

THE PERCEPTIONS OF UNIONISED EMPLOYEES ON GRIEVANCE AND DISCIPLINARY MATTERS AT A HIGHER EDUCATION INSTITUTION IN SOUTH AFRICA

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Abstract

This article examines the perceptions of unionised members on the handling of grievance and disciplinary matters against management of a higher education institution. Using a sample of thirty-four unionised members in one of the higher education institutions in South Africa, the study found that unionised members perceived the management of higher education institution as abusing its power against unionised employees. The management treats unionised employees negatively based on race and further denies unionised members an opportunity to engage freely on issues of labour. The other finding is that unionised members feel strongly to belong to the unions in spite of the union's leadership's lack of knowledge and poor representation of its members against the management of a higher education institution. The findings suggest that unionised members felt undermined and disregarded by management whilst they are not happy on how their own leadership handles the grievance and disciplinary matters.

Key Words: Trade Union, Unionisation, Higher Education Institution, Grievance Procedure, Disciplinary Procedure, Management

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1. Introduction

Over the last decade, strikes by labour unions in South Africa have been witnessed on a yearly basis (Maree, 2013). Examples of these strikes in the past three years include the public sector strike in 2012, the National Educational Health and Allied Workers' Union (NEHAWU) strike, which mainly involved employees of higher education institutions (HEIs) in 2012 (Mle, 2012) and recently, the Association of Mineworkers and Construction Union (AMCU) and the National Union of Metalworkers of South Africa (NUMSA) strike which took place in 2014 (Mail & Guardian, 2014).

The scenario referred to above, shows the high level of unionisation in South Africa which stretches back to the Wiehahn Commission of 1970 (Seo, 2008). The trade unions did not only focus on labour and workers' issues, but they played an influential role in politics and the struggle for people's freedom in South Africa (COSATU, 2009). It is argued that, if it was not for the trade unions' support towards the liberation of South Africa in 1994, democracy in the country would have been more difficult to obtain (Baskin, 1991:448; Innes, 1992:342).

The capacity of trade unions' leadership is crucial in the sense that union members are advised, guided and led by union leaders before they can embark on a strike. The trade unions' negotiating powers are vested in the union leadership's

perspective to engage and convince management (Gani, 1996:57). Employees who belong to a trade union are led and advised by their leaders to embark on a strike or not. Based on this argument, the mandate and demands of ordinary union members are communicated by the trade union leaders to the employers to ensure that union's concerns are taken seriously and addressed by management accordingly, including the management of the HEIs. The trade union's role is to represent its members in various matters of concern to their employers or against actions of management in a workplace (Jordaan and Stander, 2004:4).

This article was aimed at determining whether the role played by trade union representatives in HEI in South Africa is beneficial to the satisfaction of the ordinary union members or not. The article is organised as follows: The literature review on unionisation and recognition of trade unions is presented in section two, and validated by a theoretical approach. The research methodology is outlined in section three. Section four discusses the findings, while section five concentrates on conclusions drawn from the study.

2. Literature review on unionisation in higher education institutions in South Africa

Trade unions' recognition and level of union membership are critical factors that have an impact on the nature of employment relations (South Africa Info, 2014). The South African public sector and the HEIs are unionised. The majority of unionised members in the public sector and the HEIs belong to NEHAWU which is affiliated to the Congress of South African Trade Unions (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 (PSI, 2013). At the HEIs, unions are recognised through the signing of the Organisational Rights Agreement (ORA) by the management and the trade union representative to honour its existence and a right to exercise their right (ULR, 2006).

According to Gunnigle *et al.* (1998:431), unionisation may be referred to as an ongoing structured relationship amongst workers within an organisation or an institution. This relationship aims to improve and sustain working conditions in the workplace and the living standard at home. The workers therefore, form a union to gain a level of recognition from the institution or the employer. In this regard, trade unions are voluntary associations formed to protect the common interests of members and promote their interests in relation to employers (Gunnigle *et al.*, 1998). The primary function of trade unions is to protect its members against unfair labour practices by the employer. Trade unions use their collective power to negotiate with employers on various labour matters that relate to their members. The labour matters such as employees' job security, working hours, remuneration and disputes form a major part of what trade unions stand for (Trade Union Readcast, 2009:2). Trade unions may even engage in political activity where proposed and existing legislation affects their members (Johnson, 2000:330).

In South Africa, changes in the role and functions of trade unions have occurred in the unionised institutions and differences of interest and conflict do exist. According to Haralambos and Holborn (2000:718), these differences are resolved through negotiations. Finemore and Van der Merwe (1996:7) state that conflict is acknowledged as a normal part of the relationship between workers and employers, but cooperation between workers and the employers is an advantage to workers and also beneficial to the organisation. In this regard, trade unions and employer organisations are seen as legitimate and functional in an institution and both parties are protected by the Labour Relations Act 66 of 1995 (LRA) (Vettori, 2005). The research question that informed this article is: "What are the perceptions of the union members at a South African

HEI on its function of representing them on labour issues, with specific reference to grievance and disciplinary matters?

Research suggests that the capacity of the trade unions to bargain with the employers and represent their members' interest over labour issues is declining (Gani, 1996). Moreover, the influence which unions have has less value towards employment relations (Howard & Stephen, 2003; Chris, 2007). Literature suggests that the performance of trade unions is currently not as effective and helpful to members whom they serve as it used to be in the 1970s and 1980s (Malcolm, 2000). This view is important since trade unions seem to be lacking the capacity to represent their members effectively. The objectives of this article were:

a) To determine the views and experiences of union members' representation at the HEI on matters of labour; and

b) To explore perceptions of workers on the effectiveness of their trade union's shop stewards in the workplace.

This article focuses on the HEI employees who belong to a trade union and excludes the non-unionised employees. Beugre (1998:xiii) states that representation of employees in the workplace implies organisational justice which involves a consideration of what issues are perceived to be fair or not. In South Africa, unions represent just above 25% (approximately 3 400 000 members) of the formal work force in the country and therefore remain influential (STATS SA, 2014). In many countries, including South Africa, the collective agreement settled between labour organisations and the employers consists of terms and conditions governing the various stages in handling labour matters such as disputes, grievance and disciplinary procedures (Nurse & Devonish, 2007:91). This practice is applicable in the public and the private sector. Despite the support promulgated in the South African legislation (LRA), unionised institutions or rather trade unions are unable to serve their members at an advantage to benefit and enjoy their rights as employees who belong to a trade union.

The purpose of this article is to present an analysis of the perceptions and experiences of members of a trade union in one HEI in South Africa. The central argument of this article is informed by Nurse and Devonish's (2007:93) aspects of fair treatment of employees and the creation of good working conditions which must be complied with in the workplace.

In an attempt to gain an understanding on how unionised members experience and perceive representation regarding labour matters, in particular the grievance and disciplinary procedures, a trade union operating at a specific South African institution was analysed. The article provides an overview of what unionised members experience through linking theoretical concepts to empirical work in line with

Flyvbjerg's (2004) view. Therefore, drawing evidence from possible theory applied in unionised environment or organisation is imperative.

2.1. Theoretical perspectives on industrial relations

According to the ILO-A (2011:1), the three major theoretical perspectives in industrial relations differ regarding interpretation and the manner in which they are analysed and applied in workplace relations. In sequence, these three theoretical perspectives are unitary perspective, radical perspective and pluralist 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 not entirely limited to it.

The unitary perspective in employment relations assumes that employers and employees operate in teamwork for attainment of common objectives within an organisation. This perspective views an organisation as a combined unit whereby employers and employees have an equal understanding. Thus, all parties form one team with a similar intention. In this regard, the assumption is that there is no need for 'third party' or union interventions. Based on this assumption, unions are perceived as unnecessary and dividing employee loyalty (Van Grasberg, 2002:208; ILO-A, 2011:6). 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).

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 the radical perspective, it is believed with almost certainty that conflict will constantly take place between the employer and employees due to occurrence of basic disparities. In this perspective, employers and employees are opposed to cooperate and hostility prevails. Employees distinguish themselves as "us employees against those employers", which shows the resistance of working together towards common objectives (Williams and Adam-Smith, 2005). From this perspective, disparities of power and economic affluence are perceived as the fundamental nature of the capitalist society (ILO-A, 2011:6). This is contrary to the pluralist perspective which views the workplace or an organisation as a coalition of individuals and groups with diverse objectives, values and interests (Swanepoel *et al.*, 2005:404).

The underlying assumption with the pluralist perspective is that individuals in an organisation combine into a variety of distinct sectional groups.

The different groups in an organisation are competitive in terms of leadership, authority and loyalty. According to Swanepoel *et al.* (2005:404), this is mainly where the trade unions fit-in and it is through the pluralist perspective that trade unions have a platform to exercise their rights unlike when an institution or an employer applies or exercises the unitary perspective. Nel and Holtzhausen (2008:7) observe that the pluralist perspective recognises the mutual dependence of the two groups. They argue that the key lies in the regulation of the employment relationship. Thus, this is how to institutionalise conflict in order to control the impact that it might have on the parties and their relationships.

Based on pluralism, the role of management or employer relates mainly towards influencing and bringing about togetherness within the institution, whilst unions are regarded as the rightful representatives of the employees. Both management and the union negotiate through collective bargaining whereby differences which lead to conflict are resolved collectively (Maslow, 2000:12). Conflict in this regard is perceived not to be a terrible incident. Conflict is in this regard viewed as advancement towards a constructive solution concerning differences when it is well handled (ILO-A, 2011:1).

According to Williams and Adam-Smith (2005), through pluralism, differing views are considered to be rational and lead towards success of the relationship between employers and unions. Therefore, effective communication processes which allow employees to have their views and concerns voiced to the management are made possible by the employer. This practice avoids and prevents damaging the organisational performance between the two parties. The pluralist frame of reference is a perspective which recognises the existence of employment relationship.

2.2. Employment relations and the stance of trade unions in South Africa

In South Africa post 1994, the LRA sets out aspects of employment relations as practiced in the country. The employment relations exercised in South Africa emerged from negotiations at National Economic Development and Labour Council (NEDLAC) which continues to evolve as conditions continuously change in the external environment (Nel and Holtzhausen, 2008:10). This notion implies that there are more involved role-players and bodies that contribute 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).

Section 23 of the Constitution of the Republic of South Africa, 1996 (the Constitution) states that, every person has the right to fair labour practice and employees have the right to participate in the

activities of a trade union. According to Frauenstein (1993:1), trade unions are crucial ties between employer and employees in their liaison as well as the regulation of employment relations. In essence, the trade unions play an essential role in safeguarding relations between employees and the employer. Current employment relations practices have been influenced by colonial and post-apartheid experiences in the workplace, resulting in changing organisation and the managerial strategies in South Africa. Wood and Glaister (2008:239) explain that COSATU is an umbrella organisation of independent trade unions, representing the largest 'most effective' union federation in South Africa with more than two million members. Employment relations imply the need for good working relations between the management of an institution and the trade union in an attempt to avoid and manage conflict (Nel and Holtzhausen, 2008).

It cannot be denied that conflict is unavoidable within an organisation. However, conflict needs to be managed so that it does not escalate, as this is one of the vital principles endorsed by pluralist perspective (Bendix, 1996; Nel & Holtzhausen, 2008). According to Butler (2004:61), the three institutions created to reduce conflict in employment relations and eliminate unfair discrimination in South Africa are the NEDLAC, the Commission for Conciliation, Mediation and Arbitration (CCMA) and the Labour Court. He further argues that these institutions 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. 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 and Glaister, 2008:441).

This article was aimed at establishing whether the role played by trade union representatives in HEIs in South Africa is beneficial to the satisfaction of the ordinary union members. Thus, the next section addresses the methodology adopted to respond to this aim.

3. Research methodology

A qualitative research approach was followed whereby purposive sampling was applied to select union officials and a systematic random sample was drawn to select ordinary union members. The choices made in conducting this research were informed by the theoretical orientation and the scope which conditioned the way in which this research was conducted. The adoption of the qualitative research methodology was based on the fact that qualitative research is concerned with individuals' own accounts of their attitudes, motivation and behaviour (Hakim, 1987:26).

3.1. Research site and participants' selection

A single HEI was purposively selected as a research site. All campuses in this HEI were included. The name of the HEI where the survey was conducted was not mentioned due to preference for anonymity in compliance with ethical clearance principles for conducting research. This was primarily meant to protect the employer or the organisation's name from being cited in line with Preston-White's (1990:239) ethical principles. This HEI is in South Africa employing a large number of employees who were participants in this study.

Given the complexity of the institution and the diversity of its staff, only one trade union (NEHAWU since it has the largest membership) of the unions operating in the selected institution was chosen. A sample of 34 employees participated in the study. The interviewees were drawn from the list of staff members employed by the HEI. At the time of this study, there were 470 NEHAWU⁸ members in this HEI. The interview schedule was designed around key themes covering the views and experiences regarding grievance and disciplinary measures. Interviews were aimed at generating self-reflexivity among the interviewees, leading to the generation of collective narratives (Miller and Glassner, 2004:137; Langdrige, 2007:63).

3.2. Data analysis

After the interviews were completed, the information obtained from the sample was transcribed using Huberman and Miles approach, as described by Poggenpoel (1998:340). A coding principle was applied to protect and avoid using the names of the participants (Andrade, 2009:49). For the purpose of this article, pseudonyms were used to enable the readers to understand the substance of the findings (Bryman and Teevan, 2005:237).

4. Discussion and findings

Saundry *et al.*, (2004) state that research suggests that in certain working environments, a certain number of employees from a different racial cluster are likely linked to dismissal charges. Evidence to this statement reflects on comments made by interviewees regarding issues of racial boundaries. This explains why mainly black people were interviewed in this study and no white persons were included among the respondents. Even though NEHAWU is a non-racial trade union, in the institution where this study was conducted, NEHAWU primarily represents black people whereas a rival trade union representing mainly whites has far less black members.

⁸ Permission was given by the union (NEHAWU) to mention its name.

Some union members felt that being represented by the union was not helpful. They rather preferred to handle matters on their own as demonstrated by the following comment:

“It’s better if you confront the employer and talk to them that you don’t like this and that than taking the matter to the union”. [Martha]

The manner in which union members were represented had an impact on the decisions the institution made when dealing with grievances and disciplinary proceedings. On the one hand, some union members judged their representatives according to the number of cases they lost. On the other hand, some union officials considered themselves having won more cases of grievance and disciplinary matters against the HEI’s management.

According to union officials, management took advantage of the employees who were less informed on how grievance matters should be handled and conducted. An indication made by the union official was that on instances where employees lodged grievances, instead of such matters being addressed according to the appropriate steps of grievances, discussions in a form of “meetings” were initiated by management without the employee realising the inappropriateness of handling such matters without being represented by the union.

Less than half of the total number of the respondents indicated that the labour union has

performed poorly work regarding protection and representation of union members against the HEI’s management. In this regard, the union members felt that the trade union is failing them.

As part of the interview, members were required to rate their trade union representation handling of grievance and disciplinary procedures from 0% to 100% and the union representation was scored very low. Most of the members rated union representatives lower than 60% on average, while a large number of respondents rated the union at 50% or lower. The following comment is indicative of the level of dissatisfaction of the employees on how the union performs:

“No, the union haven’t done anything better to convince me, to protect the employees”. [Thabo]

The low rating given by union members on the union leadership was in sharp contrast with the views of the union leadership or representatives who seemed to be very proud of their work in the institution in their own perspectives:

“At the present moment, eh, according to my analysis, I am convinced as a branch chairperson that the shopsteward council members are doing quite a lot to represent our members”. [Dlungwane]

A summary of the perceptions of the union members is captured in Table 1 below.

Table 1. An indicative measure of union members’ perceptions on the management of HEI’s and labour union’s representation

Illustrative measure of unionised members’ perceptions				
Measurable indicator		Percentage rate by trade union ordinary members	Percentage rate by trade union leaders	Average weight Indicator of union members' perception
Abuse of power by the management of HEI	Racial barriers imposed by HEI	44%	38%	41%
	Advantage taken by HEI	40%	39%	40%
Poor leadership by the trade union leaders	Representation of ordinary members by Union Leadership	44%	59%	52%
	Protection and defense of ordinary members by Union Leadership	33%	47%	40%
	Cases won by union against HEI' management	18%	58%	38%

Table 1 suggests that both unionised and non-unionised members do not have confidence in how the union handles the grievances of employees in the organisation. The management of the HEI tends to appoint high-level labour experts to tackle the cases against union representatives. In a working environment, often situations of conflict occur between subordinates and superiors (Henslin, 1999:26). The views of the employees and their reactions have an impact, and the organisation could be dependent on the reactions. Thus, the handling of

employees’ complaints in the workplace and dealing with dispute matters is a significant factor which must be dealt with internally in the workplace (Seitjz & Robert, 2011:190). A union representative elaborated that:

“Management brought former lawyers, former magistrates, former advocates, and former prosecutors to deal with internal matters. There is an imbalance in this institution”. [Mfobo]

Most of the union officials contend that management practiced racial discrimination against

employees. Union officials noted that some of their members had lodged grievances on racial grounds as highlighted by the following responses:

“People are aggrieved by issues of racial boundaries and issues of being oppressed. It is difficult for one to do his work under certain conditions”. [Dalton]

“Most of the time, management is negative, because there are racial problems in the institution”. [Dlungwane]

The extent to which the HEI reacted to this point of view demonstrated a radical reaction to the union’s presence, helped to determine whether or not the institution was unionised. A further element in measuring unionisation involved consideration of the degree to which the institution was associated with the unions. According to the union members, the union leadership ensured that any mandate from the members was taken seriously and that the members’ demands were considered. At institutions where employees have experienced sensitive disciplinary problems, implementing a more severe method of handling grievances and disciplinary matters could be established (Antcliff & Saundry, 2009:102). The management of the institution should honour the existence of the union, particularly if the union is recognised within the institution as per application of the LRA.

A proposal by Walton and McKersies (1965) holds that many issues beside dispensable deals need to be incorporated during bargaining negotiations. They suggest that such issues are normally standardised. The interests of the employer and the union could be presented in terms of cooperation rather than confrontation to resolve the problems. Historically, employees joined unions simply because such organisations offered ways to promote the employees’ interests (Holley *et al.*, 2001; Bret, 1980). The truth is that a union utilises collective expression to create human relations in an industrial environment. Unions have promoted human relations benefits, as noted by Nurse and Devonish (2007:91).

The responses and attitudes from the union members are perceived to be what Dworkin (1984:67) summarises as lacking trust and doubting the capacity of union representative by union members. In this case, knowledgeable and qualified union representatives could be deployed by the trade union to represent members in order to challenge the institution’s management and build trust to their own members.

Based on what union members experienced, they expected the union to represent them far much better than is the case. A large number of union members believe that it is advantageous to belong to a union despite all concerns and how low their representatives scored in handling grievance and disciplinary matters. The findings revealed that union representatives faced challenges as explained below.

4.1. Lack of employment relations between the union and the HEI

HEI’s management was viewed by union members as being unopposed strongly by the union leadership. The union members perceived the employment relations’ platform as ruined by the HEI’s management since lawyers are involved at preliminary stages in dealing with internal labour matters.

4.2. Abusing of power by Management of HEI

The HEI is characterised by relatively high levels of unionisation in which the pluralist perspective is deemed to be appealing since it views conflict as normal in the workplace (ILO-A, 2011:1-6). However, based on union members’ views and experiences, the management of the HEI was found to be unitarist driven. This view was evidenced by issues related to abuse of power by management and racial boundaries which failed to balance employment relations.

4.3. Poor union leadership and representation

Union members rated their representatives low and expressed dissatisfaction with their union’s leadership as they claim most cases were lost by the union against HEI’s management. Union members in general, felt strongly about belonging to a union, believing that the handling of labour matters and processes at HEI were tainted by “race”, simply because most of the employees were black and their superiors were whites.

A possibility drawn from this study is that those who represented union members involved in grievance and disciplinary issues were not competent and knowledgeable to handle the matters. 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, 2007).

5. Conclusion

Although trade unions are recognised and fully operate in the HEI, their representatives do not meet the expectations of their members against management of HEI. In the interest of encouraging justice and good working relations between the employer and the employees to avoid conflict in the workplace, the ORA principle should be adhered to. NEHAWU has full recognition to operate in the institution through the ORA signed by the management of the HEI. By so doing, the institution could have been able to manage conflict and address

concerns raised by the employees (Nel *et al.*, 2010; Bendix 1996).

Despite the fact that the union is recognised by the institution, the union leadership did not seem to be working diligently and successfully as the “voice of the voiceless” as Sing (1996) suggests. Sing (1996) states that union representatives should be viewed by its members through their operation. Negotiations were supposed to take place between union officials (leadership) and the management of the institution which could have been a possible approach implied by the union officials to confront the management with demands as mandated by the union members.

The findings of this study have a special relevance and message for union leaders who would have to be vigilant in driving the union to the right direction. More attention needs to be paid in educating union officials as well as ordinary members regarding the basic rights of labour matters in the workplace. The findings of this study indicate that union members perceived involvement of the legal experts as “inappropriate” to handle grievance and disciplinary matters whilst such issues were supposed to be handled internally. This aspect concurs with Clarke’s (2007:27) view that in case internal processes do not help in resolving issues, then external bodies which are designed to handle labour issues should intervene. Although there is a generally high level of unionisation in the HEIs in South Africa, the level of union’s influence is low at some HEIs as illustrated by the findings of this study. Sing and Bendix (1992) explain that a vibrant organised union leadership is needed to draw and retain union membership. They perceive this notion of an organised union leadership to be positive and working to empower a union at the bargaining level.

It became clear in this study that the more satisfied union members could be, the more the membership of the union could increase. The whole perception was not only about the union leadership’s failure to handle grievance and disciplinary procedures properly, but more so, their failure to represent their members satisfactorily and make them not to lose trust of the union leadership. These aspects are understood to be the outcomes expected by trade union members. Such outcomes could improve the level of union membership and the attitude towards the trade union’s performance as Gordon *et al.* (1995) pronounce that the ability and charge rest with the union leaders in discussing the challenges facing unions. Union officials must be cautious, aware and be capable of the interests of their members as they relate to the practice of fairness and security in the workplace.

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