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Name of candidate: MANAGER MHANGARAI MUSWABA

Student number: 3873557

Degree: M. PHIL: LABOUR LAW

Department: DEPARTMENT OF MERCANTILE & LABOUR LAW

Title of Study: Effects of multiple trade unions in public institutions of South Africa: The Case of Ekurhuleni East Technical and Vocational Education and Training College.

Supervisor: Ms E Huysamen

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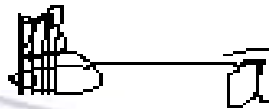
DECLARATION

I hereby declare that 'Effects of multiple trade unions in public institutions of South Africa: The Case of Ekurhuleni East Technical and Vocational Education and Training College' is my own work, that it has not been submitted before for any degree or examination in any other university, and that all the sources I have used or quoted have been indicated and acknowledged as complete references.

Student:

Manager Mhangarai Muswaba

Signature:



Date:

8 August 2019

Supervisor:

Ms Elsabe Huysamen

Signature:

Date:

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DEDICATION

This study is dedicated to my wife Tambudzai Progress Muswaba,

My daughters Marcia Kundie, Marlin Kudzie and

My late grandmother Elizabeth Marwei Tarenyika



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In the process of writing this mini thesis, many people have provided me with invaluable help and support. First of all, I would like to express my sincere gratitude to my supervisor and lecturer in the Faculty of Law Ms Elsabe Huysamen. I feel so humbled to thank her for the role she played in this study from the beginning to the end. The study would not have been successful without her invaluable contributions and selfless commitment to it.

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ABSTRACT

Effects of multiple trade unions in public institutions of South Africa: The Case of Ekurhuleni East Technical and Vocational Education and Training College

The power and influence of unions in South Africa is often associated with creating maximum beneficiation for their members. This is based on their ability to, among other things, mobilise industrial action and represent their members in negotiations for better wages. There is extensive literature on the bargaining council negotiations in South Africa, but slightly fewer studies on the effects of multiple trade unions at workplaces of public institutions.

Literature has also shown that labour unions have played an integral role as a voice for social transformation in South Africa. From the time of apartheid until now in the twenty-first century, unions have continued to participate in all the facets of the country with their objectives being seen to be also distinctly political. Their formal influence grew with the deregulation of black trade unions in the early 1980s and continued to influence the direction of the economy of the country through their participation in the organs of governance of the country.

Allowing for multiple trade unions at a workplace is supported by both the legislation and the common law in South Africa¹. The existence of such has, however, received a lot of criticism from most employer representatives. The presence of multiple trade unions in workplaces has largely been criticised for reducing efficiency of public institutions. Efficiency concerns are raised as a result of the promotion of strikes, reduction in worker productivity as well as complicating the conduct of collective bargaining².

¹ *Minister of Home Affairs v Fourie* 2006 (3) BCLR 355 (CC) at para 61.

² Mabena S '10111 workers' final warning to Mbalula: upgrade our salary level or face a shutdown of service' *The Sunday Times* 6 June 2017 available at <https://www.timeslive.co.za> (accessed 3 March 2018).

The objective of this research was to investigate the effects of multiple trade unions at public institutions in South Africa³. The research confined itself to Ekurhuleni East Technical and Vocational Education and Training College (TVET) as a case study of the effects on public sector institutions. The research has provided very useful empirical evidence for both academic field and policy makers which can be used to develop systems and structures to promote peaceful co-existence between trade unions and employers. This would in turn enhance national productivity and economic growth.

Various research methods were used to meet the objectives of the study. Analysis of records of information at the College were used as data collection methods. Statistical and deductive analysis was applied to the data in order to draw conclusions. The research also reviewed the literature published through secondary sources, which included articles in journals, academic books, newspapers, and web publications. It further extensively relied on primary sources such as case law, international conventions and original narratives by independent researchers, academic scholars, labour think-tanks, trade unions and employer federations.

The research results showed that a number of internal and external factors such as trust and ethical conduct, communication systems and structures, regulatory framework, organisational structure, leadership styles and relations among multiple unions at workplaces have a huge effect on the performance of these multiple trade unions in the public sector organisations in South Africa. While some literature emanating from South Africa have shown that multiple trade unions may be detrimental to organisational productivity, the research results have, however, disproved that notion in favour of the hypothesis that the presence of multiple trade unions at workplaces does not reduce productivity and the achievement of strategic goals by the college.

³ Poloko T 'Living in terror' *The City Press* 5 November 2017 available at <https://www.news24.com> (accessed 3 March 2018).

LIST OF ABBREVIATIONS

AEEU	Amalgamated Engineering and Electrical Union
AMCU	Association of Mineworkers and Construction Union
ANC	African National Congress
BCEA	Basic Conditions of Employment Act 75 of 1997
CAWUSA	Congregated and Allied Workers Union of South Africa
CC	Constitutional Court
CCMA	Commission for Conciliation, Mediation and Arbitration
CEO	Chief Executive Officer
CMSA	Chamber of Mines of South Africa
CO	Certification Officer
College	Ekurhuleni East TVET College
COSATU	Congress of South Africa Trade Unions
EEC	Ekurhuleni East College
ETU	Electrical Trade Union
FEDUSA	Federation of Unions of South Africa
GMB	General Municipal Boilermakers
ICE	Employees Regulations in 2004
ILO	International Labour Organisation
IMATU	Independent Municipal and Allied Trade Union
LC	Labour Court
LRA	Labour Relations Act 66 of 1995 with 2014 amendments
MATUSA	Municipal and Allied Trade Union of South Africa

MG	Mail & Guardian
NACTU	National Council of Trade Unions
NAPTOSA	National Professional Teachers' Associations of South Africa
NAUL	National Amalgamated Union of Labourers
NEDC	National Economic Development Council
NEDLAC	National Economic Development and Labour Council
NEHAWU	National Education Health and Allied Workers Union
NUDPW	National Union of Democratic and Progressive Workers
NUFBWSAW	Union of Food Beverage Wine Spirits and Allied Workers
NUGMW	National Union of General & Municipal Worker
NUM	National Union of Mineworkers
NUMSA	National Union of Metalworkers of South Africa
OECD	Organisation for Economic Cooperation and Development
OHSA	Occupational Health and Safety Act, 1993
OMR	Organisational Management Relations
PCS	Public and Commercial Services
POPCRU	Police and Prisons Civil Rights Union
PSA	Public Servants Association of South Africa
PSCBC	Public Service Coordinating Bargaining Council
SA	South Africa
SACCAWU	South African Commercial Catering and Allied Workers Union
SADTU	South African Democratic Teachers Union
SAFTU	South Africa Federation of Trade Union

SAMWU	South African Municipal Workers Union
SCA	Supreme Court of Appeal
SDA	Skills Development Act, 1998
TGWU	The Transport and General Workers' Union
TUC	Trades Union Congress
TULRCA	Trade Union and Labour Relations (Consolidation) Act 1992
TVET	Technical Vocational Education and Training
UK	United Kingdom
UMF	Union Modernisation Fund
UPHPW	Union Power and High Performance Work
USDAW	The Union of Shop, Distributive and Allied Workers



KEYWORDS

- Bargaining Councils
- Employers interests
- Labour law
- Multiple Trade Unions
- Public institution
- Regulation
- Technical Vocational and Education Training
- Trade Unions
- Workers' rights
- Workplace relations



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CHAPTER 1: INTRODUCTION AND BACKGROUND TO THE STUDY

1.1 Introduction to the Study

This chapter introduces the problem under investigation and provides a synopsis of the entire study. The chapter outlines the structure of this research. Following the introduction is the background to the study which presents some of the critical issues that assist in presenting and supporting the problem statement. The research questions and objectives which the research seeks to answer and achieve are also presented. Thereafter, the limitations, significance of the study, and a snapshot of the methods and techniques for addressing the research problem are presented. The penultimate section is the research structure outline and finally the concluding remarks of the chapter.

1.2 Background to Study

South Africa, in the post-apartheid era, has witnessed a labour-inclusive political regime. Such regime features parliamentary democracy, strong social democratic parties, centralised trade unions and employer associations, tripartite economic policymaking in a negotiated economy, and an extensive social welfare state⁴. Research has shown that political-industrial unionism is one of the foundations of democratic corporatism in many countries including South Africa⁵. Political-industrial unionism was a movement of reaction in labour-union and socialist organisations in the early twentieth century internationally⁶. It was a reaction against the rise of corporate capital and the concentration of industrial revolution. In the case of South Africa,

⁴ Monyatsi G *The role and challenges of Trade Unions in Post-Apartheid South Africa: the case of the National Education Health and Allied Workers Union* (unpublished Master of Administration in Industrial Relations mini thesis, North West University, 2013).

⁵ Streeck W *The sociology of labour markets and trade unions*. In: Smelser, Neil J. (Ed.) Swedberg, Richard(Ed.): *The handbook of economic sociology*. Princeton: Princeton Univ. Press, (2005) Available at <http://www.nbn-resolving.de> (accessed 26 February 2018).

⁶ Peterson L *The one big union in international perspective: Revolutionary industrial unionism 1900-1925* Available at <https://www.journals.lib.unb.ca> (accessed 10 April 2018).

industrial unionism succeeded in improving the material conditions of trade unions members by fighting the labour imbalances which had been created by the apartheid state.

During the 1970s and 1980s, South African workers established their trade unions into powerful fighting forces⁷. Recent studies carried out in 2016 by the Department of Labour indicates that at that time there were approximately 191 registered and active trade unions across all industries⁸. These numbers are not unexpected since the Constitution of South Africa, 1996, (the Constitution) itself affords protection to industrial action and freedom to join trade unions⁹. Workers have the rights to form and join any trade union of their choice as well as participating in the activities and programmes of those trade unions they have joined as members¹⁰. The Labour Relations Act 66 of 1995 (LRA) gives effect to the aforesaid Constitutional rights by amongst others, providing employees with the right to fair labour practices, which rights can be enforced through the assistance of trade unions.

This research is needed more now than before because the public sector in South Africa is relatively more unionised than before¹¹. Union members made up almost 70% (1.4 million workers) of all public sector's formal workers in 2014, up from 55% in 1997 (834,000 workers)¹². This compares with the private sector where union density declined from 36% in 1997

⁷ Twala C and Kompfi B 'The Congress of South African trade unions (Cosatu) and the tripartite alliance: a marriage of (in)convenience' Revised version of the paper entitled *Reflecting on the 25 years of COSATU (1985-2010)* (HASA) conference, held at the University of the North-West (Potchefstroom Campus) on 23-25 July 2010.

⁸ Department of labour South Africa *List of Registered Trade Unions in South Africa as for December 2017* Available at <http://www.labour.gov.za> (accessed 15 March 2018).

⁹ Constitution s 23 (2) (a).

¹⁰ Constitution s 23 (2)(b).

¹¹ Bhorat H, Karmen P & Oosthuizen M 'South Africa's civil servants are the country's new labour elite' February 19, 2016 5.59am SAST Available at <https://www.theconversation.com/south-africas-civil-servants-are-the-countrys-new-labour-elite-54269> (Accessed 12 April 2018).

¹² Bhorat H, Karmen P & Oosthuizen M 'South Africa's civil servants are the country's new labour elite' February 19, 2016 5.59am SAST Available at <https://www.theconversation.com/south-africas-civil-servants-are-the-countrys-new-labour-elite-54269> (Accessed 12 April 2018).

to 24% in 2013¹³. The rise in public sector unionisation is commensurate with the increase in public sector employment. Public sector trade unions now dominate union membership in South Africa.

There are many reasons for high levels of conflict in our labour-employee relationship, but by far the low levels of trust underpin the reality that public organisations are facing. It is observed that where there is little or no trust, businesses suffer and conflicts escalate quickly resulting in a severe damage in the relationship thereby costing organisational sustainability and employee contribution to the achievement of those organisations' goals. The unhealthy state of unions, employee and organisational management relations may have a direct impact on organisational performance which can seriously threaten the nation's ability to create a sustainable, lucrative and productive future for the next generations. This when analysed can be seen to be influenced by the creature known as the human being.

A human being is a social animal by nature¹⁴. Ahead of all things a human being considers the need to belong to a group or society very strongly in both their personal lives as well as work lives. The trade union from this point of view is seen as a mechanism to bring employees together to promote common job-related interests. Researchers have devoted a great deal of time and effort to study the reasons why employees choose to join trade unions. There seems to be general agreement among researchers over some of the more salient reasons as to why employees join trade unions¹⁵. These include that employees require job security and certainty, and that management will not make unfair and arbitrary decisions that would affect their employment security and employment conditions. Employees individually often feel voiceless or powerless to bring about changes that benefit them. Consequently, workers perceive that trade unions can provide them with a powerful collective voice to communicate to management. As a

¹³ Bhorat H, Karmen P & Oosthuizen M 'South Africa's civil servants are the country's new labour elite' February 19, Available at <https://theconversation.com/south-africas-civil-servants-are-the-countrys-new-labour-elite-54269> (Accessed 12 April 2018).

¹⁴ Bryson A 'Union effects on employee relations in Britain' (2005) 9 *Human Relations* 58 1111-39.

¹⁵ Dobson J 'The Effects of multi-unionism: a survey of large manufacturing establishments' (1997) 4 *British Journal of Industrial Relations* 35 447-59.

result many employees look to trade unions for assistance to ensure that their jobs are duly protected and that they are protected against unfair treatment, such as unfair dismissals, unfair labour practices, and unfair discrimination¹⁶. The coming together of these small individual voices brings with it a stronger voice which can match that of the employer.

Organisations' internal stakeholders like unions and employees voice are central in developing greater trust and collaboration. Voice is a rare species in public organisations. Most organisational communications are top-down and are often tall and vertical from government institutional structures such as the Ministry down to the operations at the College Level. Results have also shown that the employer's voice is more often than not obsessed with focussing on outcomes rather than the inherent value of engagement between these two major stakeholders. Management of public organisations are usually so focused on the notion that knowledge is power and that they retain this power by keeping what they know to themselves and not share it with either the employees or their immediate partner such as the unions. By keeping employees at arm's length, not allowing for opportunities where their decisions or authority are challenged, deliberately leaving the rules for success and failure vague, can create ingrained patterns of behaviour that further leads to a lack in trust.

It is also important to state that employees need the opportunity to influence decisions made, require clarity on why certain decisions were made by management, and be the judge on how fair these decisions were based on if no employee input was consulted at the time. Following a fair process in decision-making is therefore very important as it builds trust and commitment and in turn such trust and commitment will breed voluntary co-operation, with voluntary co-operation driving performance, leading employees to go beyond the call of duty. This may include employees sharing their knowledge and applying their creativity for the benefit of the organisational sustainability.

¹⁶ Labour Relations Act 66 of 1995 with 2014 amendments s 185.

The key driver of any engagement is a sense of being valued and involved. This means that whether the concern is with an individual about performance or with a trade union in the context of restructuring, voice is the central and most important in both instances. World Economic Forum also pointed out that an organisation which is dispute resolution focused needs to determine their employment relations strategy¹⁷. While rules and procedures are important to provide the structure within which individuals and groups interact, the quality of a relationship between employees, management and unions is really dependant on the level of trust that exists. Management has a choice in terms of the appropriate level of rules required and the level of trust desired to have a cordial relationship with its internal stakeholders. This has in many instances led to establishment of multiple workplace trade unions in South Africa.

In the absence of a closed shop agreement as contemplated by s 26 of the LRA in the workplace¹⁸, the Constitutional rights to form and/or join any trade union and to participate in its activities have pathed the way for more than one trade union to be present in a specific workplace in South Africa. Dobson has defined this multiple trade unionism as a situation in which workers are represented by more than one union for the purposes of collective bargaining¹⁹. Many South African workplaces have multiple trade unions operating in their organisations²⁰. But such multiple trade-unionism in South African workplaces has not come without challenges, for both employees and employers, particularly with reference to employment relations and productivity.

¹⁷ World Economic Forum 'Why SA labour relations are the worst in the world?' World Competitiveness Report 2017-2018 released by the World Economic Forum 7 May 2018.

¹⁸ Section 26(1) of the LRA holds that "*A representative trade union and an employer or employers' organisation may conclude a collective agreement, to be known as a closed shop agreement, requiring all employees covered by the agreement to be members of the trade union.*"

¹⁹ Dobson J 'The Effects of multi-unionism: a survey of large manufacturing establishments' (1997) 4 *British Journal of Industrial Relations* 35 547.

²⁰ *Association of Mineworkers and Construction Union and Others v AngloGold Ashanti Limited* (2015) 465 ZALCJHB.

Lipset's work on trade unions explored the root cause of different forms of trade unionism, such as craft and industrial trade unions, in the social structures of college community of workers, as well as the occupational college community of skilled craftsmen (also referred to as the socially secluded territorial college community of mining villages and company towns)²¹. Lipset further explained how different community structures gave rise to different organisational structures of trade unions. Union organisers depended, at least initially, on the networks of primary relations that organised the social lives of their constituents. It is evident in South Africa that unionism historically is affected by the political and economic opportunity structures for trade unions, especially at the time of their first appearance²².

Informal group structures and institutional opportunity structures interacted to account for whether trade unions would become radical or moderate, as well as the extent to which they would rely on collective bargaining or on political action²³. Meryerson defined radical change as a process that may happen quickly and often involving significant pain²⁴. Radical change is often forced on the organisation or mandated by changes in the regulatory, legal, competitive, or political landscape. According to Meryerson radicals do not allow preconceived notions to get in their way. They believe that those who represent the majority perspective in an organisation are vitally important to gaining support for their cause²⁵. She also defined moderate or evolutionary change as that change which is characterised by gentle, incremental, decentralised, and over time thereby producing broad and lasting shift with less upheaval in an organisation²⁶. Central to Lipset's sociology of trade unionism was that it analysed the role of organised collective action in

²¹ Lipset SM & Gary M *It didn't happen here* (founding ed) *Why socialism failed in the United States* (2016) ch 2.

²² *Independent Municipal and Allied Trade Union (IMATU) v Municipal and Allied Trade Union of South Africa (MATUSA) and Others* 2017 (38) (LAC).

²³ Montsho M 'Former Amcu members in court for platinum belt killings' *The Star* Available at <https://www.news24.com> (accessed 12 February 2019).

²⁴ Meyerson DE 'Radical Change, the Quiet' 2001 *Way Harvard Business Review* 41.

²⁵ Meyerson DE 'Radical Change, the Quiet' 2001 *Way Harvard Business Review* 42-4.

²⁶ *Association of Mineworkers and Construction Union and Others v Chamber of Mines of South Africa and Others* (2017) 3 ZACC at para 7.

mediating between the social structures of institutions such as the public Technical Vocational Education and Training (TVET) College workers on the one hand and the evolution and ideally democratisation of the modern college on the other²⁷. It is however important at this point to look at the literature around organisational stakeholder relations as it has great impact and influence in the establishment of workplace multiple trade unions.

Streeck defined what he called hybrid discipline of industrial relations²⁸. His definition was inspired by Talcott Parsons's book *Industrial Relations Systems*²⁹. According to Talcott employment relations require a set of connected rules laying down rights and obligations of trade unions, employer and employees for their smooth operation. Streeck also located the origin of hybrid discipline of industrial relations in interactions between employers, workers (or organised workers) and public institutions. He referred to them as the actors of the industrial relations system³⁰.

It is against this literature background that this research therefore explored the possible effects of more than one union at a workplace, with the focus on public institutions. The example of Ekurhuleni East Technical and Vocational Education and Training College (the College) as a case study is used. The College is a public institution with more than five active trade unions across its seven campus sites. The research examined how multiple trade unions had affected and shaped the relationship between the College, trade unions, and the college workers. The research focused particularly on the effects that had impacted workplace relations amongst trade unions, workers and college management.

²⁷ Meyerson DE 'Radical Change, the Quiet' 2001 *Way Harvard Business Review* 46-7.

²⁸ Meyerson DE 'Radical Change, the Quiet' 2001 *Way Harvard Business Review* 51-5.

²⁹ Streeck W *The sociology of labour markets and trade unions*. In: Smelser, Neil J. (Ed.) Swedberg, Richard(Ed.): *The handbook of economic sociology*. Princeton: Princeton Univ. Press, (2005) Available at <http://www.nbn-resolving.deurn:nbn:de:0168-ssoar-195007> (accessed 26 February 2018).

³⁰ Lim Lipset SM & Gary M *It didn't happen here* (founding ed) *Why socialism failed in the United States* (2016) 231-37.

1.3 The Aim of the Research

The research aims to investigate the effects of multiple trade unions at public institutions in South Africa, with Ekurhuleni East TVET College used as a case study. Specifically, the research investigated the impact of multiple trade unions on managerial practices in the College.

The research attempted to fill two gaps in existing research literature. First, the research analysed the theoretical bases for multiple trade unions' impact in the public sector making special reference to the College as a case study. This was done through integrating a variety of explanations offered through available literature. Secondly, the research's aim is to add to the existing literature in South Africa in this research field of multiple trade unions at workplace by examining researched evidence accumulated by various studies during and after the apartheid era. The focus of this research is on the effects of multiple trade unionism on public institutions, with the College being used as the case study.

1.4 Statement of the Research Problem

Multiple trade unions at workplaces are very common in the public institutions of South Africa. The existence of such has received a lot of criticism from mostly employer representatives of these public institutions. Among the many criticisms that came out frequently is that workplace multiple unions have propensity to reduce the efficiency of these public institutions. Another negative contribution attributed to multiple trade unionism at a workplace is its perceived promotion of reduction of worker productivity. A number of researchers have however disputed these assertions through their research findings. Dobson states that multi-unionism does not necessarily weaken the competitiveness of the affected companies and trade unions³¹. Pawlenko in fact holds that trade unions, similar to other institutions, need competition in order to perform at their best³². Based on analysed data from Britain, Metcalf, Wadsworth and Ingram however

³¹ Dobson J 'The Effects of multi-unionism: a survey of large manufacturing establishments' (1997) 4 *British Journal of Industrial Relations* 35 547-59.

³² Pawlenko KD 'Revaluating inter-union competition: A proposal to resurrect rival unionism' (2006) 3 *Journal of*

indicate that workplaces with multi-unionism did experience more strike actions by employees than those where there were none.³³

The existence of multiple trade unions in South African workplaces specifically came under the spotlight during 2012³⁴. The violent standoff between members of Mineworkers and Construction Union (AMCU) and National Union of Mineworkers (NUM) at Lonmin Mine in Marikana, North West province in South Africa, left several mine workers dead. Miners who participated in the deadly 2012 strike at Marikana were too terrified to be named or photographed in the media. During media interviews with some of these miners they told the press that there was a hit list containing names of AMCU members who were being persecuted for questioning their (AMCU) union's leadership. The Marikana tragedy was a gross manifestation of much of what is defective in South African workplace multiple trade unionism. One particular feature was the apparent failure to manage multiunionism and inter-union rivalry properly. It seems that a major underlying cause of this failure was the way in which employers on these platinum mines handled the whole issue around collective bargaining rights to the multiple trade unions existing at their workplace at that time, something that also prompted this research.

The effect of excluding unions from recognition on these mines had the unfortunate side effect that the NUM became complacent and bureaucratic. Furthermore, the aggregation of collective bargaining in large, multi-interest group bargaining units led to distinct interests, such as those of rock drill operators and miners, being neglected. In the end NUM started losing support and drove workers to join AMCU. However, AMCU was prevented from getting even the most basic organisational rights when it became the representative of significant numbers and communities

Labor and Employment Law 8 701-16.

³³ Metcalf D Wadsworth J & Ingram P 'Multi-unionism, size of bargaining group and strikes' (1993) 24 *Industrial Relations Journal* 1 813-14.

³⁴ Poloko T 'Living in terror' *City Press* 5 November 2017 available at <https://www.news24.com/SouthAfrica/News/living-in-terror> (accessed 3 March 2018).

of workers at that time as it was considered a minority union, making the two unions pitting against each other³⁵.

While the Marikana incident was undoubtedly extremely troubling, it cannot however be said that violence and deadlock is the norm in workplaces with multiple trade unions. The research therefore investigated the most common effects of multiple trade unions at public institutions in South Africa, viewing them from both positive and negative perspectives. The research confined itself to Ekurhuleni East Technical and Vocational Education and Training College.

Multiple trade unionism in Britain was also used as a comparator. This was considered appropriate as a comparator because the English labour law, through common law, has had great influence in the South African labour law³⁶. Britain's transformation of trade unions is also well documented and as such it provides comprehensive literature from which to compare the South African situation.

1.5 The Research Questions

The research using both the literature and the information obtained from the College records and informal discussions with College employees attempts to answer three main research questions:

- a) What are the most noticeable consequences or effects of the existence of multiple trade unions at public institution workplaces in South Africa, with particular reference to Ekurhuleni East TVET College?
- b) What impact has multiple trade unionism had on managerial practice at the College, if any?

³⁵Cronje M 'The failure to manage multi-unionism properly contributed to the Marikana tragedy' The Mail & Guardian Available at <https://mg.co.za/article/2013-04-05-00-how-to-manage-interunion-rivalry> (Accessed 9 June 2018).

³⁶ *Old Mutual v Gumbi* (2007) SCA 866 at par 6.

- c) How does the presence of multi-trade unions at the College affect productivity and the achievement of strategic goals by the College?

1.6 The Research Hypothesis

There are many theories on rival unionism and a number of studies have been undertaken on multi unionism at workplaces³⁷. From these studies, it is clear that there are contradictory stances on the effectiveness of multiple trade unions at workplaces. Research has also shown that multiple trade unionism affects competition among trade unions at a workplace, which is to the benefit of workers³⁸. On the contrary, it has been argued that competition among trade unions can hinder employees' activities, reduce efficiency and increase the number of strikes within workplaces. The research, however, proceeded from the basis that trade unions do have a positive, and in fact vital, role to play in workplaces, though the way in which trade unions go about doing their business can however often be questioned³⁹.

The research indeed as hoped for provided answers to the key assumptions relied on by proponents of multi unionism, that the presence of multi-trade unions at the College does not necessarily reduce productivity and the achievement of strategic goals by the college.

1.7 Limitations of the Research

As the research is a mini-thesis only at M.Phil. level, it covers only Ekurhuleni East TVET College as case study of the effect of multiple trade unionism at public institutions in South Africa. The research could however easily be extended by interested and adequately equipped researchers to all other TVET Colleges in South Africa. The research provides empirical evidence for both academic field as well as policy makers which could assist relevant parties to make better

³⁷ Metcalf D Wadsworth J & Ingram P 'Multi-unionism, size of bargaining group and strikes' (1993) 24 *Industrial Relations Journal* 35 816-19.

³⁸ Dobson J 'The Effects of multi-unionism: a survey of large manufacturing establishments' (1997) 4 *British Journal of Industrial Relations* 35 547-66.

³⁹ *Minister of Economic Development and Others v Competition Tribunal and Others, South African Commercial, Catering and Allied Workers Union (SACCAWU) v Wal-Mart Stores Inc* (2012) 6 ZACAC.

informed decisions as to multiple trade unions and how to approach these. The research also considered the approach towards multiple trade unionism adopted in Britain as the comparative part of the study.

1.8 Significance of the Research

Despite the limitations highlighted above, the research manages to broaden an understanding of multiple trade unionism at public institution workplaces in South Africa. The research, among others, highlights the synergistic importance of multiple trade unions working together in any one workplace. Particularly, it provides some insights into the effects of multiple trade unionism to workers and public institutions and the impact these have to the work life of these workers⁴⁰. However, it is hoped that the outcomes of the research provide further tools to develop more models which promote synergy between employers and trade unions.

The research further paves way for further studies by other researchers who have interest in understanding the link between multiple trade unions at workplaces and the effects thereof. The research therefore provides evidence for both academic field as well as policy makers which might help employers to reach informed decisions on multiple trade unions at their workplace.

Based on the findings, the research attempts to propose feasible and appropriate remedial actions that could be used for strengthening the workplace relations among all stakeholders at the TVET college with a view to develop a sustainable and cordial relationship to the benefit of all stakeholders. This hopefully would assist in the prevention of a re-occurrence of the Marikana tragedy not at the College studied but also to other similar public institutions⁴¹.

⁴⁰ *National Union of Metalworkers and Others v Lectropower Pty Ltd* (2014) 63 35 ILJ 3205 LC *National Union of Public Service & Allied Workers obo Mani and Others v National Lotteries Board* 2014 (3) SA 544 BCLR.

⁴¹ Montsho M 'Former Amcu members in court for platinum belt killings' *The Star* Available at <https://www.news24.com> (accessed 12 February 2019).

1.9 The Research Methodology

This research was conducted by reviewing the literature published through secondary sources, which included articles in journals, academic books, newspapers, web publications and use of college information records on unions. The research also relied on primary sources such as case law, international conventions and original narratives by independent researchers, academic scholars, labour think-tanks, trade unions and employer federations. The research followed a conceptual analysis and interpretation approach on the effects of multiple-trade unions at workplace, as well as constructing a narrative on the history of multiple unionism in public institutions. The research further developed arguments based on discourse analysis of existing labour laws.

1.10 The research structure

Chapter 1 presents an introduction and background to the research. The chapter includes a brief introduction, background of study, the rationale of study, the general and specific objectives of the study and the research questions of study.

Chapter 2 provides a review of the history of multiple trade unionism, and the case of South Africa's legislative background and introduction of multi-unionism into South African public institutions.

Chapter 3 provides a review of the case of Britain and International Labour Organisation conventions and other relevant international literature related to multi-unionism.

Chapter 4 presents a discussion of the methodology and the research findings. The chapter focuses on the key research questions and hypotheses of the study, the statement of the research problem. The chapter further presents a summary of key findings of the research along with feasible recommendations based on concrete findings of the study.

Chapter 5 provides a conclusion to the study. This reflected on how far the research has addressed the aim of the research, the problem statement, research questions and the research hypothesis.

1.11 CONCLUSION

The chapter introduced the research problem and laid the foundation of the study. The chapter also provided background to study which among other things identified that there was a gap in identifying and dealing with the impact caused by the effects of multiple trade unions at workplace in the public sector. The chapter concluded by listing the five chapters to make up the entire research structure. Based on this foundation, the study proceeds to the review of literature in the next chapter.



CHAPTER 2: HISTORY OF MULTIPLE TRADE UNIONISM IN SOUTH AFRICA

2.1 Introduction

Changes in South Africa's social, political and educational environments, and an increased awareness of human rights, have all contributed towards trade unions being considered as major role-players in the industrial relations system of South Africa. Unions are seen as playing a crucial role in protecting the interests of workers. As such the impact of union density in a particular workplace becomes important. Union density is defined as a measure of a union's dominance and influence and strength at a workplace⁴². In the context of this research union density can be defined as unions' dominance as a result of combined membership base at the College in relation to the total labour force at the College⁴³. Some researchers believe that the notion that union density is a necessary precondition for power in any union at the workplace may not be accurate⁴⁴. This increased the number of new employees who were motivated to join unions through the union's successes, thereby increasing the union density. While union density is said to be attributing to movement of power, further studies have also shown that there are other sources and different means of exercising power that the workplace unions do possess. For instance, labour movements in other developed countries have considerable influence despite having low union density rates⁴⁵. South Africa has, however, witnessed a decline in union membership since 1994⁴⁶. This has prompted a number of questions, such as, why some employees elect to be members of trade unions while others elect not to be⁴⁷. There is therefore

⁴² Macun I *Does size matter The Labour Relations Act, majoritarianism and union structure* (1997) LDD 5.

⁴³ Schnabel C 'Union membership and density: Some (not so) stylized facts and challenges' (2013) 19 *European Journal of Industrial Relations* 3 255-72.

⁴⁴ Scruggs L & Lange P 'Where have all the members gone? Globalization, institutions and union density' (2002) 64 *Journal of Politics* 1 1126-53.

⁴⁵ Scruggs L & Lange P 'Where have all the members gone? Globalization, institutions and union density' (2002) 64 *Journal of Politics* 1 1126-53.

⁴⁶ Department of labour South Africa *List of Registered Trade Unions in South Africa as for December 2017* Available at <http://www.labour.gov.za> (accessed 15 March 2018).

⁴⁷ Bryson A Forth J Laroche P 'Worker Voice, Managerial Response and Labour Productivity: An Empirical Investigation' 2006) 37 *Industrial Relations Journal* 5 438-55.

extensive literature available around trade unions and trade union density at workplaces in the South African context⁴⁸.

Against the background of union density, this chapter will explore multiple trade unionism at South African workplaces in general, with the focus thereafter shifting to public institutions, and in particular, the Ekurhuleni East TVET College. The chapter starts by analysing the history of trade unionism in South Africa. It also briefly looks at the South African labour legal framework relevant to trade unions in South Africa and how this influences multiple trade unionism in the workplace. Common law perspectives with regards to multiple trade unions are also considered.

2.2 Trade Unionism and The Post-Apartheid Era in South Africa

Trade unions in South Africa have a history dating back to the 1880s⁴⁹. During their inception in the pre-apartheid era, trade unions were viewed as being reflective of the racial disunity of the South African community at the time⁵⁰. Early trade unions often offered membership to white workers only in line with standing government policies of the time, which favoured employment policies based on racial and gender discrimination⁵¹. Progressively trade unions however started taking a different role and proceeded to play an important role in the development of political and economic resistance during the period between 1948-1991 and contributed to the eventual fall of apartheid and the rise of democracy in South Africa in the early 1990's⁵². After the end of apartheid and the emergent of an inclusive democratic government, trade unions continued to influence and promote the rights of employees in South Africa.

⁴⁸Bryson A *et al.* 'Worker Voice, Managerial Response and Labour Productivity: An Empirical Investigation' (2006) 37 *Industrial Relations Journal* 5 438-55.

⁴⁹Lewis J 'Industrialisation and Trade Union Organisation in South Africa, 1924-1955' *The rise and fall of the South African Trades and Labour Council* (1985) Cambridge University press 17.

⁵⁰Cosatu Membership Available at <http://www.politicsweb.co.za/documents/cosatus-membership-all-the-facts> (Accessed 31 May 2018).

⁵¹Maree J 'Trade unions and corporatism in South Africa' (2002) Available at <http://www.digital.lib.msu.edu/projects/africanjournals/> (Accessed 2 June 2018) 48-51.

⁵²Maree J 'Trade unions and corporatism in South Africa' (2002) Available at <http://www.digital.lib.msu.edu/projects/africanjournals/> (Accessed 2 June 2018) 52-54.

At the time of conducting this research, South Africa had a total of 191 registered trade unions⁵³. Trade unions have continued to be an important force in championing the rights of millions of employees throughout the country. Most trade unions are affiliated to one of the four main federations of trade unions⁵⁴, that is, the Congress of South Africa Trade Unions (COSATU), the Federation of Unions of South Africa (FEDUSA), the National Council of Trade Unions (NACTU) and the 2017 established South African Federation of Trade Unions (SAFTU)⁵⁵. Federations of trade unions in South Africa are organisations formed by two or more trade unions that are in the register of federations in South Africa⁵⁶. A federation of trade unions is an association of more than one trade union coming and working together as a registered institutional association⁵⁷.

COSATU is considered to be the largest trade union federation in South Africa and was the first to enter into alliance with the ruling political party - the African National Congress (ANC). COSATU has about 21 functioning affiliated trade unions and an estimated membership of 1 000 800 workers⁵⁸. COSATU was established in 1985 with 33 trade unions coming together across a variety of sectors. The main objectives at the time of establishment were to strengthen the workforce in all industries, fight exploitation of women workers, demand withdrawal of state of emergency, release of political prisoners, fight apartheid, fight for the right to strike and picket, regulation of national minimum wage and the involvement in wage negotiations with employers across its affiliate sector unions⁵⁹.

⁵³Maree J 'Trade unions and corporatism in South Africa' (2002). Available at <http://www.digital.lib.msu.edu/projects/africanjournals/> (Accessed 2 June 2018).

⁵⁴Cosatu Membership Available at <http://www.politicsweb.co.za/documents/cosatus-membership-all-the-facts> (Accessed 31 May 2018).

⁵⁵Cosatu Membership Available at <http://www.politicsweb.co.za/documents/cosatus-membership-all-the-facts> (Accessed 31 May 2018).

⁵⁶LRA s (109) (1)(c).

⁵⁷*Kem-Lin Fashions CC v Brunton and Another (2001) 22 ILJ 109 (LAC) at para 23.*

⁵⁸Cosatu Membership Available at <http://www.politicsweb.co.za/documents/cosatus-membership-all-the-facts> (Accessed 31 May 2018).

⁵⁹Cosatu Membership Available at <http://www.politicsweb.co.za/documents/cosatus-membership-all-the-facts> (Accessed 31 May 2018).

The Federation of Unions of South Africa (FEDUSA) is the third largest national trade union federation in South Africa. Established in 1997, FEDUSA has a membership of 560 000 workers. It represents workers in the automobile, aviation, education, medical services, banking, aviation, healthcare and hotel industries⁶⁰.

The National Council of Trade Unions (NACTU) of South Africa, the fourth largest, is a federation of 17 affiliated unions with nearly 400 000 strong membership support. The affiliated trade unions of NACTU operate in the sectors of mining, construction, banking, insurance, hospitality, education, government, public sector and civic administration, electrical, textiles, agriculture, furniture, food processing, chemical, teachers, and transport⁶¹.

While being the youngest, only established in 2017, the South African Federation of Trade Unions (SAFTU) is the second largest federation of trade unions. SAFTU is said to have a membership base of 700 000 workers across 24 unions. SAFTU was formed after the expulsion of the National Union of Metalworkers of South Africa (NUMSA) from COSATU. SAFTU considers itself as a vibrant, independent from the government alliances, democratic workers' union⁶². Its objectives are to fight exploitation, mass unemployment, poverty, inequality and corruption, and taking up the struggle for the total emancipation of the working class from the chains of capitalist oppressors⁶³. During the federation's launch, the leadership of SAFTU declared that the future of the people of South Africa was in the hands of its workers. According to SAFTU only the working class, in alliance with progressive minded sections of the community, are able to build a happy

⁶⁰FEDUSA membership Available at <http://www.fedusa.org.za/unions-2/> (Accessed 31 May 2018).

⁶¹NACTU membership Available at <http://www.sahistory.org.za/article/national-council-trade-unions-nactu> (Accessed 31 May 2018).

⁶²SAFTU Launch Available at <https://ewn.co.za/2017/04/21/saftu-launch-marks-end-of-long-journey-since-numsa-left-cosat> (Accessed 26 March 2019).

⁶³Mabena S '10111 workers' final warning to Mbalula: upgrade our salary level or face a shutdown of service' *Sunday Times* 6 June 2017 available at <https://www.timeslive.co.za/news/south-africa/2017-06-06-10111-workers-final-warning-to-mbalula-upgrade-our-salary-level-or-face-a-shutdown-of-service/> (accessed 3 March 2018).

life for all South Africans, a life free from unemployment, insecurity and poverty, racial hatred and oppression and a life of vast opportunities for all its citizens⁶⁴.

It is largely within the operation of these four federations that trade unions represent workers across the various economic sectors of the country.

2.3 Post-Apartheid Trade Unionism Legislation in South Africa

The Constitution of the Republic of South Africa, 1996 (the Constitution) states that every trade union has the right to form and join a federation⁶⁵. The Constitution further provides that every worker has the right to form and join a trade union, participate in the activities and programmes of trade unions, and to strike.⁶⁶ Trade union rights are specifically provided for in chapter two of the Labour Relations Act 66 of 1995 (LRA). This is done through providing trade unions with certain organisational rights dependent on whether the union, or two or more unions acting jointly, can prove that they are the majority union(s) in the workplace, or if not the majority, at least sufficiently representative of the workers in the workplace. Within the realm of the LRA certain institutions were also created to further the goals of reducing industrial relations conflict and the protection of the rights of both employers and employees⁶⁷. These institutions include the National Economic Development and Labour Council (NEDLAC), the Labour Courts of South Africa, and the Council for Conciliation, Mediation and Arbitration (CCMA).

The LRA promotes the policy choice of majoritarianism in furtherance of orderly collective bargaining and the democratisation of the workplace agreements to even be implemented across all members of all unions⁶⁸. Majoritarianism is defined as a system in which a union or a group of

⁶⁴SAFTU Launch Available at <https://ewn.co.za/2017/04/21/saftu-launch-marks-end-of-long-journey-since-numsa-left-cosatu> (Accessed 26 March 2019).

⁶⁵ Constitution s 23(4)(c).

⁶⁶ Constitution s 23(2).

⁶⁷ Adler G 'Labour and Deepening of Democracy in South Africa, in Adler, G 3 ed Engaging the State and Business: The Labour Movement and Co-Determination in Contemporary South Africa (2000) Witwatersrand University Press, Johannesburg. 23-7.

⁶⁸ LRA s 23(2)(c).

unions, that collectively represent the majority of employees above a pre-determined threshold in the industry, have the right to bargain with employers on substantive conditions of employment⁶⁹. The majoritarian model in South Africa minimises the rise of multiple trade unions in a single workplace and encourages a system of a representative of trade unions⁷⁰. It is common practice in negotiating labour matters where more than one union is present in the workplace and determine whether any one of the unions involved holds majority representation in the organisation. Once it has been established who the majority union is, if one is present, negotiations are initiated with the representatives of the majority union. The terms of a collective agreement reached with the majority union, if reached in terms of s 18 of the LRA⁷¹, will then become binding on all employees in the workplace.

2.4 Multiple Trade Unionism in South Africa

While multiple trade unionism, or multi-unionism, is difficult to define precisely, the concept generally denotes the situation where more than one trade union represents workers in a specific workplace⁷². An employee might join a number of unions (assuming, of course, that multiple membership status is allowed by the specific unions in question) for the purposes of benefiting from each of the unions based on the offerings of each union and what the employee perceives as the strength of a specific union⁷³. For instance, lecturing staff at Ekurhuleni East TVET College have two major unions which are affiliated to two different bargaining councils. Members of the lecturing staff may join both unions so that if one bargaining council is deadlocked with the

⁶⁹*Kem-Lin Fashions CC v Brunton and Another (2001) 22 ILJ 109 (LAC) at para 19.*

⁷⁰LRA s 18(1).

⁷¹(1) An employer and a registered *trade union* whose members are a majority of the *employees* employed by that employer in a *workplace*, or the parties to a *bargaining council*, may conclude a *collective agreement* establishing a threshold of representativeness required in respect of one or more of the organisational rights referred to in sections 12, 13 and 15.

(2) A *collective agreement* concluded in terms of subsection (1) is not binding unless the thresholds of representativeness in the *collective agreement* are applied equally to any registered *trade union* seeking any of the organisational rights referred to in that subsection.

⁷²Lewis J 'Industrialisation and Trade Union Organisation in South Africa, 1924-1955' *The rise and fall of the South African Trades and Labour Council*' (1985) 77-80.

⁷³Poloko T 'Living in terror' *The City Press* 5 November 2017 available at <https://www.news24.com/South-Africa/News/living-in-terror> (accessed 3 March 2018).

employer and the other one emerges victorious, then the members would still continue to benefit.

It is not uncommon to find more than one trade union representing employees at a workplace in industrial disputes in South Africa⁷⁴. Employers, however, need to consider the possible effects of the current push for multi-union workplaces in the context of collective bargaining⁷⁵. Conflicts between multiple trade unions in a workplace may result in union rivalry, extravagant wage demands and regular massive work stoppages, as competing unions fight for turf against one another and against employers⁷⁶. Some narratives have also shown that unions factionalism impact negatively in maintaining conducive employee-employer relations at workplaces where there are multiple trade unions⁷⁷.

Maor defines factionalism from a political perspective as a form of conflict in an organisation reflecting intra-party actors acting collectively to reach common goals⁷⁸. Factionalism in this context may be viewed to be synonymous with any unions whose members share a sense of common identity and purpose. These groupings may act collectively as distinct alliances within the union to achieve their goals⁷⁹. Union factionalism as derived from above can be defined as organised union conflict that exist within the context of some other unions at a workplace, with a view to compete with rival unions for power and other advantages that the workplace offers. Where multiple trade unionism is present it has been observed that majority unions ended up

⁷⁴*Association of Mineworkers and Construction Union and Others v AngloGold Ashanti Limited* (2015) 465 ZALCJHB.

⁷⁵Macun I *Does size matter The Labour Relations Act, majoritarianism and union structure* (1997) LDD 5. Lewis J 'Industrialisation and Trade Union Organisation in South Africa, 1924-1955' *The rise and fall of the South African Trades and Labour Council*' (1985) 77-9.

⁷⁶Lewis J 'Industrialisation and Trade Union Organisation in South Africa, 1924-1955' *The rise and fall of the South African Trades and Labour Council*' (1985) 80-4.

⁷⁷Poloko T 'Living in terror' *The City Press* 5 November 2017 available at <https://www.news24.com/SouthAfrica/News/living-in-terror> (accessed 3 March 2018).

⁷⁸Maor M 'Political Parties and Party Systems. Comparative Approaches and the British Experience' (1997) 257-61.

⁷⁹Maor M 'Political Parties and Party Systems. Comparative Approaches and the British Experience' (1997) 271-75.

dominant in most agreements reached with the employer, sometimes at the expense of minority unions operating within the same workplace⁸⁰. Section 18(1) of the LRA enables majority unions to enter into collective agreements setting thresholds of representatives for the granting of access, stop-order and trade-union leave rights to minority unions⁸¹. This means that they can dominate decision making without consulting minority unions at the workplace. The majority unions in terms of the law as stated above have the right to agree and sign a bargaining agreement with employer without even consulting other minority unions.

In multiple trade union environments collective agreements concluded between majority unions and employers can be extended to both minority union members as well as those members who are not affiliated to any union. The LRA in support of the majoritarian framework and union structure favours larger trade unions⁸². The LRA has been viewed as favouring larger unions and conferring distinct advantages on unions with majority support at the establishment or industry level⁸³. The LRA unequivocally promotes the policy choice of majoritarianism, in furtherance of orderly collective bargaining and the democratisation of the workplace⁸⁴. The majoritarian model aims to minimise the proliferation of trade unions in a single workplace and to encourage the system of a representative trade union⁸⁵. Section 18(1) of the LRA enables majority unions to enter into collective agreements setting thresholds of representivity for the granting of access, stop-order and trade-union leave rights to minority unions⁸⁶. In furtherance of the majoritarian framework, collective agreements concluded between majority unions and employers can be extended to non-parties to the agreement provided specified requirements are satisfied⁸⁷.

⁸⁰ Maor M 'Political Parties and Party Systems. Comparative Approaches and the British Experience' (1997) 342-45.

⁸¹ LRA s 18(1).

⁸² LRA s 23.

⁸³ LRA s 18.

⁸⁴ LRA s 21(8A).

⁸⁵ LRA s 18(1).

⁸⁶ LRA s 18(1).

⁸⁷ LRA s 23(1)(d).

In *Police & Prisons Civil Rights Union v Ledwaba* 2013 11 BLLR 1137 (LC) the Labour Court (LC) was required to consider if the collective agreements concluded between the employer and the majority union could be relied upon to prohibit the minority union from securing organisational rights⁸⁸. In so doing, the LC had to reconcile the fundamental principle of freedom of association and the right to fair labour practices to organise and engage in unfettered collective bargaining in the context of the majoritarian framework. The LC held that the collective agreement concluded with the majority union must have preference over the organisational rights of minority unions, in keeping with the principle of collective bargaining hierarchy and the legislative framework.

The above court ruling shows that legislation gives preference to majority unions over minority ones in as far as at least negotiation powers are concerned. It is therefore evident that where a majority union has entered into a collective agreement with an employer in which organisational rights and minimum thresholds for organisational rights that are binding on non-parties are prescribed, the majority union is permitted to sign a collective agreement with the employer, and the minority unions are expected to comply with the provisions of the majority trade union's collective agreement.

In the case of *Association of Mineworkers and Construction Union and Others v Chamber Of Mines Of South Africa (CMSA) obo Harmony Gold Mining Company Ltd and Others* [2014] ZALCJHB 223, the Chamber of Mines entered into a collective agreement with only the National Union of Mineworkers (NUM), leaving out the Association of Mineworkers and Construction Union (AMCU) at Harmony Gold Mining Company Ltd. AMCU took the matter to labour court arguing that the agreement was of no effect to its members as it was not involved in the negotiation and its subsequent signing⁸⁹. The labour court ruled that in terms of s 23(1)(d) of the LRA a majority trade union can enter into a collective agreement of which the terms will then also be binding on

⁸⁸*In Police & Prisons Civil Rights Union v Ledwaba*(POPCRU) 2013 11 BLLR 1137 (LC) para 12.

⁸⁹*Association of Mineworkers and Construction Union and Others v Chamber Of Mines Of South Africa obo Harmony Gold Mining Company Ltd and Others* (J99/14) [2014] ZALCJHB 223.

any minority union in the workplace⁹⁰. AMCU as the minority union was compelled to be bound by the NUM agreement since NUM had the majority representation at the mine⁹¹.

Later courts dealing with similar cases however noted and argued that, while the finding of the LC in *POPCRU* is correct on the facts and is in keeping with the principle of majoritarianism the legislative model, the model may no longer be suitable within the context of volatile socio-economic and political landscape⁹². Strike violence, loss of confidence in existing bargaining structures, and the alienation of vulnerable employees from majority unions has resulted in minority unions taking up the truncheons of frustrated and disempowered employees. This was witnessed by the Marikana uprisings. The labour court further suggests that in the light of the changing dynamics of the collective bargaining environment, it is time that majoritarian model needed to be revised in South Africa.

2.5 Conclusion

The focus of this chapter was to briefly consider the history of multiple trade-unionism in South Africa as well as exploring multiple trade unionism theories at the workplace. It also looked at the legal framework of the country from the legislative and common law perspectives. While it is common cause that trade unions have a positive, and in fact vital, role to play in workplaces, the methods trade unions utilise in conducting their business are often questioned⁹³.

Chapter 3 will look at the international multiple trade unionism and specifically in Britain. Prior to the formation of the Republic of South Africa in 1961, much of English law was incorporated into or formed the basis of South African law and it is still influencing South African legislative landscape hence this research confining its reference to the British labour law.

⁹⁰ *POPCRU v Ledwaba* (2014) 11 BLLR 1137.

⁹¹ *POPCRU v Ledwaba* (2014) 11 BLLR 1137.

⁹² *POPCRU v Ledwaba* (2014) 11 BLLR 1137.

⁹³ *Minister of Economic Development and Others v Competition Tribunal and Others, South African Commercial, Catering and Allied Workers Union (SACCAWU) v Wal-Mart Stores Inc* (2012) 6 ZACAC.

CHAPTER 3: MULTIPLE TRADE UNIONISM IN BRITAIN

3.1 Introduction

As defined in chapters 1 and 2, a trade union is an organisation comprising of members who are workers. The main aim of any trade union is to protect and advance the interests of its members⁹⁴. Worldwide trade unions represent workers at workplaces by rendering services such as negotiating pay/wage increases and better benefits for workers. At times, negotiations on behalf of workers who are not members of the union, are also conducted, such as in South Africa in terms of agency shop collective agreements⁹⁵. Internationally, trade unions are known for also carrying out campaigns and lobbying for better worker rights on behalf of all workers⁹⁶.

Similar to the position in South Africa, Britain trade unions mainly negotiate agreements with employers over pay/wages and conditions of service. They engage in discussions with employers concerning major changes to the workplace, such as large scale redundancy. They also raise worker concerns with employers, represent or assist members in disciplinary and grievance meetings and provide members with legal, financial and any other relevant advice⁹⁷.

This chapter will consider the development of trade unionism in Britain. This would also include looking at the legal status of British trade unions.

3.2 The Development of Trade Unionism in Britain

Trade unions were first legalised in Britain during 1824 when increasing numbers of factory workers joined unions who advocated for better wages and working conditions on the workers'

⁹⁴ Simon J 'Once More on Strikes: A Reply to Critics' (2017) *International Socialism* 147-149
<http://isj.org.Britain/once-more-on-strikes/> (accessed 29 May 2018).

⁹⁵ Snyman S 'The principle of majoritarianism in the case of organisational rights for trade unions – is it necessary for stability in the workplace or simply a recipe for discord' Snyman Attorneys Inc, Johannesburg.

⁹⁶ Simon J 'Once More on Strikes: A Reply to Critics' (2017) *International Socialism* 153
<http://isj.org.Britain/once-more-on-strikes/> (accessed 29 May 2018).

⁹⁷ General trade union issues, including information for shop stewards, convenors www.dti.gov.Britain/employment/trade-union-rights/trade-unions/page16080.html Collective Redundancies (accessed 20 May 2018).

behalf⁹⁸. Union membership in Britain peaked during 1979 at 12.6 million members before falling steeply to 10.3 million by the early 1990s⁹⁹. Most of the decline in membership numbers was said to have been influenced by massive job losses in heavily unionised sectors. In 2000 union membership stood at an estimated 7.35 million members¹⁰⁰. The Transport and General Workers' Union (TGWU) and National Union of Mineworkers experienced the largest decline in membership numbers¹⁰¹.

Union mergers in the public services during 1993 resulted in the creation of one of the biggest federation of unions, that is, the General Federation of Trade Unions¹⁰². The federation was made up of the largest civil service union, the Public and Commercial Services Union (PCS)¹⁰³. The year 1993 also saw large unions, such as the General Municipal Boilermakers (GMB), absorbing smaller unions in the private sector and the Amalgamated Engineering and Electrical Union (AEEU), GMB and AEEU joined together to form Amicus Federation around 2005¹⁰⁴. After several decades of influencing British governments, trade unions faced hostility from the ensuing governments. This was evidenced by the abolishing of many tripartite agreements the governments had signed with Unions. For example, the government banned trade union membership among its employees¹⁰⁵.

Despite major strike defeats spreading an air of pessimism, union organisations remained relatively intact in many workplaces in Britain. During the late 2000s there were an estimated

⁹⁸ Chase M *Chartism: A New History* (Manchester University Press, 2007).

⁹⁹ Simon J 'Once More on Strikes: A Reply to Critics' (2017) *International Socialism* 153 available at <http://www.isj.org.Britain/once-more-on-strikes/> (accessed 29 May 2018).

¹⁰⁰ Millward N Forth & J Bryson A *All change at work? British Employee Relations 1980-98, Portrayed by the Workplace Industrial Relations Survey Series* (2000) 175-79.

¹⁰¹ Simon J 'Once More on Strikes: A Reply to Critics' (2017) *International Socialism* 153 available at <http://www.isj.org.Britain/once-more-on-strikes/> (accessed 29 May 2018).

¹⁰² Certification Officer. (2010). *Annual Report of the Certification Officer 2009 - 2010*.

¹⁰³ Chase M 'Chartism: A New History' available at <http://www.isj.org.Britain/once-more-on-strikes/> (accessed 29 May 2018).

¹⁰⁴ Mark O & Kyprianou P *Just Managing? What It Means for the Families of Austerity Britain* (2017) (Open Book Publishers), Available at <https://www.openbookpublishers.com/reader/591#page/1/mode/2up> (accessed 29 May 2018).

¹⁰⁵ Chase M *Chartism: A New History* (2007) 514-41.

335,000 workplace union representatives or shop stewards¹⁰⁶. This represented an important shift as shop steward systems spread across almost all areas of unionised workers working in Britain. In 2008, the Trades Union Congress (TUC) believed that there were still 230,000 workplace union representatives, including shop stewards, safety representatives and union learning representatives¹⁰⁷. As a result of mergers, the three large general unions (GMB, Unison and Unite) now represent almost half (47.5 per cent) of UK union membership¹⁰⁸.

3.3 The Legal Status of British Trade Unions

3.3.1 The legal status of trade unions as defined by legislation

Historically, British labour courts have been regarded as making harsh judgments against trade unions¹⁰⁹. In 1992 the British government enacted the Labour Relations Consolidated Act of 1992. This Act defined a trade union as an organisation, temporary or permanent, with the following characteristics:

- (a) consists wholly or mainly of workers of one or more descriptions and whose principal purposes include the regulation of relations between workers of that description or those descriptions and employers or employers' associations; or
- (b) consist wholly or mainly of constituent or affiliated organisations whose aim is to fulfil the conditions in paragraph (a);
- (c) consist wholly or mainly of constituent or affiliated organisations which fulfil those conditions or representatives of affiliated or constituent organisations, and whose principal purposes include the regulation of relations between workers and employers or

¹⁰⁶Ralph D 'Official and Unofficial Action in the Fight against Anti-Union Laws' (2016) *International Socialism* 151 (summer), available at <http://www.isj.org.Britain/the-fight-against-anti-union-laws/> (accessed 29 May 2018).

¹⁰⁷Brownlie N 'Trade union membership'. London: Department for Business, Innovation and Skills. (2011) Available at https://www.gov.Britain/government/uploads/system/uploads/attachment_data/file/12-p77-trade-union-membership-2011.pdf (accessed 20 March 2018)

¹⁰⁸ Certification Officer 2016 'Annual Report of the Certification Officer' 2015 - 2016.

¹⁰⁹Ackers P 'Trade Unions as Professional Associations'. In Johnstone, S., & Ackers, P. (Eds.). *Finding a voice at work? New Perspectives on Employment Relations*. (2015) 707 2662-71.

between workers and employers' associations or the regulation of relations between its constituent or affiliated organisations¹¹⁰.

The Act identified four important aspects regarding trade unions¹¹¹. While trade unions could be seen to be broadening their mandate, their principal object remained that of advancing the interests their members ahead of that of the employer in an employment relationship at the workplace. This mandate primarily includes trade unions participating in collective bargaining and industrial relations negotiations. Secondly, trade unions in Britain were then considered to be constituents of federation of trade unions or a body which brought together affiliated organisations. These affiliate organisations would surrender their mandate for entering into collective bargaining or carrying on industrial relations to these federations. The Trade Unions Congress (TUC) is one such federation in Britain that qualified as a trade union within the meaning of this Act. Thirdly, the union organisations were constituted by workers. The term worker was defined as an individual person who works or normally works or seeks to work under a contract of employment or any other contract whereby the worker undertakes to do or perform personally any work or services for another party to the contract who is not a professional client of his/her. Fourthly, the legislation also stated that a trade union was an organised and properly structured body which was of a permanent or temporary nature¹¹². The organisation was required to have a formal structure consisting of casual groupings of individual workers¹¹³. Section (128)(1) of the Labour Relations Consolidation Act of 1992 provided for trade unions to enjoy the status of a *legal persona*, something which trade unions had never enjoyed in the British history of trade unionism¹¹⁴.

The Labour Relations (Consolidation) Act 1992 was repealed and replaced by the Trade Union Act of 2016 which brought about the biggest change to the rules on industrial action in Britain. It

¹¹⁰Labour Relations Consolidation Act, 1992 as amended Section 1 (a) (b) (i)–(ii).

¹¹¹ LRC Section 3.

¹¹²See *Midland Coal Storage Ltd v Turner* [1972] ICR 230 (NIRC).

¹¹³See *Frost v Clarke and Smith Manufacturing Co. Ltd.* [1973] IRLR 216 and the *Midland Cold Storage case*.

¹¹⁴Trade Union and Labour Relations (Consolidation) Act 1992, s10 (1) (a) (b) (c) and (2).

imposed a stringent requirement on public sector strikes, which strikes in terms of the Act would need the support of at least 40% of those eligible to vote for it to proceed¹¹⁵. The new law further forced unions to provide employers with at least 14 days' notice of strike action, and allows employers to utilise agency staff to cover for striking workers¹¹⁶. Essentially these changes made it significantly more difficult for workers to strike in Britain¹¹⁷. The unions in view of this decided to bury their hatchets at workplaces and held hands, working together through formation of amalgamations. Multiple workplace trade unionism was then further strengthened and embraced as a weapon through the establishment of workplace multiple unions¹¹⁸.

3.3.2 Legal status of a trade union as defined by the Trade Union Act of 2016

Despite already having one of the heaviest restrictions on the right to strike, the British government passed the Trade Union Act 2016 into law on 4 May 2016¹¹⁹. This amended the Trade Union and Labour Relations (Consolidation) Act 1992. The Trade Union and Labour Relations (Consolidation) Act 1992 had considered collective industrial action against their employers as the employees' absolute rights¹²⁰.

The Trade Union Act 2016 made significant changes which aimed at making freedom of association and collective action harder. One of the great changes felt was the law on industrial action which has given more powers to public sector employers to manage union facility time and check-off arrangements¹²¹.

¹¹⁵Trade Union Act of 2016 s 6(1)(g).

¹¹⁶Trade Union Act of 2016 s 8(1)(b).

¹¹⁷Simon J 'Once More on Strikes: A Reply to Critics' (2017) *International Socialism* 153 available at <http://www.isj.org.Britain/once-more-on-strikes/> (accessed 29 May 2018).

¹¹⁸Simon J 'Once More on Strikes: A Reply to Critics' (2017) *International Socialism* 153 available at <http://www.isj.org.Britain/once-more-on-strikes/> (accessed 29 May 2018).

¹¹⁹Ackers P 'Rethinking the employment relationship: a neo-pluralist critique of British industrial relations orthodoxy' (2014) 18 *The International Journal of Human Resource Management*, 25 2608-25

¹²⁰Trade Union Act of 2016 s 15.

¹²¹Abbott B, Heery E, Williams S 'Civil society organizations and the exercise of power in the employment relationship' (2011) 34 *Employee Relations* 1, 91-107.

The act has also changed the role and power of the Certification Officer (CO) who has now assumed the powers of a regulator for trade unions¹²². The Act has empowered the Certification Officer to investigate any complaint of rules breached by unions and then fine them for the breaches found without recourse for arbitration. This applies even if the complaint comes from a member of the public with no affiliation to the union or having political or otherwise fabricated reasons to complain about a union. The trade unions are then paying for their own investigation. This has led to people with anti-union beliefs to deliberately suck unions dry of resources through fabricated complaints.

Trade Union Act 2016 has also enforced the rule that compelled unions to have at least half of eligible union members to vote for any industrial action application intention¹²³. Industrial ballots must attract a 50% turnout requirement for their results to be legally valid¹²⁴. All workers whose role concerns the delivery of what the government classifies as important public services have to reach a 40% support threshold among all workers eligible to vote, as well as the 50% turnout threshold for the results to be legally valid. This means that if 100 workers are eligible to vote, at least 50 have to vote, and at least 40 of them have to vote in favour. If 50 voted and 39 voted in support, it would still not be legal to take industrial action even though the vast majority of voters elected for it. The unions continue to feel the negative impact of the Act. Currently, trade unions are restricted to holding postal ballots and are not permitted to ballot their members in the workplace or online. Because it is difficult to gain a high turnout through this particularly cumbersome method of collecting votes, it is now more difficult for unions to take industrial action¹²⁵. The Act has also increased the period of notice to employers of action from 7 days to 14 days¹²⁶. This is now providing additional time for employers to prepare to resist the strike thereby potentially protecting itself against the disruptive nature of the action and reducing the leverage unions have at the negotiating table.

¹²²Trade Union Act 2016 s 16.

¹²³Trade Union Act 2016 s (1,3,8).

¹²⁴Trade Union Act 2016 s 9.

¹²⁵Simon J 'Once More on Strikes: A Reply to Critics' (2017) *International Socialism* 153 available at <http://www.isj.org.Britain/once-more-on-strikes/> (accessed 29 May 2018).

¹²⁶Trade Union Act 2016 s 8(1).

3.4 Multiple trade unionism in Britain

The nature of British unionism has always been viewed as a response to prevailing economic and technological conditions in identified industries in the country¹²⁷. British trade unionism development is modelled along two parallel lines. These are general unionism on the one hand, and craft industrial unionism on the other. General unionism is where a trade union represents workers from all industries and companies, rather than just one organisation or a particular sector¹²⁸. For instance, at the same workplaces where unions were coexisting and working together, employers' associations were compelled to enter into separate agreements with both the general unions and the craft unions but having had negotiated with the two existing unions at the same table. Craft industrial unionism on the other hand refers to a labour union organising process through which all workers in the same industry are organised into the same union regardless of skill or trade, thereby giving workers in a specific industry more leverage in collective bargaining and associated actions¹²⁹.

Multiple-unionism is a distinctive feature of workplace trade unionism in Britain and key debates on multiple-unionism, such as multiple-union effects on bargaining and strike action and business efficiency, remain prevalent¹³⁰. Research has also revealed the historical strengths of the various trade unions across the industries in Britain. In view of workplace multiple trade unions in Britain, it is also important to look at some of the trade unions that have survived in Britain over a period of years which have been existing alongside each other in various workplaces.

¹²⁷ Trade Union Act 2016 s 11(1) -(5).

¹²⁸Dobson J 'The Effects of Multi-unionism: A Survey of Large Manufacturing Establishments' (1997) 4 *British Journal of Industrial Relations* 35 547-66.

¹²⁹Kersley B Alpin C Forth J Bryson A Bewley H Dix G & Oxenbridge S Inside *the Workplace: findings from the 2004* (2010) Workplace Employment Relations Survey,124.

¹³⁰Dobson J 'The Effects of Multi-unionism: A Survey of Large Manufacturing Establishments' (1997) 4 *British Journal of Industrial Relations* 35 547-66.

3.4.1 Transport and General Workers' Union

The Transport and General Workers' Union (TGWU) was the largest labour union in Great Britain throughout much of the 20th century¹³¹. It originated in 1889 with the formation of the Dockers' Union¹³². The TGWU came into existence after the amalgamation of fourteen trade unions who all operated within the transport industry¹³³. Ultimately it expanded its interests from the transport industry to encompass members in almost every industry in Britain. As a general union, the TGWU maintained a policy of enrolling workers who had been excluded by the rigid requirements of the craft unions¹³⁴. As a result, the TGWU underwent remarkable growth, with membership exceeding 2 million in the 1970s. Members came from nearly all of the transportation industries and from automobile, construction, chemical, textile, and other industries either leaving some of the existing unions at their workplaces or joining the union as new workers. By organising both semiskilled and unskilled workers, TGWU represented workers traditionally ignored by the craft unions and industrial unions.

The TGWU was considered as one of internal democracy and stability, and its relationships with the Trade Unions Congress and the Labour Party enabled it to exert considerable influence on general trade union policy in Britain¹³⁵. Towards the end of the 20th century however, TGWU, like so many other British trade unions at the time, experienced significant declines in membership and influence. In 2007 the TGWU merged with Amicus, the large successor of the

¹³¹Kersley B Alpin C Forth J Bryson A Bewley H Dix G & Oxenbridge S *Inside the Workplace: findings from the 2004* (2010) Workplace Employment Relations Survey, 124.

¹³²Dobson J 'The Effects of Multi-unionism: A Survey of Large Manufacturing Establishments' (1997) 4 *British Journal of Industrial Relations* 35 547-566.

¹³³Moher J 'Walter Citrine: A Union Pioneer of Industrial Cooperation' in in P. Ackers, and A. J. Reid eds *Alternatives to State-Socialism in Britain. Other Worlds of Labour in the Twentieth Century* Basingstoke (2016) 179-89.

¹³⁴Morgan K 'Class cohesion and trade-union internationalism: Fred Bramley, the British TUC, and the Anglo-Russian Advisory Council' (2013) 4 *International Review of Social History* 58 429-41.

¹³⁵Owen, N., 'MacDonald's Parties: The Labour Party and the 'Aristocratic Embrace', 1922-31 (2007) 18 *Twentieth Century British History* 1 51-3.

Amalgamated Engineering and Electrical Union (AEEU), to form Unite, which became the largest trade union in Britain during 2002, representing about 1.5 million British and Irish workers¹³⁶.

3.4.2 National Union of General & Municipal Worker

The National Union of General & Municipal Worker (NUGMW) is considered the second largest union in Britain¹³⁷. The union is an amalgamation of the National Union of General Workers (NUGW) and the National Amalgamated Union of Labourers (NAUL)¹³⁸. The model of this type of its multiple unionism is such that the structure of the union provides unitary support structure for different industries¹³⁹.

The organisation of the NUGMW was made up of a three-tier structure operating at branch, districts and national levels¹⁴⁰. These three levels were manned with officers who were specifically dealing with general industrial and workplace matters. The district confined themselves with communicating with branches on all collective bargaining development as well as learning of the various industrial complains of the members of the branches. Branches on the other hand communicated such issues as industrial complaints of the members to the district, corresponding with and interviewing employees and their representatives, conducting cases before conciliation and arbitration and sitting on a number of employer forums¹⁴¹.

The functions of national offices included negotiating wages and working conditions, representing the union on specialised bodies such as in the Industries Committees and the

¹³⁶Dobson J 'The Effects of Multi-unionism: A Survey of Large Manufacturing Establishments' (1997) 4 *British Journal of Industrial Relations* 35 547-66.

¹³⁷Kersley B Alpin C Forth J Bryson A Bewley H Dix G & Oxenbridge S Inside *the Workplace: findings from the 2004* (2010) Workplace Employment Relations Survey, 124.

¹³⁸Stack, D., 'Labour and the Intellectuals' in M. Worley (ed.), *The Foundations of the British Labour Party* (2009) *Identities, Cultures and Perspectives* 113-30.

¹³⁹Dobson J 'The Effects of Multi-unionism: A Survey of Large Manufacturing Establishments' (1997) 4 *British Journal of Industrial Relations* 35 547-66.

¹⁴⁰Kersley B Alpin C Forth J Bryson A Bewley H Dix G & Oxenbridge S Inside *the Workplace: findings from the 2004* (2010) Workplace Employment Relations Survey,142.

¹⁴¹Kersley B Alpin C Forth J Bryson A Bewley H Dix G & Oxenbridge S Inside *the Workplace: findings from the 2004* (2010) Workplace Employment Relations Survey,157.

National Economic Council, keeping in touch with the problems faced by the unions at sectorial levels as well as accounting for the decisions during annual congresses¹⁴². The two unions TGWU and NUGMW co-existed alongside each other and with also smaller unions than themselves in the industries. They worked harmoniously together and cooperated with management in solving industrial problems.

3.4.3 Union of Shop, Distributive and Allied Workers

The Union of Shop, Distributive and Allied Workers (USDAW) is a general union whose members cut across different occupations hence is found in a number of industries in Britain¹⁴³. Among the industries the union also has its membership along the GWU and NUGMW in the drug and chemical industry. The administration structure of the union consists of four reporting levels namely the branch level, the division, the executive council and the Annual delegate meeting. The trade conference decisions are endorsed by the executive council with steps being agreed on how the decisions are implemented. The union also works harmoniously together and cooperates with management in solving industrial problems¹⁴⁴.

3.4.4 The Craft Unions

British trade unionism has been shaped by the craft industry. Craft unions are considered the pioneers of unionism in Britain as far back as the 17th century¹⁴⁵. Craft unions represented the maintenance workers, the Amalgamated Engineering Union (AEU), the Electrical Trade Union (ETU), the national union of sheet metal workers, Coppersmith and Heating and Domestic Engineers and the United Society of Boilers, Shipbuilders and Structural workers¹⁴⁶. All the unions

¹⁴²Price R 'No safe or reliable substitute': the hostility of British unions to state regulation of wages, 1920-1935' (2008) 2 *Labour History Review* 73 208-27.

¹⁴³Price R 'No safe or reliable substitute': the hostility of British unions to state regulation of wages, 1920-1935' (2008) 2 *Labour History Review* 73 218-27.

¹⁴⁴Kersley B Alpin C Forth J Bryson A Bewley H Dix G & Oxenbridge S Inside *the Workplace: findings from the 2004* (2010) Workplace Employment Relations Survey,112.

¹⁴⁵Kersley B Alpin C Forth J Bryson A Bewley H Dix G & Oxenbridge S Inside *the Workplace: findings from the 2004* (2010) Workplace Employment Relations Survey,144.

¹⁴⁶Price R 'No safe or reliable substitute': the hostility of British unions to state regulation of wages, 1920-1935' (2008) 2 *Labour History Review* 73 226-27.

were the signatory-unions to the crafts men's agreement even though the two major unions were the AEU and the ETU. There were also many building workers who were affiliated to the National Federation of Trades Operatives and these were part of the Craft unions¹⁴⁷. The federation embraced a number of affiliated unions such as the Amalgamated Union of building workers. However, the general unions such as the TGWU and NUGMW which had the largest membership across the industries play a leading role by influencing approaches and attitudes to those workplaces with minority or smaller membership alongside the crafts unions as well¹⁴⁸.

It is also important to highlight that one of the common characteristics of existence of multiple unions in British workplaces was that unions had common interests as reflected in their policies¹⁴⁹. This made the unions work for the common good of the workers thereby co-habiting in harmony at workplaces. The reason behind this workplace multiple unions tranquillity was also attributed to common circumstances that unions experience across the industries.

Trade unions had specialist officers who were dealing expertly with issues in their respective fields¹⁵⁰. The unions were therefore able to tap this expertise from each other during the time of defending the rights of their members. These similarities among unions themselves contributed significantly to their understanding of each other hence their synergistic workmanship. All the unions seemed to have had some common problems bedevilling their industries and their members which also strengthened their workplace unions bond.

¹⁴⁷Gall G *Glocalisation in an Era of Globalisation: Labor Relations in Local Newspaper Production in Britain*. In: McKercher, C./Mosco, V. (eds.): *Knowledge Workers in the Information Society* (2007) Lexington Books: New York: 101-16.

¹⁴⁸Price R 'No safe or reliable substitute': the hostility of British unions to state regulation of wages, 1920-1935' (2008) 2 *Labour History Review* 73 226-27.

¹⁴⁹Metcalfe D 'Trade unions: resurgence or perdition? An economic analysis' In S. Fernie and D. Metcalfe (eds.) *Trade Unions: Resurgence or Demise* (2005), 183-98.

¹⁵⁰Gall G *Glocalisation in an Era of Globalisation: Labor Relations in Local Newspaper Production in Britain*. In: McKercher, C./Mosco, V. (eds.): *Knowledge Workers in the Information Society* (2007), 116

3.4.5 Minority Unions and multiple unionism in Britain

British industries are also known for its minority or smaller unions. There are minority unions in Britain which are very effective in representing their members across the industries¹⁵¹. The three minority unions which are still very visible are Chemical Workers' union, the Union of Salt and Industrial General Workers as well as the Midcheshire Salt and Chemical Industries Allied Workers Union¹⁵². These unions operate in smaller employers' workplaces and enjoy common local negotiating rights hence they contented themselves with playing the minority role¹⁵³. This means that these unions do not enjoy national negotiating rights as is the case with majority unions. These unions, however, have interests in proving to the workers that they can achieve much more at workplace level than even the majority unions¹⁵⁴. This showed that multiple trade unionism was growing from strength to strength in Britain and was therefore there to stay despite both the government and employers frustrating their existence through repressive laws¹⁵⁵.

3.5 Conclusion

The focus of this chapter was to explore the history of multiple trade unionism in British industries and workplaces. The chapter started by analysing the history of trade unionism in Britain. Thereafter it considered the evolution and existence of multiple trade unions at the workplaces of British industries. The traditional and dominant hallmarks of labour unionism in Britain has been that of different groups of workers defined by their specific skills, jobs, occupations or professions coming together to establish distinctive forms of collective workplace

¹⁵¹Metcalf D 'Trade unions: resurgence or perdition? An economic analysis'' In S. Fernie and D. Metcalf (eds.) Trade Unions: Resurgence or Demise (2005), 185-88.

¹⁵²Gall G Glocalisation in an Era of Globalisation: Labor Relations in Local Newspaper Production in Britain. In: McKercher, C./Mosco, V. (eds.): Knowledge Workers in the Information Society (2007), 101-16.

¹⁵³Metcalf D 'Trade unions: resurgence or perdition? An economic analysis'' In S. Fernie and D. Metcalf (eds.) Trade Unions: Resurgence or Demise (2005), 193-99.

¹⁵⁴Metcalf D 'Trade unions: resurgence or perdition? An economic analysis'' In S. Fernie and D. Metcalf (eds.) Trade Unions: Resurgence or Demise (2005), 223-28.

¹⁵⁵Gall G Glocalisation in an Era of Globalisation: Labor Relations in Local Newspaper Production in Britain. In: McKercher, C./Mosco, V. (eds.): Knowledge Workers in the Information Society (2007) 132-36.

unions¹⁵⁶. These unions were later aggregated into separate and distinctive national labour unions cutting across specialised fields within the British industries. The chapter also enunciated the difficulties that unions and their members have been encountering and still encounter through the British governments' labour repressive laws. However, through working together at workplaces various unions have survived through these turbulences.

Chapter 4 hereafter will look at the analysis of data collected through the literature review, information from the College records, and research undertaken on multiple trade unionism at the college. Conclusions will be drawn from these research findings in line with the research questions, research statement and the research hypothesis.



¹⁵⁶Metcalf D 'Trade unions: resurgence or perdition? An economic analysis' In S. Fernie and D. Metcalf (eds.) Trade Unions: Resurgence or Demise (2005), 272-78.

CHAPTER 4: MULTIPLE TRADE UNIONISM: FINDINGS FROM THE RESEARCH

4.1 Introduction

This chapter serves to analyse the information obtained from Ekurhuleni East TVET College records on unions activities, supplemented by further documentary sources.¹⁵⁷ Conclusions are drawn from the research findings in line with the research questions, research statement and the research hypothesis. The chapter closes by outlining the most pertinent factors that affect multiple trade unionism in the identified education and training institution.

4.2 Discussion of the results obtained from the research information

As indicated in chapter one, the aim of this research was to investigate the effects that multiple trade unions have in the College. The research also aimed at establishing if affiliation to a union had any influence on the performance of employees. Soylu and Singh state that employer attitude and behaviour significantly influenced workers' choice to become and remain union members¹⁵⁸. It might be deduced from the preceding statement that the greater the extent to which an employer is prepared to recognise a union, the more likely it might be that employees are ready to be unionised.

Table 4.2.1: Union Subscription by Staff members

Number of Unions Membership affiliated to	1 Union	2 Unions	3 Unions	More than 3 Unions
Number of Staff members	110	70	12	8

¹⁵⁷Rajesh S & Manoj P K 'Politicization of trade unions and challenges to industrial Relations in India: a study with a focus on northern Kerala' (2014) 1 *International Journal of Business and Administration Research Review* 2 145-54.

¹⁵⁸Soylu A & Singh P 'Union Effects in Employee Performance and HRM Policies' (2017) 1 *Ergonomics International Journal* 1 1-16.

College records indicated that there were a good number of staff members who were affiliated to more than one union. Table 4.2.1 above shows that a total of 90 staff members were affiliated to more than one union while 110 were affiliated to only one union. Some of the reasons for such a distribution were attributed to the South African legislation regarding freedom of affiliation to unions,¹⁵⁹ while other reasons apparent from the research literature were security, better wages, better working conditions, legal protection, need to be represented during negotiations, sense of power and sense of belonging to a societal group existing in the College¹⁶⁰.

The results from College records also showed that majority of staff agreed that Multiple Trade Unions provided job security to their members. One of the main economic objective for an employee in joining a union is to secure better working conditions than would be offered by the employer without union support. Union Members at the College seem to share the view that Unions are correctly so acting as sword of justice, ensuring that all employees are treated fairly, equitably and with dignity.

The argument put forward by the research is also that if there was productivity in the College in the presence of multiple trade unions, there was likely to be collegiality relationship between employees, unions and College management. This could also mean that union membership had little, impact on the performance of their members that would impede or cause retrogression and create tensional relations between unions and College management.

Staff members joined multiple trade unions because of a number of reasons, such as the influence of other members who had earlier joined those trade unions, expectations of better terms and conditions of employment and quality of information they received, particularly regarding staffing issues and employee grievances¹⁶¹.

¹⁵⁹Constitution of the Republic of South Africa, 1996 s 23 (2) (a).

¹⁶⁰ Soylu A & Singh P 'Union Effects in Employee Performance and HRM Policies' (2017) 1 *Ergonomics International Journal* 1 1-16.

¹⁶¹Posthuma RA 'National culture and union membership: A cultural-cognitive perspective' (2009) 64 *Relations Industrielles-Industrial Relations* 3 3507-29.

4.2.1 Key factors affecting staff decisions to join unions at the College

In describing the union-management relationship, a good relationship is regarded as one which is well established and considered to be ongoing. Unions-College relationship is being affected by both internal and external factors such as government legislation, management attitude towards unions and rivalry within the unions. Some unions feel that since they are the majority, they should be treated differently from other minority unions¹⁶². However, the internal factors of trust, communication, employee voice, respecting rules and professional credibility are typically the result of what is often a long term working relationship between a union and College management¹⁶³. A thorough review of the literature provided the researcher with an understanding of the complexities in these relationships¹⁶⁴.

4.2.1.1 The trust factor

The first relevant internal factor consistently referred to in good union-management relationships is trust¹⁶⁵. Management and a union's ability to trust each other is dependent on the view that College management will only continue to be respected as long as the College is also respecting the employees' wages and working conditions.

Another consistent theme around the notion of trust is associated with a willingness by both parties to share information and having conflict resolving approaches that reduced anxiety and

¹⁶²*Association of Mine employees and Construction Union and Others v Chamber of Mines of South Africa and Others* [2017] ZACC 3 para 15-17.

¹⁶³*Association of Mine employees and Construction Union and Others v Chamber of Mines of South Africa and Others* [2017] ZACC 3 para 34.

¹⁶⁴Buttigieg DM Deery SJ & Iverson RD 'Union mobilization: A consideration of the factors affecting the willingness of union members to take industrial action' (2008) *British Journal of Industrial Relations* 46(2) 248-67.

¹⁶⁵Blanchflower M & David G 'International Patterns of Union Membership' (2007) *British Journal of Industrial Relations* 45(1) 1-22.

created openness¹⁶⁶. Honesty, keeping confidence and following through on promises are some of the actions expected between the parties.

4.2.1.2 The communication factor

The second internal factor affecting good relationships drawn from the literature is the quality of communication occurring at all levels of engagement between unions, union members and management. College records on communication show that there is considerable effort by both parties to facilitate communication that assist parties in achieving their goals, although there is still a feeling that the two majority unions at the College want to push their interests at the expense of minority unions. The various modes of communication by the parties, whether formal or informal, are also seen as a necessary factor that contribute to the quality of relationships between unions, union members and management.

Promotion of extensive communication systems and structures that involve employees as established by unions and management, appear to contribute to transparent communication mechanisms which would not have been possible to emulate in non-unionised organisations. These crossbreed communication mechanisms that emerge at the College were facilitated by regular consultative meetings and training line managers in employee relations issues and effective dispute resolution methods such as strong mediation culture existing at the college. It is evident that unions were attending consultative meetings, training of delegates and regularly visited college campuses to discuss issues. All this happens with the support of the College management. Employees seem to be aware of Union activities in the College, which is indicative of an extensive communication network in place.

¹⁶⁶Barry T & David A. 'Union Membership, Coverage, Density, and Employment Among All Wage and Salary Employees, 1973-2016' (2017) Database from the Current Population Survey, available at <http://www.unionstats.com> (accessed 29 May 2019).

4.2.1.3 The employee voice factor

The research results also deduced another important internal factor present in the College which was genuine employee voice. The relevance of employee voice stems from the recognition that the unions provided harmonious and effective representation of employees within the College¹⁶⁷. Continuing recognition of the multiple trade unions at the College was as a result of extensive communication networks established at the workplace, resulting in realistic consensus of employee views being considered by the College management when making College decisions. The existence of genuine employee voice is difficult to measure and even harder to assess gains in competitive advantage or increased productivity for organisations. However, the research results seem to indicate that the unions at the College had contributed highly to success and achievement of the grand strategic objectives of the college.

The various consultative meetings and forums the unions are invited to attend by college management indicate that employees are being consulted by their unions before they could sit and share their ideas with the College management. This contributes to employees investing their confidence and trust in their representatives whom they are confident that they are conveying their messages to College management. This factor has contributed positively to the co-existence of these many unions in the College bringing protection to the members of the minority unions¹⁶⁸.

4.2.1.4 Respect for rules of the relationship factor

Ekurhuleni East TVET College is a public institution under the ministry of Higher Education and Training and as such has certified agreements already negotiated through the relevant bargaining councils in which most of the unions at the College are represented¹⁶⁹. As such, the terms and

¹⁶⁷ Buttigieg DM Deery SJ & Iverson RD 'Union mobilization: A consideration of the factors affecting the willingness of union members to take industrial action' (2008) 46 *British Journal of Industrial Relations* 2 248-67.

¹⁶⁸ Beng CS Union density of a hotel union in Singapore (2009) *Indian Journal of Industrial Relations* 24 213-21.

¹⁶⁹ Mackenzie R 'Why do contingent employees join a trade union? Evidence from the Irish telecommunication sector' (2010) 16 *European Journal of Industrial Relations* 2 153-68.

conditions contained in these agreements are deemed to provide the foundation of the relationship between unions, union members and organisation management. The study established that all unions were however involved in the development of internal statutes like the College Statute which stated how the College was going to be governed and managed. The results of the study show that both management and the unions were satisfied with the collective arrangements and indicated preference for continuing good relationships into the future.

It appears to be common cause that Unions had played a vital role in building such a solid relationship between unions among themselves and between College management and unions when the unions resolved that they were committed to move away from adversarial to communicative and conflict resolving approaches¹⁷⁰. There appears to be an increased willingness to resolve issues at the workplace level which is seen to benefit members and employees thereby escalating to the next level of management in exceptional circumstances. Therefore, the use of formal tribunals is limited and often expressed as a last resort' or a failure by unions representatives to fulfil their mandate.

4.2.1.5 The role of college management factor

In analysing the reasons why, the union-management relationship was considered good between parties at the College, there were indications that the quality of the relationship depended significantly on the actions of management at all levels. Varying degrees of interaction and the quality of management-unions relationships became distinguishable between the management levels ranging from line managers or middle managers to senior management and finally the head of the college. The College senior management was observed to be very transparent and non-partisan to those considered as dominating or majority unions¹⁷¹. Instead the management treated all the unions with the degree of respect they deserved.

¹⁷⁰ Cronje M 'The failure to manage multi-unionism properly contributed to the Marikana tragedy' *The Mail & Guardian* available at <https://www.mg.co.za/article/2013-04-05-00-how-to-manage-interunion-rivalry> (Accessed 9 June 2018).

¹⁷¹ *Association of Mine employees and Construction Union and Others v Chamber of Mines of South Africa and Others* [2017] ZACC 3 para 57-8.

The college management saw it prudent that all parties play a major role in crafting the architecture of their recognition regime in a way that nullified the kind of conflict that would have been generated by those unions that considered themselves bigger than others. The College management could have learnt lessons from Marikana that exclusion of unions at workplace in decision making does not reduce inter-union rivalry, but rather aggravates it¹⁷². The College management did the best in opening up the workplace to sound and regulated industrial democracy thereby promoting co-existence among unions¹⁷³.

The College management further promotes industrial democracy, which continue to promote and benefit stability, unity among employees, justice and the constitutional right to freedom of association. Trade unions should therefore take note of the inclusivity of political democracy from the College management, which, ironically came about by the efforts of the employees. The norm should be that a union having a recognised interest at the College must also enjoy recognition. Should there be a minority trade union with a very low representation yet still representing a significant interest, then limited rights may be allotted as what is the case in the parliament of the Republic of South Africa¹⁷⁴.

4.3 Conclusion

The research analysis produced very important results, whose findings form a strong basis for answering the research questions. Research results show that there is a close relationship between multiple trade union membership and their performance at work. Multiple trade unionism has significant and positive effects in an organisation. There are a number of unions that are more influential than others across the college. Members of various trade unions trust their representatives in uplifting their working conditions. The union members at the College

¹⁷²van Zyl G 'Winner-takes-all: Rivalry among trade unions is undemocratic' available at <https://www.biznews.com/thought-leaders/rivalry-trade-unions-undemocratic/> (accessed 9 June 2018).

¹⁷³Mackenzie R 'Why do contingent employees join a trade union? Evidence from the Irish telecommunication sector' (2010) *European Journal of Industrial Relations* 16(2) 153-68.

¹⁷⁴van Zyl G 'Winner-takes-all: Rivalry among trade unions is undemocratic' available at <https://www.biznews.com/thought-leaders/rivalry-trade-unions-undemocratic/> (accessed 9 June 2018).

have strong feeling that by joining unions their interests would be effectively promoted. The results also depict that members of the unions expect legal protection as the reason for joining the unions while others expected unions to protect them from unnecessary dismissal from work. This implies safeguarding employees' interests against dismissal. Staff members also expect Unions to bargain for better wages. They consider unions to stand firm in support of better wages which would improve their lives and well-being. These results will then form a good foundation for chapter 5 of this research.

Chapter 5 will provide conclusions to the research. The research findings will assist to provide conclusive statements that should answer the research questions, the problem statement of the research and the research hypothesis as well as providing recommendations to be considered by other researchers and policy makers.



CHAPTER 5: CONCLUSION AND RECOMMENDATIONS

5.1 Introduction

Chapter four of the research provided very informative insights. These insights must, however, be considered in light of the limitations to this study which were identified in chapter one. It is a fact that the results cannot be generalised and considered to be applicable to all public institutions in South Africa.

This chapter sets out to provide recommendations and conclusions to the research. Specifically, the chapter will provide some recommendations on how multiple trade unions can perhaps be more effective in workplaces in South African public institutions in light of the experience of the results from the College studied.

5.2 Summary of Findings

The research was aimed towards understanding the effects of multiple trade unions on workers in public institutions workplaces. This was done by specifically considering multiple trade unions in Ekurhuleni East public TVET College.

One of the most notable findings of the study is that the presence of multiple trade unions at the College does not seem to reduce productivity and the achievement of the strategic goals of the College. The research established that multiple trade unionism has a significant impact on job security of workers and trade unions are regarded by many workers as being positively influential at the College. Members of trade unions at the College trust their representatives for uplifting their working conditions thereby promoting their interests effectively. Members of various unions at the College expect mainly two things from their unions, that is, first, protecting their legal rights, such as unfair dismissals and, secondly, bargaining for increased conditions of employment. The research results further showed that multiple trade unions in the College have strong relationship with the workers, hence they are powerful in influencing the College management which have ultimately resulted in benefits for the workers and stability at the workplace.

The results obtained from College records have shown that it is very important to examine the relationship between the major factors that affect trade unions in the College. In fact, job security of employees seems to be a requisite component of the functions of these unions and their determinant for membership sustenance and attraction¹⁷⁵. However, this does not refer to the intra unions security which the results have shown that other employees had to resort to the Costume theory by joining some unions at the college for the sake of fear of alienation and for wanting to be accommodated by the College community.

The second research question was to establish the impact that multiple trade unionism has on managerial practices at the College. Literature has shown that labour unions have played an integral role as a voice for social transformation in South Africa and at the College in particular¹⁷⁶. Their formal and informal influence has grown with the reduction in deregulation of black trade unions and continue to influence the direction of the economy of the country through their participation in the organs of governance of the country. In addition, this study also found support for the theoretical argument regarding the factors that influence the strength of workplace labour unions, as proposed by several scholars mentioned above¹⁷⁷.

The third research question was to determine the ways in which multiple trade unions at the College had affected productivity and the achievement of strategic goals by the College. Based on the research results, employees who believe that they have been treated badly by their employers are expected to claim their rights and protect their interests through their labour unions representatives. Unfair labour practices are less likely to occur in such situations, and good labour-management relations will be the ultimate outcome if both parties respected each other.

¹⁷⁵See part 2.4 of this study.

¹⁷⁶Von Fintel S 'How unions have boosted pay, job security in democratic South Africa' April 30, 2016 10.22am SAST <https://theconversation.com/how-unions-have-boosted-pay-job-security-in-democratic-south-africa-58096> (Accessed 28 June 2018).

¹⁷⁷See part 2.4.2 of this study, where a discussion of the framework of study is undertaken.

One of the research objectives was to determine if legislation governing labour relations in South Africa is sufficient enough to protect minority trade unions as organisations in the workplaces. The research has found that the *Labour Relations Act* 66 of 1995 largely promotes the policy choice of majoritarianism, in furtherance of orderly collective bargaining and the democratisation of the workplace¹⁷⁸. However, section 18(1) of the *Labour Relations Act* has enabled majority unions to enter into collective agreements setting thresholds of representivity for the granting of access, stop-order and trade-union leave rights to minority unions¹⁷⁹. Strike violence, loss of confidence in existing bargaining structures, and the alienation of vulnerable employees from majority unions has resulted in minority unions taking up the truncheons of frustrated and disempowered employees, as witnessed in the Marikana experience¹⁸⁰. The labour unrest and strike violence that has plagued the South African labour market in recent times can be attributed, in part, to inter-union rivalry¹⁸¹.

The study also determined the extent to which globalisation has affected multiple trade unions in South Africa, making particular reference to the British trade unionism landscape. The choice of Britain was the easiest one given the close connection between this country and South Africa which used to be a British colony. The British trade unionism literature has indicated that multiple trade unionism is still a threatening tendency in the labour market. However, this threat is being minimised through the establishment of relationships between trade unions, the government and the institutions. On the international level, freedom of association at the workplace is taken very seriously. The promotion of this freedom is one of the main objectives of the International Labour Organisation (ILO).

The analysis conducted in chapter 4 further showed that unions which the strong relationship with the employees are more powerful in influencing the management thereby resulting in

¹⁷⁸ Section 23(1)(d) LRA.

¹⁷⁹ Section 18(1) LRA.

¹⁸⁰ Montsho M 'Former AMCU members in court for platinum belt killings' *The Star* Available at <https://www.news24.com> (accessed 12 February 2019).

¹⁸¹ Montsho M 'Former AMCU members in court for platinum belt killings' *The Star* Available at <https://www.news24.com> (accessed 12 February 2019).

membership loyalty and other employees migrating to these attractive unions. The results show also that members of trade unions are generally satisfied with the work conducted by their unions in the College. The study provided very interesting results regarding Metcalf, Wadsworth and Ingram who observed that workplaces with multi-unionism experience more strike actions by employees¹⁸². The research findings showed that multiple unionism at the College did not have any effect in promoting strikes or instability in the College. The results interestingly pointed out that the ability by management to involve all unions as stakeholders of the college played a greater role in integrating them into a harmonious family.

5.3 Recommendations

The concept of multiple trade unionism is born out of the need to ensure good working conditions and protection of the overall interests of both employees and employers. In light of the aforesaid, the following recommendations are made:

- a) Trade unions should avoid apathy of confrontation but continue dialogue through the collective bargaining process and demands should be realistic in nature with what is obtainable in the related industry. Compared to one labour union at a workplace, working relations and atmosphere under the system of a workplace multi-unionism creates more complicated and multi-layered relationships among the unions or between employees and management.
- b) Various tactics and strategies should be practiced based on the interest of each party. Cognisant of the main purposes of multi-unionism, which are efficiency, equity and balance of submission of voice, it should be carefully observed that if the relationship between the unions is not complementary or is confrontational, it may result in retrogression which contributes to unstable or damaged relations. This may bring about no peace and result in unproductive co-existence among trade unions at the workplace. Treating each other as fellow unions at the workplace will create a spirit of collegiality and

¹⁸² See part 1.4 of this study, where a discussion of the research problem statement of study is undertaken.

prevent hostility. The absence of such relationship among workplace unions may degenerate the workplace into a battle field where people may end up losing lives¹⁸³.

- c) Multiple unions and management should promote two-way communication to try and ensure that the correct message is properly understood and promptly conveyed to all parties in an accurate and efficient way¹⁸⁴. Management is advised to refrain from being selective as to which union should be favoured over another and treat both minority and majority unions with dignity and on an equal footing. This will assist in maintaining a long term cordial relationship between the parties, thereby enhancing productivity and stability at the workplace, hence preventing fighting among unions to attract or wrestle members from those unions that are perceived to be weaker or vulnerable¹⁸⁵.
- d) Unions can be associated with improving voice in the non-union sector as well. Over the years, non-unionised workplaces have increasingly adopted joint committees, grievance procedures, focus groups, employee surveys and other forms of employee voice that promotes unionism. The adoption of voice systems could be driven by factors such as the threat of organisation or the diffusion of best practice. In such cases, the credit can be given largely to unions. Of course, there are other factors such as the rising cost of litigation that could have influenced the college as an employer to adopt voice systems such as grievance procedures. In that case, the credit for the diffusion of voice systems were not given to unions alone as high litigation costs were seen as a bigger factor even

¹⁸³Salaie F 'Amcu claims victory over NUM with Sibanye wage offer'(Apr 10 2016) available at <https://www.fin24.com/Companies/Mining/amcu-claims-victory-over-num-with-sibanye-wage-offer-20160410> (Accessed 12 June 2018).

¹⁸⁴Salaie F 'Amcu claims victory over NUM with Sibanye wage offer'(Apr 10 2016 21:49 available at <https://www.fin24.com/Companies/Mining/amcu-claims-victory-over-num-with-sibanye-wage-offer-20160410> (Accessed 12 June 2018).

¹⁸⁵van Zyl G 'Winner-takes-all: Rivalry among trade unions is undemocratic' available at <https://www.biznews.com/thought-leaders/2017/10/05/rivalry-trade-unions-undemocratic/> (accessed 9 June 2018).

in Britain and other parts of the world¹⁸⁶. Moreover, grievance procedures constitute only a small fraction of voice systems, a large share of the credit for diffusion of voice systems in the College was given both directly and indirectly to the unions through a number of various communication systems.

- e) The research also indicated that when disputes arose at the College there were often more than one Union representing employees. Circumstances arose where several unions were vying for control over the other thereby acting as hindrance to conclusion of disputes. In the event that the dispute was concluded, the majority Union was seen to be dominant into the agreement with the employer and as such an agreement would be binding on all members involved in the dispute. This model was derived from the majoritarian framework where if a trade Union can prove that they are the majority Union in the workplace they will be entitled to the organisational rights¹⁸⁷.

Section 23(1)(d) of the LRA governs situations where multiple unions have a presence in the workplace, providing that a collective agreement is binding on employees who are not members of a registered trade union if:

- the employees are identified in the agreement;
- the agreement expressly binds the employees; and
- that trade union or those trade unions have as their members the majority of employees in the workplace¹⁸⁸.

In the case of *POPCRU v Ledwaba NO and Others (JR 636/2012) [2013] ZALCJHB 224* the court found that a majority union and employers are able to curtail and regulate the rights of minority unions to be granted organisational rights within the workplace¹⁸⁹.

¹⁸⁶Toubol J & Jensen 'Why do people join trade unions? The impact of workplace union density on union recruitment' (2017) 2 *Political Research Quarterly* 65 1119–1122.

¹⁸⁷ LRA S 18(1) -(2).

¹⁸⁸LRA S 23(1)(d).

¹⁸⁹(*JR 636/2012) [2013] ZALCJHB 224*.

The above case found that the structure of the LRA indicate that preference is given to majority unions and where a majority union entered into a collective agreement with some employers that regulates organisational rights and prescribes minimum thresholds for organisational rights that are binding on non-parties, then the minority union will be precluded from entering into a collective agreement with the employer. The minority union in these circumstances will be required to comply with the provisions of the majority trade union's collective agreement. In the event that there are two conflicting agreements in place, the majority Union's collective agreement will take preference. The LRA permits such a majority union and an employer to agree to raise the threshold of representativeness and, thereby, make it extremely difficult for other trade unions to acquire basic organisational rights. The National Union of Mineworkers (NUM) and employers on the platinum mines used this provision to exclude competing unions such as the Association of Mineworkers and Construction Union (AMCU) from those mines¹⁹⁰.

- f) In the recent case of *Association of Mineworkers and Construction Union and Others v Chamber of Mines Of South Africa obo Harmony Gold Mining Company Ltd and Others (J99/14) [2014] ZALCJHB 223*, the Chamber of Mines entered into a collective agreement with the National Union of Mineworkers (NUM) which had been rejected by the Association of Mineworkers and Construction Union (AMCU)¹⁹¹.

In negotiating labour disputes where more than one Union is present in the workplace, the starting point for employer should be to determine which Union has majority representation within the organisation, by determining the number of employees and what proportion of those employees are active members affiliated to the respective Unions. Once it has been established who the majority Union is, negotiations should be

¹⁹⁰Cronje M 'The failure to manage multi-unionism properly contributed to the Marikana tragedy' *The Mail & Guardian* available at <https://www.mg.co.za/article/2013-04-05-00-how-to-manage-interunion-rivalry> (Accessed 9 June 2018).

¹⁹¹ *(J99/14) [2014] ZALCJHB 223*.

initiated, however, with all the representatives of the Unions to reduce friction and employee exodus. It was found that in terms of s 23(1)(d) a majority trade union can enter into a collective agreement the terms of which will then be binding on any minority union in the workplace, so long as their members are the majority of the employees in the workplace of the particular employer¹⁹².

The Marikana incident is one in which it can be argued that the mine management abdicated their role in bringing direction and common understanding to the multiple unions at the mine. The Marikana tragedy was an unfortunate manifestation of much of what is defective in South African industrial relations. One particular feature was the apparent failure to manage multiple unionism and inter-union rivalry properly by the mine management as well¹⁹³. It seems that a major underlying cause of this failure was the way in which employers on the platinum mines had granted organisational and collective bargaining rights to trade unions¹⁹⁴. This became a substantial source of conflict and resulted in much of the violence that preceded and culminated in the killings of mineworkers.

- g) It is also common cause that work efficiency can only be achieved in a peaceful workplace atmosphere. All unions should ensure that their goals are suitable and appropriate with the achievement of the overall organisational objectives. This is achieved through effective communication, transparency and constant consultation. On the other hand, management should always provide path for dialogue as both parties are needed for better employee efficiency.
- h) The research results also pointed out the fact that if trade unions are free from political control, then many of the issues as dealt already in this study could be drastically arrested,

¹⁹² LRA S 23(1)(d).

¹⁹³ Cronje M 'The failure to manage multi-unionism properly contributed to the Marikana tragedy' *The Mail & Guardian* available at <https://www.mg.co.za/article/2013-04-05-00-how-to-manage-interunion-rivalry> (Accessed 9 June 2018).

¹⁹⁴ Cronje M 'The failure to manage multi-unionism properly contributed to the Marikana tragedy' *The Mail & Guardian* available at <https://www.mg.co.za/article/2013-04-05-00-how-to-manage-interunion-rivalry> (Accessed 9 June 2018).

except for compliance with legal provisions, politics and trade union activities which should be treated separately and should not be mixed up as political objectives are found to be different from the organisational ones¹⁹⁵. Consensus among trade unions and management should be formed and management should take initiative to formulate strategy to ensure common objectives to safeguard employees as well as employers' interests.

Further recommendations listed below are all focused on action steps trade unions can take to ensure their future as organisations:

- Trade unions should rethink their approach. They should not only focus on their traditional collective approach but also focus on individual member support.
- Trade unions should assist in the training and development of employees. By establishing training facilities, they will be directly involved with the empowerment of their members.
- Trade union federations are important role players in labour dispensation of South Africa and as such trade unions can ensure their role in labour market by affiliation to such trade federations and
- Trade unions should give attention to recruiting groups beyond the traditional member base, for example young employees and women.

The concept of trade unionism is born out of the need to ensure good working conditions and protection of the overall interest of employees. It is also a fact that without a responsible and result oriented workforce, work efficiency will decline. So, in order to improve the effect of trade unionism on workers, the following recommendations can be made:

First, trade unions should avoid the path of confrontation but continue dialogue through the collective bargaining process and also demands should be realistic in nature with what is obtainable in the related industry.

¹⁹⁵ See part 2.4.1 and 2.4.2 of this study.

Secondly, existence of a formal two-way communication between management and trade unions is encouraged to ensure that right message is properly understood and given to both employees and employers on time too. This will help in maintaining a long term cordial relationship between the parties by minimising misconceptions.

5.4 Conclusion

From the research findings and the results to the research questions, some conclusions can be drawn. The general objective of the study was to determine the factors that influence the performance of multiple trade unions at workplaces in the public sector. The research used Ekurhuleni East public TVET College as case study. The research results indicated that multiple trade unions at the College had not affected in any way the efficiencies of employees at the College. It is hoped that the outcome of the study will guide policy makers especially in the public sector to be better informed when dealing with multiple trade unions at workplace in these institutions. It is hoped also that this would increase the effectiveness of trade unions and meet the institutional expectations based on the findings of this study.

The power and influence of unions in South Africa is often associated with creating maximum beneficiation for their members. This is based on their ability to mobilise industrial action and negotiate in favour of their members during times of wage negotiations. There is extensive literature on the bargaining council negotiations in South Africa, but slightly fewer studies on the effects of multiple trade unions at workplaces of public institutions. A more comprehensive study therefore need to be conducted to understand the wider roles and newer effects that may be expected from multiple trade unions in the public sector in South Africa. This research project can serve as the foundation for future studies. The themes identified in this research could be used to formulate hypotheses for research regarding multiple trade unions at workplace in the public institutions.

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