepedi. In most instances, participants opted for English. In few cases, interviews were conducted in Sepedi or Setwana and somewhere along the lines in the very same interviews the respondents also used English. In cases where participants responded in one of the above transcribed languages apart from English, the transcript was translated into English. Interviews conducted were transcribed verbatim by the researcher. Emphasis was given to the participant's accounts and areas deemed important and salient to the participant's world (Kvale, 2007: 93).

4.4 Data analysis

According to Kelly (1999: 402) a good study should employ an approach to develop an understanding of subjective experience and provide an interpretation thereof. To ensure that a comprehensive analysis was carried out during the research, the questions listed on the interview schedule were used as a guideline. During most of the transcriptions and the analysis process, a notepad was kept for recording ideas which helped to gain more understanding during follow-ups and when analyzing the data (Smith and Osborn, 2003: 164).

Themes were created based on the developed questions existing from the interview schedule and some notes taken to formulate connections on specific incidents pointed out by the interviewees. The transcriptions were carefully re-read with a critical focus and where necessary re-written, since some interviewees used slightly different language, mainly mixed with English. Minor changes and language interpretations were made to such information. However, the original recorded responses, as well as the data relating to language use and expression, were not over-interpreted, but were kept as they were and shown in the chapter endnote of the research (Langdrige, 2007: 81).

After the interviews were completed, information obtained from the sample of the union members was transcribed using Huberman and Miles (1994) approach of

describing recorded information. The interviewees' biographical information table in Appendix A is attached to show a list of participants. A coding principle was applied and this principle was designed to protect and avoid using names of the participants (Andrade, 2009: 49).

4.5 Ethical considerations

Ethical principles as advanced by Rubin (1983, 28) was adhered to in order to avoid harm to the subjects of this research study. The ethical principles entailed that the researcher did not involve people without their consent in research. The researcher did not coerce people to participate and thus, there was no invasion of the privacy of the research respondents. The purpose of this research was clearly explained before any discussions or interviews took place. A copy of the final report will be offered to the union.

Prior field work research, permission in a written form was requested from the union as well as the employer to conduct the research. A consent form (see Appendix C attached in this document) was given to each participant to read and sign if they agreed to participate. Introductory discussions were held with participants prior to the commencement of the interviews to discuss the purpose, scope and benefit of the study as well as confidentiality aspects and the concept of participation. Ethical principles were highly considered mainly as a guide in expressing scientific opinions about the meaning of the findings as stated by Marrett (1990: 215).

Permission was sought from the interviewees to tape record the interview which was subsequently transcribed (De Vos *et al.*, 2002). Participation of the interviewees was voluntary. They were provided with an introductory letter explaining the research and requesting their participation. The interviewees were not subjected to any form of harm whether emotionally and discriminatory as the result of the research. In order for the researcher to comply with the institutional

ethical requirements and data protection legislation, a check list of ethical issues as presented by Bryman and Teevan (2005: 237) were mainly considered and applied before the researcher left for the fieldwork.

The anonymity of rank and file union members' interviewed was ensured. Interviewees were not asked their names and the informed consent forms were kept separately from the transcripts (see Appendix C). The researcher furthermore guaranteed the respondents confidentiality of the disclosure as individual responses were aggregated. Interviews were conducted with the labour union's branch office bearers, shopstewards and union members. The interviews were conducted privately and confidentially in areas that suited the interviewees and the coding (UMO for Union Member - Ordinary, USO for Union Shopsteward Official, as well as USOB for Union Shopsteward Office Bearer) were used in order to protect and avoid using names of the research participants.

Preston-Whyte (1990: 239) argues that to be successful in gaining cooperation and to facilitate research, the researcher must observe principles of honesty and confidentiality. In this regard the name of the employer was not mentioned due to preference for anonymity. However, for the purpose of this research study the organization (name of the employer) was subsequently referred to as the "institution". This was primarily meant to protect the employer or the organization's name from being cited. The organization is situated in Pretoria in South Africa employing a large number of employees which were used as participants (interviewees) for this study.

4.6 Conclusion

Outlined above is an explanation of research design and methodology that was followed in conducting this study. It is significant to mention in conclusion that, no branch of the institution was excluded and this ensured non exclusion of views of union members who were from different constituencies. The following chapter

focuses on experiences of employees and their representation during grievance and disciplinary matters.

CHAPTER 5

Experiences and representation of employees

5.1 Introduction

This chapter describes the union's functional structure and discusses the interviewees' experiences of grievance and disciplinary procedures. Some of the challenges faced by the union, as reflected by the union members' experiences, are also discussed.

Three themes have been identified to illustrate the union members' views about grievance and disciplinary procedures in the workplace. The three broad themes which emerged from an analysis of interviews with the union members are the following:

- Implementation of legislation and the union's recognition within the institution
- Handling of grievance and disciplinary procedures, and
- Representation of union members during the grievance and disciplinary procedures.

These three themes cover the questions raised during the interviews.

5.2 A brief overview of the union's functional structure

Union members elect shopstewards to represent them in discussions and negotiations with the management. Branch Office Bearers (BOBs) are elected from the group of elected shopstewards. The BOBs serve in four positions or portfolios, namely:

- Chairperson

- Deputy chairperson
- Secretary, and
- Treasurer.

These four positions or portfolios constitute the Branch Executive Committee (BEC). The BEC reports to the Regional Executive Committee (REC), which is assigned to report to the Provincial Executive Committee (PEC). The PEC in turn reports to the National Executive Committee (NEC), which is the uppermost structure of the National Education Health and Allied Workers' Union (NEHAWU).

Union officials, in particular the BOBs, are entitled to reasonable time off from work to perform their union duties and to undergo union training at convenient times (BIS Acas, 2010). However, since NEHAWU does not meet the required threshold at the institution, the union's officials are not entitled to take so much time off from work. Furthermore, the union does not qualify for an office and therefore depend on the institution's goodwill to provide time to the union's BOBs at each instant when union office work and training has to take place. One of the union BOBs indicated as follows:

Right now on record we have got 470 members but, ah, but we know potentially we must be well over 500, that's the threshold (USOB4:17/03/2010).

NEHAWU's membership did not meet the required threshold of 600 members when this study was conducted. Without an office in the workplace, union officials find it more difficult to liaise with the union members on an everyday basis. If the union had its own office, it could appoint an administrator or a full-time shopsteward to help the BOBs with the union's office-based operations (NEHAWU, 2010).

5.3 The structure of the institution (employer) and the recognition of union in the institution

The structure of the institution consists of three levels of management. These are top level management, which is the executive body, middle management and lower level management. The executive or top management is the ultimate source of authority managing goals and setting the objectives and policies of the institution. Middle management consists of the departmental directors who are responsible to top management for the functioning of the various departments in the institution. They execute the plans of the organization in accordance with the policies and directives of top management. Lastly, the lower level management is concerned with the direction and controlling functions of management. This refers to the managers and supervisors who work largely with personal oversight employees (HRA, 2011).

Middle management is also responsible for interpreting and explaining policies from top level management to the lower level. The union officials can engage with top management, but mainly with middle management. The duties of middle management include establishing plans of action to achieve their goals and determine how these plans should be executed. In performing the organizing function. They decide how the people and resources should be deployed in order to carry out the plans of action. Middle management also establishes the standards of performance.

Kuenzi and Schminke (2009), cited in Seitjz and Robert (2011: 190), point out that the management of an organization is primarily involved in leading and controlling employees, as well as assisting them in better understanding the workplace environment. They consider that policy, procedures and the composition of the organization, as imposed by management, influence how employees experience and reflect upon the organization.

According to union members, the institution is in compliance with the country's labour laws and has policies which are in line with the Labour Relations Act (LRA). NEHAWU has full recognition to operate in the institution through the Organizational Rights Agreement (ORA) also known as the "Recognition Agreement". The ORA is signed by the management of the institution for which the union members work. An agreement between the union and the institution recognizes the union's authority to exercise the workers' rights within the institution.

According to the LRA, an employee has a choice to receive assistance from a colleague or union representative in lodging a grievance or attending a disciplinary hearing. As stipulated in the ORA, an employee has the right to be accompanied and to be represented by a union representative during the disciplinary procedure, provided the employee is a member of the union (Jordaan & Stander, 2004: 4). Elaborating on the application of relevant labour laws or policies in the institution, a union member and a union shopsteward respectively stated as follows:

The institution uses the normal Labour Relations policies but they sometimes have some omissions or additions they have in the normal principles of the LRA (UMO16:18/03/2010).

I think there is, uh, a common, uh, steps that was agreed upon on the organizational rights agreement that we have to follow according to the Labour Relations Act, so that's normally the one that we use, because as a union we emphasize, particularly as a branch, on the grievances in the institution, so there is a common, uh, documentation between the union and the institution that was agreed upon to follow (USO4:20/09/2008).

The labour union values the existence of the ORA, which it honours as a legal and binding contractual document allowing it to exercise its members' rights in the workplace. The employer also makes use of the agreement. According to the union members, the institution knows that the ORA can be amended by either

party (provided that the union side meets the required threshold), should such an amendment be necessary. The labour laws and the practice of labour principles change, but should a party wish to make amendments to the agreement, a written proposal must be presented. This will be discussed in a formal meeting. When an agreement is reached, amendments are made to the relevant clause or clauses. One of the union officials articulated the application of amendments as follows:

We follow the recognition agreement, which is amended time and again... The only thing one of the clauses say, if there is a need to amend it, either party must write within thirty days before they actually delete amendment so that they make a proposal that we want to amend the recognition agreement. In the recognition agreement, there is a disciplinary clause ..., just sort of stipulating clause that a disciplinary code will be followed in terms of discipline... and some of the policies, especially the grievance and disciplinary code is package of the recognition agreement (USOB3:07/07/2010).

Although the institution is not compelled to consult the union regarding formulation of its policies as a gesture of goodwill, the union may be consulted when changes to the existing policies are instigated. Whilst the union was consulted on the “previous” Disciplinary Code and Procedures policy implementation, they were not subsequently consulted on the changes made. The union perceives this as handled one sided only, and lacking a spirit of collaboration. The sentiments from the union official made it clear that there were times when certain changes or amendments were made to the procedures without the union’s consultation. Union officials happen to realize the implementation of the new changes only during the disciplinary proceedings. A union official explained as follows:

At the present moment, uh, what we see, we see now there’s a new disciplinary code and procedure. And then the level of the union in endorsing that disciplinary code and procedure is still questionable even today (USOB2:02/07/2010).

With regard to the lack of consultation when new procedures were implemented, union members also raised concern pertaining to the handling of grievance procedures as well. They view management's behavior as problematic and they perceive the way in which middle management handles the grievance process as biased:

At the moment, the union, especially NEHAWU, we are having a problem with the new policy which is being used because you may find that, let me say that I am having a grievance with the line manager and the person who is going to sit and chair the proceedings in that grievance situation, is the direct line manager of my manager, so the question of being in the middle to work in this situation in a balanced way becomes suspicious in a sense that, you find that I am the supervisor and then I know the direct manager might be biased and that's the problem we have (UMO6:19/11/2009).

Negotiations of an agreement take place through collective bargaining. If an institution or an employer recognizes a trade union in the workplace, it gives the union the opportunity to negotiate the terms and conditions of employment of those workers who subscribe to a defined bargaining unit. Sometimes the negotiation unit includes all the workers, but more often includes only certain groups of workers, e.g. production line operatives, administrative officers and technicians. The objective of such collective bargaining is to establish an agreement with the union. This reflects the pluralist perspective whereby the parties, that is, the employer and the employees, agree to work together (BIS Acas, 2010).

As an employer, the institution has certain responsibilities towards the union members. However, relations between management officials and union members can be improved when management assist the union members (who are employees of the institution) to perform their administrative duties (BIS Acas, 2010). In support of this statement, one of the union shopstewards said:

We know the information that we as leaders give them is not enough. You see, if the labour movement and management of the institution can come together and try to train these shopstewards on how to represent the members in the hearings, I think we would have a, uh, good representation of our members (USOB1:14/04/2010).

The union looks after the interests of its members and acknowledges the advantages in working together with the employer. The employer and the union interact in the workplace according to the regulations set out in the LRA and the ORA. This interaction ensures a successful relationship between the institution and its employees' representatives, which in turn is supposed to be beneficial to the union and its members.

5.4 The policy to execute grievance and disciplinary procedures

Policies are created by management practices and day-to-day administration and may be altered in the process of implementation. According to Grossett and Venter (1998: 10), the relationship between an institution's management and the union is affected by matters of joint decision-making, especially since internal labour issues are raised if policies are not executed in the proper manner. The relations between the union and the employer are driven by policy practices, which is why the union officials are extremely concerned about the proper execution of the institution's policies:

Well... the institution has got good policies, when coming to the, uh, disciplinary code and procedure. The only challenge is the implementation. Uh, a number of, uh, clauses that are within the processes of disciplinary code and procedure are not followed properly in terms of the cases that I have handled until so far (USOB2:02/07/2010).

In spite of the fact that some union officials are concerned about proper execution of the institution's policies, some of the employees commended the employer for having implemented good policies to conduct grievance procedures. One of the union's office bearers noted that the policies on the grievance procedures were clearly defined:

Yes, the institution has a specific, eh, policy document entitled "The grievances procedure policy" on how a member should lodge a grievance when he is dissatisfied with some kind of, eeh, conduct of the supervisor or the employer (USOB1:14/04/2010).

An employee can choose to lodge a grievance against his/her employer in writing. The employer then invites the employee to elaborate further and discuss the grievance in a formal meeting. The employee has the option to ask a representative or colleague to accompany him or her to the meeting. The employee should be informed in writing of the employer's response to the grievance. Depending on the outcome, the employee must be given an opportunity to appeal against the decision taken. After submitting the grievance in writing, the employee may commonly expect a further wait before the hearing is convened (Saundry & Antcliff, 2006: 21). The regulations, as set out in the grievance policy, state that within seven days the involved employee should receive feedback. A union member expressed his view as follows:

I think what the policy says is that when a grievance is lodged and it should be acknowledged first and within seven days the decision should be taken as to how is it going to be handled and how the issue is going to be adjudicated (UMO24:13/07/2010).

Despite the grievance policy being perceived to be good by union members, they disagree with how supervisors and line managers understand and interpret it. According to the view of union officials, as a result of middle and lower management's interpretation of the policies on grievance or disciplinary

procedures, they end up implementing policies “without following channels” which union officials would like them to follow. Union officials then perceive top management of the institution as supporting and defending middle management in such ‘wrongdoing’. One of the union officials or representatives made the following remarks:

The institution has got the disciplinary code and procedure ... They have implemented a new disciplinary code and procedure, but then in terms of Labour Relations Act at the moment the employer introduced the new disciplinary code and procedure, the old procedure should be replaced by the new disciplinary code and procedure. Now a proper process has to be followed in order to ensure that people have been trained on that disciplinary code and procedure, there should be a seminar and workshops so that then people should, uh, commit themselves to see if they understand the code and they cope, uhh, with the content of the policy that we implement (USOB2:02/07/2010).

It is the duty of an institution’s management to ensure that managers and supervisors understand the policies and follow appropriate channels in implementing them. Through conducting training sessions and workshops, the institution can show that it is empowering middle and lower management in understanding and executing such policies. Union members perceive that with such workshops the institution is committing itself to enabling all the role-players to follow the appropriate channels regarding policy execution, including members of the unions.

5.4.1 The execution of grievance procedures

Informal discussions normally offer a better opportunity for the amicable settlement of a grievance. They are usually shorter than disciplinary procedures. Procedurally, it is a regulatory prerequisite that a formal grievance be put in a written form for a hearing, and this should be done too for an appeal case (Saundry & Antcliff, 2006: 28-29). Formal grievances are only put in writing by

the aggrieved party, which in most instances is an employee at a lower level complaining about an employee at a higher level. In most of the cases, subordinates are protesting against their line managers or immediate supervisors.

A grievance is a dispute or a complaint which a subordinate or an employee at a lower level lodges against a person at a superior level. A grievance can also be lodged against a person at the same level; in such a case, however, someone in a superior position is appointed to resolve the matter.

When executing a grievance matter, the senior person presiding over such a hearing is the executive manager. This person is only allowed to preside over the proceedings if he or she is not one of the parties involved in such an inquiry or amongst those asked to testify during the course of a disciplinary hearing. The executive line manager in a specific section, division or department has the final authority to preside over the hearing. Should the grievance not be resolved during the first stage of the procedure, the grievance will go to the second level. To ensure that the parties involved be given a fair hearing, a neutral chairperson presides over this inquiry proceedings. The union member explained what was expected in a fairly chaired grievance or disciplinary proceeding:

The chairperson should not be involved in the process, but should be a third party. The reason for appointing a third party is to ensure that the two parties involved in a grievance or a disciplinary hearing are treated fairly. After the hearing, both parties are to comply with the “*audi alteram partem*”² and the chairperson or the presiding officer will come up with recommendations to resolve the grievance (UMO5:06/07/2010).

As part of the process, irrespective of who is lodging the complaint, a standard grievance form must first be completed. The completed form must be submitted by the Labour Relations Division to the Human Resource Department for

² Latin phrase, basically meaning ‘to hear the other side of the story’, or give an opportunity to the other party to tell his/her version of the case.

consideration. One of the union members describes his experience regarding lodging a grievance as follows:

Usually there is a form that has been, if let's say for a start a member has a grievance, that you want to maybe take to the supervisor or somebody, once the form has been filled and then the person have stated his grievance, the grievance is sent to the Labour Relations Office. That office undertakes the investigation of that grievance and in a period of three days it must complete its investigation and have to sit down with the person concerned and the Head of Department of that unit, so that they can sit and look at the grievance. If maybe the outcome of that agreement, the incumbent is not happy, it can be referred to the next level. So those are the proper procedures on a grievance matter (UMO6:19/11/2009).

The internal (within the institution) processes are followed accordingly, with the involvement of the union representative or colleague. All necessary steps are followed and the parties, the “plaintiff” and the “defendant”, should be comfortable with the steps taken. In a case where either party feels uncomfortable or unhappy regarding the process followed, the matter will be referred to an external body like CCMA. A union shopsteward who has been working in the institution for 13 years and served as a union official for the same number of years indicated the following:

If the aggrieved party or any party feels not happy with the outcome, he has got all the right to proceed to the next step up to the executive, and if the grievance is not resolved through that internal proceedings. Aggrieved party now can refer the matter to the CCMA which is the one which will take over and the first thing is, the first thing they will ask is whether the internal proceedings were adequately exhausted (USOB5:11/11/2009).

It takes an average of seven days to resolve a grievance or, if there is a lack of consensus, to advance to the next stage of the procedure. The union members, however, experienced an unnecessary extension in the resolution of grievances:

Procedurally, the grievance should take us seven days, but normally since that we came in here it takes fourteen, more than fourteen, fourteen days (USOB1:14/04/2010).

According to union official and union members, some line managers delay or decide on their own not to sign and submit the grievance forms. Union members perceive this behaviour as an element of abuse of power by the middle management:

I can say, ehm, example that one of *Siphokazi*³ in the Library. Siphokazi's case, I was not happy with management up to so far, I do not know what we can do – You know that do we... (*Pauses a bit*) ... instead of sending forms (*grievance forms*) they were kept there (*by the line manager*) for a very long time and these people (*Departmental management*) are arguing that she is not a union member (UMO12:17/03/2010). [partially translated – see endnote^A]

I think the most one that comes in it, is mostly eminent on the ... abuse of power by line managers. Uh, people who are just thinking that because they are line managers they can just decide whatever in they do. I recently have a..., uh, grievance which I have handled whereby during this, uh, time uh, flexitime that the institution has implemented right now (USOB2:02/07/2010).

The abuse of power involves the unfair treatment of employees when lodging grievances and experience delays. Union members perceived this as dictatorship by the institution, rather than negotiation in good faith between employer and employee. Employees or union members thus see themselves as subjected to unfair labour practices:

The grievance that I lodged I think it was sometime last year, unfortunately is still busy even now. So it was unfair labour practice, based on the fact that for a period of two years I was not evaluated, that was two years. So I was not happy about that and when I made a follow up, I was told that the person who was

³ Not the real name of the person. A pseudonym was used to protect the identity of the person mentioned by the interviewee.

appointed as an acting deputy director of Employment Relations, he did not have skills or competency, that was their reason (UMO2:05/07/2010).

The abuse of power and elements of “racial boundaries” (the majority of the workers, particularly the non teaching staff members at the institution are black, while their supervisors are white) are usually enacted by superiors against subordinates according to union members’ views. They regard management as being unfair. Most of union members and union officials’ experience what they perceive as lack fair and justified manner in which disciplinary procedures are handled.

5.4.2 The execution of disciplinary procedures

With regard to the implementation of disciplinary hearing, the guidelines applied are indicated in the ORA as well as the requirements laid out in the legislation as mentioned by both union members and union officials earlier (see section 5.3 in this Chapter). Both the plaintiff (mainly the employer) and defendant (employee) provide documents and are allowed or given a chance to have witnesses to support their evidence. A neutral chairperson presides over the disciplinary proceedings. The presiding officer considers a charge sheet which is made available to all parties involved during the hearing, i.e., the presiding officer, the plaintiff, the defendant as well as representatives. Union officials are aware of these processes and they mention that this happens after an investigation to the case has been done:

What we do is we look at the, uh, charge sheet, and after looking at the charge sheet we request some documents from, uh, management, especially so the documents that say this member was trained and he’s aware of this disciplinary code and procedure, and they must give us also investigation, investigation paper; how did they investigate? What is the outcome of the investigation? And then now we’ll follow with that, we’ll sit down with that investigation, uh, finding and all the documentation. Should we not get all the documentation in time then

we cannot proceed. We will request that this matter, uh, certain cases must be, must be scrapped (USOB1:14/04/2010).

That's information to charge this person, you see, formally, because once the investigation is done, there is no formal charge as yet, so that investigation process must inform the formal charges, but that is not happening with the institution (USO2:18/03/2010).

According to union officials, before laying a charge, management is required and expected to have done a thorough investigation of the case. All necessary steps or proceedings have to be followed. According to union officials and union members' experience, in most disciplinary cases which they were involved, those cases were dealt with in a formal manner. Disciplinary procedures were mainly lodged against employees by the employer. The majority of disciplinary cases involving a union representative and union members revolved around theft and misconduct. The following statements, by the union officials and a union member respectively, describe the main cases encountered and the majority of the complaints lodged against union members:

Well, most of the cases since I've become a union representative, uh, most of the cases it's theft. Most of them are theft (USOB1:14/04/2010).

I can say the majority of the cases that the union has attended for the past twelve months it was theft-related cases. So I could say they are, they are actually the most cases that occur, they occur, they occur, I couldn't say frequently but are the cases that actually we have to defend. Ja, to our members on a, on a regular basis, not actually on a regular basis, most of the cases that are actually been laid is theft cases. Ja, types of cases, it's mostly theft, misconduct, it might be absenteeism (USOB3:07/07/2010).

The cases that are more commonly laid is the theft, is one of them, and absenteeism. Ja. Absenteeism and theft (UMO21:03/01/2010).

Union members perceived the handling of disciplinary cases by their representatives as competitive rather than cooperative. Most union members

expect a 'win', irrespective of the charge, if the union representative is defending one of their members. Among the disciplinary cases that were lodged against union members, the union representatives seemed to have 'lost' more cases than they had 'won'.

Since the institution follow the labour laws, a theft case is judged a dismissible offence, provided the evidence proves beyond doubt that the accused committed such a crime. In some instances, the union representative can 'win' a case if mitigating factors are presented. Views based on expectations of union members are as follows:

Well, in any case I expect a win from the union. If ever I have the problem, then I consult the member of the organization to represent me. I don't accept a failure or a loser, I always want to have positive, uh, impact on what the case was (UMO3:25/05/2010). [partially translated – see endnote^B]

Everything, I just expect to win. Even if it's impossible, but since, well, they are a union they have to make a way... for me to win (UMO9:13/07/2010). [partially translated – see endnote^C]

The institution's management has to follow policies which are meant to regulate the execution of the disciplinary hearings. In cases of theft, should there be sufficient evidence; a dismissal can only take place when all steps in the disciplinary procedure have been exhausted. These steps were discussed in Chapter 3 of this study.

Representation and response to a disciplinary case needs enough time to prepare beforehand. Thus sufficient notice must be given to attend a disciplinary case. According to the union members, too little time was allocated both to the preparation for a disciplinary hearing and to the conduct of the hearing itself. Those employees who were also union members perceived the allocation of insufficient time as a measure used by management to discourage union members during disciplinary cases. The defendants ended up losing since there

was not enough time to present their cases. They were only notified at the very last minute that they should attend the disciplinary proceedings, which left them with very little time to indicate their stance in the matter:

The reasonable time must be given...ehh, it might be an hour or less because we cannot be able to make it, even if you report to your supervisor that you are to consult with so and so with regard to your case. They will find that sometimes you react negatively which gives you a sort of inferiority complex that you fear to consult even if you consult, you consult based on time like five minutes just to highlight to your representative that you have got this case that we are discussing, sometimes we discuss after hours like when we go home. Why I express this point is that when the management consult they would telephonically consult with the supervisor of that person or the person that has lodged the complaint to sort of get the whole story. There is not even a limitation of their consultation (UMO10:18/03/2010).

You can't even try reach at that level because if they can try it, some of them, they, they will be appropriate but, they will be frustrated. You fought this man, you cannot consult with him extensively because you, yourself, as a trade union leader, you are compelled to be at the, at your workstation for a specific period you have got no time to go and consult this person, he himself doesn't have time and an agreement, the collective agreement, the management will allow you to see your, your member only for 30 minutes before the hearing, what do you do with 30 minutes, it's just to say hallo, who are you? I am so and so, that's all, when do you do research, because any case, you must do research, huh? It's terrible, so lack of time, so it cannot be appropriate with lack of time, it cannot (USO5:11/11/2009)

The short notice and minimal allocation of time to union members in presenting themselves during disciplinary cases was denounced by union officials. They mention three cases in which they were involved. They are concerned about the institution's management of involving law experts in any disciplinary matter from the onset. Union officials regard management as being unfair since they involve professional experts without having used and exhausted internal proceedings in this matter. According to the union members, lawyers are involved in handling

disciplinary hearings which under normal circumstances should be a matter between the employer and the employee:

In terms of the policy of the institution – the disciplinary policy – it states it very clear that the internal processes should take place. But then the employer is more sensitive when the employee brings an external person. Whereas, with the employer, it quite often happens that they bring somebody on board like CLS (USOB2:02/07/2010).

The institution use money to buy lawyers and attack staff members. So the whole thing is unfair (USO2:18/10/2010).

From the perspective of the union officials and members, the playing field is not level, and the use of experts by the employer is regarded as intimidatory. The argument made by union officials or representatives is that the essence of handling a disciplinary procedure is both to ensure that justice prevails and to correct the worker's conduct in the workplace (Saundry & Antcliff, 2006: 19). According to Engelbrecht *et al.* (2008: 1), when justice is a core value of an organization's management principle and is enacted through a set of internal management practices, it builds a culture of justice and a system-wide commitment which is valuable and unique to the employees and which leads ultimately to a competitive advantage. Thus, trade union representatives strongly emphasize that procedural justice in the workplace is important for employee behaviour in the sense that employees are more likely to accept responsibilities if the related procedures are fair. Such conduct in the workplace leads to employee satisfaction and fair outcomes.

The union members' understanding of ORA is that labour matters including disciplinary issues are dealt with between the employer and employee at first level. Only when the internal avenues have been exhausted, then consideration of alternative channels is then put into place. This could include lawyers and or external bodies. With regard to procedural justice, the participants in this study

(both union officials and ordinary members) made the following claims due to the fact that they perceived the employer to be acting unfairly when including lawyers to initiate any disciplinary matter:

The institution uses competent, highly qualified attorneys and advocates to initiate the cases. There is unfair balance, unfair balance of power there. The trade union is not knowledgeable, it doesn't have, even have, eh, the basic course one, first year level or second year level of labour law. This man is a qualified attorney and is practicing and is specializing in labour law so there, you see, there is a mismatch (USO5:11/11/2009).

The level and style of questioning, as I have indicated, is that the institution uses expertise, the people that can trick you when questioning, even when you know you could have answered in the correct way, because of the standard of the people that are being trained and me untrained, is the question of expertise versus unskilled person, it's difficult (UMO10: 18/03/2010).

In some cases, members were involved in disciplinary procedures where further details were given regarding the extent and nature of the disciplinary investigations. In some of the cases, there seemed to be a degree of unfair handling in the execution of the disciplinary proceedings. The degree of unfairness seemed to be limited to certain principles of investigation which were viewed by union members as biased.

Employees felt that the line managers or superiors lodged disciplinary cases in order to get rid of subordinates. They felt that black employees were being targeted and received warnings leading towards disciplinary action, whilst their white counterparts were not treated like this. The reasons behind this included racial discrimination. It was perceived that ill-treatment of union members by senior staff members in the workplace led to discrimination. Comments about the relationship between subordinate workers and their line managers or their immediate supervisors arose in conjunction with racial boundaries. One of the union members raised his view as follows:

Usually there is a lot of complaints between supervisors and subordinates, you find a supervisor who feels this one don't respect me or sometimes you find the line manager complaining of staff members who do not do their work. Some of the staff members feel that some races are being treated better than others (UMO6:19/11/2010).

According to union members view, the union representatives must be aware and ensure that a procedure is executed in an appropriate manner. Thus, a case should not be based on accusations made by a superior against a subordinate or vice versa, but on the facts which determine whether the case is viewed as a grievance or a disciplinary matter. Some union members perceive their union representative as failing to do some groundwork before attending to a disciplinary matter. This includes consulting and checking with a union member who is directly involved in the case to tell the story to the union representative. Thereafter, the union representative would have to double check the other version of the story. According to union member, some union representatives fail to do this. One of the union's members articulated the duty of the union representatives as follows:

They must be able to get the grievance or disciplinary matter and also to consult with a member, so that they can get their side of the story. As a union member you must have a union representative (UMO13:30/03/2010).

It is the duty of the supervisor or the line manager to ensure that the procedure and principles are adhered to at all times. The appropriate steps have to be followed. Union officials suggested that procedural lapses provided loopholes which the union used when defending its members. In these cases, the union defended its members by indicating that the appropriate steps had not been followed by the employees' superiors. A witness had to be present when supervisors or line managers gave an employee a verbal warning and when they signed the document or the warning form. Without a witness, the supervisors or

line managers could not prove beyond any reasonable doubt that the subordinate had been given a verbal or written warning. The employee thus could not be charged with or be found guilty of misconduct.

When the institution's middle management (the level of supervisors and line managers of support service or support staff of the institution) err in the execution of disciplinary cases, this may count in the union's favour. Where middle management do not follow the appropriate steps before or during the hearing, the union may win the case effortlessly, since it focuses on the inappropriate execution of the procedure and not on the case itself.

5.4.3 Perceiving racial elements in the handling of grievance and disciplinary procedures

Judging by a number of union officials' and union member's responses, they perceive racial boundaries contributing to employees being charged with misconduct by their seniors or immediate supervisors in which case the union members must appear in disciplinary hearings. There is a feeling that the handling of grievance and disciplinary processes are affected by "race" because most of employees in the union are black and their superiors are white. Most of the union officials contended that management practiced racial discrimination against employees. Union officials noted that some of their members had lodged grievances on racial grounds:

People are aggrieving on issues of racial boundaries and issues of being oppressed, for you to do your work under certain conditions (USOB3:07/07/2010).

Most of the time, management is negative, because there's a racial problem in the institution (USOB1:14/04/2010).

This is how some employees expressed their views in this regard. Employers may have an influence on the pace and nature of the changes made within the workplace, but the union retains the power to make some strategic choices (Boxall & Haynes, 1997: 567). When a case has been assigned for a disciplinary action, but there is no enough evidence to support the actual charge against the accused, the union capitalizes on this factor to outline racial boundaries in defense of their member. The union concentrates on some external factors and elements of race which could have led to the charge, unless the manager or supervisor who lodged the case against the accused is of the same race (Barry & May, 2007:204). One of the union officials articulates as follows:

Yah, the management ends up being emotional, playing the game more with their hearts than the head. Some line managers or supervisors when confronted on questions which are based on whether or not they treat their subordinates different based on race, they tend to be emotional and do not respond based on facts but simply based on anger (USO16:18/03/2010).

By and large, middle managers' competences could be linked to the functions demanded by their particular jobs. Union members perceived being treated inferior by their superiors who are in the middle and lower management. The union officials sensed elements of abuse of power against subordinates by middle and lower management. According to union official and union members' perception, this showed an unequal treatment of employees. One of the union officials and a union member made the following remarks:

You remember, remember when we talked of co-workers, these people, this person gets, you know it's white versus, uh, blacks in this, in our institution. Now these people get just mentality that we, we above these people, such as Blacks, Coloureds, and Indians. So we have to oppress them, but the managers don't, are not aware of that, such situation happening in this, in this regard (USOB1:14/04/2010).

The transmission of information to the top management above the supervisor is not adequate and then who fails here, the heads of department or heads of

certain sections fails to take drastically steps against their supervisors, I mean the line managers of their subordinates, that is why some of the supervisors will act as if they own the place, they own the section, they own the institution (UMO16:18/03/2010).

In recapping the union officials' and union members' views, it is clear that even though there is a working relationship between some subordinates and their superiors, racial boundaries occur in the workplace. Given these views, some union members perceive the unequal and undeserved treatment from their line managers as based on race rather than any other conduct between a subordinate and superior.

5.4.4 The union members' knowledge and understanding of grievance and disciplinary matters

The union representatives' level of knowledge was perceived to be an issue in their representation of the union members' interests as viewed by some union official's and ordinary members' perceptions. The members were concerned about their representatives' knowledge and experience in dealing with grievance and disciplinary measures:

Shopstewards are not aware of, because this is, these documents, you know, need to be read with a mind which understands labour law (*laughs*) that's another form of education here, you can read that document, if you are not knowledgeable of what labour law, basic knowledge, a fair understanding of, of, eh, good, code of good practice in disciplinary hearing, you're not knowledgeable about, eh, how disciplinary inquiry has to be conducted. You are unlikely to pick up anything wrong in that document (USOB2:02/07/2010).

Some shopstewards seemed unable to distinguish between grievance issues and disciplinary cases. They and other ordinary members did not know which steps to follow in a grievance matter and which to follow in a disciplinary case. As a result, they confused the two procedures. Very few union representatives who

were asked about grievance and disciplinary procedures seemed able to state that grievance procedures were the voice of the employees and a channel through which their problems could be raised and resolved. The institution's policy on grievance resolution clearly outlines the formal procedure for dealing with everyday problems or complaints, and a grievance is understood to be a formal complaint (ULR, 2006a: 20-34). One of the union members commented:

Ja, and you'll find that is a very straightforward case, but because of the person who's representing the aggrieved party sometimes you'll find that really, he does not understand the grievance procedure and or disciplinary hearing because prior to going to the grievance, representing a person in the grievance, in the, in the, in the, uh, what you call it ...ehh, grievance may slightly differ from a disciplinary hearing... These are the steps, so from the supervisor, what are you expected; then from there you refer the matter to the supervisor; from there you suppose to go to the line manager; and so on and so on. If the person does not understand those procedures, sometimes it is very much difficult because if you can check like the way our grievance procedure is formulated, you'll find that sometimes they ask you the nature of a grievance. So the person does not, if a person does not happen inside or an understanding is not going to be able to deal with that (UMO2:05/07/2010).

It was also clearly articulated by one of the union officials that the successful handling of a grievance or dispute by the union representatives or officials came with training and experience. If they lacked the necessary training and experience, the labour union would suffer as a consequence. There were logical steps which needed to be followed when conducting a meeting and dealing with a grievance. Following these steps could help to resolve most grievances. One of the union officials made the following comment:

Yah, so we get there for three years untrained. We just fumble and after three years we get, other, others, eh umm, eh umm, members of the union being elected and replace those who have been there. They go and fumble as well, so there is no proper training simply because there is no time, the employer is also keeping as, keeping, eh, eh, strict measures, to say you only get one time off for

so many hours per month. Now what do you do with that, therefore there is no proper training of shopstewards (USO5:11/11/2009).

Another factor which emerged from the interviews, which tied in with the union representatives' understanding of the policies, was the union representative's experience and level of knowledge on labour issues and dispute matters related to grievance and disciplinary conduct in the workplace. Some union officials and union members felt that union representatives had insufficient knowledge about the union and were, therefore, unable to perform their duties satisfactorily:

Uh..., I could say maybe sometimes we are not, don't have the knowledge of our policies so that is, uh, the challenge that we normally face when we come to that procedures of, of, the hearing procedures, because our members are, uh, they are in majority who are actually not educated according to the policies and... the policies of the institution, that is the major challenge and a, it's where, it's where they normally fail during the process of the hearing (USOB3:07/07/2010).

Look, out of every hundred members in my union, no, out of every two hundred members, you can have only one person who can, who have a fair understanding or know how this labour eh, umm, law is, can be applied (UMO19:13/07/2010).

My experience show that, uh..., uh, labour unions, uh..., the shopsteward, the leaders – the representatives to workers - they are not well informed about the clause, the clause like for instance in the performance agreement you'll find that there's the code of conduct. You'll find that there is a disciplinary hearing that is being instituted, like for instance if it's a, a theft disposable offence. Then you cannot, you see, if you are going to represent that person, in any way it's on the clause that say that is a disposable offence, how can you represent that. So they must check on those cases (UMO17:12/07/2010).

According to union members the union officials do not make use of experienced representatives, nor do they make use of additional input from the workers. Thus they do not make well-informed decisions and do not win their members' cases. It

appears that they do not appoint experienced and knowledgeable representatives. This has a negative impact on the union's efficiency.

When asked whether they had ever lodged a grievance, most of the interviewees said they have not. Both union officials and union members seemed to understand what a grievance is:

The grievance by nature is just dissatisfaction if you want to put it, eh, clearly and fairly. If you, if you are an employer in the institution you must be aware of that grievance procedure and if an employee is dissatisfied with some form of conduct against the supervisor he will lodge the grievance formally but if the, the, the supervisor is implicated in the grievance he can only receive the copy to inform that very, eh, eh, supervisor that a grievance has been lodged against him or her then the senior member of management will have to adjudicate the grievance, it has steps (USO5:11/11/2009)

The grievance is simple, it is the unhappiness in the work situation whereby there is a conflict between staff members of an organization. Management can solve it by debating it to correct it, which is you follow the correct procedure, yah. Look, if the grievances arise we can deal with it formally or informally. I can call you and say, Shadrack, come to my office and then what happens we talk about it as well or we can fill the institution procedure grievance specific form taken to management. But it must be resolved in seven days (USOB4:17/03/2010).

Grievances are laid against the supervisor. Against their line manager, which means if we can make a thorough research, we will find out that even the institution does not take the adequate steps for the supervisors who does not perform adequately (UMO16:18/03/2010). [partially translated – see endnote^D]

According to the views of union officials/ representatives, some officials lack sufficient knowledge and understanding of grievance and disciplinary procedures, and it becomes difficult for such officials to handle these matters. Union members too share the same opinion regarding some union officials as lacking training on how to handle grievance and disciplinary procedures.

Based on views of both union officials and union members, there was no indication which showed union members being treated differently by their representatives based on their level of education which determine members being highly skilled, skilled or not skilled. Thus, it appeared that from the union's side there was no distinction made regarding members representation being unequal based on their level of education.

5.4.5 Summing up complaints about the execution of the grievance and disciplinary measures

The ORA, signed between the institution and the labour union, is clear on how complaints should be dealt with. Most of the complaints had not gone beyond the second stage of the grievance procedure. The parties involved were reported to have reached a consensus or to have managed to resolve the matter during the first stage of the procedure.

In some of the complaints which were resolved during the first level or stage of the grievance procedures, both the union representative and the line manager of the involved employees reached consensus based on the merits of the grievances. The view of the union members in this regard was that the concerned parties would meet soon after an investigation had been conducted by the supervisor or the line manager and that the union representative would be invited or requested mainly to observe. In most of such cases, regardless of whether the employees involved did or did not belong to the same union, as long as the complaints (grievance matters) were laid by employees against co-workers, such matters were resolved swiftly:

On some grievances that took place at the worksite whereby NEHAWU members were involved against another, some supervisors never used to formalize the matter but they could report the matter to their managers to handle the case and some managers before they tackle the matter they could call for intervention of union representatives or member via the shopsteward representative's

communication and she would get involved in resolving the matter internally or she will assign the nearest shopsteward to uhm, handle the matter (UMO20:10/10/2008).

I was involved in a grievance as assigned by the union. It was a grievance against a colleague. He used a derogative word. A word that is not good to use. This other person belonged to another labour union and not the one to which, ehh, I am a member of, which is NEHAWU. The matter was resolved internally and took only few hours of the day to resolve (UMO11:11/10/2010).

One of the reasons that these types of grievance were dealt with more “easily” in some instances was that both parties involved belonged to unions, though not necessarily to the same union. The matter was then usually dealt with directly by the union representatives. The representatives attempted to benefit both parties and to resolve the issue, since such conflict might have had a negative impact on the trade union itself, should the complaint be left unresolved for too long.

Based on union official and union members’ view, there were a few exceptions where the grievances were resolved internally, but in these cases the line manager usually did not want to be seen as ‘guilty’ and deliberately frustrated the employee, to such an extent that he or she gave up and eventually dropped the matter. In such cases, the issues were handled formally and the institution’s Human Resource: Labour Relations Unit was involved, but the process was prolonged and dragged out longer than normal. The following matters were also dealt with in a formal manner, but according to the interviewees’ there were again elements of delaying tactics from the institution’s management side:

Well, some other managers are scared to face such grievances. Now they delay it they don’t want to investigate, they don’t want to do anything. So that we just had, we resulted to follow it, follow up such matters (USOB1:14/04/2010).

I was involved in a grievance matter as aggrieving party against the line manager and the director of Human Resource refused to adjudicate. It has been an issue for the last seven years since 2003 (UMO24:13/07/2010).

With regard to the union members' experience above, his matter was initially (2003) dealt with between the institution and himself. There were delays from the institution's management which he (union member) failed to confront in his personal capacity. When he joined union in 2009, this matter was handled between the union representatives and the institution's management. However, delaying tactics still prevailed. The above matters were dealt with in a formal manner and were taken to the next level of the grievance procedure. Matters of this nature, handled in this manner, rather resembled some disciplinary hearings which were dealt with at this institution. There were some elements of delay and postponements for further investigations. The matters were mainly referred to other units, hence were dragged out and took longer than usual to resolve.

5.5 The representation of union members

The manner in which union members are represented has an impact on the decisions the institution makes when dealing with grievances and disciplinary proceedings. On the one hand, some union members judged their representatives according to the number of cases they won. On the other hand, some union officials considered it a victory to win a case, even if it was only one of many cases. If they had success with a case, they saw it as a job well done. They believed that cases like theft were not 'winnable'. Union members, however, seeing staff being dismissed, perceived the union representatives as having failed to defend a member.

Union representatives winning less or only a few cases were viewed by members as a negative element which caused the labour union to suffer. This "poor track record" weakened the union in the long run. Some members indicated that many of their co-workers' cases had been lost. They did not think the union representatives had the ability to win most of the cases, as reflected in the following:

Ja, I think union loses lots of cases (UMO1:05/07/2010).

Those that have lost the case they complain, I was not actually fully represented, I have lost my case, and the few whom their cases were won will differ any way. It depends more on the outcome of the case (UMO15:18/03/2010). [partially translated – see endnote^E]

If the trade unions were competent enough and can equal the task, equal the skills of the negotiators of the institution, most of the employees will be saved but they are not being saved because they are being represented by uneducated fluke (USO5:11/11/2009).

According to union officials, management took advantage of those employees who were illiterate when it came to grievances. Senior employees or managerial staff of the institution exploited this when such subordinates lodged complaints. When grievances were reported to middle management, they “manipulated” the system, misleading the employees who lodged the complaints, since such employees were uneducated and had little knowledge about the grievance procedures. Union official indicates that management on instances where some employees lodge grievance, instead of such matter being addressed according to appropriate steps of grievance, discussions in a form of “meetings” are initiated by the management without the employee realizing the inappropriate manner of handling this matter and without being able to involve his/her union representative:

There is a problem; there is a tendency here, eh, particularly in the institution here, in the institution. The employer, being an employer, normally if the unions are not, eh, well-schooled about the grievance procedures, the management, normally, they will mislead the aggrieved party by inviting him to meetings which are not even recorded, trying to resolve it, eh, when the grievance is not lodged. At the end of the day, after several meetings when they realize that it's not lodged, they come back and say by the way, don't forget that you have not lodged the grievance formally, so there is a formal procedure. Now normally people get destroyed as, as employees because, eh, they are not so quick to lodge a formal grievance, according to formal procedures... The steps, as you

know, as guided by the policy, the steps are fair. There is no way that I can dispute that. What is left, eh, being, eh, challenging question is the understanding of this grievance, the nature of the grievance, the grievance itself (USO5:11/11/2009).

Many of the interviewed union members felt that the union was failing them. Some of the union leaders shared this view. A member of the union's executives (BOBs) indicates having tried to engage the institution's management on policy matters and using the institution's guidelines to establish relations for the benefit of all parties involved. The executives (BOBs) mention as trying by all means to implement the correct procedures, but the union members did not seem to be aware of this. Thus the union members' notion that the union was failing them suggests a lack of communication between the union's leaders and its members. Such lack of communication relates to not letting union members aware of issues which the union officials engage management with from time to time. This has had a negative impact on the union, since the members are slowly losing their faith in the union's leadership. According to the union official, they are engaging management of the institution to stick and apply the appropriate and necessary terms as outlined in the policies:

Actually, it's a predicament that we, we are busy engaging with the management on that particular matter as we speak. To see that, let us from the equal side of the employer and the employee stick to the policies of the institution. The difficulty is the balance of probability. You find that the institution during the grievance, sometimes they do send some of their lawyers, expertise in this field. In terms of the institution's policy they state very clearly that, it's not necessary for the employee or an organization to include an external expertise during the process, until such time this matter is officially declared that the entire internal process has been followed. Therefore, the employee or the employer has got the right to take the matter outside. (USOB2:02/07/2010).

However, this observation is not viewed the same by union members. A comment from a union member in this regard is as follows:

The union representatives have not represented some cases satisfactorily, due to the fact that some, they've just been taken to represent somebody while they don't have a clear understanding of the policies the..., the regulations and procedure (UMO18:12/07/2010).

In their own perspective, the BOBs seemed to be very proud of their work (union activities) in the institution:

At the present moment, uh, according to my analysis when I look at the reports, that are shopsteward counselor involved himself in. I am fully convinced as a branch chairperson that the shopsteward council members are doing quite a lot to represent our members (USOB2:02/07/2010).

This contrasts with the views of union members, very few of whom thought that the union was doing its best to serve its members. An assessment of the union by its members indicated that the union did not meet their expectations. According to this evaluation, the members believed the union's representatives or officials to be incompetent. Another negative impact perceived by the union members (more than 60% of the members interviewed) was the fact that the institution referred labour matters and cases to the law experts at the Center for Legal Services (CLS). The perception of the union members was that this practice was unfair and put them at a disadvantage. They had to deal with professional lawyers on issues of labour, instead of the employer and employee organizations engaging with each other to resolve the matter:

They are unfair, even actually to cement the unfairness to the people, the status of their judgment is not in the level needed, because they put the people who are lawyers or former magistrate of which is unfair to just usually be a Rambo over a very small mouse that is just, to just throw a stone at it but just to jump on it is wrong because there is no challenge. In terms of the proceedings there must be a state of recruiting, if it was like that management could have said alright, if ever we see that you are being employed with expertise, people who are former lawyers, former magistrates, former advocates, former prosecutors, then you - union - when you come to this level you bring along your guys, your lawyers or

whatever so people can be balanced, there is imbalance in this case (UMO10:18/03/2010).

The institution's management tended to appoint high-level labour experts to tackle the cases against union representatives. However, according to some union officials, if the labour union worked towards meeting the required threshold, some of these practices could probably be dealt with. Thus, one of the elements which put union at an advantage regarding meeting threshold, is that the union receives a different status in their recognition within the institution. This includes that such a union could negotiate amendments in the ORA solely with management excluding other unions' involvement.

In a working environment, often situations of conflict occur between subordinates and superiors or co-workers (Henslin, 1999: 26). In response to the question on how often a conflict situation occurred between co-workers, some union members stated the following:

Between co-workers we don't have so many conflict situations. As unions and management we usually have a way to deal with this locally. If they have a problem with the line manager and feel they cannot report anything to him there is a report that the union movement receives. So the cases that we have are those of workers and management conflict (UMO6:19/11/2009).

Let me categorize conflict situations which may lead to grievance procedures between co-workers into two, one for union members, the other for non-union members. For non-members it happens and for non-union members to union members also, it happens. But for members grieving another member it does not happen, here it is the reason, we used to call meetings, remember the union is not an enemy to a worker, is not an enemy to management, the union is a bond, it is somebody who stands in between. Management cannot call all these employees into one roof to discuss certain matters, if it has to, sort of get a slice of bread from the whole loaf so that one can get the chance, so through the representation is much better, so shopstewards in the meetings, they give a report back from their own meetings. Part of the importance is that they

sometimes give workshops to employees, it is very important to avoid 1, 2, and 3. It is very important that we know as comrades, as members of the union, as the employees of this institution, the institution, there is an agreement that we provide work, you pay us and we as workers, we work together for management, then as a result of that it is very important for the union to emphasize the working together how to resolve the differences. After the meeting if there is a problem, I handled more than three cases, which is not grievances but is a problem rising from the members, say I have got a problem with my colleague from the very same department, or sometimes from a different department. So what I have done is to set up a committee to handle the problematic situation as the union, without management because we believe there is no need for grievances every time. If the person sees how resolve the situation and how we rehabilitated him from the kind of a situation, how to avoid this thing of fighting, it is very important. The very same tactics can even assist us individually for his family or a friend (UMO16:18/03/2010).

The ways in which subordinates related to their superiors and to their co-workers were different. There were only few reported incidents of conflict between co-workers compared to reported incidents of conflict between superiors and subordinates. The comments made by union members indicated that there was cooperation among employees, with some minor issues of differences or conflict situations. These situations of conflict were mostly dealt with or resolved during the first stage of handling the grievance procedures:

It will be difficult to measure between co-workers, because as I said, there was never an incident; in fact there was one incident where a core worker was trying to lodge a grievance against another core worker. But, it's once, you know, after a while. In fact it's not even, it's unheard of, eh, because as co-workers you will just resolve the matter amongst themselves, between themselves, then it's finished, but with the supervisor relationship, the supervisor and subordinate relationship, it happens, eh, and also depends on the, eh, how the manager manages the situation (UMO7:06/07/2010).

The above statement could be supported by findings in a study conducted by De Vos *et al.* (2007: 607). Reactions of employees which show support for and

confidence in their line managers and co-workers are necessary for the betterment of both an organization and its employees. As such, this is an indication of how workers feel about how they are being treated and managed within an institution. For example, an employee who lacks trust and confidence in his or her co-workers and managers would hardly support cooperation in the interests of advancing the organization. Such an employee is more likely to oppose and demean any developments in the organization. Workers' views and reactions have an impact and the welfare of an organization could be dependent on these reactions. Thus, the handling of employees' complaints in the workplace and dealing with these matters is a significant factor in the working environment (Seitjz & Robert, 2011: 190).

The support of co-workers is important. Thus a co-worker or any colleague in the organization could stand in as a representative during a grievance or disciplinary matter. This is permitted in terms of the legislation, and the representative is allowed to confer with the employee he or she represents and to address the hearing. However, the legislation does not allow the representative to answer questions on behalf of the worker, or attend a hearing on his or her behalf (Saundry *et al.*, 2008: 46). In most instances, members felt secured when accompanied during a grievance matter or when attending a disciplinary hearing. In particular, this category included members who were illiterate, since they felt the support of a colleague or union representative could add value to the way their case was presented. One of the union shopstewards elaborated as follows:

In most cases it helps a lot to be represented by the union in the sense that when you are affected, first, if you are the affected party you are not able to handle it because you are emotionally, eh, disturbed, it takes on your emotions, so you lose the rationale in the process. So that helps, eh, if you are represented by a person, but it has to be a knowledgeable person, and then you have to, that person must to be trusted by, eh, the aggrieved party who has got the right to appoint that person (UMO2:05/07/2010).

In a study of unionized institutions, Saundry *et al.* (2008: 7) found that the managers in some institutions viewed the role of union representatives as challenging and provoking. In particular, the level of the union representatives' legal knowledge was found to be thought-provoking. In this study, however, based on most union members' perspective, the level of knowledge of union representatives is inadequate (refer to sub-heading 5.4.2). One can assume that the legal knowledge of union representatives is found to be less considering Saundry's study. Union representatives are however, confrontational which is common to what Saundry *et al.* (2008) found about union officials. They were perceived as lacking training in handling and dealing with issues of grievance and disciplinary measures. Union representatives were expected to escort and assist members, and this was regarded as their most important contribution, with the greatest impact on grievance and disciplinary matters. The union shopsteward articulated the following:

It's better if they make presentation in the presence of the trade union because the grievance requires that the aggrieved person must state his grievance, must state his case. Now the union member is there or union official is there to assist a member to put a case better (USO3:10/09/2008).

The extent to which an institution demonstrates a radical or rebellious reaction to the union's presence helps to determine whether or not the institution is unionized. A further element in measuring unionization involves consideration of the degree to which the institution is associated with the broader union society. However, the involvement of the external structure of the union and the effect it has could also be questioned.

According to the union members, the union leadership ensured that any mandate from the members was taken seriously and that the members' demands with regard to employment conditions were considered. The question on worker protection was asked from a social protection perspective to assess whether the union representatives were doing enough and were offering enough protection

when representing union members during disciplinary hearings. Half of the total number of interviewed respondents indicated that the labour union had done insufficient work in this regard. As a result, the union members were discontented with the protection they had received from the union representatives. Union members felt strongly that the union must represent them (members) at their interest:

The labour union represent members because the union is there because of the membership – if the membership falls, the union will not exist, the member, not the individual who's representing the case. The union represents the interest of the members (UMO12:17/03/2010). [partially translated – see endnote^F]

Union members are allowed to receive help when they wish to lodge a grievance and can state their complaint during a grievance meeting. The member may be helped by the labour union's representative or by someone with whom the member feels comfortable, such as a co-worker or union shopsteward. It does not matter whether the representative is directly or indirectly involved in the institution.

The employee and his/her representative should be allowed a reasonable time during working hours to attend the grievance meetings. The employee must obtain prior approval from his/her supervisor for the time away from his/her job. The employee will be paid for the time spent in formal grievance meetings, but not for the time spent preparing for the grievance, which must be done outside of working hours (HRA, 2011).

Based on union member's perspective when asked whether their representation during grievance matters were successful or not. Union member's views included the following response:

It's not easy to win a case if you are not fully aware of the policies, so unions must take their representatives to workshops in order to know how the procedures are being followed (UMO4:13/04/2010).

It is noteworthy that, in line with the legal requirements and the capacity of union officials or union representatives, the representation of union members was viewed as the issue most likely to require careful examination. In this regard, the role of union representatives was a prominent factor and the union members' views were as follows:

The role of a union representative is to make sure that the procedures are being done in a good way. And to see that there is no bias, uh, with the management, just to, to, maybe to overload a person with, uh, with more questions or with something that he has never done, but when the unions are there they act as, uh, a mediator between, uh, employer, the employee and the employer (UMO4:13/04/2010).

So, from my side, uh, their role is to make sure that, uh, the right procedure has been followed before a person can be dismissed or, uh, a problem can be resolved (UMO24:13/04/2010).

I believe their role is to advise the aggrieved party, and also, to, to represent him or her. So that is the role that they are supposed to play (UMO8:05/05/2010).
[partially translated – see endnote⁶]

Union members deemed it significant to belong to a union, perceiving the union as being there to help them. However, in their view, the union representatives and union officials were not at an adequate level and did not represent them satisfactorily.

5.5.1 The union members' assessment regarding the manner in which they are represented

Employees of an organization are able to draw management's attention to resolving existing problems in the workplace through union representation. Union representatives then take the responsibility for ensuring that resolutions of the employees' problems are integrated into the organizational plan of action by carrying out the necessary procedures. Implementing grievance management processes helps to resolve disputes and conflicts in the workplace. The process could be initiated by the employees, should they sense any reflection of unfair or biased practice which contradicts the institution's declared policy.

The procedures for dealing with grievance or disciplinary measures give legal protection to both parties, taking into account the facts and merits of each case. At institutions where employees have experienced sensitive disciplinary problems, implementing a method of handling grievances and disciplinary matters could be established (Antcliff & Saundry, 2009: 102). The management of the institution should consider and honour the existence of the union, particularly if the union is recognized within the institution. A union member contended:

I believe that the union is like a tool, if I may use it, or a weapon, because sometimes if you are not represented by a union, with the little knowledge that I have, especially even referring to the former - my former employers, they took the union seriously. But if you go there alone as an individual sometimes, even if you have a case, you've got a strong case, sometimes they don't listen to you. But immediately when the union comes, so they listen, like recently the, the same issue that I referred my grievance, happened (UMO14:19/03/2010).

A proposal by Walton and McKersies (1965), in the "classic behavioural theory on labour negotiations", holds that many issues besides dispensable deals need to be incorporated during bargaining negotiations. Matters such as job security,

bargaining, and work organization could be included. They suggest that such issues are normally standardized and classic, rather than being measurable. On such questions, the interests of the employer and the union could be presented in terms of cooperation, rather than confrontation, to resolve the problems.

The employer and the union, as parties concerned in dealing with various labour issues, could view such engagements as fair discussions, rather than debatable negotiations. While some union members expressed discontent, some union officials appeared satisfied with their responsibilities within the institution, although they also made it clear that they experienced some difficulties with management.

Historically, workers joined unions simply because such organizations offered ways to promote the workers' interests. Unions were able both to strengthen the workers' job security and to protect them against unfair treatment by their employers (Holley *et al.*, 2001; Bret, 1980). To deal with procedures which unions implement bringing about justice, Alexander *et al.* (1995: 75) state that "justice considerations are a fundamental component of employees' desires for union representation as well as efforts by management to keep unions out of their workplace".

The truth is that the union society utilizes protective or collective expression in the recreation of aspects of human relations in an industrial environment. This approach, however, does not encapsulate the interest of the local press voluntarily. Unions have promoted the following human relations benefits, as noted by Nurse and Devonish (2006: 91):

- "Providing appropriate procedures where employees have grievances
- Ensuring greater job security
- Establishing procedures to deal with grievances, and
- Ensuring a better chance of being treated in a fair and just manner in the work environment"

A further factor contributing to the union members' discontent was that they perceived some of the union's representatives as having their own agendas or their own ambitions; one union member summed up their sentiments:

I think the official should put himself or herself in the shoes of the aggrieved, after that it's where it will be very simple because sometimes you represent a person not knowing how the person feels (UMO5:06/07/2010).

At times, union representatives (officials) were seen to be addressing their own issues against management while accompanying a member during a grievance or disciplinary hearing. This action was viewed by union members as totally opposed to the aim of using the time to defend the member on the relevant dispute issues:

So you see, a person is representing an employee or a union member, but when you sit down and apply your mind you ask yourself questions, because some of them, you know very well that they know procedures, they know policies, but unfortunately they're just pushing their own agenda like maybe popularity or whatever in order to get positions (UMO2:05/07/2010).

Several union members felt that the labour union's officials to a certain extent tended to have their own interests in mind when dealing with some of the employees' issues. The officials used the grievance and disciplinary procedures as a means to realize their own ambitions.

Ja, the union representatives try to compromise their own members, that is what I have seen, that is why I mentioned to you that I joined the union now, previously I was not comfortable to join because I was a little bit skeptical, when I was just checking some of the officials, how they handle issues (UMO2:05/07/2010).

A sense of mixed feelings and/or views came out of the labour union members' responses to the question about how they felt about the way in which disciplinary

measures were conducted within the institution. The question specifically involved feedback from those who had been involved in disciplinary actions. A recurring perception was that most of the members had lost their jobs as the result of the 'unfitness of the representatives'. In defense of the union officials, however, it should be borne in mind that the majority of cases were those involving accusations of theft, a dismissible offence. A union shopsteward made the following comment:

I won't say the union is doing enough in terms of capacity. It cannot do enough, because the unions have got the problem with capacity, there are limited people who, who are knowledgeable, who have got fair understanding of labour law. So the shopstewards as elected, most of them they're just willing horses but they are not knowledgeable in terms of the labour law. Yah, in terms of the labour law, very less, umm, insignificant percentage out of the union members can handle these grievances, the rest, they just lose out (USO5:11/11/2009).

As per the statutory requirements on fair procedure, the rights of an individual invited to attend a disciplinary matter have to be honoured in all respects. Such an individual should be notified of his or her rights during the procedure. These include the right to be represented or accompanied when attending such a meeting. All these processes must be in effect before any decision can be transmitted to the worker. The worker is thus given the opportunity to be interviewed fairly and to state his or her case (Saundry *et al.*, 2008: 36). With regard to the way in which the institution's management operates, a union official indicates that they experience difficulty when representing members and he articulates the following:

They investigate you without telling you your rights, you won't even question them because you are not aware that it's wrong for them to ask you questions without telling you that *Mr. Gazalo*⁴ we are going to investigate you, please be informed that this information may be used against you, so you must declare that you are prepared to give a statement, even if you know that this may be used

⁴ Not the real name of the person. A pseudonym was used to protect the identity of the person mentioned by the interviewee.

against you in future. And they must tell that if you don't want to give a statement, you must say it, I don't want to make a statement. That part of investigation is not included. So it's unfair, and that is not a good practice according to the labour law. Anything that the law generally in this country, even in criminal law you have to tell the criminal why you are investigating him, why? It's against the law but our members, with the little education that they have, zero knowledge in labour law, they don't even pick it up. They don't know (USO5:11/11/2009).

The union could, as in the case above, consult with their members on the procedures to prevent them being entrapped. The members would find it useful if the union helped them to resolve their disciplinary matter through both representing and defending them during difficult situations within the institution. In this sense, the union members expressed the importance of belonging to a union which worked to their advantage. They contended that this was possible, provided the union representatives were experienced in handling these matters:

There are certain issues which you can't just personally stand by yourself, you have, you have to get some information from somebody of which on my own I would not have that information at that time, but with the second person from the union who maybe has an experience I might not have (UMO5:06/07/2010).

It's an advantage in belonging to a union with regard to resolving a grievance, it helps, it might happen that when you lodge a grievance is not handled in a good way, but through the union things really, uh, it's done in a way where there's no bias because union representatives are there and then with the management. So, two parties really solve a problem in a, I think in a, in a better way (UMO4:13/04/2010).

Union members' ratings of the union's representation during grievance and disciplinary procedures came out low. Most of the members rated union officials and representatives lower than 60% on average, while a large number of respondents opted to rate the union itself at 50% or even lower, stating that the union had not done anything to protect them:

Because the issue of representation, ja, it doesn't mean that if you are highly qualified so you can represent people widely. Or if you are highly, uh, maybe you are more experienced, it depends, it's just a skill, that is why I am saying it depends. So if I can say far better, ja, I've got a little bit difficulty, but for argument's sake let me just say, uh, 60% of them, ja (UMO2:05/07/2010).

I would rate the union at fifty percent (UMO25: 14/07/2010).

No, the union has not done as much as I could put them in a higher percentage. They haven't done anything better to convince me, to protect the employees (UMO22:08/08/2009). [partially translated – see endnote^{H1}]

In conclusion, based on what union members perceive, they want to see that the union could do better with their representation. According to them (union members), union officials should retreat from being seen as engaging in their “own” agenda since such actions are not what members expect. A large number of union members and union officials believed it to be advantageous in belonging to a union despite that they are concerned about the low level of their representatives' knowledge in handling grievance and disciplinary matters. It could be deduced from this view that, a bond between union and most members, including those members who are in the leadership of the union, rather experience a sense of belonging by being allied to the union irrespective of how imperfect the union representatives could be. A sense that members feel their situation could be worse in the absence of a particularly union they belong to is detected. Alongside, union members deem union as a body that could support them on other issues in excess of grievance and disciplinary matters. Hence, belonging to the union is still perceived to be an advantage by them.

5.6 The challenges of the union's leaders within the institution

Union representatives who presented members' procedural and legal arguments during grievance and disciplinary procedures were regarded by the members as having little knowledge or experience. Moreover, constructive and realistic approaches likely to improve union representatives' capacity to deal with cases were not seen to be in place as perceived by some union officials (Saundry *et al.*, 2008: 46).

If it is my way, I will take time to train my shopstewards, train them thoroughly, for example, eh, I think we have got less than 0.01% of people who can go to CCMA and represent members, you see they cannot come up with the opening statement, they cannot argue their cases, they cannot cross-examine, they cannot close, they cannot put a closing argument, no. It means they are not trained, those are union members. Now they compete against a person, who can make an opening statement, who can make a logical argument, who can round up, who can, who can cross-examine and destroy the evidence of the other opponents and who can write off, and who can make research on the cases. That's why I talk of penalties and place kicks, now if they get penalty they just score effortlessly, as if the goal keeper is not there (USO5:11/11/2009).

The management of the institution has access to legal experts dealing with the issues of labour in the institution. They are professionals in labour laws and spend most of their time on these matters. This is a challenge to the representatives of the union, who are ordinary employees and not experts on labour or labour laws. Given this situation, issues are being dealt with in a legal way and not on the basis of employer and employee negotiations. Articulation from a shopsteward was made as follows:

The lawyer who was dealing with this case has time, you see, he is still practicing so he has time available to research. We don't have as trade unions, so the whole thing remains unfair, so it will never be fair as long as the ground,

the playing ground is not leveled. The employer is playing with, with soccer boots the unions are playing with bare foot ... they are professionally represented ...because they have professionals to represent them, we are unprofessional, huh, we just get experience through workshops and so on (USO5:11/11/2009).

The difference between the management's attitude to dealing with grievance and disciplinary issues and the labour union's attitude led to a failure of employer and employee negotiation, which could be seen as destructive to the bargaining relationship between the two parties, as outlined in the ORA. This had to do with the manner in which each party understood and adapted 'consultation' and 'representation' to its own benefit. The union officials' sentiments were that the management side was somehow unfair towards the union in the execution of grievance and disciplinary measures. In this regard, the institution's understanding and practice of consultation were perceived to be a challenge to the union:

There is no consultation from the institution. That is why we see a person is charged of the alleged case that has happened more than four months or three, the whole four or five months is their consultation period and formulation of the charge, then after that they would consult with the person to say is there any witness, which means they just want to see whether the merits of that matter, whether it's really justified to lodge a disciplinary on the matter (USO16:18/03/2010).

As I said, somewhere as a big institution they do follow but not entirely as some of their appointed supervisors and managers do not necessarily fully adhere to the LRA procedure, nor do they seem to be understanding the internal procedure as set out by the institution, which results to some seniors being biased against their subordinates and this causes a lot of grievance which happens not to be completely resolved (USO1:25/03/2010).

According to the union officials, like Klerck (2008) found, some managers of the institution did not bother with consulting, but rather tended to do things in their own ways. They applied a dominant approach to being in control in the

institution. It became clear to some union members that these managers treated the institution as their own, using their privileges to do what they liked, and undermining the union in the process:

Some of the line managers they just inform the people that you should start at this time until you finish. And of which in terms of grievance policy the institution state it very clear in terms of the regulation that the line manager and subordinate should sit down and engage. And then they should reach a general consensus based on the discussion, then after that they can implement. But then most of the line managers, they just inform the subordinate (USOB2:02/07/2010).

Handling a grievance of a nature whereby an employee lodges a grievance, his supervisor against whom the grievance has been lodged always get coverage from the, the management, senior managers, to cover that person, you see and work against him, the, it never gets resolved fairly. I have never seen a situation where an, an aggrieved party, eh, got joy from the grievance meeting to say this manager was wrong. Even if the manager was evidently wrong, but the senior manager will cover-up that person. In most cases you find that he or she as a manager of that particular individual does not comply with the policy (USO5:11/11/2009).

According to the union member's perspective, the changes implemented by the institution in handling grievance and disciplinary procedures since 2007 did not favour them. The union's main concern and challenge was the lack of trust in the way this process was handled. The union preferred an external person to chair the proceedings, rather than an internal person, feeling that an external person would be neutral and would not take sides or be biased:

No, it is not, it is not according to the Act (*referring to LRA*), because according to the Act even, let's say the person who is supposed to chair the grievance procedures, it must be somebody who is neutral, the thing is some of the changes are just recent because usually the institution was using an external person to sit in this grievance procedures, so now they have changed that, so that it can be somebody within the department and also if you look at the disciplinary hearings, the process has changed also, is no more somebody from

the outside chairing in the disciplinary hearings, where the Institution in this side and the person who is being disciplined in this side. But now it has changed drastically, everything is within...since 2007, from when they introduced this new disciplinary procedures everything and that's when internal persons started being used and the union doesn't like it. Before 2007 usually, like before, an external person was chairing those things but later on changed it to internal. That was in favour of the labour union, because that's how the labour union wanted it to be like (UMO6:19/11/2009).

The leadership of the union was exposed to practices of the institution's management which were challenges to them. The reluctance of union leadership to handle or address such challenges could be viewed by the union members as failure. To draw and retain union members, an organized labour union leadership is needed. Sing and Bendix (1992: 61) suggest that belonging to a union allows its members to participate in labour relations in the workplace as a collective. The capacity of the union leadership is crucial to engaging in negotiations with the management of an organization (Gani, 1996: 57). The bargaining power of a labour union depends on a strong membership and a vibrant leadership. In describing the function of a representative, Jordaan and Stander (2004: 5) state that such leadership in the workplace ensures that fairness is maintained and that procedures are followed correctly during the disciplinary process.

5.7 Conclusion

From comments made by union members and officials, it was clear that legislation was applied in the institution; hence the union was recognized and the country's labour laws were acknowledged and applied as regulated by the constitution and the LRA. The policies of the institution regarding grievance and disciplinary procedures were constituted to be in line with the regulatory procedures as defined in the legislation. In this regard, there was an existing ORA recognizing the union, and employees were authorized to exercise their workers' rights within the institution.

It appeared on the surface, as reported by the interviewees, that the institution had clear policies pertaining to grievance and disciplinary procedures. However, the institution's management was also reported on occasion as doing very little to accommodate the union and its members, making the negotiations difficult and detrimental to the union, and instead pursuing their own agenda. In this regard, management was seen as being manipulative and abusing power, rather than advancing employee and employer relations. This highlights the question of the balance of power between the employer and the union, which is a criticism of pluralism put forward by Fox (1974) and Clegg (1975). They argue that by virtue of the employers' ownership and control over employees' delivery of service, they (employers) enjoy greater power than the organized union. This means that the union has less or unequal power to ensure negotiation in good faith. In a pluralist environment, negotiating in good faith is the main operating principle of the bargaining relationship. The paradox of pluralism, which management in this study found difficult to accept, is that they can regain control by sharing it (Flanders, 1975; Fox, 1974; Clegg, 1975).

In the handling of grievance and disciplinary procedures, the time taken to resolve each case differed. If the matter was dealt with internally, it tended to be resolved quickly and easily. Most of the cases of this kind were grievance proceedings, which were perceived as being less formal. Most disciplinary matters, however, took longer and were dealt with more formally, since a chairperson had to be involved to lead the proceeding, to make assessment and pass judgment. Union members saw most disciplinary matters in the institution as not being chaired by a neutral person, putting the "accused" at a disadvantage. The management side was favoured if the chairperson was not neutral, raising questions of bias and unfair treatment, both of the union members and their representatives, during disciplinary hearings.

The elaborative information supplied by the interviewees reflected issues of racial boundaries which could not be ignored when discussing union members' views on the handling of the grievance and disciplinary procedures. Abuse of power and oppression of subordinates by senior or managerial staff (middle and lower level management) had been reported. The institution referred disciplinary matters to be dealt with by legal experts appointed by management. Thus union members and their representatives involved in disciplinary cases were confronted by law professionals and experts. The union representatives saw themselves as ordinary employees who were not experts in labour laws but were prepared to create work or develop employment relationships through negotiations with their institution's management (Flanders, 1975). Flanders (1975) argues that pluralism recognizes that employers and employees may have different interests, but that these need to be reconciled for the organization to function effectively. The principal concern of the pluralist perspective is to ensure that any conflict arising from differences of interest is managed appropriately and is contained to prevent it from causing insecurity and turmoil.

Based on the representation of union members during grievance and disciplinary procedures, an assessment was made which indicated that the union's representatives did not meet the expectations of its members. This perception did not ignore the contribution from management in the way they executed grievance and disciplinary processes. Thus issues related to abuse of power by management, racial boundaries and inadequate time given to union members to prepare and present themselves for disciplinary cases were cited as hindering the fair implementation of the policies. In such a unitarist environment, the employer sets up the rules and the employees have to cooperate in complying with these rules. Such institutions flourish where no employee organization or union exists, or, if it does, is not recognized (Van Gramberg, 2002; ILO-A, 2011). When a union is recognized, and is allowed to practice within its rights and to represent its members, the union representatives can find ways to protect

members who are involved in grievance or disciplinary procedures (Freeman & Medoff, 1984; Nel & Holtzhausen, 2008).

Based on union members' view, the union representatives' level of knowledge, experience and understanding of handling grievance and disciplinary procedures was below the standard expected of them, particularly in an institution which appointed professionals to deal with such hearings. This was seen as a major issue in the representation of the union's members. It was a challenge the union leadership, particularly the BOBs, needed to face. If they failed to do so, the union members might not only lose trust in their representatives' ability to defend them but also see no motive in belonging to the union.

Nurse and Devonish (2006) point out that the practice of oppressing, exploiting and reprimanding employees underpins the truth that conflict in the workplace is unavoidable. The only well established and orderly means to resolve conflict in the workplace is through the implementation of grievance and disciplinary procedures.

CHAPTER 6

Summary and conclusion

6.1 Introduction

This chapter discusses key arguments as well as findings and recommendations made in this study. It focuses on the summary and concluding remarks made in this study.

6.2 Key arguments

In the interest of encouraging justice and good working relations between the employer and the employees to avoid conflict in the workplace, effective grievance and disciplinary procedures must be put into practice. By so doing, the institution will be able to manage conflict and address concerns raised by the workers (Nel *et al.*, 2010: 7; Bendix, 1996). This is essential and could work positively in the institution. Grievance and disciplinary measures in the workplace demonstrates the use of principles of the Code of Good practice known by middle management and lower management of the institution to ensure its effectiveness (BIS Acas, 2010; ILO-A, 2011).

The management of an organization is obliged to inform employees about the distinct organizational procedures which are easily understood and simple to use. Employees must have access to those organizational procedures. This is the basic organizational ethics of executing effective grievance and disciplinary processes. Grievance and disciplinary management processes must be employed in such a manner that they address concerns raised by employees on time. If well-defined, the processes must not be allowed to drag very long for unnecessary reasons. This could be made possible with the involvement of competent institutional management structures and union representatives in the

workplace. Thus, the primary condition of employment relations is then applied for a good reason.

The responsibility of union officials remains being that of availing themselves on essential discussions with management to ensure that their members are protected and receives relevant information timeously. This could assist to have disagreements and misunderstandings resolved at the local level. Thus, a number of employees who are staunch members of the union and union officials made it clear that the policies of the institution are good, but the implementation thereof by management tends to create hindrances and pose a major challenge to the union (see chapter five under section 5.4 on pages 69-70). The difficulty or hindrances felt by union is merely caused by a feeling of lack of relations between the union and the employer based on how the policies are executed and driven by the employer against union members.

Sing and Bendix (1992) indicate that a vibrant organized union leadership is needed to draw and retain union membership. They perceive this notion of an organized union leadership to be positive and working to empower a union at the bargaining level. The union leadership seems to suggest that they are doing well and to the best of their ability to defend members during grievance and disciplinary proceedings. However, based on union members' perceptions, union officials are not challenging concerns of employees in the manner in which issues of grievance and disciplinary procedures are executed by management of the institution. The concept by union officials is contrary to what union members perceive about the union regarding their representation being successful. Thus, according to union members, the institution seems to be carrying-on with business as usual (see chapter five under section 5.4.4 on pages 84-85 and section 5.5 on pages 90-91).

Despite the fact that the union is recognized by the institution, the union leadership does not seem to be working vibrantly and successfully as the "voice

of the voiceless” on demand as Gani (1996) suggests. Gani (1996) states that union representatives should be viewed by its members through their operation. Pertaining negotiations supposed to take place between union officials (leadership) and management of the institution, a possible approach would be that union officials have to confront management with demands from their membership’s mandate. However, management is viewed by union members including few union officials as being unopposed strongly by the union leadership or officials. Nowhere did the leadership seem to be indicating that they disputed management on numerous occasions regarding unfair application on the handling of grievance and disciplinary procedures.

The union is not happy about the current applicable ORA, particularly since management is able to use legal experts which appear not to be strongly challenged by the union leadership. The union leadership does not seem to stand firm in challenging the institution of their unhappiness regarding execution of policies by employer on handling grievances and disciplinary procedures unfairly. On one hand, “competent highly qualified” lawyers are reported to be handling “mere” work related offences in the institution, whilst management of the institution distance themselves from this. On the other hand, the union representatives struggle to defend its members against such highly trained legal experts. Instead, the perception of ordinary union members is that union officials should have been concentrating on engaging or confronting management strongly regarding their discontent in the handling of grievance and disciplinary issues.

It could be deduced from this situation that union officials then criticizes management of the institution about “improper” way of handling and dealing with grievance and disciplinary matters. They perceive involvement of the legal experts as “inappropriate” to handle grievance and disciplinary matters whilst such issues are still handled internally (within the institution). In their view, legal experts or lawyers are “external entities” which has to be consulted only if the

matter could not be resolved internally between the employer and the employees. In this regard, they perceive the employment relations' platform being ruined since they fail to understand what constitutes employment relations if lawyers are involved at preliminary stages. In the view of union officials such actions raises question like, why "competent highly qualified" legal experts must always be involved in dealing with day-to-day issues '*from the onset*' instead of management and union tackling these matters based on employment relations practice (between employer and employees). Such conduct implies that there is no trust between the two parties, to which the management is actually not hesitant to practice what it feels suits them only, but the union does not seem to be "openly" fighting it either.

The union leadership mentioned in numerous occasions that the institution does not apply principles of the LRA as understood by them (union officials and members), yet there is nowhere where the union leadership is reported to have raised their discontentment to management in relation to their concerns. A strong challenge to the management of the institution which the union representatives could have imposed is to make management aware that failure to apply the appropriate principles as laid out by the legislation, will result in the union having no option but to report the matter or escalate it to external entities or the upper levels as procedurally laid out by law (*see chapter 3 – the dispute resolution*). The external bodies are designed to intervene and assist in these types of labour issues raised. Instead, the union seems to wait until their members are either dismissed or suspended before challenging such decisions through entities like the CCMA and the Labour Court which are designed for such needs.

The significance of the union's recognition by the institution does not seem to be working in favour of the union as perceived by its members. According to union members, the union leadership seems to be taking instructions from management than raising their concerns and protesting labour issues which they

feel are not applied according to the legislation. They (union leadership) are actually the body that is legally bound and elected to represent employees for their rights in the workplace.

6.3 Further discussion of findings in respect of union members' point of view

The results of this study demonstrate how employees felt about the way the union officials engage management on issues of labour, particularly the handling of grievance and disciplinary procedures. The findings have a special relevance and message for union leaders who would have to be vigilant about driving the union to the right or positive direction. In this study, it was found that more attention needs to be paid in educating union officials as well as ordinary members of the union regarding the basic rights of labour matters in the workplace.

It became clear in this study that the more satisfied union members could be - the more membership could be gained by the union. The whole concept was not about the union handling grievance and disciplinary procedures only, but more so, managing expectations of their members and making them understand what is realistic of the outcomes, the possibility of limited success over some cases. Such outcomes could improve the level of union membership and attitude towards the labour union's performance as Gordon *et al.* (1995: 351) pronounce that the ability and charge rest with the union leaders in discussing the challenges facing organized labour. The main duty and objective of union leaders is to help protect the members and negotiate a meaningful role in the employment relationship (see subsection 1.2.1 in chapter one). Union officials should be capable of serving employers and assisting them in handling pressure in the workplace, while at the same time being cautious and aware of the interests of their members as they relate to the practice of fairness and security in the workplace.

Union members are totally against management's practice to refer some matters to the law professionals appointed by the institution's Human Resource Department to deal with such cases from the onset. In this regard, one could presume that the union power is undermined by the complexities of the grievance and disciplinary processes. This challenge is aggravated by the employer involving legal experts in the process to the detriments of the employees and the union. This practice is seen to be unfair treatment as perceived by the union members but could be resolved by following correct procedures. Union representative are not well informed and clear on the practice and the content of the disciplinary "Code and Procedure" of the institution, as a result they do not stand a good chance to win most cases against the institution.

Saundry and Antcliff, (2006) portend that previous research from Edwards' (1995) analysis suggested that in certain work environments, a certain number of workers from a different racial cluster are likely linked to dismissal charges. Based on perceptions of both union officials and union members, whom were mainly blacks, they seem to have gauged themselves low pertaining level of employment rights when compared with their white counterparts who mostly appears to be their superiors. Evidence to this statement reflects on comments made by interviewees regarding issues of racial boundaries. It therefore, must be made clear why mainly black people were interviewed in this study and no white person formed part of the respondents. Even though NEHAWU is a non-racial labour union, however, in the institution where this study was conducted, NEHAWU primarily represents black people whereas there is a rival labour union representing mainly white and less black people.

Some members of the union feel that taking case to the labour representatives just drags the whole matter even further, they would rather talk right away with the person (mostly supervisor or senior) and get the matter sorted there and then than doing it via the union. Union members point out that the union have a series

of channels which sometimes takes too long before the union finds an 'appropriate' representative, and get done with the case:

Ja. It's better if you confront a direct person, to talk to him or her that you don't want one, two, three, than taking the matter to the union (UMO23:03/06/2010).

This response and attitude from the union members are surely perceived to be what Dworkin (1984: 67) summarizes that an individual's distribution of responses is a function of the preferences of others and himself or herself. This happens as a result of lacking trust and doubting the capacity of union representative by union members. In this case better knowledgeable and qualified union representatives could be deployed by the labour union to represent members in order to pose appropriate challenge to the institution's management and build trust to their own members.

It is likely expected that both members of the union and the management of an institution reach an agreement to be compliant with the procedural justice implemented in the workplace. Such processes and operations require adequate number of union shopstewards to engage with management on various levels and keep informing members constantly regarding the applicable processes.

A notion drawn from this study is that, ordinary union members did not have access to adequate number of union officials or shopstewards to handle their grievances and disciplinary matters. Moreover, those who represented members involved in grievance and disciplinary issues were not sufficiently competent and knowledgeable as expected to be in the institution. Ordinary union members seem to have been mainly concerned about what union officials could do in representing them exceptionally well against the management of the institution (Nurse & Devonish, 2006).

6.4 Limitations

It will be inconceivable to conclude this study without acknowledging some difficulty encountered in collecting or gathering the information. The limitations encountered in this study was that, information on what union members perceive about the handling of grievance and disciplinary procedures was received from the union's side only, even though this information has implications to the management of the institution. Investigations of this study did not include the institution's management (supervisors, managers and directors) side to make assessment, weigh and compare different views from that of management versus that of the union members. For instance, on comments made by union members and officials which reflect the perception of abuse of power and manipulation by management of the institution, this remains a perception as raised by union members and officials since no authentication was done with the managers of the institution. Managers could have aversed their participating in the study because of perceived likely reprimand from the employer. The purpose and objective of this study was to investigate the union members (both ordinary members and officials) only, based on their views and understanding pertaining grievance and disciplinary procedures.

This study focused on the manner in which grievance and disciplinary procedures were handled and discussed workers' experiences regarding the procedures and what they perceive pertaining their representation. The study was carried out in one of the higher education institutions in South Africa and covered only one labour union, which operates in that particular higher education institution. In view of the diversity of scope and composition of other unions which operate in the very same institution representing both academic and non-academic employees or staff members as well as considering a variety of membership representation, the study was limited to only one specific union (NEHAWU). Further studies could be conducted to engage employees on their views and perceptions from various unions' members in the institution. This could

be related or based on either the handling of grievance and disciplinary procedures or any other different topic.

6.5 Recommendations

Rubin (1983: 5) notes that qualitative findings must be transformed into ideas and concepts that can be used in determining action. Recommendations are hereby made flowing from this research on the process of grievance and disciplinary procedures. They are put forward based on a need to derive relevant skills and training of union members and officials. Through training, union officials as well as union members will familiarize themselves with the institution's policy and procedures. They will be able to understand the labour relations processes and it would be easier for them in getting the union well run.

Based on union officials and union members' insight, the institution seems to have good policies. However, the union members are concerned about the implementation, execution and the practicing of these policies by the institution's management. Both union officials and union members do not like the current ORA used in the institution. However, the union officials or representatives whom are supposed to raise the 'unfair practice' up to the labour enforcing entities, find their way difficult in doing so as a result of less knowledgeable union officials who are employees' representatives. As a result, their members suffer the negative consequences.

Union officials must have clear knowledge of the employment relations' principles and basic knowledge of labour law policies. Importantly, they must know and understand the institution's policy clear as this is where they operate so that they are able to challenge the institution's executive management level or compare the country's applicable labour legislation against what the institutions practices. This would be the union leadership's approach to the executive with clear mandate even from the union members pertaining what their concerns are

pertaining unfair, ill treatment and or manipulation of policies by any level of management to which they would demand if that is not rectified.

The union can escalate the matters up to any external bodies in seeking professional help through following appropriate procedures which the institution could not challenge or rather have power to stop them in so doing. A recommendation could thus be made that, given the situation and challenges faced by union in the institution, union officials should undergo induction and workshops facilitated by the union upper structures like NEHAWU's REC, PEC or even their NEC level. This will assist the union leadership at the institution to understand processes and operations on how bargaining council operates. Moreover, the union leadership will be well trained to handle grievance and disciplinary procedures since this forms major part of labour processes in the workplace.

6.6 Concluding remarks

It would be worthwhile to broaden this study to consider how cases of disciplinary and grievance procedures are handled and dealt with in a diverse workplace with several unions representing workers.

Chapter endnotes

Chapter five

^A I can say, ehm, example *e la ya Siphokazi wako Library*. ‘Case’ *ya Siphokazi, nna*, I was not happy with management up to so far, I do not know what we can do – You know that do we... (*Pauses a bit*) ... instead of sending forms (*grievance forms*) they were kept there (*by the line manager*) for *nako etelele mme batho ba (Departmental management) ntše ba ‘arguea’ gore ga se leloko la mokgatlho* (UMO12:17/03/2010). (Union Member – Ordinary: responding in Sepedi and English)

^B Well, in any case - *nna se ke emetseng ke gore mokgatlho o wine. Fa ke na le bothatha*, then I consult the member of the organization to represent me. ‘*failure*’ *yona kgotsa go ‘loser’ ga ke go amogele*, I always want to have positive, uh, impact on what the case was (UMO3:25/05/2010). (Union Member – Ordinary: responding in SeTswana and English)

^C Everything, *mina nje ngilindele ‘kuwinwe’*. Even if it's impossible, but since, well, they are a union they have to make a way... *okwami ‘ukuwina’* (UMO9:13/07/2010). (Union Member – Ordinary: responding in isiZulu and English)

^D Grievances are laid against the supervisor. Against their line manager, *se, se ra gore* if we can make a thorough research, we will find out that even the institution *ga e tšeye magaato a lekaneng go di ‘supervisors’ tše di sa performing* adequately (UMO16:18/03/2010). (Union Member – Ordinary: responding in Sepedi and English)

^E Those that have lost the case they complain, I was not actually fully represented, *ke ile ka “loser case” yame, mme ba ‘gowiniweng’ case tsa bone batla latola*. It depends more on the outcome of the case (UMO15:18/03/2010). (Union Member – Ordinary: responding in SeTswana and English)

^F *Mokgatlho waba bereki o ‘representa’ maloko* because the union is there because of the membership – if the membership falls, the union will not exist, the member, not the individual who's representing the case. The union represents the interest of the members (UMO12:17/03/2010). (Union Member – Ordinary: responding in Sepedi and English)

^G *Nna ke dumela gore karolo ya bona* is to advise the aggrieved party, *gape le go, go representa mmereki*. So, that is the role that they are supposed to play (UMO8:05/05/2010). (Union Member – Ordinary: responding in Sepedi and English)

^H *Aowa*, the union has not done as much as I could put them in a higher percentage. They haven't done anything better to convince me, *sa go šireletša ba bereki* (UMO22:08/08/2009). (Union Member – Ordinary: responding in Sepedi and English)

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Appendix A

TABLE 6: INTERVIEWEE'S PROFILE (UNION OFFICIALS)

Code *	Biographical Information					Date of interview
	Education Level	Gender	Number of years employed by the institution	Position or rank in the union	Number of years in this position under the union	
USOB 1	Post Matric Diploma	Male	8	BOB - Shopsteward	3	14 April 2010
USOB 2	Post Matric Degree	Male	7	BOB - Shopsteward	3	02 July 2010
USOB 3	Post Matric Diploma	Male	4	BOB - Shopsteward	3	07 July 2010
USOB 4	Matric	Male	7	BOB - Shopsteward	3	17 March 2010
USO1	Post Matric Degree	Male	24	Shopsteward	18	25 March 2010
USO2	Post Matric Diploma	Female	6	Shopsteward	3	18 March 2010
USO3	Post Matric Diploma	Female	8	Shopsteward	8	10 September 2008
USO4	Post Matric Diploma	Female	27	Shopsteward	18	20 September 2008
USO5	Post Matric - PhD	Male	13	Shopsteward	13	11 November 2009

* In order to avoid using the names of the participants, coding principles was implemented to protect using names of the interviewees (see chapter 4 under section 4.5).

TABLE 7: INTERVIEWEE'S PROFILE (UNION MEMBERS)

Code	Biographical Information					Date of interview
	Education Level	Gender	Number of years employed by the institution	Position or rank in the union	Number of years in this position under the union	
UMO1	Post Matric Degree	Male	20	Ordinary Member	18	05 July 2010
UMO2	Post Matric Degree	Male	5	Ordinary Member	5	05 July 2010
UMO3	Std. 6	Male	26	Ordinary Member	20	25 May 2010
UMO4	Post Matric Diploma	Male	20	Ordinary Member	20	13 April 2010
UMO5	Post Matric Diploma	Male	3	Ordinary Member	3	06 July 2010
UMO6	Post Matric Degree	Male	7	Ordinary Member	7	19 November 2009
UMO7	Matric	Male	17	Ordinary Member	17	06 July 2010
UMO8	Std. 8	Male	15	Ordinary Member	10	05 May 2010
UMO9	Post Matric Dip	Female	10	Ordinary Member	4	13 July 2010
UMO10	Std. 8	Male	3	Ordinary Member	3	18 March 2010
UMO11	Matric	Male	22	Ordinary Member	18	11 October 2010
UMO12	Post Matric Dip	Male	5	Ordinary Member	5	17 March 2010
UMO13	Std. 10	Female	26	Ordinary Member	18	30 March 2010
UMO14	Std. 8	Male	7	Ordinary Member	6	19 March 2010
UMO15	Std. 6	Male	13	Ordinary Member	13	18 March 2010
UMO16	Post Matric Degree	Male	23	Ordinary Member	18	18 March 2010
UMO17	Post Matric Diploma	Male	11	Ordinary Member	3	12 July 2010
UMO18	Post Matric Diploma	Female	5	Ordinary Member	3	12 July 2010
UMO19	Post Matric Diploma	Male	3	Ordinary Member	3	13 July 2010
UMO20	Matric	Male	25	Ordinary Member	18	10 October 2008
UMO21	Std. 8	Male	23	Ordinary Member	18	03 January 2010
UMO22	Matric	Male	24	Ordinary Member	18	08 August 2009
UMO23	Matric	Male	10	Ordinary Member	5	03 June 2010
UMO24	Post-Doctoral - PhD	Male	10	Ordinary Member	3	13 July 2010
UMO25	Post Matric Diploma	Male	17	Ordinary Member	17	14 July 2010

Appendix B

INTERVIEW SCHEDULE: UNION OFFICIALS.

Introduction

I would like to talk to you about your views regarding grievance procedures and disciplinary measures in the workplace. My research is about union members' views on how grievance and disciplinary procedures are handled at a tertiary institution. This interview is only for academic purposes.

Employees have opinions about different matters within the organization. Hence, your views are considered important. You will be asked to give your own opinion which will contribute towards an accurate reflection of experiences on the topic.

All information provided will be treated confidentially. You are not asked to give your own name. To record your responses accurately, I request to tape this interview. The tape recorded interviews will be transcribed for the research by me. These transcriptions will be kept in a safe place in accordance with the university policy.

I would like to remind you that your participation is voluntarily. You may decide at any time to withdraw from participating in the research project.

**SECTION A:
BIOGRAPHICAL INFORMATION
To be completed by the interviewer**

The following is to be completed:

1. What is the highest educational qualification you have received?

a) Graduate / post matric qualification

b) Grade 12 (Std 10) or Matric

c) Grade 9 – 11 (Std 7 – 9)

d) Grade 5 – 8 (Std 3 – 6)

e) Less than grade 5 (Std 3)

Other (Specify: _____)

2. Gender _____ Male / Female

3. For how long have you been employed by the institution? _____

4. For how long have you been in your current position / rank? _____

5. How long have you been a member of a union at this institution? _____

6. What is your position in the union leadership? _____

SECTION B:
To be completed by the interviewer

The following questions are based on grievance procedures:

7. Is the labour union recognized by the institution (the employer) where it operates?
8. Do you know what processes the institution follows (policy) in applying grievance proceedings?
9. What is the labour union's policy with regard to the conduct of grievance procedure?
10. Do you think that the measures or steps taken by the employer (institution) during grievance procedures are fair?
Give your reasons for this response...
11. Do you think that the measures or steps followed by the labour union during grievance procedures are appropriate?
If no, please provide a brief explanation
12. How often does a conflict situation (which leads to grievance procedures) occur between co-workers?
13. How often does a conflict situation (which leads to grievance procedures) occur between supervisors and subordinates?
14. What difficulties do union members experience during grievance procedures?
15. What types of grievances are most commonly laid?
16. Against whom are grievances in the workplace commonly laid?

17. How long does it usually take to resolve a grievance?
18. Do you think that the labour union is doing enough to represent members in cases of grievance procedures against the employer?
19. Have any or some members (those who had been involved in grievance cases) of the labour union expressed their views how they feel regarding the way grievance procedures are conducted?

<p>The following questions are based on disciplinary measures:</p>

20. Please describe the processes the institution follows (policy) in applying disciplinary measures.
21. What is the labour union's policy regarding the conduct of disciplinary measures applied by the employer?
22. Do you think that the measures or steps taken by the employer (institution) during disciplinary measures are fair?
Give your reasons for this response...
23. Do you think that the measures or steps followed by the labour union during disciplinary measures are appropriate?
If no, please provide a brief explanation
24. How often do cases of theft and or misconduct (which lead to disciplinary procedures) occur in your organization?
25. What difficulties do union members experience during disciplinary measures?
26. What types of disciplinary hearings most commonly take place?

27. Against whom are disciplinary hearings in the workplace commonly laid?
28. How long does it usually take to resolve a disciplinary hearing?
29. Do you think that the labour union is doing enough to represent members in cases of disciplinary hearings against the employer?
30. Have any or some members (those who had been involved in disciplinary cases) of the labour union expressed their views how they feel regarding the way disciplinary measures are conducted by the employer/ the institution?

INTERVIEW SCHEDULE: UNION MEMBERS.

Introduction

I would like to talk to you about your views regarding grievance procedures and disciplinary measures in the workplace. My research is about union members' views on how grievance and disciplinary procedures are handled at a tertiary institution. This interview is only for academic purposes.

Employees have opinions about different matters within the organization. Hence, your views are considered important. You will be asked to give your own opinion which will contribute towards an accurate reflection of union members' experiences on the topic.

All information provided will be treated confidentially. You are not asked to give your own name. To record your responses accurately, I request to tape this interview. The tape recorded interviews will be transcribed for the research by me. These transcriptions will be kept in a safe place in accordance with the university policy.

I would like to remind you that your participation is voluntarily. You may decide at any time to withdraw from participating in the research project.

**SECTION A:
BIOGRAPHICAL INFORMATION
To be completed by the interviewer**

The following is to be completed:

1. What is the highest educational qualification you have received?

a) Graduate / post matric qualification

b) Grade 12 (Std 10) or Matric

c) Grade 9 – 11 (Std 7 – 9)

d) Grade 5 – 8 (Std 3 – 6)

e) Less than grade 5 (Std 3)

Other (Specify: _____)

2. Gender _____ Male / Female

3. For how long have you been employed by the institution? _____

4. For how long have you been in your current position / rank? _____

5. How long have you been a member of a union at this institution? _____

6. What is your position in the union? _____

**SECTION B:
To be completed by the interviewer**

The following questions are based on grievance procedures:

7. Have you ever lodged a grievance?
If yes, please provide a brief description of it....

8. Do you think there is any advantage in belonging to a union with regard to resolving a grievance?
Please provide reasons for your answer...

9. What role do you think a union official should play when representing a member during a grievance procedure?
Give your reasons for this response...

10. Whose interest should the labour union represent in a case of a grievance procedure?

11. Do you think that the labour union has represented members satisfactorily with regard to grievance procedures?
Give your reasons for this response...

The following questions are based on disciplinary measures:

12. Have you ever defended yourself in a disciplinary hearing?
If yes, give details about the incident...

13. Do you think there is any advantage in belonging to a union with regard to resolving a disciplinary hearing?
Please provide reasons for your answer...

14. Whose interest should the labour union represent in a case of a disciplinary hearing?

15. Do you think that the labour union have represented members satisfactorily during disciplinary hearings?
Give your reasons for this response...

16. How important do you rate the representation of members during disciplinary hearing by the labour union?

Appendix C

Informed consent (communication letter⁵)

Date

The Respondent
NEHAWU
Pretoria⁶
0002

Dear Sir/Madam

Re: Participation in a research project at the University of Pretoria

I am conducting research for my degree MSocSci Industrial Sociology and Labour Studies at the University of Pretoria. The topic of my study is "Perceptions of grievance and disciplinary procedures: a study of a union's members at a tertiary institution". I will appreciate if you will be willing to participate in this research project.

The aim of the research is to investigate your views on grievance and disciplinary procedures.

Your participation is voluntary. You can withdraw from the research at any stage. Your contribution as an employee and a member of a labour union is of particular importance. During the course of conducting the interviews, notes will be taken and a tape-recorder will be used to record your views accurately if you agree to its use.

Confidentiality is guaranteed. The information you provide will not be linked to your name. I will however ask you to sign a form stating that you agree to this research. This will be kept separate from the tape recordings, which will be transcribed (typed out) by me for the analysis. The transcription will be stored in a safe place in accordance with the university policy. A copy of the final research report will be made available to the union.

My supervisor for this research is Dr. Charles Puttergill of the Department of Sociology. If you have any queries linked to this research, you can contact him at _____.

Thank you for your contribution in this study.

Yours sincerely,

Shadrack Themba Mzangwa
Student: Department of Sociology, University of Pretoria
Contacts:

⁵ This letter was printed on a university letterhead.

⁶ A full address of the exact branch of Nehawu in Pretoria where the interviewees were drawn appeared in the original letter sent to Nehawu's office. In order to avoid showing name of the organization, the full address is not shown above, but it was typed fully on the original letter. This letter was also translated into, Sepedi, SeTswana and isiZulu – see overleaf.

Informed consent (communication letter in Sepedi)

Letšatši

Go Mofetodi
NEHAWU
Pretoria
0002

Mohlomphegi yo a rategago

Kgopelo gape ya botšeakarolo go protšeke ya nyakišo Yunibesiting ya Pretoria.

Ke ikgokagantše ka nyakišo (resetšhe) go tikree yaka ya MSocSci ka lefapeng la Intasteri ya Sošiolotši le Kgoro ya thuto ya Bašomi le Yunibesiti ya Pretoria. Hlogo thutwana yaka ke : “Perceptions of grievance and disciplinary procedures: a study of a union’s members at a tertiary institution” (“Tebelelo go dipolelo le mokgwa wa go di laola. Thuto yahlakano ya maleloko go Dikolong tšeo Diphagamego”). Nka thaba ge le ka ba le kganyogo ya go tšea karolo protšekeng ya nyakišo.

Maikemišetšo a nyakišo yeo ke go nyakišiša dikgopolo go pelaelo le mokgwa wa go di laola.

Botšeakarolo bja lena ke boithaopo. Le ka kgona go tlogela nyakišong nako ye ngwe le ye ngwe. Go ba le seabi ga gago ka go ba mošomi le moleloko wa Kgoro ya Bašomi ke go bohlokwa. Nakong ya go ikgokaganya le diteko, dintlha di tla tšewa, le setšeamantšu se tla šomišwa go gatiša dikakanyo gabotse ge o dumelelana le tšhomišo ya sona.

Sephiri se a holofetšwa. Tshedimošo yeo o tlogo go efa e ka se tswalane le leina la gago. Ke tla go kgopela le gore o saene le foromo yeo e tla bontšhago gore o dumelelana le nyakišo yeo. Seo se tla ba ka theko ye ngwe e se go ka gare ga ditšeamantšu, yeo e tla ngwalollwago (ngwalwago ka ntle) ke nna go ya go e lekola. Seo se ngwalolotšwego se tla lotwa lefelong la polokego go ya ka pholisi ya Yunibesiti. Sekopišwa sa nyakišo ya pego ya nyakišo e tla direlwa gore e be gona go mokgatlo.

Mookamedi waka go nyakišo (resetšhe) ke Ngk. Charles Puttergill wa Kgoro ya Sošiolotši. Ge o na le dipelaelo mabapi le nyakišo yeo, le ka ikopanya le yena mo nnomorong ye: _____.

Ke leboga seabi sa lena ka mo thutong.

Ka hlomphe,

Shadrack Themba Mzangwa
Moithuti: Kgoro ya Sošiolotši, Yunibesiti ya Pretoria
Nomoro tša boikgokaganyo :

Informed consent (communication letter in SeTswana)

Letsatsi

Go Moarabi
NEHAWU
Pretoria
0002

Motlotlegi yo o rategang

Kopo gape ya botsayakarolo go projeke ya patlisiso Yunibesiting ya Pretoria.

Ke ikopantshitse ka patlisiso go tikere ya me ya MSocSci ka fa lefapheng la Indasteri ya Sosioloji le Kgoro ya thuto ya badiri ba Yunibesithi ya Pretoria. Setlhogo sa thuto ya me ke: "Perceptions of grievance and disciplinary procedures: a study of a union's members at a tertiary institution" ("Tebo go dipuo tsa boipelaetso le mokgwa o a go ditsamaisa: Thuto ya kopano ya maloko go thutong tse di phagameng"). Nka itumela fa le ka nna le keletso ya go tsaya karolo mo projekeng e ya patlisiso.

Maikaelelo a patlisiso e, ke go batlisisa pono ya lona boipelaetsong le mokgwa o a tsamaiso.

Go tsaya karolo ga lona ke keletso. O ka ikogogela morago nako nngwe le nngwe go patlisiso e. go tsaya karolo jaaka modiri le leloko la mokgatlho wa badiri go botlhokwa tota. Fa nakong ya go dirwa ga diteko, dintlha di tla tsewa, gape le ka mokgwa wa go dirisa setsaya-mantswe (tape-recorder) o tla dirisiwa go gatisa pono tsa lona sentle fa o dumela gore se dirisiwe.

E tla nna khupa marama. Tshedimoso eo o tla e nayang ga e kitla e gokagana le leina la gago. Ke tla kopa gore o saene foromo ya gago go supa gore o dumelelana le patlisiso e. Foromo ya gago e tla nna kgakala le setsaya-mantswe, a o e leng gore a ya go kwalololwa ke nna go dira diteko. Kwalololo e tla bewa se bolokeng go ya ka molao wa Yunibesithi. Lekwalo la patlisiso yabofelo le dipego le tla nna teng fa phaposing ya mokgatlho wa badiri.

Molekodi wa me go patlisiso e, ke Ngk. Charles Puttergill wa Kgoro ya Sosioloji. Fa go na le dipotso mabapi le patlisiso e, o ka e kopanya le ena ka nomoro e ya mogala: _____.

Ke leboga go tsaya karolo ga lona.

Ka boikokobetso,

Shadrack Themba Mzangwa
Moithuti: Kgoro ya Sosioloji, Yunibesithi ya Pretoria
Nomoro ya go ikopanya :

Informed consent (communication letter in isiZulu)

Usuku

Kulowo Ophendulayo
NEHAWU
Pretoria
0002

Mhlonipheki othandekayo,

Isicelo sokubamba iqhaza osebeni lwezocwaningo e-Yunivesithi yase-Pitoli.

Ngenza ucwaningo ukuqedela iziqu ze-MsocSci kwi-Sosiyoloji ephathelene nezifundo zohwebo kanye nezemisebenzi (Industrial Sociology and Labour Studies) e-Yunivesithi yase-Pitoli. Isihloko sesifundo engicwaninga ngaso sithi “Perceptions of grievance and disciplinary procedures: a study of a union’s members at a tertiary institution” (“Imiqondo ngenkambiso yezikhalazo kanye nezijeziso zokuqondisa: Isifundo samalunga wenyonyana osebeni lwamazinga emfundo ephakeme”). Ukubamba kwakho iqhaza kulolusebe locwaningo kuyoncomeka kakhulu.

Inhloso yalolucwaningo ukuphenya imibono yakho mayelana nenqubo yezikhalo kanye nezijeziso zokuqondisa.

Ukuhlanganyela kwakho kusuka othandweni. Ungahoxa ukwenza lolucwaningo kunoma yisiphi isigaba. Igalelo lakho njengesisebenzi kanye nelunga lwenyonyana yabasebenzi lubaluleke kakhulu. Ngenkathi kuqhutshekwa nokuxoxisana, konke kuzobhalwa phansi kusetshenziswe nesithwebuli-mazwi ukuthebula izimvo zakho ngokuchophelela uma uvuma kulokhu.

Imfihlo iyaqinisekiswa kakhulu kulokhu. Ulwazi nombiko owethulwayo awungeke uhlotshaniswe negama lakho. Ngizocela ukuba usayinde ifomu elicacisayo ukuthi uyavuma ukwenza lolucwaningo. Lokhu kuzogcinwa kukodwa kungahlanganiswa nokuthwetshulwe ngamazwi. Konke kuzobhalwa futhi kuhlaziywe yimina. Ulwazi lwalokho okubhaliweyo luzogcinwa endaweni ephophile nokuhambisana nomgomo we-Yunivesithi. Ushicilelo lwesiphetho sombiko wocwaningo luyonikezelwa inyonyana.

Umholi wami kulolucwaningo ngu-Dkt. Charles Puttergill woMnyango we-Sosiyoloji. Uma unemibuzo ehlobene nalolucwaningo, xhumana naye ku _____.

Ngiyabonga igalelo lakho kulesisifundo.

Ozithobayo,

Shadrack Themba Mzangwa
Umfundi: UMnyango we-Sosiyoloji, eYunivesithi yase-Pitoli
Izinombolo zocingo:

Informed consent (Participant's form⁷)

INFORMED CONSENT FORM

“Perceptions of grievance and disciplinary procedures: a study of a union’s members at a tertiary institution”

I hereby agree to participate in the above research project. I understand that I can withdraw from the study at any stage and agree that the interview may be tape-recorded. I understand that this will be transcribed and that the transcript may be used at a later date. I also understand that my name will not be used in the mini-dissertation or attached to the transcript of the interview in order to ensure anonymity.

PARTICIPANT

NAME: _____

SIGNATURE: _____

DATE: _____

RESEARCHER

NAME: _____

SIGNATURE: _____

DATE: _____

⁷ This form was printed on a university letterhead and was also translated into, Sepedi, SeTswana and isiZulu – see overleaf.

Informed consent (Participant's form in Sepedi)

INFORMED CONSENT FORM

“foromo ya kgopelo ya tumelwano go dira nyakišišo”

“Perceptions of grievance and disciplinary procedures: a study of a union's members at a tertiary institution”

Ke a dumela go tšea karolo protšekeng ya nyakišo e leng mo godimo. Ke a kwišiša go re nka tlogela go tšea karolo nyakišong ee nako ye ngwe le ye ngwe, mme ke a dumela go re nakong ya go ikgokaganya le diteko mantšu a tla tšewa. Ke a kwišiša go re dintlha di tla gatišwa le go re gatišo ya mantšu e tla šomišwa ka mo rao. Ke a kwišiša gape go re lebitšo la ka le ka se šomišwi nyakišong thuto go ba la tswalagantšwa le gatišo ya di kakanyo go nnetefatša go se tsebalegi.

Mo tšea karolo

Lebitšo : _____

Saena : _____

Letšatši: _____

Mo nyakišiši

Lebitšo : _____

Saena : _____

Letšatši : _____

Informed consent (Participant's form in SeTswana)

INFORMED CONSENT FORM

“foromo ya kopo ya tetla ya go dira dipatlisiso”

“Perceptions of grievance and disciplinary procedures: a study of a union’s members at a tertiary institution”

Ke dumela go tsaya karolo fa projekeng e ya patlisiso ka setlhogo se se kwadilweng kwa godimo. Ke tllhaloganya gore nka digela go tsaya karolo fa patlisisong e, nako nngwe le nngwe, fela ke a dumela gore diteko tsa go tsaya mantswe di ka tsewa. Ke tllhaloganya gore dintlha tsotlhe di tla gatisiwa le gore gatiso ya mantswe e tla dirisiwa morago. Ke tllhaloganya gape gore leina la me le ka se dirisiwe patlisisong ya thuto kgotsa la gokagangwa le gatiso ya dikakanyo go nnetefatsa go se itsege.

Motsayakarolo

Leina : _____

Saena : _____

Letlha: _____

Mobatlisisi

Leina : _____

Saena : _____

Letlha: _____

Informed consent (Participant's form in isiZulu)

INFORMED CONSENT FORM

“Ifomu lwesicelo semvume yokwenza uphenyo”

“Perceptions of grievance and disciplinary procedures: a study of a union’s members at a tertiary institution”

Ngiyavuma ukubamba iqhaza kulolusebe locwaningo olungenhla. Ngियाqonda ukuthi ngingahoxa ukuhlanganyela kulesisifundo nganoma ngabe kusiphi isigaba futhi ngiyavuma ukuthi uxoxiswano luzothweshulwa ngesithwebuli-mazwi. Ngियाqonda ukuthi lokhu kuzobhalwa kabusha nokuthi okubhaliwe kungasetshenziswa kamuva. Ngियाqonda futhi ukuthi igama lami angeke lasetshenziswa kulolushicilelo noma luhlanganiswe nokukhulunywe yimina okubhaliweyo ngoxoxiswano ukwenzela ukuqinisekisa ukungazeki.

UMBAMBI-QHAZA

IGAMA: _____

SAYINDA: _____

USUKU: _____

UMCWANINGI

IGAMA: _____

SAYINDA: _____

USUKU: _____

DECLARATION OF ORIGINAL WORK

I, Shadrack Themba Mzangwa, declare that this mini-dissertation is my own original work. Where secondary material has been used (either from printed material or from an internet source), this has been acknowledged and referenced in accordance with the requirements of the Department of Sociology, Faculty of Humanities, University of Pretoria.

Signature: *Shadrack Themba Mzangwa*

Date: *18 May 2012*