

UNIVERSITY OF KWAZULU-NATAL

COLLEGE OF LAW AND MANAGEMENT STUDIES

**Wage Negotiation Processes and Strike Action in the Hospitality Industry in
KwaZulu-Natal, South Africa.**

By

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**A dissertation submitted in fulfilment of the requirements for the degree of Master of
Commerce**

School of Management, IT and Governance

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DECLARATION

I Mthokozisi Samuel Khomo declare as follows:

- (i) This dissertation/ thesis, is my original research and any sources used are indicated through proper referencing.
- (ii) This study has not been produced for any degree at any other educational institution.
- (iii) This research study does not have other person's material which has not been specifically indicated and acknowledged as work of such person.
- (iv) This dissertation does not contain any unacknowledged written work of other persons, unless specifically indicated and referenced accordingly.
- (v) Where I am an author or co-authored any publication, I have shown the parts, which I have written by myself alone and referenced it accordingly.

Signed



Mthokozisi Samuel Khomo

Date

19 July 2019

DEDICATION

I dedicate this dissertation to my wife, Feziwe Lindiwe Yvonne Khomo for her unconditional support and motivation provided when I conducted and worked on this dissertation.

ACKNOWLEDGEMENT

My heart is filled with thankfulness and appreciation to the King of Kings, my God almighty, for affording me this opportunity and for blessing my efforts.

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Table of Contents

DECLARATION	i
DEDICATION	ii
ACKNOWLEDGEMENT	iii
LIST OF APPENDICES	vii
LIST OF FIGURES	viii
LIST OF ABBREVIATIONS	ix
ABSTRACT	1
CHAPTER ONE	2
An introduction and background of the study	2
1.1 Introduction	2
1.2 Background to the study	3
1.3 Research problem statement	5
1.4 Research objective and questions	5
1.5 Significance of the research	6
1.6 Motivation for the study	7
1.7 Structure of the dissertation	7
1.8 Conclusion	9
CHAPTER TWO	10
Literature review	10
2.1 Introduction	10
2.2 Definition of key concepts	10
2.3 Origin and history of International Labour Organization (ILO)	13
2.4 Wage negotiation process in different countries	15
2.5 The international hospitality industry	20
2.6 Brief history of trade unions in South Africa from 1917 to 1991	21
2.7 Labour legislation in South Africa	23
2.8 Dispute resolution institutions in South Africa	35
2.9 Categories of disputes	43
2.10 Hospitality Industry in South Africa	46
2.11 Overview of the organization	49
2.12 The wage negotiation process	51
2.13 Factors contributing to successful wage negotiations	55

2.14	Strikes and lockouts	56
2.15	Strikes incidents in South Africa.....	57
2.16	Conclusion.....	58
CHAPTER THREE.....		59
Research Methodology		59
3.1	Introduction	59
3.2	Research design	59
3.3	Research approaches.....	59
3.4	Study site	61
3.5	Target population	61
3.6	Sample	62
3.7	Sampling method.....	62
3.8	Sample size	63
3.9	Data collection.....	64
3.10	Data quality.....	65
3.11	Data analysis	65
3.12	Ethical consideration.....	66
3.13	Limitations	66
3.14	Conclusion.....	66
CHAPTER FOUR.....		67
Data analysis and interpretation of findings		67
4.1	Introduction	67
4.2	Demographical analysis	69
4.3	The existence of any collective agreements on wage negotiation processes in the hospitality industry in KwaZulu-Natal, South Africa	72
4.4	Strategies used by negotiating parties during wage negotiation processes in the hospitality industry of KwaZulu-Natal, South Africa	83
4.5	Barriers and challenges faced by Trade Unions and Employer representatives in relation to wage negotiation processes and strike actions in the hospitality industry in KwaZulu-Natal, South Africa	95
4.6	Identify factors contributing to successful wage negotiation processes without strike actions in the hospitality industry in KwaZulu-Natal, South Africa	97
4.7	Conclusion.....	101

CHAPTER FIVE	103
Conclusions and Recommendations.....	103
5.1 Introduction	103
5.2 Achievement of the research objectives.....	103
5.3 Conclusion.....	117
5.4 Recommendations.....	117
5.5 Recommendation of future research	118
5.6 Limitations of the study	118
5.7 Conclusion.....	118
BIBLIOGRAPHY	120

LIST OF APPENDICES

Appendix A – Letter of information	127
Appendix B – Consent letter	129
Appendix C – Questionnaires	130
Appendix D – Ethical clearance	137
Appendix E – Permission letter	138
Appendix F – Permission letter	139
Appendix G – Permission letter	140

LIST OF FIGURES

- Figure 4.1 Gender of the Respondents
- Figure 4.2 Age of Respondents
- Figure 4.3 Qualification of the Respondents
- Figure 4.4 Occupation and rank
- Figure 4.5 Length of Service
- Figure 4.6 Wage negotiations policies
- Figure 4.7 Knowledge of wage negotiation policies
- Figure 4.8 Contribute towards policy formulation
- Figure 4.9 Contribute towards the improvement of the wage negotiation policies
- Figure 4.10 Wage negotiation policies are relevant to the negotiation processes
- Figure 4.11 Collective agreements
- Figure 4.12 Understanding of collective agreements
- Figure 4.13 Collective agreement procedures on wage negotiations
- Figure 4.14 Fairness of collective agreements
- Figure 4.15 Dispute resolution procedures in the collective agreements
- Figure 4.16 Adherence to collective agreements
- Figure 4.17 Application of negotiation strategies during wage negotiations
- Figure 4.18 Relevance of the strategies to the negotiation processes
- Figure 4.19 Strategies used help to prevent strike action
- Figure 4.20 Definition of the bargaining unit
- Figure 4.21 Parties analyze each other's demands and counter offers
- Figure 4.22 Parties clarify each other's demands and counter offers
- Figure 4.23 Joint formulation of the negotiation plan
- Figure 4.24 Understanding the importance of compromise
- Figure 4.25 Dispute resolution process enables negotiators to settle wage dispute
- Figure 4.25 Availability of skills and qualifications relevant to wage negotiation processes

LIST OF ABBREVIATIONS

ANC	African National Congress
BCEA	Basic Conditions of Employment Act
CCMA	Commission for Conciliation Mediation and Arbitration
CNETU	Council of Non-European Trade Union
COSATU	Congress of South African Trade Unions
EEA	Employment Equity Act
EUR	Euro
FEDSAL	Federation of South African Labour
FEDUSA	Federation of Unions of South Africa
JPY	Japanese Yen
ILO	International Labour Organisation
LRA	Labour Relations Act
NACTU	National Council of Trade Unions
SACCAWU	South African Commercial Catering and Allied Workers Union
SATLC	South African Trade and Labour Council
SDA	Skills Development Act
UIF	Unemployment Insurance Act
UK	United Kingdom
USA	United State of America

ABSTRACT

When employers and trade unions fail to reach and sign an agreement during the wage negotiation processes, disputes are lodged which may lead to strike actions. The strike incident affects both the employees who participate in the strikes due to a “no work, no pay” principle and the companies which lose production and revenue. The hospitality industry’s bargaining forums in KwaZulu-Natal provides a platform for the parties to negotiate salaries and other employment conditions to improve living standards and making more profits. The main objective of the study is to investigate the challenges faced by negotiators during the wage negotiation processes leading to a strike action in the hospitality industry in KwaZulu-Natal, South Africa.

This study is exploratory and descriptive in nature and adopted a mixed method approach. The mixed method consisted of quantitative analysis that focused on Likert scale using the programme Statistical Package for Social Science (SPSS) to quantify data. Further, a qualitative analysis of data was conducted on the open-ended questions. The researcher analysed the data by discussing the perspectives and views of the participants that were obtained through on the open-ended questions. Questionnaires were administered in order to collect data from an overall participant size of twenty, consisting of 15 Trade Union officials and 5 Managers.

The findings of the study indicated that both the employers and trade union officials agree that there are collective agreements in the hospitality industry of KwaZulu-Natal, which provide dispute resolution processes. However, unreasonable high demands and low offer by parties create deadlocks in wage negotiations. Furthermore, there is lack of trust, failure to disclose the final demands and final offers. In addition, lack of financial transparency and poor leadership by the negotiators in the negotiation process are some of the reasons that result to employees opting for strike action. The study recommends that the relationship between managements and trade union officials is objective and training be conducted relating negotiation skills and strategies that can lead to wage settlements. The study further recommends that parties must negotiate in good faith and that the financial status and information be disclosed prior or during to wage negotiation process.

CHAPTER ONE

An introduction and background of the study

1.1 Introduction

Wage negotiation processes, are conducted to secure the agreements and minimize the possibility of strikes, which result from wage disputes between the employers and the Trade Unions. Venter, Levy, Bendeman and Dworzanowski (2014:426) describe the wage negotiation process as the complex process with many influences. They further describe the wage negotiation as the process whereby the employers and the Trade Unions with different positions, seek to reach an agreement through the process of concessions and trading. Trade Unions and the employers need to make movements, offers, counter offers, so they can be able to reach some consensus.

Wage agreements and consensus between the Trade Unions and the employers, is influenced by certain economic considerations. As stated by Venter *et al* (2014:429), overall economic considerations such as inflation and growth rates, levels of wage settlement in the industry, as well as macroeconomic policies, will all have an impact on wage negotiations? The higher inflation rate results to Trade Unions seeking higher wage increases during the negotiations, in order to prevent the erosion of the purchasing power of their members.

Trade Unions with members in the workplace, will conduct wage negotiations with the employers on behalf of their members. If the employers and Trade Unions fail to reach and sign a wage agreement, this may sometimes lead to strikes and disputes, (Gernetzky, 2014:210). A strike action is one of the most effective sanction the Trade Union can apply if the employers and Trade Unions fail to reach a wage agreement, (Tyson, 2015:319). Tyson (2015:319), further state that strikes can become as much a sore for the employees as it is for the employers. It is therefore imperative that the employers and workers represented by their Trade Unions should negotiate and endeavor to reach a wage agreement without any wage disputes and the strikes.

According to Venter *et al* (2014:512), 42% of strikes are triggered by failure to reach a wage agreement. This is followed by 29% of dismissals and 29% of strikes triggered by employee grievances. It is therefore important for the negotiating parties to endeavor to negotiate and reach a wage agreement.

1.2 Background to the study

According to Ramutlou (2015:304) South African Trade Union history dates back to 1880s. Swanepoel and Slabbert (2012:230) state that, South African Trade Unions initially developed around the need to protect the status of the skilled white workers who were sourced from overseas countries. Swanepoel and Slabbert (2012:230) further stated that Trade Unions protected the identity of the English speaking white workers, by excluding the blacks and Afrikaans speaking workers from entering skilled job categories. White workers had arrived in South Africa to work on the diamond and gold mines where they formed their own white Trade Unions.

According to Venter *et al* (2014:512), the growth of Trade Unions took a sharper significance due to the existence of the apartheid laws and the exclusion of black employees from political activities. Black employees formed their own Trade Unions. Venter *et al* (2014:512) says black workers fought for the establishment of plant level representation and bargaining, recognized by relationship agreements. As stated by Venter *et al* (2014:512), National union of sugar refinery and manufacturing, is one of the Trade Unions formed to represent black employees in the KwaZulu-Natal sugar industry. Employees in different employment sectors continued to be unionized and forming their own Trade Unions over years to ensure the representation and collective bargaining on behalf of their members.

Baker (2015:180) pointed out that different Trade Unions came together to form the three biggest Trade Union Federations. Baker (2015:181) further stated that the most well-known and recognized Trade Union Federations in South Africa are the following:

- The Congress of South African Trade Unions (COSATU), which claimed to have a total membership of approximately 1.8 million and 33, affiliated Unions.
- The Federation of Unions of South Africa (FEDUSA), which claimed to have a total membership of approximately 515000 and 19 affiliated Trade unions.
- The National Council of Trade Unions (NACTU), which claimed to have a total membership of approximately 150000 and 15 affiliated Trade unions

As provided in section 6 of the Labour Relations Act Number. 66 of 1995 (LRA 66 of 1995), employers participate in the formation and joining the employer's organisations. Section 7 of the LRA 66 of 1995, provides specific rights towards the protection of employers rights in the formation and joining of the employers organisations and the exercise of such rights.

As stated by Phakathi (2013:1), Trade Union members expect Trade Unions to negotiate improved wages and other employment conditions for them. Chapter three of LRA 66 of 1995 provides for collective bargaining rights to any representative Trade Union. The Trade Unions are therefore permissible in terms of LRA 66 of 1995 to negotiate with employers on behalf of their members. Trade Unions will negotiate with the employers to improve wages and other employment conditions for their members.

According to section 4 of The Basic Conditions of Employment Act No. 75 of 1997 (BCEA 75 of 1997), employers are only required to provide the minimum stipulated employment conditions. This act, allows Trade Unions and employers to negotiate new employment conditions, which are better than those provided on the BCEA 75 of 1997. It is therefore for this reason that Trade Unions will endeavor to negotiate better wages and employment conditions for their members.

As stated in section 1(c) of the LRA 66 of 1995, the major purpose of this act is to provide the basis, within which employers and employees can negotiate jointly in determining the wages and employment conditions of the employees. Wage negotiation process between Trade Unions and employers, are regulated by the LRA 66 of 1995.

Section 112 of the same act, provides for the establishment of the Commission for Conciliation Mediation and Arbitration (CCMA). The CCMA must attempt to resolve the referred disputes, through conciliation as provided by section 115 (a) of the LRA66 of 19995. It will therefore be the responsibility of CCMA to try to resolve any wage dispute, which remains unresolved between employers and Unions. Trade Unions and employers are subjected to these processes.

Employers and Trade Unions in the Hospitality industry is sometime faced with the challenge of dealing with the high demands made by Trade Unions and the low wage offers made by the employers during the wage negotiation processes. This practice leads the parties to the CCMA and the dispute resolution processes due to the gap that exist between the two negotiating parties.

The significance of the study will look on the wage negotiation processes and strike actions in the hospitality industry. The study also seeks to identify the benefits, challenges and barriers of Trade Union representatives and Employer representatives during the wage negotiation processes.

1.3 Research problem statement

The study conducted by Venter et al (2014:513), indicate that 40% of Strikes, emanates from the failure of reaching a wage agreement by the Trade Unions and the Employers. This view is supported in a study conducted by Ramutlou (2017), which indicated that there was an increase in the strikes incidents in South Africa from 903 921 working days lost in 2015 to 946 323 working days lost in 2016. An annual report by the South African Department of Labour (2017), indicate that that there was a 4% rise in the strike incidents in South Africa in 2016 compared to 2015. This increase in the strike incidents resulted to the South African economy loosing R161 million in 2016 compared to R116 million in 2015.

The strikes incidents affect both the employees who participate in strikes due to a “no work no pay” principle and the companies who lose their production and revenue due to strike incidents. The strike incidents further results to the financial loss for the state as stated in the South African Department of Labour annual report (2017).

The challenge of today's Trade Union officials, Employer representatives and the wage negotiation processes is the ability to negotiate and reach wage agreement without wage disputes and strikes. The wage negotiation processes and the dispute resolution institutions should provide the suitable grounds of facilitating and reaching wage agreements.

1.4 Research objective and questions

1.4.1 Main Objectives

- To investigate the challenges faced by negotiators during the wage negotiation processes, resulting in strike action in the hospitality industry in KwaZulu-Natal, South Africa.
- Sub-objectives
- To establish the existence of any collective agreements on wage negotiation processes in the hospitality industry in KwaZulu-Natal, South Africa.
- To investigate strategies used by Trade Union representatives and Employer representatives during wage negotiation processes in the hospitality industry in KwaZulu-Natal, South Africa.

- To identify barriers and challenges faced by Trade Unions and Employer representatives in relation to wage negotiation processes and strike actions in the hospitality industry in KwaZulu-Natal, South Africa.
- To identify factors contributing to successful wage negotiation processes without strike actions in the hospitality industry in KwaZulu-Natal, South Africa.

1.4.2 Main question

- What are the challenges faced by the negotiators during the wage negotiation processes, resulting into the strike actions in the hospitality industry in KwaZulu-Natal?
- Sub-questions
 - Are there any collective policies and agreements regulating the wage negotiation processes in the hospitality industry of KwaZulu-Natal?
 - What strategies do Trade Union representatives and Employer representatives use during the wage negotiation processes in the hospitality industry of KwaZulu-Natal?
 - What are the barriers faced by the Trade Union representatives and Employer representative during the wage negotiation processes in the hospitality industry of KwaZulu-Natal?
 - What are the factors contributing to the successful wage negotiation processes in the hospitality industry of KwaZulu-Natal?

1.5 Significance of the research

This research will enlighten the Trade Union representatives and Employer representatives who participate in the wage negotiation processes, on what leads to negotiating parties ending up in the CCMA and other dispute resolution bodies and finally to industrial actions in the hospitality industry of KwaZulu-Natal. The research will reveal how the strategies used by negotiators and the barriers in the negotiation processes can result in the industrial action and provide the best way to mitigate the possibilities of disputes..

The research also hopes to motivate further studies in other companies and Industries, which experience an increased number of strikes that occur due to the failed wage negotiation processes. This research is significant in the sense that its recommendations can help to reduce the rate of industrial action and strikes. If there is low rate of industrial action and stability in

the employment relationship, this can open opportunities for more investment. More investments can help in reducing the rate of unemployment.

1.6 Motivation for the study

According to the strike report (Levy,2018:12), the major strike trigger in South Africa is wages, amounting to 92% of working days lost and 76% of the number of strikes, followed by grievances accounting to 5.5% of working days and 25% of the strikes. Venter et al (2014:513), who indicate that 40% of the Strikes, emanates from the failure of reaching a wage agreement, support this. This view is in line with the study done by Ramutlou (2017) which established that there was an increase in the strikes incidents in South Africa from 903 921 working days lost in 2015 to 946 323 working days lost in 2016.

Although the South African Labour legislation have provisions for the dispute resolution processes, through the CCMA processes and bargaining council processes, we still face an increase of the strike incidents in South Africa. The source of the inspiration for embarking in this study is the fact that the researcher has previously worked as the Trade Union representative and currently works as the Industrial relations specialist in the hospitality industry and leads the wage negotiation processes on the behalf of the employer. The researcher has noticed and experienced the practical failure of the wage negotiations and the resultant strike actions. This study was therefore undertaken to examine the strategies used by both Trade Union representatives and the Employer representatives in their wage negotiation processes. The research also looked on the barriers faced by the negotiators and their proposed solutions on how best to avoid the disputes and the strike actions during the wage negotiation processes in the hospitality industry of KwaZulu-Natal.

1.7 Structure of the dissertation

1.7.1 Chapter One

This chapter will provide the context of the study, clarification of key concepts and includes a research problem, aims and objectives of the research and critical research question. The outline of this research, with details of each chapter will also be provided. The study will be outlined with the details of each chapter being provided.

1.7.2 Chapter Two

Chapter two provides literature review covering scholarly articles on wage negotiations and its impact on the strikes. This will give background to the study and various articles will be discussed to give overview of the negotiation processes and the impact of both successful and failed wage negotiations processes. This chapter will further look on the task of the negotiators during the negotiation processes and the rules, laws and main prescripts, which govern the interaction of the employers and the Trade Unions. The history of the workers labour movements in South Africa will be dealt with and investigated thoroughly. This chapter will further look on the negotiation processes in both South Africa and the international perspective of the negotiation processes. The chapter will also look on the wage settlements and the strike actions in the South African employment relations system.

1.7.3 Chapter Three

Chapter three will explain the research methodology of the study, which include sampling, questionnaire design, and method used to collect data as well as the techniques used to analyse data. The chapter will also provide a detailed explanation of how the respondents were selected and the areas from which they operate in the hospitality industry. It will further describe the hospitality industry where the study is being conducted.

1.7.4 Chapter Four

Chapter four deals with analysing, interpreting and presenting of the outcome of the study gathered from the Trade Union officials and the identified managers who lead and participate on the wage negotiation processes and the strike actions in the hospitality industry in KwaZulu-Natal. This chapter will respond to the questions formulated for this study.

1.7.5 Chapter Five

Chapter five is the final chapter of this study. This chapter concludes the research report by explaining how each objective was achieved and how each research question was answered. Recommendations for the development and improvement of the wage negotiation process and the means to minimise or prevent the strike incidents in the hospitality industry will be presented. This chapter will finally end with the conclusions, limitations, suggestions and recommendations for future research in this field of study.

1.7 Conclusion

Chapter one gave an overall overview of the study, a description of its context, a background to what prompted the investigation and a detailed summary of individual chapter within this study. The next chapter is purely focussed on a review of relevant literature

CHAPTER TWO

Literature review

2.1 Introduction

According to Frank and Hatak (2014) a literature review is a collection of data pertaining to a research topic of interest. The current study looks on the wage negotiation processes and the strike action in the hospitality industry of KwaZulu-Natal.

This chapter will firstly look at the task of the negotiators during the negotiation processes and the rules, laws and main prescripts, which govern the relationship between the businesses and the Trade Unions. The history of Trade Unions in South Africa will be looked at, and investigated. This chapter will further look on the negotiation processes in both the international and South African perspective of the negotiation processes. The chapter will conclude by looking at the wage settlements and the strike actions in the South African employment relations system.

2.2 Definition of key concepts

The discussion in this chapter begins with the definition of the key main concepts used in this study.

2.2.1 Trade union

Section 213 of the LRA 66 of 1995 defines Trade Union as formation or organization of workers, which aims to regulate the relations between the employers and the employees. This definition is in line and it support the view of Chamberlain, Ncube, Mahori and Thom (2016:97) which looks at Trade Unions as playing a critical role in improving the well-being of their members through promoting their rights at the workplace.

2.2.2 Trade union representative

As stated in section 213 of the LRA 66 of 1995, Trade Union representative refers to a member of a Trade Union who is duly elected to represent other workers at the workplace. They are fulltime employees of the employer or the company in that particular workplace. Section 14 (2) of the LRA 66 of 1995, prescribe a formula of electing the acceptable number of the Trade Union representatives in the work place. Trade Union representatives called the shop stewards

in that particular workplace and the name of the shop steward is used in this study in reference to the Trade Union representatives.

2.2.3 Officials

As per section 213 of the LRA 66 of 1995, an Official, in relation to the Trade Union, is anyone who works as the secretary, deputy secretary or organizer of a Union or confederation of Trade Unions, or any other official position, whether she or he works on fulltime basis or not. In this study, Trade Union official will be used to refer to the employees of the Trade Union, who represent the employees during negotiations with the employers and who work for the Trade Union on fulltime basis.

The above is further supported by the study conducted at the University of Otago in New Zealand by Olssen (2013), which found that fulltime Union Officials, are employed to represent wage working interest employees.

Therefore, both South African perspective and international perspective, confirm that the Trade Union Official, is the employee of the Trade Union who can work either part time or fulltime in the representation of the members of the Trade Union.

2.2.4 Collective agreement

Sun (2017) state that collective agreement regulates the employment conditions between the employer and the employees. This is the understanding signed between the representatives of the employers and the representatives of the employees. This definition is in line with section 213 of the LRA 66 of 1995, which defines collective agreement as an agreement regarding the employment conditions or any other negotiable employment conditions between the workers and the companies or the Trade Unions and the employers.

2.2.5 Collective bargaining

Venter et al (2014:398) defines collective bargaining as one of the important processes in the labour relations because of the role it plays in building the harmonious employment relations between the employers and employees. Venter et al (2014:399) further state that collective bargaining emanates from collective regulation of employment relationship through negotiations between the employers, the employees and their elected representatives. This definition is in line with section 1(c) (i) of the LRA (LRA) 66 of 1995, which defines it as a

structure whereby employees, Trade Unions and employers can bargain jointly and collectively in determining their employment conditions and their salaries.

2.2.6 Centralized bargaining

Centralised bargaining is where employers and Trade Unions of a particular sector bargain together at one level. Centralised bargaining occurs at various levels, including group, national, regional or sectoral level.

2.2.7 Decentralized bargaining

Decentralisation of collective bargaining is an opposite of the centralised collective bargaining as it refers to the plant level collective bargaining. It is a system where wages and conditions of employment are determined at a plant or individual workplace level.

2.2.8 Strike action

According to section 213 of the LRA 66 of 1995, the strike action is the temporary, full scale tooling down by employees who are employed in one or different organizations. The above definition is supported by the view of Heald (2016:32) who defines the strike as a temporary work stoppage by the employees with the main intention of forcing their employer to accede to their demands or grievances. The employees can also use strike to resist some of the employer's demands.

2.2.9 Lock out

Section 213 of the LRA 66 of 1995, provides a clear explanation of a lock out as the locking out or prevention of employees by the employer, from conducting their normal duties employed to perform in the workplace. The employer will enforce the lock out as an attempt to force the employees to accept the employers offers regarding any negotiable employment conditions. The employer can implement the lock out even if it is in contravention of those employees' contracts of employment. The above definition is in agreement with the view of Nel, Kirsten, Swanepoel, Erasmus and Jordan (2016:305), which defines lock out as when the employer prevents and denies employees an opportunity to enter the work premises and perform their normal duties in the hope that after some time they will agree to the employer's demands.

2.3 Origin and history of International Labour Organization (ILO)

According to Ryder (2016), The International Labour Organization (ILO) is one of the United Nations agencies for workers and their workplaces. It provides acceptable international labour standards, promotion of rights at workplace and encouragement of acceptable employment conditions, strengthening of human protection and the promotion of engagement on work-related issues. The ILO has a specific structure, bringing together governments, employers and workers' representatives. The ILO aims is to support the needs of the employees by bringing together politicians, businesses and employees to set worker standards, formulate policies and introduce programs. The structure of ILO, where workers and employers have an equal say with governments in its deliberations, shows that community engagement is really working.

The member states of ILO meet every year in Geneva, Switzerland, at the International Labour conference. This International Labour conference has the following main task:

- The formulation and acceptance of international labour standards through Conventions and clear proposals.
- Managing the application of Conventions and Recommendations at the country level
- The Conference is a forum where community and workers questions of importance to the entire globe are deliberated freely
- The Conference also pass decisions that provide guidelines for the ILO's general policy and any activities to be conducted.

Thomas and Turnbull (2017:536) believes the role of ILO in the governance of global supply chain is typically neglected or simply ineffective. Their belief, questions the ability of ILO in the fulfillment of the above main task.

Contrary to Thomas and Turnbull, Fussler, Gramer and Van der Vegt (2017:16), support the above mentioned main tasks of ILO and they further list the below fundamental principles of ILO:

- To guarantee the security of human rights proclaimed internationally.
- To cement non-complicity in human rights abuses
- To ensure the implementation of freedom of association and the recognition of collective bargaining.
- To eradicate forced labor system.
- To ensure effective abolition of child labour

- To eliminate all forms of employment and occupational discrimination.

As mentioned by Rodgers, Lee, Swepston and Van Daele (2009), the preamble of the International Labour Organization lists the following areas of improvements, which remain relevant even today to the member states and the employees.

- The control of and legalization of the working hours including the introduction of a weekly and daily working maximum.
- Regulation of supply of workers, putting an end to unemployment and introduction of an acceptable and realistic living wage;
- Ensure that workers are protected from sickness, disease and any harmful dangers from the workplace
- To ensure that children and women are always protected when at workplace
- Provision for senior citizens and injury, protection of workers working in foreign countries.
- Recognition of the system paying employees the same if they perform duties of the same value.
- Acceptance and respect of the individual's freedom of association.
- Provision of vocational and technical training by the organization.

In line with principle of freedom of association and the right to negotiate collectively, and also, as means of furthering the above provisions of the preamble, employees from different member states form their own Labour Organizations or Trade Unions. The Trade Unions representing the employees in different member states, conduct negotiations with employers in order to ensure the introduction and implementation of the above principles and provisions.

In South Africa, the government has created the below mentioned labour legislations as means of complying with the above preamble of the ILO

- The Basic Conditions of Employment Act no 75 of 1997
- The Labour Relations Act 66 of 1995
- The Employment Equity Act 55 of 1998
- The Skills Development Act, 1998 (Act NO. 97 of 1998)

The above South African labour legislations will be discussed in the next following sub-topics to show how South Africa comply with the ILO preamble.

2.4 Wage negotiation process in different countries

According to Kirsten and Jourbet (2015), wage negotiations occurs when Trade Unions negotiate wages and other conditions of employment for their members. This view is supported by Kato (2016), who says wage negotiations involves two key parameters, which are revision of salaries and other employment conditions, like bonuses. In Japan, this process is termed Shunto wage negotiations. Shunto annual wage negotiations refers to negotiations between the enterprise unions and the employers. Many Trade Unions in Japan conduct the actual negotiations simultaneously from the beginning of February. As stated by Kato (2016), intensive collective bargaining takes place throughout February with weekly meetings taking place until the wage agreement is signed.

2.4.1 Shunto wage negotiation process in Japan

As describe by Kato (2016), the whole process of Shunto wage negotiations begins when the Trade Union local leaders, representing each plant level members, meet with Trade Union headquarters leaders. The purpose of this meeting is to consolidate the different mandates from different plant level workers. Once they have consolidated these different mandates, and agree on one wage proposal for submission to employers, they will bring it back to the plant level membership for ratification. The ratification process results on the submission of such proposals to the employers at the enterprise level for consideration and negotiations. The proposals will focus more on the productivity levels and the bonuses for the employees as opposed to the increase of the wage base rate.

According to Katjimoto (2018), companies in Japan are skeptical of increasing base salaries because that binds them to an increased fixed employee costs. Instead, they prefer once-off bonuses and other benefits. In line with the above approach, Kato (2016:13) states that management will ask labour representatives to provide justifications for the Trade Union bonus demand, and labour representatives will prepare such justification using previous productivity data and their analysis. As stated by Kato (2016:8), in recent years, Shunto wage negotiations in Japan, has been mostly over bonuses rather than basic wage increase. Kato (2016:9) further states that Japan has extensive bonus payment system, which may go as far as three and half times the employee's pay. About 97% of firms, pay bonuses twice a year.

The special focus on the bonus system during the collective bargaining process has resulted to the lagging behind of the base wage of the Japanese employees. According to Kato (2016), this

has led to the government intervention. The government intervenes by asking the Japanese corporations to raise the base wage of the employees. According to Japanese department of Health, Labour and Welfare Ministry (2016), the average minimum hourly wage in Japan was increased by 25yen per hour with effect from 1 October 2017¹.

The above Japanese system clearly shows that Trade Unions in Japan do get a mandate from the members and negotiate such with the employers. The Trade Unions substantiate their demands using the productivity levels at the enterprise level. It is however clear that their focus is on the bonus increases as opposed to wage increases, hence there is a government intervention to prescribe the minimum wages. As seen on the Japanese labour issues (2018), the Ministry of Health, Labour and Welfare, has prescribed the 3% wage increase on the minimum wages to 848 yen per hour, for the 2018 financial year. The above minimum wage, is further supported by Schulten (2017:53), who stated that the Japanese minimum wages are based on the 40 hour per week, calculated at 848 Japanese Yen per hour (JPY/PH) for the year 2018.

2.4.2 Wage negotiation processes in Germany

According to Dustaman, Fitzenberger, Schonberg and Spitz-Oener (2014), the German wage negotiation process is decentralised from industry level to firm level. There is high localisation of the industrial relations system. The German industrial relations system is rooted in contracts and mutual agreements amongst the employers, Trade Unions and work councils.

As stated by Dustaman et al (2014), work councils, elected by employees at the workplace, play a prominent role in wage negotiations. This system of work council has reduced the bargaining power of the Trade Unions. Negotiations with Trade Unions and work councils, has ensured more flexibility on wages and the increase in productivity levels. Negotiations are more consensus based then confrontational. Dustaman et al (2014), further state that this has seen Germany experiencing less strikes compared to other developed countries. In Germany, there has been 11 days per 1000 employees on strike, compared to US with 30 days, UK with 73 days, France with 103 days and Canada with 164 days' strike per 1000 employees.

In Germany, there is less government intervention through labour regulations, and this has improved the employment levels. Other countries like Japan in the above discussion, has

¹ <https://wageindicator.org/salary/minimum-wage/japan/> accessed on the 17 October 2018

minimum wages and so is Germany. According to Mabbett (2016:1241), the Germany statutory minimum wage is 8.50 EUR (Euro) per hour. It must however be known that the wage agreements between Trade Unions, work councils and employers, has certain flexibility clause called opening or hardship clause. This clause allows the firms to exclude new recruits from the wage agreements. Firms can also lower wage costs in agreement with the employees.

The public sector employers, represented by the Department of the Interior Minister have settled and signed the wage agreement after the nationwide strike involving 150000 employees represented by Verdi Trade Union. Their wage agreement was for a period of 3 years, with 3.19% for 2018, 3.0% for 2019 and 1.06% for 2020. This agreement shows that the government intervention is only applicable to state employees and not to the private sector employees. The government can negotiate with their Trade Unions and reach their suitable agreement to improve the statutory minimum wage.

According to Chazan (2018), the German metal unions and their employers, managed to sign a wage agreement without any strike action. The wage settlement was 4.3% wage increase and with a further clause on the agreement which allows the employees to work only 28 hours per week for up to two years. This wage agreement is the clear indication of the wage agreement flexibility mentioned by Dustaman et al (2014).

2.4.3 Wage negotiation processes in China

China also has a decentralised decision-making on pay and wage increases during the negotiation processes. As noted by Lee, Brown and Wen (2016), China is experiencing an increase in the number of employer organisations and a strong articulation by Trade Unions during the wage negotiation processes. There is a notable growth in the collective bargaining processes in the industry. Trade Unions use the state power to improve wages and conditions of employment of the employees. There is more government interference in the Chinese industrial relations system as opposed to that of Germany³.

The Chinese government intervention is through the introduction of the minimum wage. According to Long and Yang (2016:272), the minimum wage law in China requires that that employee, in both the business and government sector, be paid no less than the minimum wage. As stated by Long and Yang (2016:272), employers are however still paying far less than the

2 <https://www.dw.com/en/top-stories/germany/s-1432>

3 <https://www.elephantjournal.com/2017/03/how-to-negotiate-a-salary-in-china/>

legal minimum wage in the Chinese private sector. This has resulted on many minimum wage violations dispute in China since 2007. In a bulletin published by all China Trade Unions (2014), violations on minimum wages are among the top ten case categories involving labour laws. Long and Yang (2016:273), further state that minimum wages negatively affect other fringe benefits in China, like the provision of medical cover, injury cover, and maternity cover, as well as per capita payment in dividends. This is further supported by Haepf and Lin (2017:1075), who discovered that minimum wage regulations, has resulted to less investments in human capital by the Chinese firms.

The researcher noted that wage negotiation processes in China, do take place under the leadership of the Trade Union organizations. Employees and Trade Unions do however use the government interventions and influence to increase the benefits enjoyed by their members. This approach is however detrimental, in the sense that some employers end up failing to comply with the minimum wage legislation and at some point reduce or stop the benefits which employees could have enjoyed.

2.4.4 Wage negotiation processes in the USA

In the United States of America, Tomaskovic-Davey, Hallsten and Avent-Holt (2015), says professional associations, organised networks of employees and Trade Unions, can jointly approach employers with their demands and negotiate new wages and conditions of employment. There is notable no government interference in the industrial relations system. However, Levi, Melo, Weingst and Zlotnick (2015), says the government intervention is through the National Labor Relations Act of 1935, which provides dispute resolution processes where there are disputes between the employers and the Trade Unions or employee associations.

2.4.5 Wage negotiation processes in Belgium and Britain

According to the European commission (2012), wage negotiation processes in Belgium and Britain, is largely characterised by labour flexibility and employment security. Trade Unions represent employees during the wage negotiation processes. Trade Unions accept flexibility in exchange for workforce security. Trade Unions negotiate agreements on trainings and career developments of its members, to increase employment security.

In Belgium, workers agree to be on temporary unemployment in order to ensure job security and income security. The government will in return provide social security to those who are

unemployed, through the unemployment benefits. According to Kelly and McGuinness (2017), the national minimum wage in Belgium, is only applicable where there is no collective agreement between the employers, the employees and their Unions. This approach has stimulated economic growth and an increase in job opportunities. Individual companies also have greater control on hiring, firing, scheduling of working hours and non-standard contracts.

2.4.6 Wage negotiation processes in Nigeria

According to Olaniyi (2018:168), there is an institutionalisation of collective bargaining and formal recognition of Trade unions and employer formations in Nigeria. The role of the government in the management of industrial relations between the employers and the trade unions is regulatory in nature. Some of these regulations by the government is the introduction of the national minimum wage. The Trade Union can however negotiate with their employers on the improvement of their minimum wage and the introduction of other employment conditions.

In 2018, Nigeria labour force embarked on a national strike over the improvement of national minimum wage to N30 000. This is a clear indication that the although there is a national minimum wage, Trade Unions do engage their employers to improve their current minimum wage, and any disagreements, may result to strike actions.

2.4.7 Wage negotiation processes in Kenya

In terms of section 54 of the LRA number 14 of 2007 of Kenya, the Trade Unions in Kenya can only be involved in collective bargaining with the employers on employment conditions once they have obtained a legal recognition in law. Such legal recognition must be for a specific jurisdiction. This legal recognition qualifies the Trade Unions to negotiate for their members on the terms and conditions of employment including wages. These negotiations could therefore result to the signing of collective agreements, registered with the Industrial Court in terms of section 60 of the Kenyan LRA of 2007.

This shows that Trade Unions in Kenya are allowed, subject to complying with the Kenya Labour legislations. It also shows that Trade Unions are allowed to engage on wages and other conditions of employment for the members.

2.5 The international hospitality industry

According to Ryan (2015:340), the history of the hospitality, industry is as long as the history of human development and human beings have opened up for friends, family and strangers. Ryan (2015:340), further state that hospitality can be seen on social framework that creates a range of certain organizations and its meanings. In one category, the catering of other people, cannot be confined only in hotels, restaurants and liquor outlets of which is normally categorized under hospitality industry, but also in medical institutions, family dwellings, monasteries, educational institutions, correctional services and other places where guest stay for nights away from home. The degrees of commercialization, as identified by the desire to ensure that guest are happy and profits are generated. This will differ on various institutions, in line with caring, nurturing and greetings of guests that forms part of hospitality.

There are distinctive features of hospitality industry's product mix as in international countries like the provision of accommodation, food and related services, supports the above view. The primary objective is to deliver guest and customer satisfaction. (Wood 2015:14),

The hospitality industry is a large component of divisions within the service industry that includes lodging, theme parks, shuttling, cruise line, and other components within the tourism industry. The International hotel school (2017), defines the hospitality industry as sectors including, hotels, resorts and game lodges, restaurants and all other types of food service operations, cruise ships, airlines and luxury passenger rail, theme parks and casinos, meetings, events and incentives, recreation and sports management, local tourist destinations and attractions.

Muller (2016), lists nine main characteristics of the hospitality industry and those are the following:

- Is welcoming, friendly, and courteous
- Is knowledgeable
- Efficiency and effectiveness
- Is timely
- Is flexible
- Is consistent
- Effective communication
- Trust relationship

- Goes an extra mile

The underperformance of the hotels and catering organizations, the delivery of insufficient services, and provision of inadequate facilities compared to similar operations in other regions, can have undesired outcomes on the tourism industry of the country.

Human resources management practices, contributes to employee performance standards in the hospitality organizations. Employee performance in the hospitality industry are be measured by their special attention, their friendliness, their look, their behavior, and the way they carry out and exercise their allocated tasks. The hotel industry recognizes the importance of training in relation to the work performance of their employees. Duplesis, Dodd and Douagphichit (2015) believe the high level of job satisfaction to hospitality employees is salary increases as opposed to the training recognized by the hotel industry organizations.

Therefore, it is important to have effective human resources functions that propel the strategic plans and goals of the organization as well as the industry for the improvement and performance of organizations, provision of superior services to guest, and maintenance of organizational competitiveness to ensure success.

Du Plessis, Toh, and Chen (2013) claim that there is a co-relationship in job satisfaction and the organizational remuneration system such as pay, fringe benefits, promotions and other benefits in the workplace. When salaries and promotions are just and reasonable and when there is equal pay for equal work, there is high likely wood of job satisfaction. Implementation and maintenance of the above mentioned human resources functions and practices, could improve the international hospitality industry. As provided in the LRA 66 of 1995, collective bargaining between Unions and the employers, can improve human resources functions of the hospitality industry employees. These are some of the reasons that may encourage employees in the hospitality industry to be members of one or more Trade Unions.

2.6 Brief history of trade unions in South Africa from 1917 to 1991

2.6.1 Early trade unions

According to Bendix (2013:80) the first Trade Unions were mostly for white's employees, with organizations like the South African Confederation of Labour (SACOL) favoring the racial discriminatory employment policies. The reasons for the exclusion of black workers was that they were regarded as cheap unskilled labour, which could be used by employers. Moreover, Trade Unions in the later part of the 19th century emphasized the colour bar and the identity of

the English speaking white workers, excluding blacks and Afrikaans speaking workers (Nel *et al* 2016).

The introduction of black Trade Unions only appeared in 1917. As stated by Bendix (2013:82), in 1918, the first black employee's Trade Union was Industrial Workers Union. Bendix (2013:83) further stated that during the 1930s the South African Trades and Labour Council (SATLC) was established and managed to unite many Trade Unions in the country. The SATLC was nonracial and it was agreeable to the affiliation of Trade Unions representing black employees. It further called for the legal protected rights of black Trade Unionists. Some black Trade Unions became affiliated and members of SATLC, while during the 1940s as stated by Bendix (2013:83), were affiliated to the Council of Non-European Trade Unions (CNETU). In 1946, the strike of the African mine workers, which escalated to general strike, was strongly motivated and supported by CNETU, African National Congress (ANC) and the South African Communist Party (SACP). The strike was ended by the law enforcement agencies' brutality supported by the Nationalist party's government. The Nationalist party government put more emphasis on apartheid. There was violent suppression of black Trade Unions.

2.6.2 Trade unions between 1948 and 1991

Trade Union Council of South Africa (TUCSA) formed in 1954 was inclusive of whites, colored, and Asians workers. TUCSA excluded the independent unions of black employees from being affiliated. Bendix (2013:99) state that Trade Union Council of South Africa only admitted registered Trade Unions and worked closely with black unions. The 14 previous unions from SATLC, which had been disbanded, founded the South African Congress of Trade Unions (SACTU) in 1962, Bendix (2013:197). According to Bendix (2013:198), SACTU assumed joint membership with the Council of Non-European Trade Unions, and became the Trade Union arm of the ANC. In 1961, this union had grown to a membership of about 53,000. Although black unionism was silenced and there was underground operations, this growth was still realized.

According to *Nel et al* (2016:90), The Federation of South African Trade Unions (FOSATU), which later became Congress of South African Trade Unions (COSATU), was formed in 1979. Immediately after the renaming of FOSATU to COSATU, the Council of Unions of South Africa (CUSA) was formed in 1980. The National Union of Mine Workers of South Africa (NUM) was formed in 1982. The NUM became one of the largest Trade Unions in South Africa. The NUM believed in strong political resistance and fights against the ruling National

Party. The union engaged, and strongly supported the armed struggle, mass mobilization, international solidarity, and underground activities.

Nel *et al* (2016:91) stated that the Congress of South African Trade Unions (COSATU) was formed in November 1985, and FOSATU joined forces with COSATU in the same year. The biggest strike action in South Africa's history happened on May 1, 1986, attended and supported by more than 1.5 million black employees, who "stayed away" in pursuit and support of the May Day recognition as the holiday.

In 1986, there were two more Trade Union Federations formed, the National Council of Trade Unions (NACTU) affiliated to AZAPO, and United Workers' Union of South Africa (UWUSA) which was affiliating to Inkatha Freedom Party. COSATU, which was an affiliate to the tripartite alliance with the ANC and SACP, played a leading role in political, labour strikes and economic unrest. The support provided by COSATU, later led to the National Party losing the majority vote during the 1994's first national democratic elections in South Africa.

According to Nel *et al* (2016:93), the collision of the Federation of South African Labour Unions (FEDSAL) with other smaller unions in 1997, resulted in the establishment of Federation of Unions of South Africa (FEDUSA). FEDUSA became the second largest Trade Union Federation after COSATU.

The above-mentioned South African labour movements, all played one or more roles in the creation and establishment of the new South African Labour legislations.

2.7 Labour legislation in South Africa

The employment relationship in South Africa is governed by the following labour legislations: Labour Relations Act, Basic Conditions of Employment Act, Occupational Health and Safety Act, Employment Equity Act, Skills Development Act, Unemployment Insurance Act and Promotion of Access to Information Act.

The below section looks at discussing legislations that influence the employment relationship between the employer, employees and their Trade Unions.

2.7.1 The Labour Relations Act 66 of 1995

The purpose of the Labour Relations Act (LRA) 66 of 1995, as described in chapter 1 under section 1 of this act, is to promote economic growth, community justice, worker peace and the democratization of the workplace, by fulfilling the primary objectives of this act, which are:

- To ensure the regulation of the basic rights guaranteed by section 27 of the Constitution
- To see to it that obligations guaranteed by South Africa to the International Labour Organization (ILO) are fulfilled;
- To provide legal structure where workers and their Trade Unions, employers and employers' organizations can:
 - Bargain collectively to determine salaries, employment conditions and other matters of mutual interest
 - Ensure the development of industrial policy
 - To ensure that orderly collective bargaining is in existence
 - Ensure employee workplace participation and decision-making.
 - The successful resolution of any labour related disputes.

Section one, chapter 1 LRA 66 of 1995, explains the main basic aim of this act as to promote economic growth, community justice, labor peace and democratization of work environment.

This Act prescribe the legislations, which govern the employers, employees and their Trade Unions in South Africa. As stated in section 1(a) of the LRA 66 of 1995, Labour Relations Act is in line with Section 27 of the South African constitution, which provides basic rights of employees and businesses to establish their own organizations for collective bargaining purposes. It also makes provisions for the establishment and recognition of the rights of both the employers and the employees.

Chapter 2, of the LRA 66 of 1995, discusses the freedom of association of both the employers and employees. This is can be seen in section 4(1) of the LRA 66 of 1995, which prescribes the rights of the employees to form and to be members of their chosen Trade Unions. The act protects all the employees who may choose to be associated and to be members of any Trade Unions. The act does not only protect the employed workers, section 5(2) of the LRA 66 of 1995 provides for the protection of the employees who are job seekers should they wish to be associated and be members of any Trade Union. The protection of these job seekers or any other employees is subject to the Trade Union constitution.

Under chapter 2 of the LRA 66 of 1995, it is not only the protection of employees and job seekers. It also provides for the protection of employers who may wish to be members and or to be associated with any employer organisation. This protection is provided under section 6 and 7 of the LRA 66 of 1995. Employers can also form and be members of their chosen employer organisations. As stated above, both employers and employees are fully protected by chapter 2 of the LRA 66 of 1995. Section 8 of the LRA 66 of 1995 outlines the rights of both the employer organisations and the Trade Unions.

Section 11 to 22 of the LRA 66 of 1995, outlines organizational rights of the Trade Unions. These sections LRA 66 of 1995, provides a representative Trade Union with the rights to access workplace, deduction of membership fees, choosing their own shop stewards, leave for Trade Union activities and sharing of information. However, section 21(11) of the LRA 66 of 1995, allows the employers to withdraw the Trade Union organizational rights, if the Trade Union is no longer sufficiently representative of the employer's employees. It must therefore be noted that the organizational rights of the Trade Union and mainly, section 11 to 18 of the LRA 66 of 1995, is only subject to the sufficient representativeness of the Trade Union at the workplace. If there are any disputes about the organizational rights between the employers and the Unions, section 22 of the same act, provides the dispute resolution process to be followed when resolving such disputes.

Trade Unions which enjoys and which are entitled to organizational rights, can collectively bargain with the employers on the salaries and other employment conditions. These negotiation processes, can result to signed wage agreements between the companies and the Trade Unions. Collective agreements are binding between the employers and the Trade Unions, as stated in section 23 of the LRA 66 of 1995. Section 23 (1) indicate that collective agreements are also binding to non-members of the union, if the union which signed the agreement is the majority union or if two or more unions signing the agreement are sufficiently representative of the employees in the defined bargaining unit. This is in line with chapter 3 of the LRA 66 of 1995.

If there are disputes about matters of mutual interest and the parties fail to resolve such dispute at the bargaining council or in the CCMA, section 64 of LRA 66 of 1995, provides for the protected industrial action and the employers can be able to implement lock out. Section 64(1) (a) (b) (c) and (d), of the LRA 66 of 1995, provides a detailed procedure to be followed before embarking on a strike action or the lock. This procedure needs to be followed, because if not

followed, such strikes or lockout will be an unprotected strike or unprotected lock out in terms of the same act.

In terms of the act, the dispute of right is decided through arbitrations or the labour court. According to LRA, No. 66 of 1995, clear differentiations are outlined between rights disputes and interests disputes between businesses and Trade Unions. According to Okene and Emejuru (2015:135), a dispute of right is where a dispute emanates from a legal or contractual right. Disputes of right are dealt with by the Labour Court or, in some cases, the CCMA. As stated by Van Zyl (2018:235), disputes of interest have a potential of and can result to the new rights being created such as the increase in wages, new better employment conditions or any other improved conditions of employment. If disputes of interest are not resolved, employees and their Trade Unions have an option of following an appropriate procedure, which can result, to a protected strike action. Employees cannot strike and the employers cannot lock out over the disputes of rights. As stated above, the dispute of right is where the basis of the employee's dispute emanates in a legislated or contractual right.

This LRA 66 of 1995 also provides for the protection of employees, from any unfair dismissal, through section 185 of the same act. Schedule 8, code of good practice, provides clear steps and procedures to be followed prior to the employer taking a decision of terminating an employee. Non-compliance with schedule 8 of the LRA 66 of 1995 can result to the employer being accused of unfairly dismissing an employee. Where the employer has been found to have unfairly dismissed the employee, such employer can be ordered to reinstate, re-employ or pay compensation to the affected employee as provided in section 193(1) of the LRA 66 of 1995.

Another protection provided by this act to the employee is the protection on unfair labour practice. In terms of section 186(2) of the LRA 66 of 1995, an unfair labour practice amounts to any unfair act or omission that arises between a worker and an employer involving:

- Unfairness in demotion and promotion of workers.
- Unfairness by an employer with reference to the training of an employee
- Unfairness by an employer relating to the benefits of workers
- The unfairness regarding suspension of an workers
- Disciplinary processes other than dismissals which is unfair and
- Inability by the employer to implement a signed agreement, which directs the reemployment or reinstatement of employee.

As stated in section 186(2) (a) of the LRA, any unfairness with regard to the employers failure to provide benefits to workers and noncompliance thereof forms part of unfair labour practice. Although this part of LRA has been in place for years, there are still different interpretations on the concept of benefits. There are now different case laws, which dictate that CCMA has no jurisdiction to arbitrate the disputes regarding benefits since it forms part of the remuneration. Remunerations are resolved through the strike action if there is no agreement.

In the Labour Court Case, Trans-Caledon Tunnel Authority vs. CCMA & Others (2013) 34 ILJ 2643 (LC) the judge decided that the provisions regarding unfair labour practice cannot be utilised to claim ownership to new benefits or new forms of remuneration which has not been received by the employees previously. However, where there is a claim about the unfair conduct of the employer in relation to the existing employment systems, employment conditions, policies or practices, it could be referred to the CCMA as an unfair labour practice relating to benefits.

Another form of dismissal, which is found in the employment relationship, is the operational requirements dismissal. Section 189 of the LRA 66 of 1995; provides for the protection of employees who can be dismissed due to operational requirements. Operational requirements dismissals, refers to retrenchments resulting from economic conditions, structural changes of the company and technological changes of the operation. Section 189 also provides a detailed procedure to be followed prior to terminating the employees on this ground.

It is therefore clear from all the above highlighted sections of the LRA 66 of 1995 and its amendments and other sections to be referred to on the topics and subtopics to follow, that section 1 of this act, is being implemented and being achieved. It is further clear that through the LRA, South Africa as part and signatory of ILO, endeavors to comply with the provisions of ILO. Lastly, all the above sections of the LRA, provide some assistance in the proper handling of the wage negotiations and minimization of the strike action in the Hospitality industry. It all depends on how best the negotiating parties utilize all the LRA provisions.

2.7.1.1 The Labour Relations Amendment Act 8 of 2018

According to the Labour Relations Amendment Act 8 of 2018, this act was introduced in 2018 to amend certain provisions of the LRA 66 of 1995. These amendments provide the following:

- Criteria on how to the minister can extend the collective agreements,
- Criteria to be used by the minister when extending collective agreements.
- It also provide for the renewal and extension of funding agreements.
- It enables the commissioner to assist in drafting the picketing rules to be agreed by the parties
- It determines the minimum services or essential services
- It provides for the secret balloting prior to the industrial action
- It provide for the establishment of the advisory arbitration panel to avoid detrimental and violent strike actions

2.7.2 The Basic Conditions of Employment Act (BCEA) no 75 of 1997

The Basic Conditions of Employment Act 75 of 1997 provide the minimum basic employment conditions for the employees. As stated by Du Plessis, Fouche and Van Wyk (2014:124), BCEA 75 of 1997, sets minimum standards for the protection of employees. This view is in line with the purpose of the BCEA 75 of 1997, as outlined in section 2 (a) (i)(ii) (b) of this act.

The basic aim of the act is to strengthen economic growth and community justice by ensuring the following primary objectives:

Establishment and reinforcing the minimum employment conditions, by regulating the variations of basic conditions of employment and importantly, by ensuring the realization of the obligations binding South Africa as the member of the International Labour Organization.

According to section 3 (1)(a), this act does not apply to those employed in the Defense Force, Intelligence Agencies, Secret Services and volunteers working for charitable organization. It however applies to all other employees.

As stated in section 4 of this Act, Basic Conditions of Employment constitute the basis of any employment contract, unless if the provisions of the employment agreements between the employer and the workers provides terms that are more favourable and or if such conditions

have been varied or excluded in terms of this act. Employers and Trade Unions, can also sign an agreement on the more favourable conditions after their wage negotiations.

Chapter 2 of the BCEA 75 of 1997 focuses on the regulation of working time and payment of employees. As provided in section seven, eight and nine of this Act, section 9(1) (2) (3) prescribe the exact number of hours which the employees are expected to work in any day and/or week. This is followed by section 10 (1)(2)(3)(4)(5) of the BCEA 75 of 1997, which clearly indicate that any hours worked in excess of the hours mentioned in section 9, shall be treated as overtime and further provides the formula to be used in calculating such over time. As stated in section 4 of this Act, these are basic conditions, which all employers should comply with. This chapter further explains the required meal intervals and the required rest periods in section 14 and 15 respectively of the BCEA 75 of 1997.

Chapter 2 of this act concludes by providing directives regarding working on Sundays under section 16, working night shift under section 17 and working on public holidays under section 18 of the same act.

It is also noted that chapter 3 of the BCEA 75 of 1997 deals with the leave entitlements and the payments of the employees who work during such leaves. It begins with section 20, which deals with an annual leave an employee is entitled too. Section 21 of the same act described how and when an employee should be paid for an annual leave. The last sections of chapter 3 provide further prescriptions regarding all statutory leaves (sick leave, maternity leave and finally, family responsibility leave) under section 27. These sections mentioned above, explain the number of days each employee is entitled to, when an employee can take such leave and the qualifying criteria to take such leave.

As stated by Du Plessis et al (2014:126), BCEA 75 of 1997, set minimum employment standards. It is for this reason that chapter 4; section 29 of the BCEA 75 of 1997 outlines the basic clauses, which must be included on the employment contract of the employee. In line with the above, chapter five of this act deals with the termination of employment. It described the notice period given by each party when intending to terminate employment under section 37. Section 38 and 40 deals with payments as an option to serve notice of termination of employment. The different forms of payment made during termination is the one prescribed in section 41. This payment is severance payment, paid as compensation to the retrenched employees.

Chapter 7 of the BCEA 75 of 1997, prescribe the conditions under which the basic conditions of employment are varied. As can be seen under section 49 (1) of this act, collective agreements signed in the councils, may change, replace or remove any minimum employment conditions, provided such agreement is in line with the purpose of this act. Variations by the minister, as per section 50 (1) of this act, also permits deviations or exclusions from the BCEA. Lastly, sectoral determinations in terms of chapter eight under section 51, 52, 53, 54, 55, 56, 57 and 58 of this act, provides detailed procedure on how and when to deviate from the BCEA 75 of 1997.

To ensure compliance with this act, the minister may appoint the labour inspectors in terms of chapter ten, section 63. The labour inspectors are tasked with performing the duties outlined in section 64; such duties are designed to ensure compliance with this BCEA 75 Of 1997.

2.7.2.1 Basic Conditions of Employment Amendment Bill 2018

According to the Basic Conditions of Employment Amendment Bill 2018, the amendments have been made on the below mentioned provisions:

- Parental leave allow the parents to access 10 consecutive leave days when the child is born.
- Adoption leave also entitles the parents to utilise 10 consecutive days if they adopt and are granted adoption order.
- Commissioning parental leave will result to one parent receiving 10 consecutive weeks of commissioning parental leave when the child is placed in their care through surrogacy motherhood
- Family responsibility leave will is no longer applicable at the birth of a child
- The provision of minimum payment of four hours for any employee who works less than four hours in any given day.
- The new powers of the CCMA allows it to write some of the compliance orders which were used to be written by the department of labour, eg the national minimum wage compliance orders.

2.7.2.2 National Minimum Wage Act 9 of 2018

According to the the National Minimum Wage Act 9 of 2018, this act aims:

- To provide for the national minimum wages for the employees
- To provide the establishment of the National Minimum Wage Commission
- To ensure that there is a commission for the National Minimum Wage Commission;
- To ensure that the act provides for the review and adjustment of the national minimum wage
- To ensure that there are provisions for exemption on the the national minimum wage

2.7.3 The Employment Equity Act 55 of 1998

The major function of this Act as provided in section 2, is to realize work place equity. Employment Equity Act (EEA) 55 of 1998 deals with achieving fair and just representation at work, by ensuring everyone has equal opportunities and fair treatment in recruitment processes through the eradication of unfair discrimination. It is also about introduction of affirmative action procedures to address the disadvantages in employment faced by the designated groups. In this way, fair and just representation in all occupational categories, groups and levels in the company is ensured. In line with section 2 of this act, Levy (2018) says, Employment Equity should be a change strategy of the organisation, aimed at preventing and remedying discrimination by identifying, and eradicating, job barriers in employment policies and practices within the organisation, as well as improving numerical representations in all of the designated groups.

Chapter two of this act deals with the prohibition of unfair discrimination at the workplace. However, section 6(2) of EEA 55 of 1998; clearly state that taking affirmative action measures cannot be regarded as unfair discrimination, to exclude or prefer any person because of the inherent requirements of the job or to further the purposes of this act. This can be seen when companies prefer to employ a black candidate as opposed to the white candidate. This cannot be termed as unfair discrimination since it is directed to ensure equitable racial representation at certain employment categories.

EEA 55 of 1998 also prohibits any unfair employee medical testing through its chapter 7. In line with this section, section 8 of the employment equity act, also provides prohibition on

employee psychological testing. The above tests can only be allowed if it is the jobs basic requirement for such test to be used or if it is directed by the Labour court in terms of section 50(4) of the EEA 55 of 1998. It must be noted that an employee also include job applicants as described in section 9 of the same act. Any disputes arising from this chapter should be referred to the CCMA, as provided by section 10(2) (3) (4) and (5) of the EEA 55 of 1998.

As per the stated purpose of this act in section 2(b), Chapter 3 of this act deals with the affirmative action requirements on the designated employers. A clear definition of who is the designated employer is provided under section 1 of the EEA. In terms of section 13(1) of the EEA, every designated employer should attain employment equity by implementing affirmative action for people from identified groups as defined in section 1 of this act. Section 15(2) of this act prescribe the affirmative action measures which must be taken, which include; elimination of barriers, furthering diversity at the workplace, accommodating designated groups, ensuring equitable representation at all levels, retaining and developing of people from designated groups. The EEA 55 of 1998 dictates that the above should be done in consultation with employees as provided in section 16(1) (2) and (3) of the same act. Section 17 provide specific matters for consultation with the employees mentioned in section 16 above. To ensure meaningful consultation process, the employers are required by section 18 to disclose the relevant information, which will assist the consulting parties to make a meaning full contribution during the consultation process.

Once the consultation process is done, the identified employer is expected to draft an employment equity plan as prescribed in section 20 (1) (2) (3) (4) (5) and (6) of this act. The employment equity act further requires the identified employer to produce and deliver a report to the Director General in terms of section 21 (1) (2) (3) (4) and (5) of the same act. In terms of section 23 of the EEA 55 of 1998, before the end of the term of the current employment equity plan, an identified employer is required to make available a subsequent employment equity plan. Any deviations and non-compliance with this act, is regulated by section 35, 36 and 37 of the same act, under chapter 5. Over and above the mentioned sections of this act, schedule 1, prescribe the fines to be imposed to the employers who do not comply with the EEA 55 of 1998.

2.7.3.1 Employment Equity Amendment Bill 2018

According to Van Wyk (2018), the Employment Equity Amendment Bill, 2018 was introduced to amend specific provisions of the EEA 55 of 1998. The purpose of the bill is provide the following:

- To ensure the Minister of Labour establishes sectoral numerical targets to ensure the fair and just representation of suitably qualified people from identified groups at all occupational levels in the workforce;
- To strengthen the management of the EEA; and
- To regulate the provision of state contracts.

2.7.4 The Skills Development Act 97 of 1998

In terms of section 2(1) of the Skills Development Act 97 of 1998, the major function of this act is to:

(a) Ensure the development of the South African labour force skills for the following:

- For the improvement of worker's quality of life and ensuring that, they are able to move from one position to the other through their available skills set.
- To improve the productivity levels of the employees and thus ensuring the profitability of their organizations.
- To promote the entrepreneurship.
- To ensure that the level of service delivery is improved.

2.7.5 The Unemployment Insurance Act (UIA) 63 of 2001

Unemployment Insurance Act No. 63 of 2001, makes provision for the protection of employees who becomes unemployed due to different reasons. The benefits covered by this act include adoption, maternity, illness, dismissals and dependents benefits.

As mentioned in section 2 of the UIA 63 of 2001, the main purpose of this Act, is to establish a fund, where the employers and the workers can contribute on monthly basis. If an employee becomes unemployed, he can make claims and be able to earn some money for a specified period until new opportunities becomes available. As stated in section 12 (1) of the UIA 63 of 2001, only unemployment, illness, maternity, adoption and dependents benefits are covered by this act. The employer must pay a total contribution of 2% of the employees pay, (1% contributed by the employee and 1% contributed by the employer).

In terms of section 3 (1) of the Unemployment Insurance Act 63 of 2001, the act applies to all employees and employers, except the below mentioned:

- Those who work for twenty four hours a month with a particular employer
- The learners who receive stipend under a learner ship agreement as regulated by the Skills Development Act, 1998 (Act 97 of 1998)
- Those who function under the national and provincial governments;
- Workers and their employers, who enter South Africa for the purpose of performing a contractual services, and who are expected to leave the Country on the completion of such contract.

The department of labour employs labour inspectors who are empowered by section 39 (1) and (2) of the same act, to ensure that every eligible employer complies with the unemployment insurance act 63 of 2001.

2.7.5.1 The Unemployment Insurance Amendment Act 10 of 2016

According to the Unemployment Insurance Amendment act 10 of 2016; its aim is to amend some of the provisions of the Unemployment Insurance Act 63 of 2001. This act provides the following:

- Extension of unemployment benefits to learners undergoing internship training.
- Adjustment of the accrual rate of contributor's entitlement to unemployment benefits
- Financing of employment services
- Extension of the contributor's entitlement to benefits
- Provision of the process of applying for maternity benefits

2.7.6 The Compensation for Occupational Injuries and Diseases Act 130 of 1993 (COIDA).

The major function of this act is to provide compensation for those who get injured, disabled, dies and acquire diseases during the course of their employment. This act provide benefit to the employees and their dependents in the case of death of the employee.

According to section 22 (1) of the COIDA 130 of 1993 (COIDA), compensation is payable to employees or their dependants, for deaths due to work related injuries or disease, permanent disability, temporary disability and funeral expenses of the deceased employee. This act, does not involve employees who are totally or partially incapable to perform their duties for a period

of less than 3 days, domestic workers, anyone who receive military training, members of the military force and police services, any worker guilty of wilful misconduct and anyone employed outside South Africa.

The Director-General of the labour department, manages the COIDA 130 of 1993 with assistance from Compensation Commissioners and staff, assessors, the Compensation Board and the Constitution Board. The Compensation Fund and the Reserve Fund provide funding for the compensation employees.

The Director-General investigate accidents, occupational diseases, and provide direction on payments, calculations and the level of disability on cases handed on him. In doing this job, the Director-General is entitled to subpoena any part and to subpoena any information. The Director-General is able to delegate his responsibilities to Compensation Commissioners, and has the powers to contract any party to perform a particular task.

The Director-General gets assistance from both assessors and medical assessors in hearing cases, and they represent the interests of employees and employers. There is an equal number of assessors appointed for each party.

2.8 Dispute resolution institutions in South Africa

The dispute resolution process in the employment relationship between the employer and the worker fall into three major types, the arbitration process, the consensual process, commonly known as conciliation and the adjudication process done by the labour court. The below chart shows some of the examples of the direction to take to deal with a particular dispute as provided for in the LRA 66 of 1995 and as per chapter 7 of the same act under dispute resolution.

The table below shows the referral process. Two small boxes in the table below indicates that it is compulsory for the party to refer the dispute under a particular process. One box indicate that it is optional to refer the dispute under that process and where there is no box indicate that the parties do not have to refer the dispute to that particular process.

Disputes	Conciliation Referral	Arbitration Referral	Labour Court referral.
Disputes about interpretation and application of Agency shop agreement.	☐☐	☐☐	☐☐
Representation at the Council.	☐☐		☐☐
Automatically unfair dismissals	☐☐		☐☐
Benefits provision	☐☐		☐☐
Disputes about closed shop agreement (interpretation and application)	☐☐		☐☐
Interpretation and application of collective agreement	☐☐	☐	☐☐
Organizational rights disputes	☐☐	☐	☐☐
Disputes relating to constructive dismissal	☐☐	☐	☐☐
Interpretation and application of Councils agreements	☐☐	☐	☐☐
Sectoral demarcation disputes	☐☐		☐☐
Disputes about demotion	☐☐		☐☐
Disputes about disciplinary processes	☐☐	☐	☐☐
Sharing of information disputes	☐☐		☐☐
Disputes about what is essential Services	☐☐		☐☐
Qualification for representativeness in the council	☐☐		☐☐
Disputes about freedom of association	☐☐		☐☐
Trade union representatives leave	☐☐		☐☐
Mutual interest disputes	☐☐	☐	
Misconduct	☐☐	☐	☐☐
Trade Union activities	☐☐	☐	☐☐
Picketing rules disputes	☐☐	☐	☐☐
Performance related processes	☐☐	☐	☐☐

Disputes	Conciliation Referral	Arbitration Referral	Labour Court referral.
Promotion	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Protest Action		<input type="checkbox"/> <input type="checkbox"/>	
Trade union registration and registration of employer formations		<input type="checkbox"/> <input type="checkbox"/>	
Re-instatement or re-employment	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Operational requirements dismissals	<input type="checkbox"/> <input type="checkbox"/>		<input type="checkbox"/> <input type="checkbox"/>
Secondary Strike		<input type="checkbox"/> <input type="checkbox"/>	
Retrenchment pay	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
Industrial action	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	
Suspending	<input type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

As defined by Goldberg, Sander, Rogers and Cole (2014:5), the conciliation process has an advantage of allowing the parties themselves to control the process and the solution. The arbitration process is adjudication like process, where the arbitrator makes presentation of proof, arguments and final decision.

Section 27 (10) (2) (3) and (4) of the LRA 66 of 1995, provides for the establishment of the bargaining councils. The major function of the bargaining council as outlined in section 28 (1) (c) of the LRA 66 of 1995, is to prevent and resolve the disputes between the employers and the workers. The above clauses of the act, clearly indicate that the bargaining councils, are one of the legislated dispute resolution institution in South Africa.

The LRA 66 of 1995, under section 112, provides for the establishment of the CCMA. The major function of the CCMA, as outlined in section 115 (1) (a) of the LRA 66 of 1995, is to resolve disputes between the employers and employees through conciliation. Section 115 (1) (b) of the same act, provides for the arbitration of the disputes which remains unresolved after the conciliation process. It can be concluded that the CCMA, is also a legislated dispute resolution process in term of the LRA 66 of 1995.

2.8.1 Commission for Conciliation Mediation and Arbitration (CCMA)

The LRA 66 of 1996, provide for the establishment of the CCMA. In terms of CCMA rules (2015), CCMA is the dispute resolution institution established and funded by the government to resolve disputes between employers and Trade Union. According to Van Zyl (2018:12), the CCMA is neutral and standalone from the state, any political formation, Trade Union, employer, employer's organization, federation of Trade Unions or federation of employer's organization. This view is further supported by section 113 of the LRA 66 of 1995.

Section 114 (2) of the LRA 66 of 1995 permits the minister of labour to determine the national head office of the CCMA. Clause (3) of the same act further provides for the establishment and maintenance of CCMA offices in each provinces and any number of local offices as it deems fit. In line with these requirements, Van Zyl (2018:9) provides the list and addresses of 19 CCMA offices in the republic of South Africa.

The specific functions and duties of the CCMA are listed under section 114 (1) (2) (3) (4) (5) and (6) of the LRA 66 of 1995. Van Zyl (2018: 14) say CCMA functions, duties and powers are comprised of both mandatory and discretionary functions, duties and powers. According to Van Zyl (2018:14) and in line with section 114 of the LRA 66 of 1995, the mandatory functions, duties and powers of the CCMA are the following:

- Endeavours to deal and sort any unsettled matter referred to it in terms of the LRA 66 of 1995
- If such disputes remain are unsettled after conciliation, to arbitrate such disputes if the LRA requires arbitration of such dispute.
- Assist in the establishment of workplace forums as contemplated in chapter v of the LRA 66 of 1995
- Document its activities and ensure its availability in statistical form
- Investigation of the secondary strikes if requested by the labour court or any party to the dispute
- Facilitate an agreement or an establishment of picketing rules when requested by the Trade Union or an employer organisation
- Accreditation of bargaining councils, statutory councils and private dispute resolution agencies.

Van Zyl (2018:15), further describe the discretionary functions, duties and powers of the CCMA as stipulated in section 114 of the LRA 66 of 1995. The following discretionary powers, functions and duties of the CCMA are listed:

- Provide advice regarding the procedures to be followed in terms of the LRA and as provided in section 148 of the LRA 66 of 1995
- To help parties on disputes to get assistance or representation as provided in section 149 of the LRA 66 of 1995
- To appoint a commissioner to conciliate a dispute which is in the public interest, as provided by section 150 of the LRA 66 of 1995
- Upon request, to oversee and investigate election or ballot of the registered Trade Unions or registered employer organisations.
- As provided in section 115 (3) of the LRA 66 of 1995, the CCMA may upon request, provide training to the registered Unions, employees, employers and registered employer organisations.

Clause 7 of the CCMA rules (2015) provides a detailed procedure for filing documents with the CCMA, where the parties fail to reach an agreement and where one party has declared a dispute against another party. It's imperative to note that in terms of chapter 5, clause 24 (1) of the CCMA rules (2005), any party referring a dispute to the CCMA, such dispute must be referred in the provincial CCMA office where the dispute arose, unless the Senior CCMA commissioner directs differently.

The management representatives and the Trade Union officials, engage on wage negotiation processes. Where these two parties fail to reach a wage agreement, either party can declare and refer the dispute for dispute resolution as per rule 10 (1) of the CCMA rules (2005). Fisher (2017:78) refers to dispute resolution as the variety of private processes for resolving the dispute. The parties should voluntarily participate in this process. Contrary to the view of Fisher (2017:79), South African labour legislation, dictate that the parties should refer the wage dispute to the CCMA as an attempt to resolve dispute as prescribed in clause 10(1) of the CCMA rules (2015).

According to CCMA rules, (2015) and as per section 135 (1) of the LRA 66 of 1995, the CCMA will provide a commissioner who will facilitate a meeting with an intention of resolving the wage dispute between the employers and the Trade Unions. As provided in section 115 of the LRA of 1995, the CCMA should endeavor to resolve disputes referred to it through

conciliation. The CCMA is also empowered to arbitrate the disputes, which has not been resolved during the conciliation phase. Section 136 of the LRA 66 of 1995, provides for the appointment of the CCMA commissioners to arbitrate the unresolved dispute. Arbitration of wage dispute can however be done with the consent of both parties. If the parties do not consent to arbitration of wage dispute, the commissioner can then issue a certificate of outcome, indicating that the dispute remains unresolved, as required by section 135 (5) (a) of the LRA 66 of 1995.

The Trade Unions, could only embark on a protected strike action, if the dispute is still not settled and after CCMA processes have been exhausted. Section 64 (1) (a) (i) of LRA 66 of 1995 state that CCMA outcome certificate should have been issued, indicating that the matter remains unresolved before the employees could embark on a protected strike. The Trade Union intending to embark on a strike, must further give 48 hours' notice of such intention as per section 64 (1) (b) of the LRA 66 of 1995. Once the Trade Union has complied with this clause, it can then embark on a protected strike action.

2.8.2 Bargaining Councils in South Africa

Section 27 (1) (a) and (b) of the LRA 66 of 1995, provides for the establishment of the bargaining councils by the employers and their formations on one side and by the employees represented by their Trade Unions on the other side for the specific sector and or area. The act regulates for the registration of bargaining councils with the labour department. The basic aim of the bargaining council, is to provide a forum through which the employers and the Trade Unions could negotiate employment conditions and any other matters of mutual interest.

According to section 28 (1) (a to i) of the LRA 66 of 1995, the detailed powers and functions of the Bargaining Councils, include the following: resolve labour dispute, management of the employer/employee agreements, introduction of new labour policies and laws and establishment of various schemes beneficial to both employers and employees.

As provided in section 31 (a) of the LRA 66 of 1995, agreements concluded in Council, are only binding to the employers and Unions who are members of that Council. There is however section 32 of the LRA 66 of 1995 which provides for the extension of such agreements to non-members of council.

Therefore, where there are no Bargaining Councils, and where the employers and Trade Unions are not party to the Bargaining Councils, they can still negotiate and reach their own agreements on wages and other employment conditions as per section 23(c) (1) of the LRA 66 of 1995

This study will therefore focus on the wage negotiation processes between employers and Trade Unions where the Bargaining Councils' agreements do not have any effect. These would be negotiations, which takes place at the shop floor level. Secondly, the focus will be on the disputes of mutual interest as opposed to the disputes of rights.

2.8.3 Labour court

The Labour Court, is a South African court that handles labour law cases and disputes arising from the employment relationship between employers, employees and Trade Union. The court is established in terms of the LRA 66 1995, and has a status similar to that of a division of the High Court.

As provided in section 151 (2) of the LRA 66 of 1995, the Labour Court is a superior court that has authority, inherent powers and standing, in relation to matters under its jurisdiction, equal to that which a court of a provincial division of the Supreme Court has in relation to the matters under its jurisdiction. As stated in section 152 (1) of the LRA 66 of 1995, the Labour Court consist of the Judge President, deputy Judge President and as many judges as the President may consider necessary. These judges act on the advice of National Economic, Development, and Labour Council (NEDLAC) and in consultation with the Minister of Justice and the Judge President of the Labour Court.

If the parties fail to resolve the dispute at the CCMA conciliation process or the Bargaining Council, then certain disputes may be referred to the Labour Court for adjudication. The below are some of the examples of the disputes, which may be referred to the Labour Court for adjudication:

Dispute Categories	Example	Reference
Freedom of association (Interpretation and application of Chapter 2 of the LRA disputes)	Engaging Trade Union activities	Section 9 of the LRA.

Dispute Categories	Example	Reference
Disputes about procedural and substantive fairness in dismissals	Automatically unfair dismissals. Operational requirements dismissals	S 187,189 and 191 of the LRA.
Disputes about retrenchment payments	Retrenchment pay (if the Labour Court is hearing a dispute about retrenchments.	Section 41 of the BCEA
Unfair discrimination disputes	Discrimination disputes at workplace	Section 6 and 10 of the Employment Equity Act

2.8.3.1 The referral for adjudication to the Labour Court.

Part D of the LRA 66 of 1995, provides the below mentioned process for the referral of unresolved disputes to the Labour Court:

- If the dispute remains unresolved and had been referred to CCMA or Council and still remained unresolved or if 30 days period has expired since the council or CCMA obtained the referral and the matter still unresolved, the worker may escalate such dispute to the Labour Court for a directive
- The referral of such dispute to the Labour Court should be done within a period of 90 days from the date of the CCMA or the Council or if thirty days is finished after the Council referral and matter remains unresolved.
- The Labour Court may accept and grant condonation for a late referral if a sound reason for lateness is submitted.
- The LRA 66 of 1995 makes no provisions about the time frame of the referrals regarding Chapter II or freedom of association disputes.
- All Labour Court referrals shall be in line with the referral procedures.

2.9 Categories of disputes

The below chart sets out some of the categories of disputes that may be referred to the CCMA or Bargaining council, for conciliation.

Category of Disputes	Examples	Reference
Interpretation or application of Chapter II of LRA relating to freedom of association and general protection	Engaging in Trade Union activities	Section 9 of the LRA
Disputes regarding proposed industrial action	Benefits Matters of mutual interest Employment conditions Salaries	S 64(1) of the LRA.
Disputes about a changes in employment conditions without consultation	Provision of benefits Disputes of interest Employment conditions Salaries	S 64 (4) of the LRA
Disputes in essential services	Provision of benefits Interest disputes Employment conditions and its terms Payments	S 74 of the LRA
Disputes relating to fairness of dismissals	Automatically unfair dismissals Misconduct Performance related disputes Operational requirements dismissals	S 187, 189, 190, 191 of the LRA.
Disputes relating to unfair labour practice (ULP)	Provision of benefits Demotion Misconduct processes Promotion	Items 2(1) (b), (c) and (d) in Schedule 7 of the LRA.

Category of Disputes	Examples	Reference
	Reinstatement or re-employment Suspension Training	
Unfair discrimination related disputes	Unfair discrimination disputes	Sections 6 and 10 of the Employment Equity Act.

If the parties fail to settle their matter at the CCMA conciliation process or bargaining Council, the below are some of other examples which can go to the arbitration process.

Category of disputes	Example	Reference
Disputes regarding essential service	Provision of benefits Mutual interest matters Employment conditions Salaries	S 74 of the LRA
Unfairness dismissal disputes	Misconduct Performance related matter	S 190, 191 of the LRA.
Disputes on retrenchment payments	Operational dismissal payments	S 41 of the BCEA.
Unfair labour practice disputes	Benefits Demotion Disciplinary processes Promotion Suspension Education	Item 2 (1)(b), (c) and (d) in Schedule 7 of the LRA.
A dispute regarding the representation of employer organizations and Trade Union party and the formula to be used to determine the number of representatives.	Allocation of seats in the Council Representation formula	Clause 5 (2) read with 5 (10) of the Council's constitution

Category of disputes	Example	Reference
Bargaining council constitution related disputes	Bargaining council constitution	Clause 13 (1) of the Council's constitution.

2.9.1 Dispute of right

The dispute of right emanates from the employee's claim in the legal or contractual rights. This is in line with the view of Okene and Emejuru (2015:135), who says the dispute of right includes the existence, validity or the interpretation of collective agreement or its violation. It therefore deals with the application of existing legal instrument, such as contractual clauses in the collective agreements or any legislation. Okene and Emejuru (2015:136) further state that disputes of rights can be settled in courts without resorting into a strike action. This view complies with the South African LRA 66 of 1995, where section 115 (1) (b) of the same act, makes provision for the settlement of disputes through the arbitration process.

It is therefore important to note that employees, who are engage in the dispute of rights with their employers, cannot resort into a strike action. Their recourse will be to have that dispute arbitrated or referred to the Labour Court for adjudication.

2.9.2 Dispute of interest

A dispute of interest is not based on any rights⁴. The employees or their unions make a demand to the employer for the establishment of the new right. If there is no agreement between the employer and their Trade Unions, then the employees can enforce their demand by exercise their right to strike as provided in section 64 of the LRA 66 of 1995.

The above is in line with the view of Okene and Emejuru (2015:135) who says the dispute of interest concerns the establishment or creation of a new right. Dispute of interest, such as wage dispute, are resolved through industrial action, where the parties will either strike or participate in a lockout.

2.10 Hospitality Industry in South Africa

According to Rogers and Visser (2017), the hospitality industry in South Africa is comprised of hotels, bed and breakfast, back packer's hotels and self-catering accommodations, travelling and tours, casinos, conference centres and game farms.

This definition is in line with the definition provided on the department of labour's employment conditions report into the hospitality sector (2017). This report defines the hospitality sector as any commercial business. In such business, employers and workers come together with the purpose of carrying one or more of the following activities:

providing accommodation in a hotel, motel, inn, resort, game lodge, hostel guest house, guest farm, bed and breakfast, self-catering, caravan parks, restaurants, pubs, industrial or commercial caterers, contract caterers, gaming activities, recreation, entertainment and all activities or operations incidental or arising from any of the activities mentioned above.

2.10.1 Contribution of the Hospitality Sector to South African Gross Domestic Product (GDP)

The hospitality sector's contribution to Gross Domestic Product (GDP) in 2014 was R113.4bn (3.0% of GDP), which grew by 3.8% in 2015 to R117.71bn and is expected to grow by 4.6% to 184.7bn (3.4% of GDP) by 2025⁵. The report, further indicated that the impact of the hospitality sector through the investments, supply chain and induced income was R357.0bn in

⁴ <https://www.gilesfiles.co.za/rights-dispute-difference-interest=1C1GNAM682ZA682>

⁵ <http://www.statssa.gov.za/publication/Report-04-05-072012>

2014 (9.4% of GDP), which grew by 3.4% to R369.3bn (9.5% of GDP) in 2015 and expected to rise by 4.3% to R561.bn (10.4% of GDP) by 2025.

According to the Tourism Business Council of South Africa report (2015), strong domestic leisure demand, helped to lift the South African tourism business performance. In addition to this, the weak exchange rate was also the most prominent positive factor, which stimulated the foreign tourism demand. However, domestic tourism proved to be the biggest contributor in the hospitality sector during the festive periods⁶.

2.10.2 Employees in the hospitality sector

Employment conditions report on hospitality sector (2015), indicates that 1 497 500 jobs were provided by the sector in 2014. This number grew to 1 551 500 jobs in 2015, and this number is projected to top 2 028 000 by 2025.

According to the employment conditions commission report on hospitality sector (2015), employees in the sector are to the large extent organised by Trade Unions. The report identified 13 registered Trade Unions who organise and represent the employees in the hospitality sector. The report indicates that, the South African Commercial, Catering and Allied Workers Union (SACCAWU) is the most representative union, with a nationwide membership of 40000 workers. The Trade Unions in the sector, collectively and or individually bargain with the different employers in the sector on wages and employment conditions for their members.

The employment conditions commission report on hospitality sector (2015), indicates that there are only two regionally-based bargaining councils in the sector, the bargaining council for the food retail, restaurants, catering and allied trade, which covers the magisterial districts of Pretoria, Brits, Bronkhorstspuit, Cullinan, Rustenburg, Warmbaths, Witbank and Wonderboom. The second bargaining council is the bargaining council for the restaurant, catering and allied trades, which covers the magisterial districts of Alberton, Benoni, Boksburg, Brakpan, Delmas, Germiston, Johannesburg, Kempton Park, Krugersdorp, Randburg, Randfontein, Roodepoort, Springs and Westonaria.

Trade Unions and employers who are involved in the hospitality sector in the mentioned magisterial districts, collectively negotiate wages and conditions of employment in the above two bargaining councils. The collective agreements concluded in this bargaining council would

⁶ <http://www.tbcsa.travel/index.php?nav=news&views=572>

therefore be binding to their members in terms of section 23 of the LRA 66 of 1995. However, the bargaining council may ask the minister to extend the collective agreement to non-parties in terms of section 32(1) of the LRA 66 of 1995. If this request has been made and agreed to by the minister, the collective agreement concluded in the bargaining council, can be also binding to non-parties to the bargaining council. This will only be applicable to non-parties who are within the registered scope of that bargaining council.

Over and above section 32(1) of the LRA 66 of 1995, the minister of labour is has the powers to make a decision for the sector, that will establish the minimum employment conditions for employees in a sector and area in terms of section 51(1) of the BCEA 75 of 1997. This legal provision does not prevent members from negotiating and reaching agreements, which are better than those determined by the minister in the sectoral determination. It must be noted that none of the magisterial district of KwaZulu-Natal province are mentioned or covered by these bargaining councils. Where there are no bargaining councils, individual Trade Unions and individual employers, can also negotiate their own wages and conditions of employment at their plant level forums. Their agreements should however comply with section 51(1) of the BCEA 75 of 1997.

2.10.3 Hospitality industry minimum wages for 2017

According to Bagraim (2017:12), as from the 1 July 2017, the department of labour implemented a minimum wage schedule applicable to all industries in the Hospitality Sector and has been gazetted as from 1 July 2017 for the whole Hospitality Industry.

The hospitality industry is divided into minimum wages for employers with (ten) 10 or less employees and for employers with more than ten (10) employees. For less than ten (10) employees the monthly wage is R3193.12 and for over ten (10) employees is R3559.10. These amounts can be calculated on a weekly and hourly basis as well.

The hourly tariff for less than 10 employees is R16.36 and for employers with more than 10 employees R18.25. As mentioned above, Hospitality industry employers, employees and Trade Unions in KwaZulu-Natal, can negotiate their own wages and conditions of employment which are similar or better than those provided on the sectoral determination.

2.10.4 Hospitality industry minimum wages for 2018/2019

Thejane (2018) outlined the hospitality sectoral determination, which governs minimum wage rates in the sector from June 2018 to June 2019.

The new wages for employers with more than 10 employees will be a minimum monthly rate of R3 772.65 (2018/2019); a weekly rate of R870.62 (2018/2019); and an hourly rate of R19.35 (2018/2019).

The CPI (excluding owners' equivalent rent) reported by Stats SA on the 23 May 2018 which is 4.5% plus 1.5% as prescribed in the Sectoral Determination has been used to determine the current wage increases in terms of the sectoral determination.

2.11 Overview of the organizations from which data was collected

2.11.1 South African Commercial Catering and Allied Workers Union (SACCAWU)

South African Commercial Catering and Allied Workers Union (SACCAWU), as defined in its constitution (2009), is the Trade Unions in South Africa, which represent employees in the food, catering, commercial, hospitality and beverage sectors. In terms of SACCAWU annual report published in 2012, its total national membership stood at 147000 across all its branches in South Africa.

Clause 2 of SACCAWU constitution (2009), state that SACCAWU is constituted by four levels of membership: shop floor level, local level membership, regional level membership and National level membership. This study will focus on the Durban regional level membership, located in their Field street offices.

This office service around 17000 members from 100 companies in and around the KwaZulu-Natal. The Regional secretary of SACCAWU, who is a fulltime elected representative, elected in terms of clause 2.7.1 of SACCAWU constitution (2009), manages this office. The Regional secretary works with the local chairperson, deputy chairperson and Treasurer, who all work and employed in companies where SACCAWU has membership.

In terms of clause 26.1 of SACCAWU constitution (2009), full time Trade Union officials are employed by SACCAWU to represent and service SACCAWU membership on fulltime basis.

7 <http://www.labour.gov.za/DOL/media-desk/media-statements/2018/hospitality-sector-minimum-wage-increases-for-2018-2019>

Trade Union officials are fulltime employees of the union. They are employed because of their skills and qualifications. The Durban field street office, in line with clause 26.1 of SACCAWU constitution (2009) employs 20 Trade union officials who work for SACCAWU. These officials participate in Wage negotiations with the employers from different companies, where SACCAWU has membership.

2.11.2 Servest South Africa: Durban Branch

Servest is a multidisciplinary company, which also provide hospitality services to their customers. Some of their hospitality related services include catering, golf entertainment, marine services and tours. Their KwaZulu-Natal branch is at Newlands East in Durban.

Some of Servest Durban employees are unionised and are members of SACCAWU. Servest, has one Industrial Relations Manager who leads and negotiate wages and other employment conditions with the Trade Union. The Industrial Relations Manager represent the company during the wage negotiations and he is the chief negotiator during the wage negotiation process.

2.11.3 Tsebo Solutions Group, Fedics Division, Durban

Tsebo Solutions group is a South African company, which provides different solutions to its customers. Tsebo Solutions has different divisional companies under its umbrella. Fedics division is one of Tsebo solutions group of companies. Fedics provides services to hospitality clients and has footprints in the whole of South Africa. Some of the hospitality clients, which are serviced by Fedics, are hotels, gaming industries and entertainment companies.

Fedics division has its provincial offices at Umhlanga north of Durban city centre. Fedics division employs one regional Human Resources manager, one regional Industrial Relations Manager and one Operations manager, who all participate in wage negotiations with the Trade Union. SACCAWU is a Trade Union, which represent employees employed by Fedics Durban division.

2.11.4 Tsogo Sun

This is a gaming, hospitality and entertainment company with its head office in Johannesburg. Tsogo Sun has a branch in KwaZulu-Natal in Durban, called Sun Coast Casino and entertainment. Sun Coast Casino employs one Employment Relations Manager who participate in wage negotiations with the Trade Union. Tsogo Sun Casino employees are members and

represented by SACCAWU. They conduct wage negotiations and other conditions of employment under the leadership Tsogo Sun Employee Relations manager and SACCAWU Trade Union official.

The duties and the responsibilities of the Industrial Relations manager, Employee Relations manager, Human Resources manager and the Operations manager, mentioned above, are exactly similar to those performed by SACCAWU Trade Union officials during the wage negotiation processes. The only difference is that the managers, negotiate and represent the interest of the companies, whereas the Trade Union officials negotiate and represent the interest of the employees in the negotiation process.

2.12 The wage negotiation process

As stated above the Trade Union official secures a mandate from the members to negotiate with employers. The employers will also formulate their counter offers to be negotiated with the union. The employers likewise, will also appoint their chief negotiator who will be the leader of the management team during the wage negotiations.

As stated by Kolb and Porter (2015:136), the wage negotiation process will resume when the existing wage agreement expiration looms. This simply means, the new wage agreement will replace the old wage agreement. The wage negotiation process consists of both company and employee representative. These two participants enter the wage negotiation process with widely different positions. According to Morton and Blair (2016:204), during the wage negotiation processes, Trade Unions will demand higher wage increases in order to protect the real income of the workers, whereas employers will try to cut costs in order to survive the economic challenges of reduced growth.

According to Kolb and Porter (2015:137), the wage negotiation process will resume with each party making its own opening and counter offers. Kolb and Porter (2015:137) further state that this stage is likely to be characterized by angry posturing, mostly displayed by the labor representatives. This will be the technique by Trade Union official to show that they are going to fight for their interest. Employers should never fall for a trap of being threatened or being emotional towards the Trade Unions during this stage. Pressman (2016:34) suggest that this is an important stage whereby both parties should establish what will make the best deal for both parties. According to Pressman (2016:35), one of the critical areas of successful wage negotiations, is the ability to articulate the desire to work together for mutual gain.

The employee demands will be higher than the employer's counter offers. Each party submits a detailed motivation of their proposals and counter proposals. According to Venter, *et.al* (2014:278) the wage disputes are also caused by a big gap between the employee demands and employers counter proposals.

The process will continue with both parties conceding on some of the items and remaining defiant on some of the items. Pressman (2016:30) suggest that the parties should create the Green Zones of agreement. He defines this as creating a space for what you want and what the other party wants. This approach has a potential of avoiding the wage disagreements. The Green Zones of Agreement will result to some points agreed to and others removed from the agenda, Presman (2016:33). The employee representatives will therefore move down from their initial demands and the employers will up their counter offers. At this stage there could be a wage agreement signed.

If the parties are still differing on some of the issues, the negotiation process allows either party to institute dispute resolution proceedings in terms of the LRA 66 of 1995. The dispute resolution process will lead the parties to the CCMA whereby an independent CCMA professional will assist the parties with further negotiations aimed at getting a resolution on the outstanding points. Gernetzky (2014) stated that employers may not agree on the demands made by the employees easily and this may lead to a deadlock and later to an industrial action.

According to the CCMA rules (2015), a CCMA official will be responsible to persuade both the employers and employees to concede further on their demands and counter offers so that a solution is found and a strike is avoided. If there is still no agreement, Trade Union officials can then initiate a procedural strike in line with section 64 of the LRA 66 of 1995.

2.12.1 The role of trade union official in wage negotiations process

Prior to the wage negotiation process, the Trade Union officials will meet with the members of the Trade Union. The aim of this meeting is to formulate the employee demands and new employment conditions to negotiate with employers. Venter, Levy, Bendeman and Dworzanowskin (2014:426) refer to this meeting as a meeting of formulating a shopping list. They indicate that there are minimal chances that anyone from the Trade Union does any costing of these proposals during this meeting. According to Venter *et al* (2014:289), it is vital for both the Trade Union officials and the employers to have all the relevant information at their disposal in order to facilitate a successful wage negotiations process.

Trade Union officials will then submit these proposals to the employers for the wage negotiation meeting. During the wage negotiation process, the Trade Union official will be the leader of the employees delegated to represent and negotiate with the employers during the wage negotiation process. Trade Union official will also be the chief negotiator during the negotiation process. As stated by Venter *et.al* (2014:290), chief negotiators who represent their respective constituencies should be aware of their potential and their ability to influence their opposition. Trade Union official leads the negotiation process on behalf of the employees until the wage agreement is reached. Trade Union officials will therefore use their potential, skills and influence, to ensure that they get an agreement, which is in favor of their constituencies.

If there is no agreement, Trade Union official must ensure that the dispute resolution process is followed and all the legal requirements are met in terms of chapter seven of the LRA 66 of 1995. If the agreement is still not signed after the dispute resolution process, Trade Union official must ensure that all the strike legal requirements as per section 64 of the LRA 66 of 1995 are met prior to engaging in an industrial action.

According to Nel, Kirsten, Swanepoel, Erasmus and Poisat (2013:53), one of the basic objective of the Trade Union official must be to protect and promote the interest of its members and the working class in general. Therefore, if there is an industrial action, Trade Union official must also play a leading role during the strike action until the resolution is found and the strike is terminated.

2.12.2 The role of management representatives in wage negotiations process

According to Pringle and Starr (2013:20) management has a role of promoting company interest and that of maintaining good relations with employees. It is for this reason that prior to the resumption of the negotiation process, the management representatives will meet with senior management. The purpose of the meeting will be to formulate the mandate and counter proposals to be communicated to the employee representatives during the wage negotiation process.

Management representatives will carry the wage offer and negotiate ensuring that they do not exceed their mandated wage offer. According to Venter *et.al* (2014:289) Management representatives usually approach the wage negotiations based on four categories:

- Affordability, which relate to the employer's ability to meet the financial impact of the wage increase.
- Comparability, which relate to employers comparing what they pay their employees with what is being paid else where
- Cost of living, which relate to the employer comparing the current Consumer Price Index (CPI) to the demands of the employees
- Productivity, where the employer will compare the labour cost to the productivity of the employees at the work place

The above, are some of the arguments which management present during wage negotiations to ensure that the company does not pay excessive wages as this increases costs and reduces profits.

As stated by Venter *et.al*, (2014:292) Trade Unions can make a number of demands regarding changes on the current employment conditions. The above, is in line with the BCOEA 75 of 1997, which only stipulate the minimum conditions of employment. This gives the Trade Unions an opportunity to negotiate better employment conditions than the one stipulated on the BCOEA. It is therefore the responsibility of management representatives to have a clear mandate on the new employment conditions and ensure that they do not exceed that mandate.

Where the Trade Unions and the employers fail to reach an agreement during the wage negotiations, management representatives will represent the employers at the dispute resolution meetings, CCMA rules (2015). If the agreement is still not signed, the management representatives will be responsible to make contingency plans and manage the industrial action, which may result from failed wage negotiations.

According to Menoni, (2016:56) Strike contingency plans should be in place and created by management in organizations. The strike contingency plan, provide specific guidelines and the ways in which the business and the operation should be run and managed during the work stoppage. Management representatives will be responsible to minimize the negative effect of the strike action against the company. Management representatives will continue to represent the company until there is resolution and a wage agreement is signed.

2.13 Factors contributing to successful wage negotiations

According to Collins (2015) there are six (6) main factors which contribute to the successful wage negotiations when companies are negotiating with the Trade Unions. These factors are:

2.13.1 Defining the bargaining unit

A bargaining unit is a specific category of employees represented by the union in collective bargaining. According to Berg (2015:12), a bargaining unit can be at a plant level, professional level, enterprise level or in more than one levels. Section 12 and 13 of the LRA 66 of 1995, allows every employee to be a member of the Trade Union. However, the Trade Union will not necessarily negotiate their salaries if they are not part of the bargaining unit. Trade Unions and employers should define and have a common understanding of the bargaining units, which are being negotiated for during wage negotiations. As stated by Brett (2014:34), it is extremely important for the parties to identify the constituencies for which they negotiate. Most companies usually exclude managers from the bargaining unit since they are the representatives of the company during the negotiation process.

2.13.2 Analyze the trade union demands

It is very imperative for the employers to properly analyze and understand the Trade Union demands before embarking in wage negotiations. As stated by Jeong (2016:156), the capacity to analyze the wage demands is part of the core of negotiation skills. Therefore, if there was an analysis and understanding of the demands, there will be high probability of reaching a settlement.

Employers will receive the demands and the request for the first meeting to negotiate wages and conditions of employment. These demands are assessed, and a decision taken on how to deal with them. As stated by Dignall (2014:112), employers should decide what to and what not to concede on. The parties must also decide what is and what is not negotiable.

2.13.3 Clarification of the mandate

Both Trade Unions and the employers should decide on what level they are prepared to settle on. Parties should avoid making the negotiations so rigid that they actually turn into a dispute and possible strike action. Parties should have a settlement goal to work towards on. Both parties should be able to clarify their mandates to each other without any ambiguity. As stated by Dignall (2014:113), parties must create an environment where each party will be able to air

their opinions and concerns objectively. Each party must clarify areas deemed unreasonable, if any. This will assist when parties are searching for an acceptable resolution.

2.13.4 Planning negotiation strategy

Wood (2013) defines negotiation strategy as that plan of action by the negotiators, aimed at achieving a specific goal or objective and to potentially find and make an agreement in a negotiation with another party. He describes it as the process of managing the relationship between the employers and employees during the negotiation process.

Successful wage negotiations should result in a win-win situation, or even lose-lose situation, where both parties must give up something. This is in line with the view of Kennedy (2017:178), who sees negotiation strategy as about higher-level judgment on interest, issues, positions and possible solutions available. Negotiating parties should decide where to begin with negotiations and where they intend to end their negotiations.

2.13.5 Managing the process effectively

Trade Unions and employers should be fair and open minded during wage negotiation. Negotiating parties should be able to listen to each other and be prepared to make some commitments. As stated by Jeong (2016:156), negotiating parties, should be involved in integrative problem solving that increase the value for all in the negotiation process. This can also be an opportunity for establishing sound employer - employee relationships or between the employers and Trade Unions, which will be beneficial in future wage negotiations.

2.13.6 Completion of all relevant paper work

Negotiating parties should ensure that they record the final details once the negotiations have ended. Employer representatives and Trade Union officials should draft and sign an agreement detailing all the agreed issues to avoid any misunderstanding and different interpretations of what was agreed to.

2.14 Strikes and lockouts

Moody (2014), defines a strike as when the workers stop working in pursuit of a particular demand. Lock out on the other side is the exclusion of employees by their employer from their place of work until certain employment conditions are agreed. Gupta (2017:189) stated that strikes and lockouts results to an economic loss to the industry. When negotiators deadlock on their wage negotiations and failed to reach an agreement during the dispute resolution meeting

facilitated by the CCMA, employees can embark on a protected strike and the employers can implement a lock out.

Section 64 of the LRA 66 of 1995, prescribe that, prior to embarking on a strike, the employees should have referred the dispute to the CCMA for resolution. Secondly, the certificate of outcome stating that the matter has not been resolved, should have been obtained from the CCMA and lastly, the union is required to give the employer 48 hours' notice prior to resuming with the strike action.

The employers are also required to give forty-eight hours' notice of the intention to lock out the striking employees. It is after these procedural requirements have been met, that the employees can embark on a protected strike action and the employers can implement a protected lock out.

2.15 Strikes incidents in South Africa

According to Ramutlou (2017:9), South Africa experienced an increase in strike incidents in 2016 as compared to 2015. In 2016 the South African labour market was negatively affected by the loss of 946 323 working days compared to 903 921 lost working days in 2015. These strikes incidents emanated from the failed wage negotiations. Due to these strike incidents, the South African economy lost R161 million in 2016 compared with R116 million in 2015. Ramutlou (2017:17) further state that the median wage settlements from various industries in 2016 was approximately 8%, compared to approximately 7.4% in 2015. This simple indicate that employees who engaged on strikes in 2016 ended up getting a higher wage increase compared with employees who did not engage on strikes in 2015.

As outlined by Semono (2018:5) there were more strikes in 2017, topping 132 in total as compared to the 122 in 2016. This represent an increase of 8% over the two-year period. The number of working days lost in 2017 increased to 960 889 compared to 946 323 in 2016. The impact on workers involved in the strike activity is estimated at R251 million in wages lost in 2017 as compared to R161 million in 2016. The principal causes of work stoppages were still the demand for higher wages, bonus and other compensation benefits

Jorgen and Adams (2018), who believe that the South African legacy of wage disparities, play a significant role and it is a clear explanation of the massive strike figures, support the above. According to the department of labour (2017), the core of the Labour relations amendments, is

to resolve strikes or lock outs that are intractable, violent or may cause a local or national crisis. The amendments provide for the establishment of an advisory arbitration panel to investigate the causes of a strike action or lockout and make an advisory award to assist the parties to resolve the dispute.

The above figures clearly indicate that the strike incidents in South Africa have not been declining in the past three years. It is also clear from the figures that these strike incidents emanate from the failed wage negotiations, and they further negatively affect the wages of the employees through the principle of no work no pay. The revenue of the companies and the marketability of the country as the investment destination gets affected negatively.

The analysis presented in the industrial action report (2017), shows that the South African labour market is still faced with higher wage demands from workers because of the existence of wage disparities and inequality in the workplaces. As a result, the number of work stoppages rose by 8% in 2017 as compared to the previous year. Jorgan and Adams (2018), who stated that the soon to be implemented national minimum wage would increase the earnings of more than six million working South Africans, support this. It is envisaged that this will minimize the number of disputes emanating from wage demands. It remains to be seen, though, if the national minimum wage will achieve this stance.

2.16 Conclusion

This chapter outlined an overall view of the literature pertaining the wage negotiation processes in both South Africa and the international countries. The strike incidents were examined and impact they have in the country's economy. The hospitality industry and its established negotiating structures were also examined. The chapter also provided an overview of the South African legislation governing the relationship between the employers and the employees.

The following chapter provides the research methodology that was employed in this research project.

CHAPTER THREE

Research Methodology

3.1 Introduction

In this chapter, a detailed and clear description of the selected methodology is presented. According to Greener and Martelli (2015:210), research methodology refers to the techniques and methodologies that the researcher use to collect both current and historical data. As stated by Rajasekar, Philominathan and Chinnathambi (2013:134), research methods gives application of training to a problem whereas research methodology provides necessary training in choosing those methods, scientific tools, techniques and materials relevant to the problem chosen. Research produces facts to support arguments and beliefs and may provide vital information necessary to develop clear strategies, Rajasekar *et al* (2013:133). Therefore, the content of this chapter discusses the research methodology of the study.

3.2 Research design

According to Cooper (2014:206), research design is the strategy that will constitute a plan of gathering, measuring and analyzing data. It is very important, since it defines the achievements or failures of the research. It is about the kind of study the researcher will undertake and if it answers the question that was formulated. As stated by Bryman and Bell (2013:210), research design reflects resolutions made about first preference given to the range of research processes.

There are several research designs used by researchers. Tashakkori and Teddlie (2012:239), mentioned exploratory research, descriptive research, casual-comparative research, correlational research and descriptive research as some of the research designs used. This research will use an exploratory method. The researcher is able to discover the insights and opinions of both the Industrial Relations officials and Trade Union officials. The purpose of selecting the exploratory method is for the researcher to be able to generate in-depth insights from the participating Trade Union officials and Industrial Relations officials. Greener and Martelli (2015:49), argued that exploratory research attempts to identify and clarify a problem.

3.3 Research approaches

According to Creswell (2014:199), there are three well-known and recognized approaches to research, and these are qualitative, quantitative and mixed method. Hanes (2015:4) defines quantitative research as a study involving the use and analysis of numerical data using

statistical techniques. This statement is supported by Gray (2014:192) who explains that quantitative studies generate data in the form of numbers, often depicted positively as reliable and rigorous. Hanes (2015:4) further state that quantitative research is especially useful when carrying out large scale needs assessment or baseline survey. The aim of this approach is to be precise and factual using objective measures.

Vos *at el* (2014:211) stated that qualitative research encompasses unstructured or semi structured methods like individual interviews that usually involves answering of questions to complex phenomena with the purpose of understanding the complicated situations. The objective of qualitative data is to understand the underlying reasons and motivations required to provide background of a problem. It is an approach for exploring and understanding the meaning individuals and groups ascribe to social or human problem, Cresswell (2014:189).

The last research method is mixed methods. Greener and Martelli (2015:231) describe mixed methods as a class of research where the researcher mixes the qualitative and quantitative techniques to enrich the research. This study adopted the mixed methods approach. The reason for using a mixed method approach was to enable the researcher to classify, categorize responses and interpret the qualitative findings into quantifiable dimensions by employing a quantitative approach. A total of 20 questionnaires were issued and completed by 20 respondents classified as follows:

- 5 Managers (1xHuman resources, 2xIndustrial relations, 1xEmployment relations and 1xOperations managers), and
- 15 Trade Union officials,

The 35 questions of the questionnaires are classified and categorized using a graphical and table format. Therefore, transferring of qualitative data into quantifiable dimensions will help the researcher to grasp the quantitative results and the qualitative data, thus contributing to understanding of the research problem.

Mixed methods will assist the researcher in understanding the insights, experience and responses of the SACCAWU Trade Union officials and Managers during and after their participation in wage negotiations processes in the Hospitality industry of KwaZulu-Natal.

3.4 Study site

According to Marshall and Rossman (2016:97), study site is the physical place where research is conducted when collecting data. In this study, the research is conducted in four different sites: SACCAWU Durban Field Street offices, Servest Newlands office of the Industrial Relations manager, Tsogo Sun Coast Casino office of the Employment Relations manager and the Umhlanga Fedics offices of Human Resources manager, Industrial Relations manager and Operations manager in Durban KwaZulu-Natal. This is where SACCAWU is sufficiently representative of its members and where SACCAWU negotiate for its members on the wages and new conditions of employment. The identified managers lead the wage negotiations during the wage negotiation processes on behalf of their employers.

The SACCAWU Durban Field Street office is a central reporting office where, all SACCAWU Trade Union officials who negotiate for SACCAWU members in the Hospitality industry in KwaZulu-Natal, are managed. Their offices are easily accessible as the office is in the city center.

3.5 Target population

Whitley and Kite (2013:97) defines target population as the group of people from which we want the results of the research to apply. It is the group of individuals from which the sample is drawn from. Vos *at el* (2014:167) defines the target population as the sum of all elements, individuals or units that meet the selection criteria for a group to be studied.

The target population in this study is 15 Trade Union officials who are deployed by SACCAWU as follows:

- 5 Trade union officials who service members in the companies from Durban North to Isipingo South of Durban.
- 3 Trade union officials in the far north (Stanger to Richards Bay).
- 3 Trade Union officials in the far South (Manzimtoti to Port Alfred).
- 2 Trade Union official in the outer Durban West areas (Pinetown to Cato Ridge).
- 2 Trade Union officials in the midlands areas (Camperdown to Howick)

All of these Trade Union officials are employees of SACCAWU in KwaZulu-Natal and they lead and participate in the wage negotiation processes in the Hospitality industry.

The second category of the target population are 5 managers:

- Human Resources manager, Industrial Relations manager, and Operations manager employed by Fedics;
- Industrial Relations manager employed by Servest; and
- Employment Relations manager employed by Tsogo Sun Coast Casino.

They all represent their employers during wage negotiation processes with SACCAWU in the Hospitality Industry of KwaZulu-Natal.

For the purpose of this study, the target population is Trade Union officials and the mentioned managers who participate in wage negotiation processes. The purpose of selecting SACCAWU Trade Union officials and the mentioned managers is because they are the ones who participate in wage negotiation processes, and manage the industrial actions if there is any.

3.6 Sample

According to Hajimia (2014), a sample is a collection of a smaller group from the entire population from which data is collected. In this study, the chosen sample is the SACCAWU Trade Union officials and the mentioned managers who represent employers during wage negotiations processes with SACCAWU.

3.7 Sampling method

According to Cooper and Schindler (2014:214), sampling is the process of selecting the few from a bigger group to become the basis for estimating or predicting the facts. Sampling procedure in research constitute either probability sampling or non-probability sampling. Neuman (2013:163), states that in non-probability sampling, not every element in the population has a guaranteed opportunity of being included in the sample. In probability sampling, every element in the population has a guaranteed opportunity of being included in the sample.

Kumar (2011) outlines the four commonly used types of probability sampling:

- Simple random sampling, which is a process whereby each element in the population is given an equal and independent chance of selection.
- Stratified random sampling, which is a process of selecting a sample that allows, identified smaller groups in that specific population to be represented in the sample.

- Cluster sampling which is the process of selecting the whole group randomly, not individual, within the identified group that share similar characteristics
- Systematic sampling which involves selecting individuals within the identified group from the listed by selecting every specified name.

According to Surbhi (2016), the four most commonly used non-probability sampling methods are the following:

- Convenience sampling is mainly about inclusion of all available data at that specific time.
- Purposive sampling, which is based on the researcher selecting a sample based on experience or knowledge of the participants.
- Quota sampling which involves gathering data from individuals possessing identified characteristics and quotas.
- Snowball sampling which involves selecting sample-using networks.

In this study, non-probability technique is used; participants are selected based on similar characteristics, experience, knowledge and insights. The study use purposive sampling method where the researcher will purposely select SACCAWU Trade Union officials based in KwaZulu-Natal and the mentioned managers.

SACCAWU KwaZulu-Natal employs 15 Trade Union officials, who all participate on different wage negotiations as part of their duties and responsibilities. These Trade Union officials, negotiate with employers represented by the mentioned managers, hence, the above-mentioned managers were included in the sample.

3.8 Sample size

Nalzar (2012) defines a sample size as the number of people with similar characteristics, selected for a particular study. The study focuses on the Trade Union officials and the mentioned managers who participate and lead the wage negotiation processes in the hospitality sector.

The 15 Trade Union officials are employees of SACCAWU in KwaZulu-Natal and they are the only ones who participate and lead the wage negotiation processes in the hospitality sector of KwaZulu-Natal. They all occupy the same positions and perform similar duties and

responsibilities. The identified 5 managers also participate and lead the wage negotiation processes on behalf of employers in the hospitality sector where SACCAWU has membership. These managers also perform similar duties and responsibilities during the wage negotiation processes. These managers represent their companies as the leaders of the negotiating team during the wage negotiation processes.

3.9 Data collection

According to Ploy-Colliers, Davis and Buzuidenhout (2014:125), the evidence collected during the research process constitute data. According to Zikmund, Babin, Carr and Griffin (2013:4), the research is conducted to provide more knowledge and to formulate recommendations for problems existing in an organization, economy, market or any interest. Zikmund et al. (2013:299) further state that mixed methods research design employs both qualitative research and quantitative research for the collection and analysis of research data. In this study, the structured Likert scale questionnaires and open-ended questionnaires will be the primary tool for the collection process, thus the study is both quantitative and qualitative in nature (Dornyei, 2014:35). O'Leary (2014:122) argues that using only qualitative or quantitative research has its merits and limitations, thus mixed methods aims to close this gap.

In this study, the Lickert scale questionnaires will be used to determine the level of agreement of the respondents on the questions asked. Secondly, the open-ended questions will be used to allow the respondents to express their opinions and views on the questions raised by the researcher. The questionnaires were sent to the Trade Union officials and identified managers, who self-administered to ensure honesty and anonymity.

3.9.1 Questionnaire design

The questionnaires for this study answers the research questions. The questions were grouped into three sections (section A, B and C). The questionnaire consists of 35 qualitative and quantitative questions, which took 30 minutes to complete.

Section A focused on socio-demographic information of the respondents with the aim of determining the age, gender, position and educational level of the respondents. Section A contained 5 questions for both Trade Union officials and the identified managers.

Section B focused on exploring the existence and understanding of policies and collective agreements in the hospitality industry, the strategies used in negotiations and factors

contributing to successful wage negotiation processes. These questions were the same for both Trade Union officials and the identified managers. Section B captured the respondent's level of agreement to the statements using the 5-point Likert scale (1- Strongly agree, 2- agree, 3- neutral, 4- disagree and 5- strongly disagree). This section contained 23 questions.

Section C consisted of open ended questions whereby the respondents were required to express their opinions about the wage negotiation process, its barriers, perceived solutions and strikes actions. This section contained 7 open ended questions.

3.10 Data quality

According to Sekaran and Bougie (2014:178), data quality method ensures that the tools used to conduct research are accurate, reliable and measurable. Chambliss and Schutt (2013:187) emphasized that the reliability and validity of measure needs to be tested, in order to assess the quality of the information obtained.

In this study, the researcher established the validity of content by seeking the opinions of the Industrial Relations Specialist, CCMA senior commissioners and the Organizational development practitioners. As stated by Chambliss and Schutt (2013:189), the researcher might use the opinions of the experts and review literature that identifies the different aspect of the concepts. Theoretical and empirical literature validated questionnaires used to collect data.

According to Saunders (2015:217), reliability refers to the consistency of a measurement. A research is reliable when the researcher obtains the same results repeatedly if the measuring instrument is re-administered or tested repeatedly.

3.11 Data analysis

According to Vos *et al.* (2014:98) data analysis can be described as the process of evaluating data using analytical and logical reasoning to inspect each element of data provided from various sources to form a conclusion. For the purposes of this study, content analysis was used to interpret and evaluate the written communication from the participants. As stated by Bengtsson (2016:78), this procedure consist of coding, interpretation, themes and checking information collected from the participants. Furthermore, for assessing wage negotiation processes and the strike actions in the hospitality industry, a software computer tool, Nvivo was used for the purpose of analysing qualitative questions and SPSS for transforming collected data and presenting the analysed data in a quantitative format.

3.12 Ethical consideration

According to Trevino and Nelson (2014) ethics can be defined as a set of moral values, while ethos can be defined as the inner character that deals with deeper matters of conscience that have the potential to encourage researchers to go beyond ethics and to do what is right or ethical.

In this study, the researcher has done the following in compliance with ethical consideration:

- The researcher obtained the ethical clearance from the UKZN ethics committee.
- Participants signed a consent form.
- Respondents were guaranteed of the confidentiality of their responses.

3.13 Limitations

The study was confined to the companies where SACCAWU has membership in KwaZulu-Natal. The findings could be of interest to all other hospitality businesses.

3.14 Conclusion

The chapter demonstrated how the research methodology was conducted and its composition was outlined and explained. A presentation of the research design revealed its components and what guided it. The method chosen for the research and its selected techniques were clarified. Further, the location, population and sample size and the procedures followed in collecting data were discussed. Lastly, the chapter touched on the research limitations and ethical considerations. The following chapter covers data analysis and interpretation of the findings of the study.

CHAPTER FOUR

Data analysis and interpretation of findings

4.1 Introduction

The methodology used in collecting data was discussed in previous chapter. After gathering data, data analysis becomes necessary, as collected data have no meaning in themselves. Boeije (2010, cited in Mhlongo, 2014:41) states that data analysis is the process of working with data, organizing them in a meaningful manner, and synthesizing them to discover what is important to share with others in the form of findings. The findings of this chapter are based on the data obtained, analyzed and interpreted from the Trade Union officials and Managers who participate in wage negotiation processes in the hospitality industry of KwaZulu-Natal.

Data was exported to and analyzed using the SPSS program. In addition, NVivo, a qualitative data analysis tool, was utilised to assess the respondents' qualitative responses to seven questions. Histogram structures and bar charts have been used to present and explain the results.

4.1.1 The research instrument

The research tool contained 35 questions, with a measurement level at an ordinal or nominal level. The questionnaire was divided into 3 sections, which measured various themes as illustrated below:

- A Demographical data
- B Collective agreements in hospitality industry, strategies used in negotiations and factors leading to successful wage negotiations.
- C Challenges and barriers faced by wage negotiators

4.1.2 Data interpretation

Mean and Standard deviation of the Normal distribution curve of the data set was used to interpret analyzed data. The Mean \bar{x} , which is the middle focal point of the curve, which represents the average of each variable item of data is used to calculate the standard deviation. The standard deviation's, represents the dispersion of the data within the range of the Mean on the curve, Ballman (1997). Therefore, the standard deviation, is the distance from the center to the change of curvature of the curve points on curve.

Descriptive Statistics

	N	Minimum	Maximum	Mean	Std. Deviation
Gender	20	1.00	2.00	1.5000	.51299
age_group	20	2.00	4.00	3.0000	.79472
Qualification	20	3.00	6.00	4.2000	1.05631
Occupation_rank	20	1	2	1.45	.510
Service_Time	20	1.00	5.00	2.2000	1.19649
Neg_Policy	20	1.00	5.00	1.7500	1.20852
Policy_Known	20	1.00	5.00	1.7500	1.20852
Good_Policy	20	1.00	5.00	2.5000	1.46898
Policy_Formulation	20	1.00	5.00	2.1500	1.26803
Policy_Improvement	20	1.00	5.00	2.4000	1.42902
Policy_Relavance	20	1.00	5.00	2.3000	1.38031
Collective_Agreement_Existance	20	1.00	4.00	1.7000	.97872
Knowledge_Of_Collective_Agreement	20	1.00	4.00	2.1000	1.11921
Collective_Agreement_Procedures	20	1.00	5.00	2.1000	1.16529
Fairness_Of_Collective_Agreement	20	1.00	5.00	1.9500	1.19097
Collective_Agreement_Dispute_Procedure	20	1.00	4.00	1.8500	1.08942
Adherence_To_Collective_Agreement	20	1.00	5.00	2.1500	1.22582
Application_Of_Negotiation_Strategies	20	1.00	3.00	1.6000	.59824
Relevance_Of_Negotian_Strategies	20	1.00	4.00	1.5500	.75915
Strategies_Prevention_Strikes	20	1.00	5.00	1.8500	1.03999
Bargaining_Unit_Defination	20	1.00	5.00	2.0000	1.33771
Analysis_Of_Demands_Offers	20	1.00	5.00	2.0500	1.35627
Clarification_Of_Demands_Offers	20	1.00	5.00	1.7500	1.11803
Negotiation_Plan_Formulation	20	1.00	5.00	2.8500	1.46089
Understanding_Compromise	20	1.00	5.00	1.9000	1.02084
Dispute_Resolution_Process	20	1.00	5.00	2.2000	1.19649
Availability_Of_Skills	20	1	999	51.35	223.054
Valid N (listwise)	20				

4.2 Demographical analysis

The researcher targeted 15 Trade Union officials and 5 Managers who were the respondents, giving 80% response rate. Participants were requested to provide their personal information on the questionnaire for research purposes only. The demographical information includes gender, age category, qualification, occupation and length of service.

Bar Chart

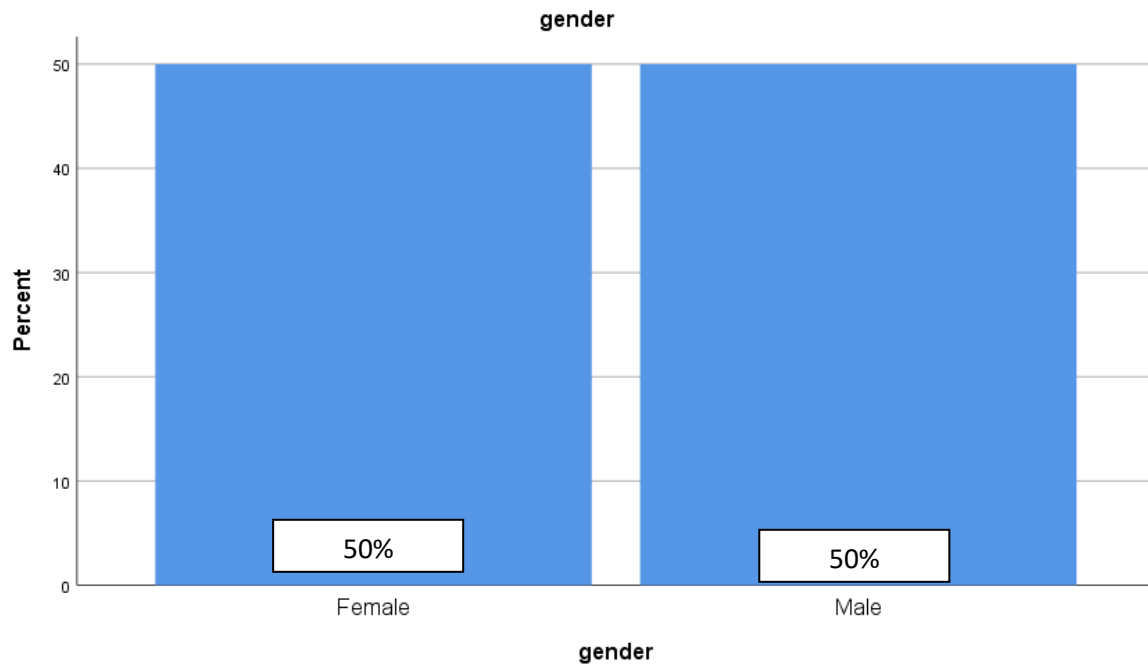


Figure 4.1 Gender of the Respondents

The sample of this study comprised an equal number of females and males, at 10 females (50%) and 10 males (50%).

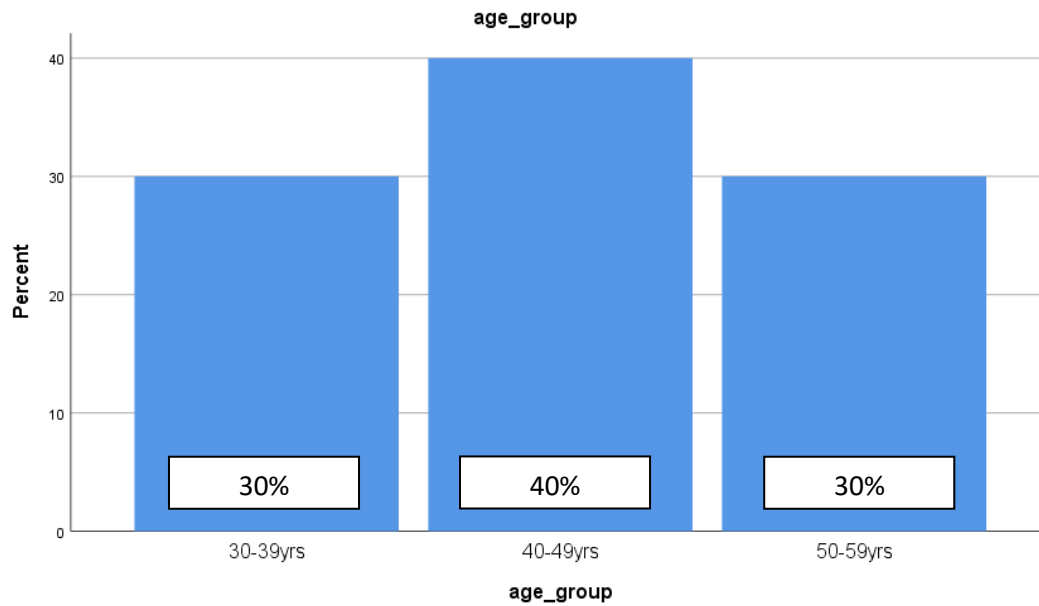


Figure 4.2 Age of respondents

The results show that 6 (30%) of respondents were within age category of 30 – 39 years, 8 (40%) were within age category 40 – 49 years and 6 (30%) were within age category 50 – 59 years. This indicates that number of respondents were experienced people and so likely to have worthwhile insights concerning the wage negotiation processes and the strike actions in the hospitality industry of KwaZulu-Natal.

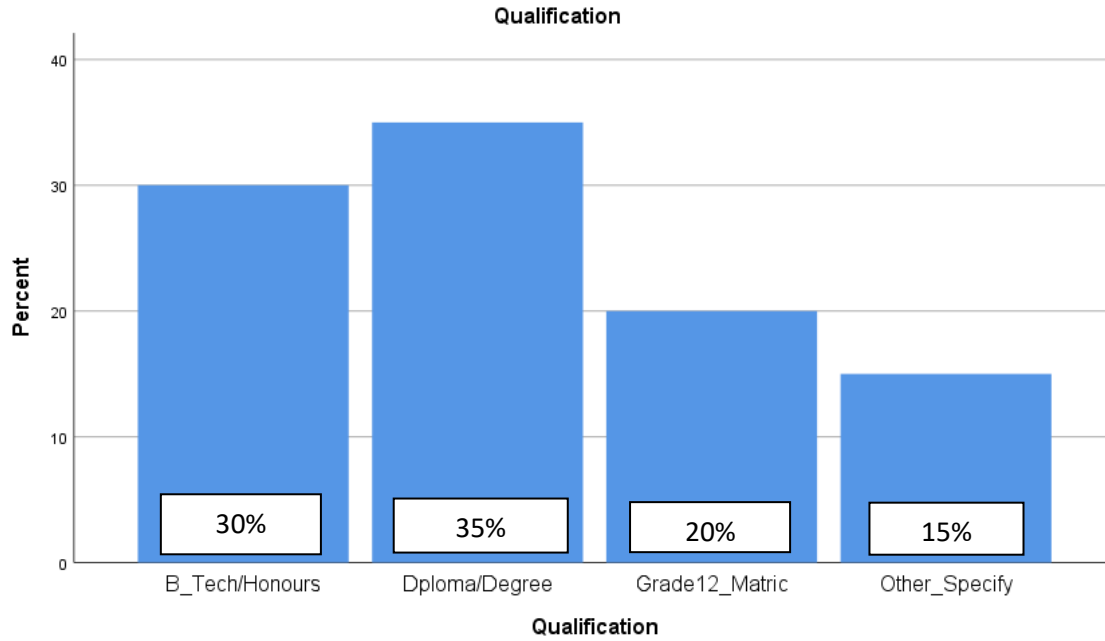


Figure 4.3 Qualification of the respondents

Figure 4.3 shows that 6 (30%) of that 6 (30%) of respondents had B Tech and Honours degree as their highest qualifications, 7 (35 %) had Diplomas and Degrees as their highest qualifications, 4 (20%) had grade 12 or Matric and 3 (15%) had other qualifications. This indicates that more respondents had post high school level educational qualifications, and were thus qualified on what they were doing. Therefore, the respondents are well qualified to perform their duties.

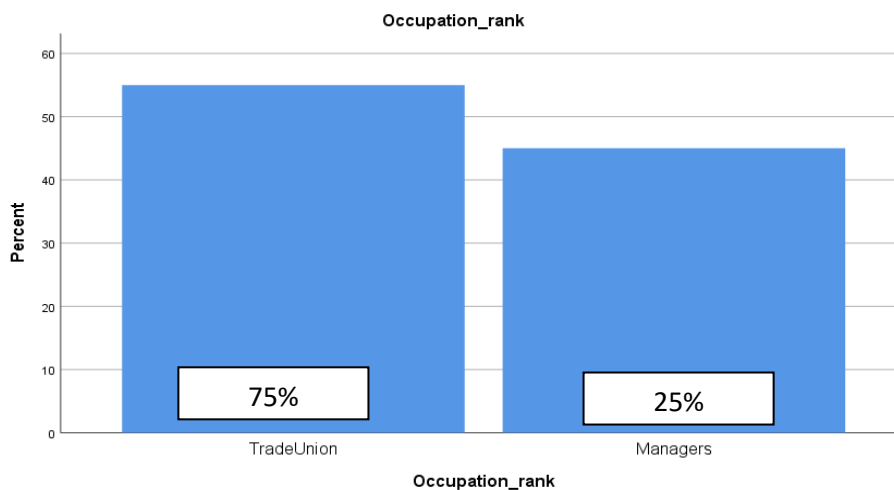


Figure 4.4 Occupation and rank

Figure 4.4 shows that most of the respondents, 15 (75%) held the position of Trade Union

officials and 5 (25%) h the position of Managers.

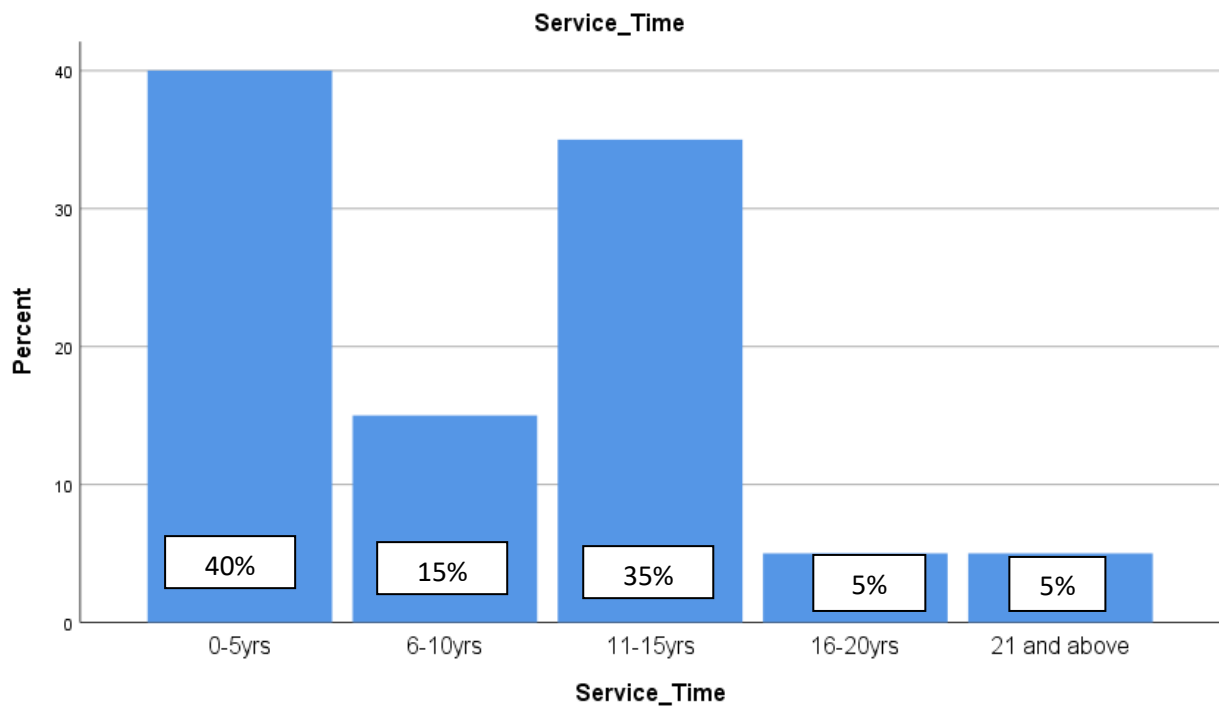


Figure 4.5 Length of service

Figure 4.5 shows that the largest number of respondents 8 (40%) had between 0 to 5 years’ service. However, it should be noted that the second highest response rate of 7 respondents (35%), were those with 11 to 15 years’ length of service. Those with 6 to 10 years’ service, 3, follow this category (15%). This length of service of the respondents indicates that the research was informed by the balanced view of those who had just started with their career in the industry and those who were matured. This is symbolized by the length of service of between 6 years to 15 years, as this category makes up 50% of the respondents and the new entrant’s category of 0 to 5years only makes up 40% of the respondents. The minimum number of respondents with the length of service 16 years and above makes up 10% of the respondents.

4.3 The existence of any collective agreements on wage negotiation processes in the hospitality industry in KwaZulu-Natal, South Africa

According to chapter 1, section 1 of the LRA 66 of 1995, the purpose of this Act is to advance economic development, social justice, labour peace and democratization of the workplace. The

objective of this Act, as outlined in section 1 (c) of the LRA 66 of 1995, is to provide a structure within which employees, their Unions, and the employers can:

- (i) Negotiate collectively to determine wages, terms and other employment conditions and other matters of mutual interest.
- (ii) Formulate industrial policy.

In line with the above provisions, section 23 of the LRA 66 of 1995 talks about the collective agreements concluded between the employers, the employees, and their Trade Unions after the collective bargaining process. This section of the LRA is further supported by Sun (2017) who indicated that collective agreements regulate the employment conditions between the employers and their Trade Unions. The respondents were required to show their level of views about the existence of any policies and collective agreements on wage negotiation processes in the hospitality industry of KwaZulu-Natal.

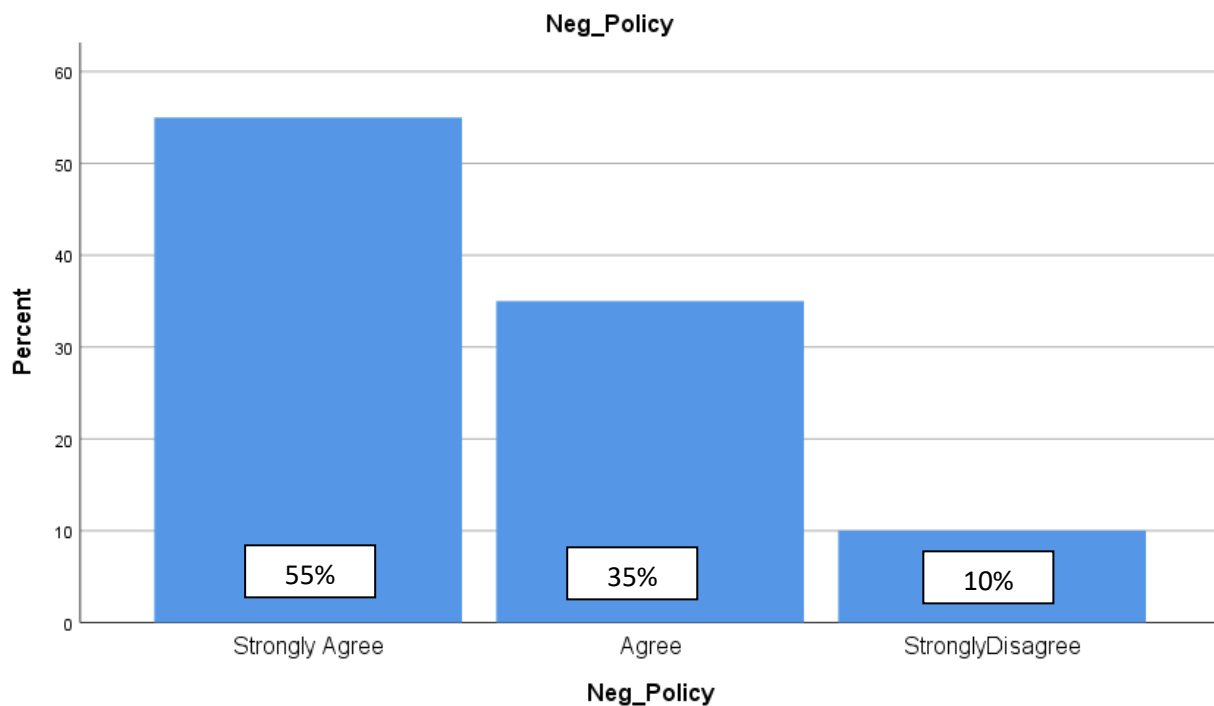


Figure 4.6 Wage negotiations policies

Respondents were asked to indicate if there were any policies on wage negotiations for the negotiating parties. Figure 4.6 indicates that the high number of the respondents 11 (55%) strongly agreed that there were policies on wage negotiations in the hospitality industry whilst 7 (35 %) agreed and only 2 (10%) who strongly disagreed with the existence of any policies

on wage negotiations in the hospitality industry.

The findings are in alignment with section 1 (c) (ii) of the LRA 66 of 1995, which provides the advancement of labour peace and democratization of the workplace through the formulation of the industrial policy. The analysis above indicates that the majority of the respondents either strongly agreed or agreed that there were policies, which governed the negotiation processes in the hospitality industry of KwaZulu-Natal.

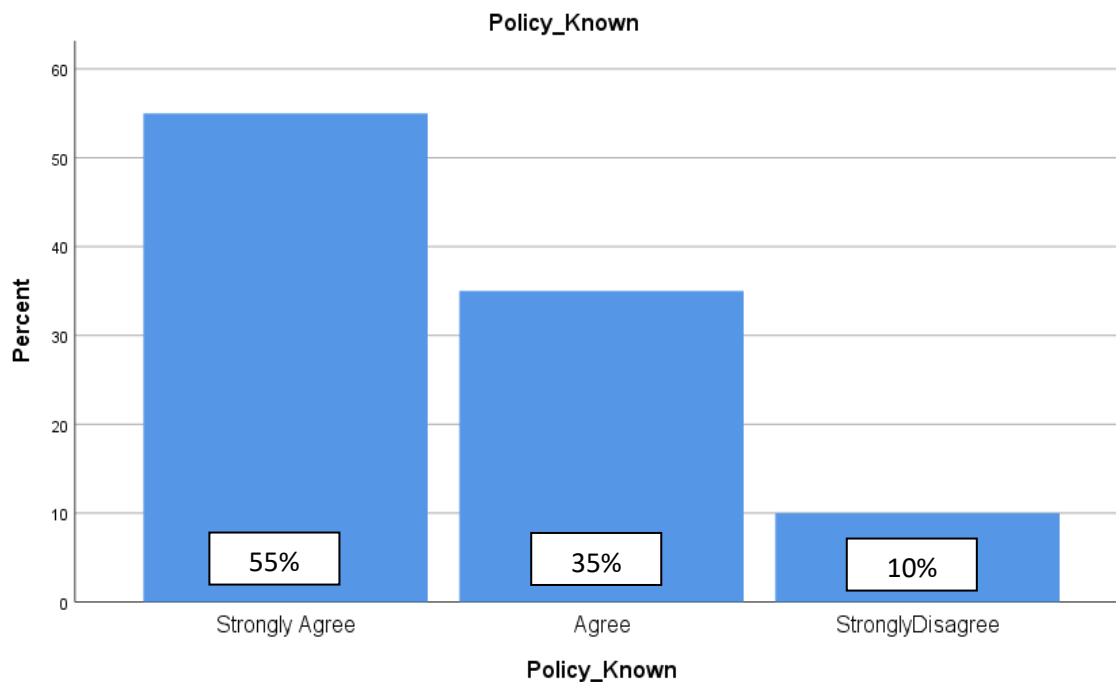


Figure 4.7 Knowledge of wage negotiation policies

The results show that 11 (55%) of the respondents strongly agree that they know the policies on wage negotiations, whilst 7 (35%) agreed with knowing the policies on wage negotiations. Its only 2 (10%) of the respondents who indicated that they strongly disagreed with knowing the policies on wage negotiations in the hospitality industry of KwaZulu-Natal. Figure 4.7 is in alignment with figure 4.6. We noted that the same percentage distribution in figure 4.6 indicated the presence of the wage negotiation policies; hence, it makes a very good sense and alignment that the same percentage distribution in figure 4.7 indicates the knowledge of the existence of the policies on wage negotiations.

The purpose of the LRA 66 of 1995, as outlined in chapter 1 under section 1, is to promote social justice, labour peace and democratization of the workplace through the formulation of the industrial policies. It is therefore no surprise that the results of figure 4.7 shows that many

of the respondents had knowledge of the wage negotiation policies of the hospitality industry of KwaZulu-Natal.

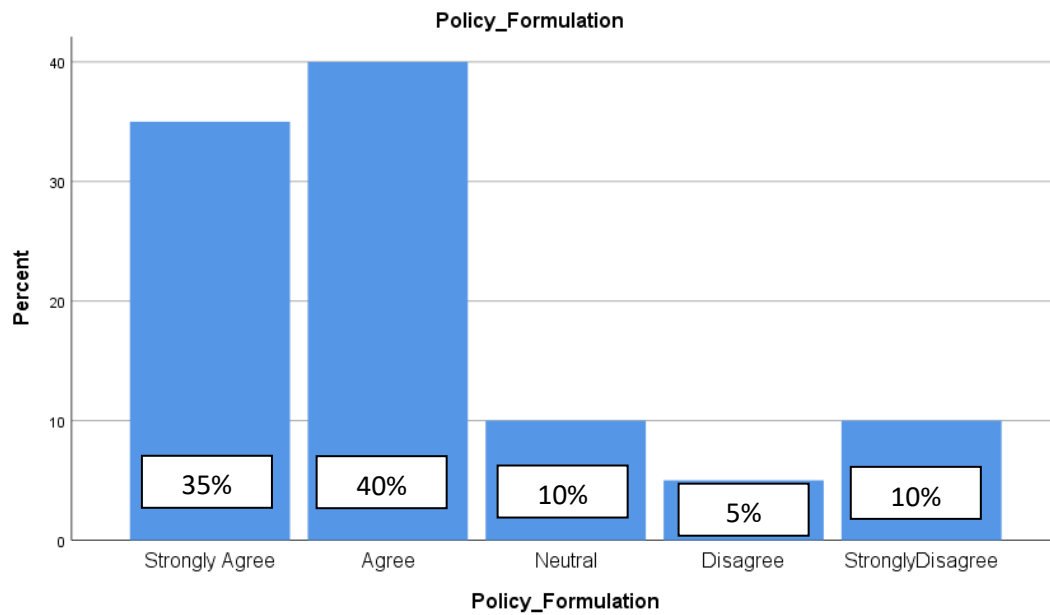


Figure 4.8 Contribute towards policy formulation

Figure 4.8 depicts the results for the statement “I am allowed to contribute towards the formulation of the wage negotiation policies in the hospitality industry of KwaZulu-Natal. The responses of the larger number of respondents were in agreement with each other.

The results shows that 7 (35%) of the respondents strongly agree that they were allowed to contribute towards the formulation of the wage negotiation policies whilst 8 (40%) agreed that they were allowed to contribute towards the formulation of wage negotiation policies, while 2 (10%) gave a neutral response, 1 (5%) disagreed and 2 (10%) strongly disagreed.

Therefore, the results indicate that 15 of 20 respondents (75%) agreed that they were allowed to contribute towards the formulation of the wage negotiation policies in the hospitality industry of KwaZulu-Natal. As found in a similar study by Bulfour (2018), industrial participation and consultation between Trade Unions and the employers reduce strikes and increase job satisfaction. These results indicate that the majority of the respondents do engage in the consultation process between before the formulation of the wage negotiation policies.

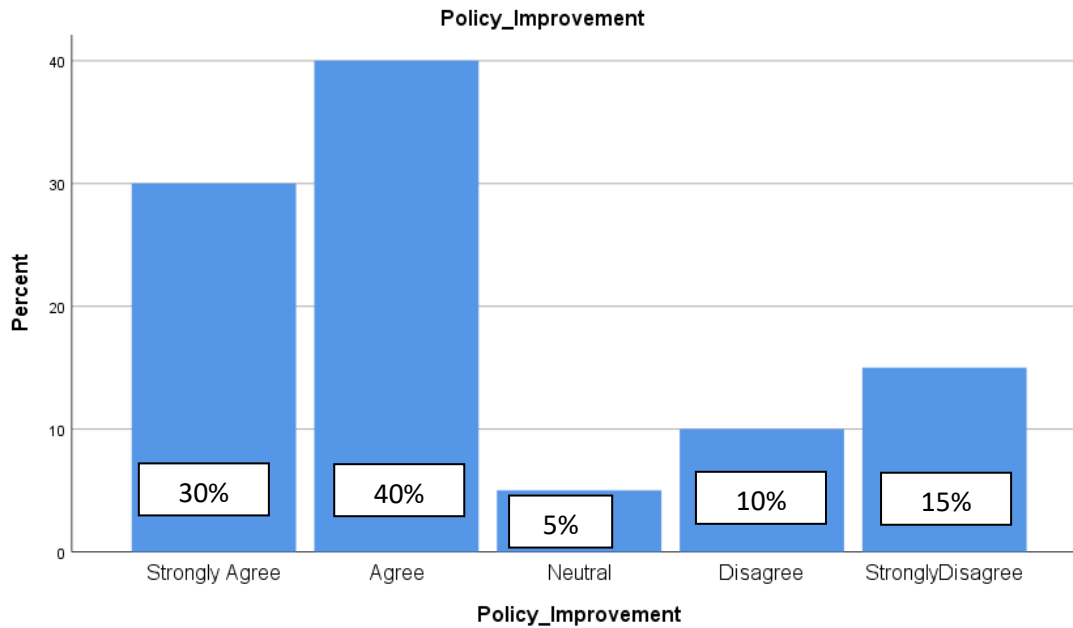


Figure 4.9 Contribute towards the improvement of the wage negotiation policies

Figure 4.9 clearly indicate that the statement “I am allowed to contribute towards the improvement of the wage negotiation policies” elicited similar responses to the majority of the respondents; the respondents agreed.

The results in relation to figure 4.9 shows that 6 (30%) strongly agreed, 8 (40%) agreed, 1 (5%) gave neutral responses, 2 (10%) disagreed and 3 (15%) strongly agreed. The results suggested that 14 (70%) of the respondents were in agreement with the statement. This was in alignment with Balfour (2018), who claims that consultation between the employees and the employers is the meeting ground and it helps in the reduction of the strikes.

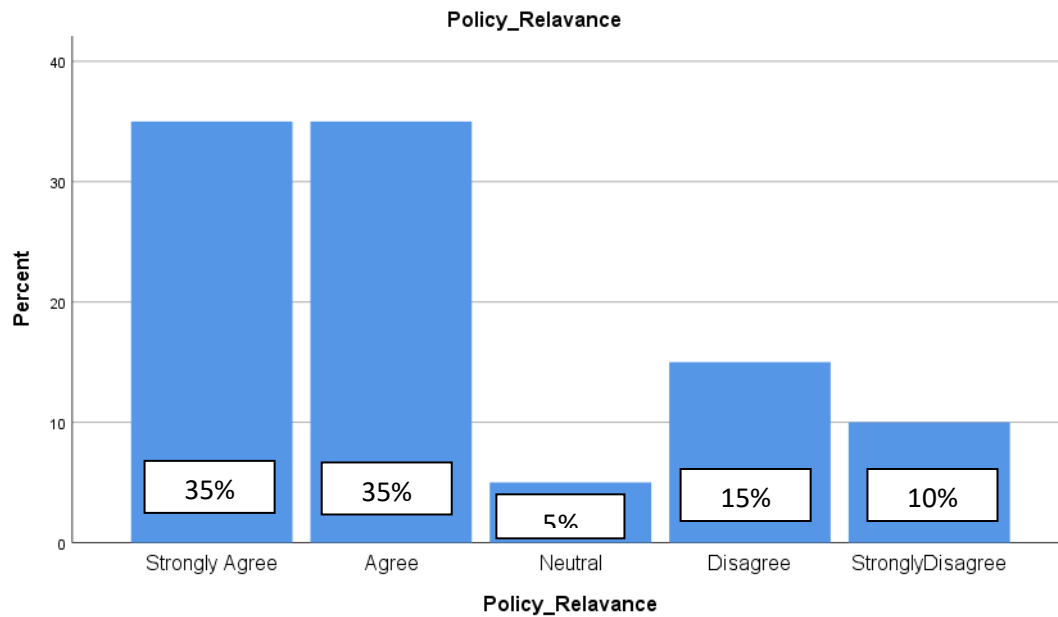


Figure 4.10 Wage negotiation policies are relevant to the negotiation processes

In terms of whether the wage negotiation policies are relevant to the wage negotiation processes of the hospitality industry of KwaZulu-Natal, the respondents were not dismissive of the wage negotiation policies. The results suggest that the majority of the participants were in agreement that the policies were relevant to the negotiation processes.

Figure 4.10 shows that 7 (35%) strongly agreed, 7 (35%) agreed, 1 (5%) were neutral whilst 3 (15%) disagreed and only 2 (10%) strongly disagreed. Therefore, the majority of the respondents, 15 of 20 (70%), believed that wage negotiation policies were relevant to the wage negotiation processes of the hospitality industry of KwaZulu-Natal.

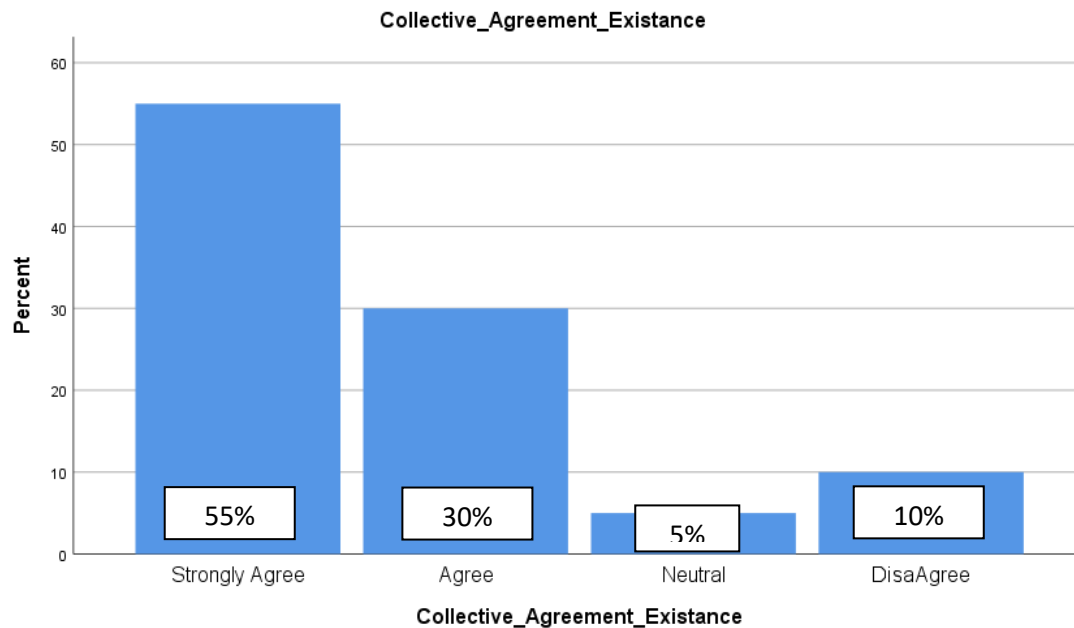


Figure 4.11 Collective agreements

Figure 4.11 depicts the results for the statement “Trade Unions and Employers in the KwaZulu-Natal hospitality industry have collective agreements. The results elicited similar responses and the majority of the participants were in agreement with this statement.

Figure 4.11 shows that 11 (55%) of the respondents strongly agreed, 6 (30%) agreed, 1 (5%) gave neutral responses, a possibility that the respondents were not familiar with the processes and only 2 (10%) strongly agreed. The results above, indicate that a majority of the respondents 17 of 20 (85%) agreed that there were collective agreements between the Trade Unions and Employers in the Hospitality Industry of KwaZulu-Natal. These results are in alignment with the SACCAWU constitution (2012), which indicates that once the Trade Union has recruited membership from the workplace, there will be collective agreements signed with the employers. These results are also in alignment with section 213 of the LRA 66 of 1995, which defines the collective agreement as an agreement concerning the employment conditions or any other negotiable employment conditions between the workers and the companies or the Trade Unions and the employers.

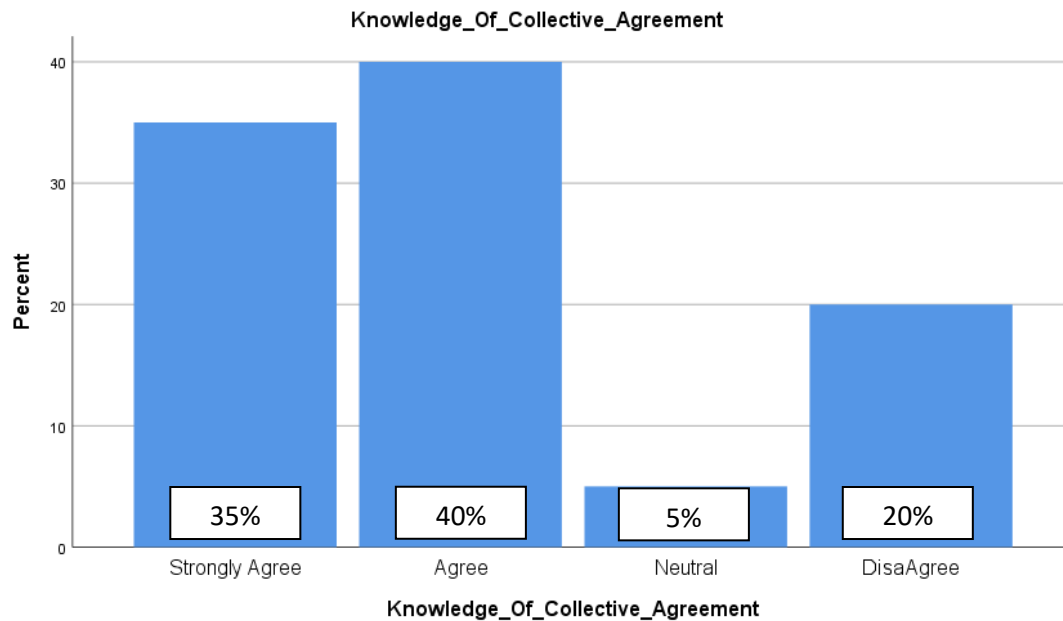


Figure 4.12 Understanding of collective agreements

In terms of whether the respondents understand the collective agreements of the KwaZulu-Natal hospitality industry, the large number of the respondents stated that they understand the collective agreements of the hospitality industry of KwaZulu-Natal.

Figure 4.12 indicate that 7 (35%) of the respondents strongly agree that they understand the collective agreements of the hospitality industry of KwaZulu-Natal, 8 (40%) agreed with the statement, whilst 1 (5%) gave a neutral response and 4 (20%) strongly disagreed with the statement. Thus, figure 4.12, can be interpreted that it shows majority of respondents, 14 of 20 (75%) understand the collective agreements of the hospitality industry of KwaZulu-Natal. This is in alignment with the view of Venter et al (2014:399) who stated that collective bargaining process is premised on the collective regulation of the employment relationship through the negotiations between the employers, the employees and their elected representatives.

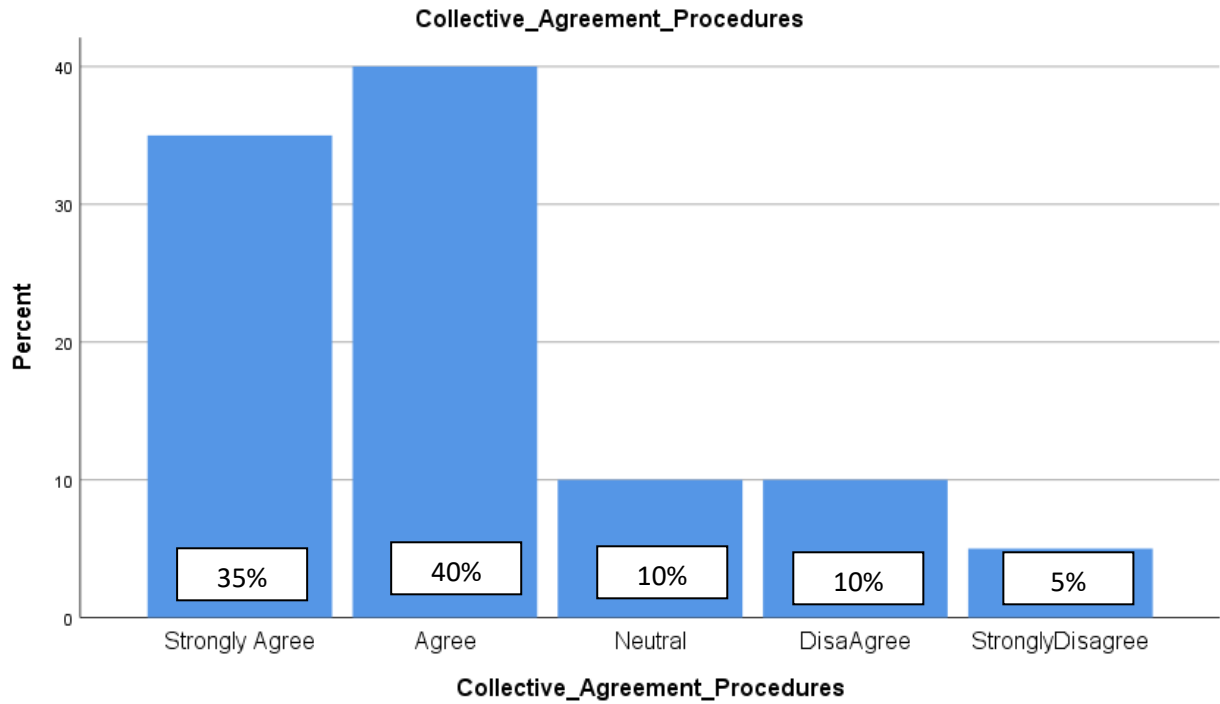


Figure 4.13 Collective agreement procedures on wage negotiations

In terms of whether the collective agreements of the KwaZulu-Natal hospitality industry have procedures on how to conduct the wage negotiations, the majority of the respondents were in agreement with this statement.

Figure 4.13 shows that 7 (35%) of the respondents strongly agreed with the statement while 8 (40%) agreed, 2 (10%) gave a neutral response, 2 (10%) also disagreed with the statement and only 1 (5%) who strongly disagreed with the statement. Therefore, figure 4.13 indicate that the majority of the respondents 14 of 20 (70%) were in alignment and agreed that the collective agreements of KwaZulu-Natal hospitality industry has procedures on how to conduct the wage negotiation processes.

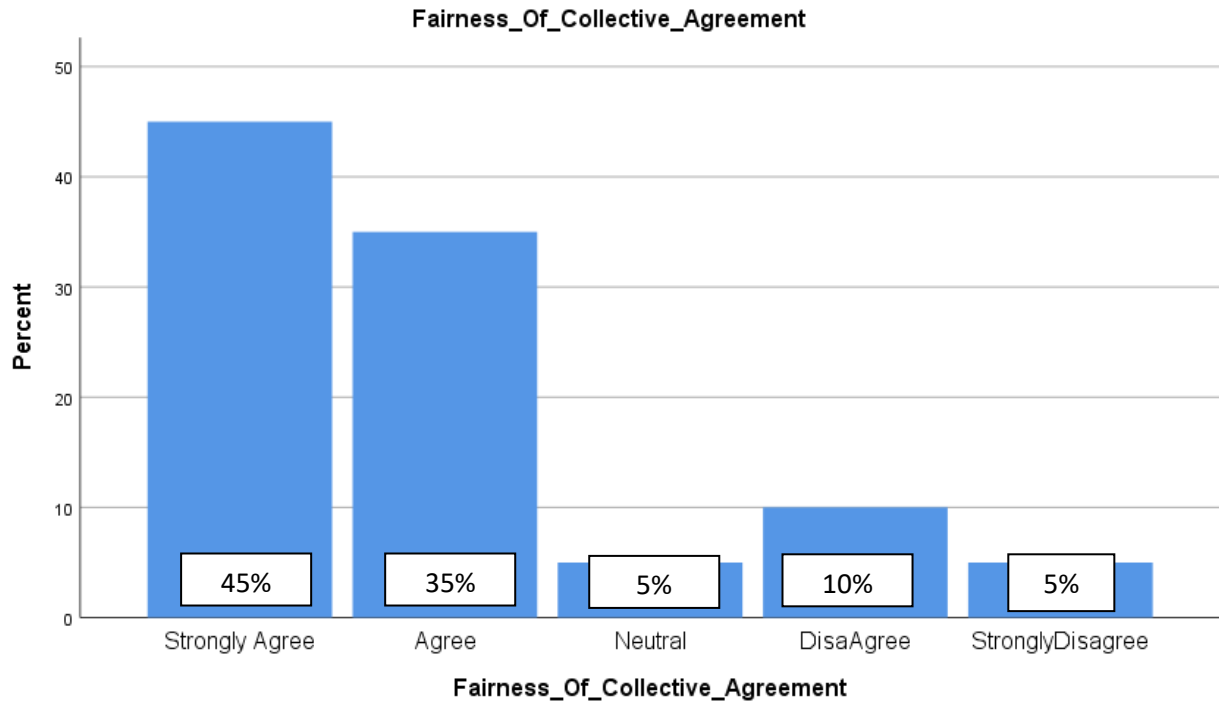


Figure 4.14 Fairness of collective agreements

Responses to the statement depicted on figure 4.14: “The collective agreements provides for the fair representation of employees and employers in the negotiation processes” clearly indicated that collective agreements does provide for the fair representation of the employers and the employees in the negotiation process.

The results show that 9 (45%) of the respondents, strongly agree with the statement, while 7 (35%) agreed with the statement, 1 (5%) gave a neutral response, whilst 2 (10%) disagreed and 1 (5%) strongly disagreed with the statement. Therefore, the result of 4.14 shows that the collective agreements of the KwaZulu-Natal hospitality industry does provide for the fair representation of both the employers and the employee representatives in the negotiation process. The results show in figure 4.14, support the employment conditions commission report on hospitality sector (2015), which describe the bargaining councils of the hospitality and the representation of the negotiating parties in such councils.

Therefore, the above results indicate that the majority of the respondents, 16 of 20 (80%), indicated that the collective agreements on the hospitality industry does provide for the fair representation of employers and the employees.

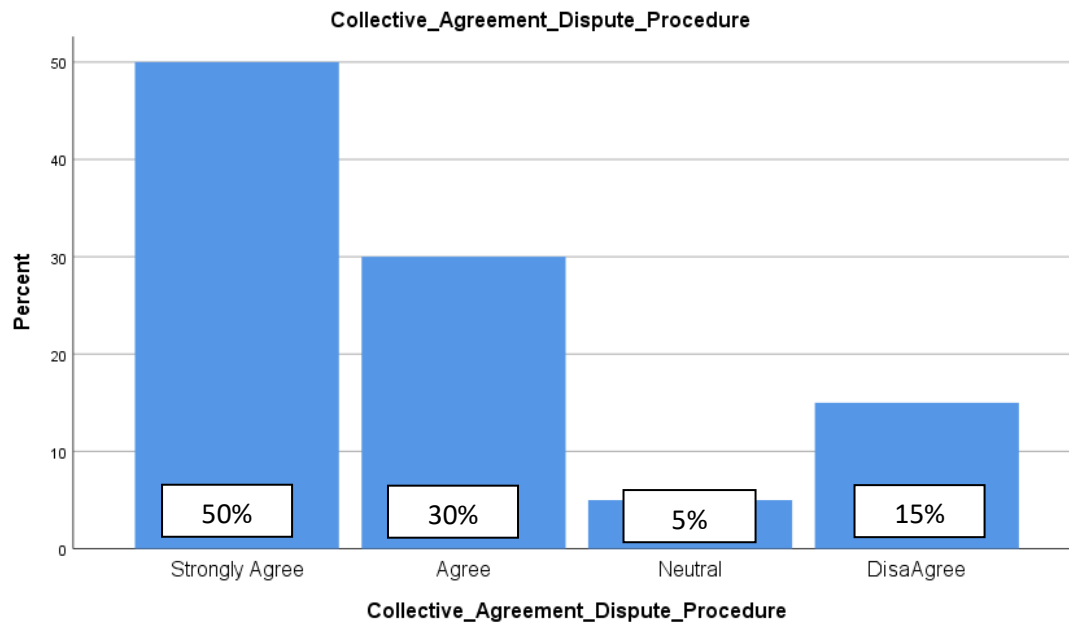


Figure 4.15 Dispute resolution procedures in the collective agreements

The statement that collective agreements “provide procedure for the resolution of disputes” produced responses of 10 (50%) who strongly agreed, whilst 6 (30%) agreed, 1 (5%) gave a neutral response and only 3 (15%) who disagreed with the statement. According to section 24 (1) of the LRA 66 of 1995, every collective agreement must provide a procedure for the resolution of disputes. Such procedure must provide for the dispute to be first conciliated and if not resolve, to be arbitrated.

Therefore, the majority of the above responses are consistent with the provisions of the LRA 66 of 1995. Figure 4.15 shows that a majority of the respondents 16 (80%) were in support of the statement that the collective agreements provides procedures for the resolution of disputes.

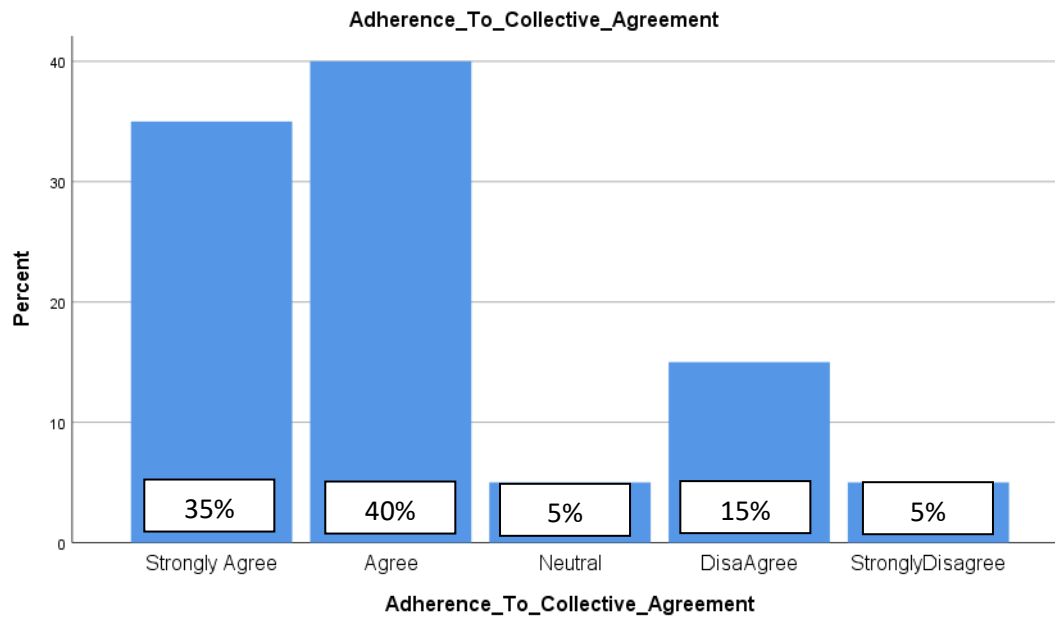


Figure 4.16 Adherence to collective agreements

A closer observation of the results from the respondents on the statement “negotiating parties comply with all the provisions of the collective agreements” suggest that negotiating parties do comply with the collective agreements provisions.

As it can be seen on the above figure 4.16, 7 (35%) respondents strongly agree with the statement, 8 (40%) agree with the statement, while 1 (5%) gave a neutral response, 3 (15%) disagreed and only 1 (5%) who strongly disagreed with the statement.

Therefore, it can be noted from the above responses that the majority of the respondents 15 (75%) comply with the provisions of the collective agreements during the wage negotiation processes in the hospitality industry of KwaZulu-Natal.

4.4 Strategies used by negotiating parties during wage negotiation processes in the hospitality industry of KwaZulu-Natal, South Africa

According to Najjar, Singh, Mulla and Picard (2018), negotiators need to make concessions in order to make agreements, using different concession strategies. This view is seen in Morton and Blair (2016:204) who stated that during the wage negotiation processes, Trade Unions will demand higher wage increases in order to protect the real income of the workers, whereas employers will try to cut costs in order to survive the economic challenges of reduced growth. These are therefore some of the strategies used by negotiators during the wage negotiation

processes. Therefore, in order to determine if the negotiators use any specific negotiation strategies during the wage negotiation process and whether those strategies are helpful in the wage negotiation process, the researcher used the below graphs to determine the existence and the effectiveness of the negotiation strategies used by the negotiators during the wage negotiation processes.

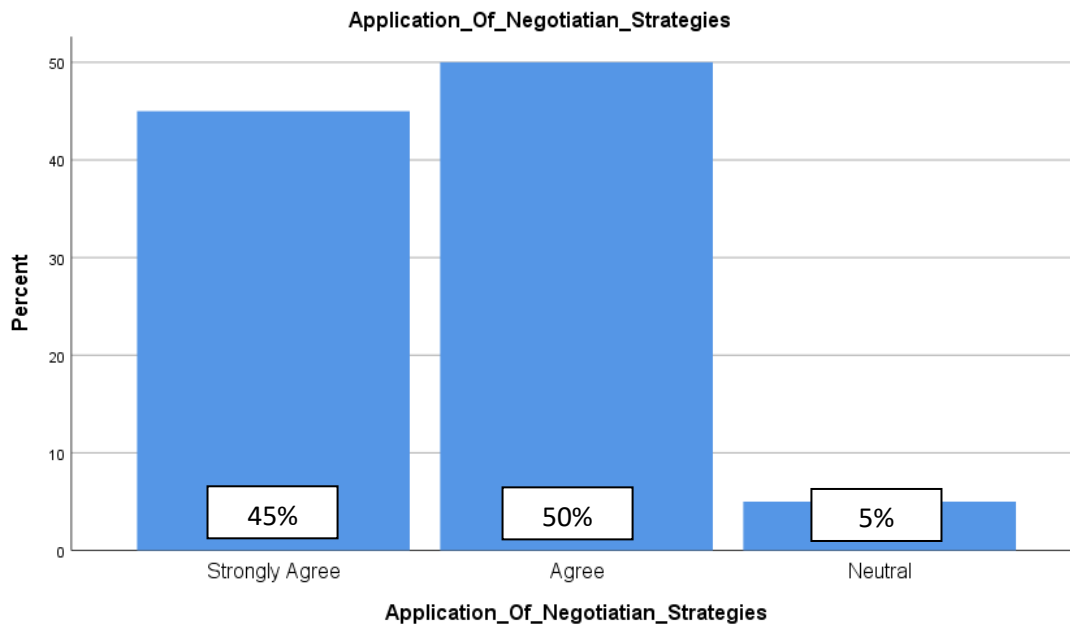


Figure 4.17 Application of negotiation strategies during wage negotiations

The respondents were asked to indicate if they apply any specific negotiation strategies during the wage negotiation process. Figure 4.17 shows that a large number of respondents applied one or more negotiation strategies during the negotiation process.

As it can be seen on the above figure 4.17, 9 (45%) of the respondents strongly agreed that they do apply negotiation strategies during the negotiation processes whilst 10 (50%) agreed that they apply negotiation strategies and only 1 (5%) who gave a neutral response.

Therefore the results of figure 4.17 clearly gives us an indication that the majority of the respondents 19 of 20 (95%) do apply negotiation strategies during the wage negotiation processes.

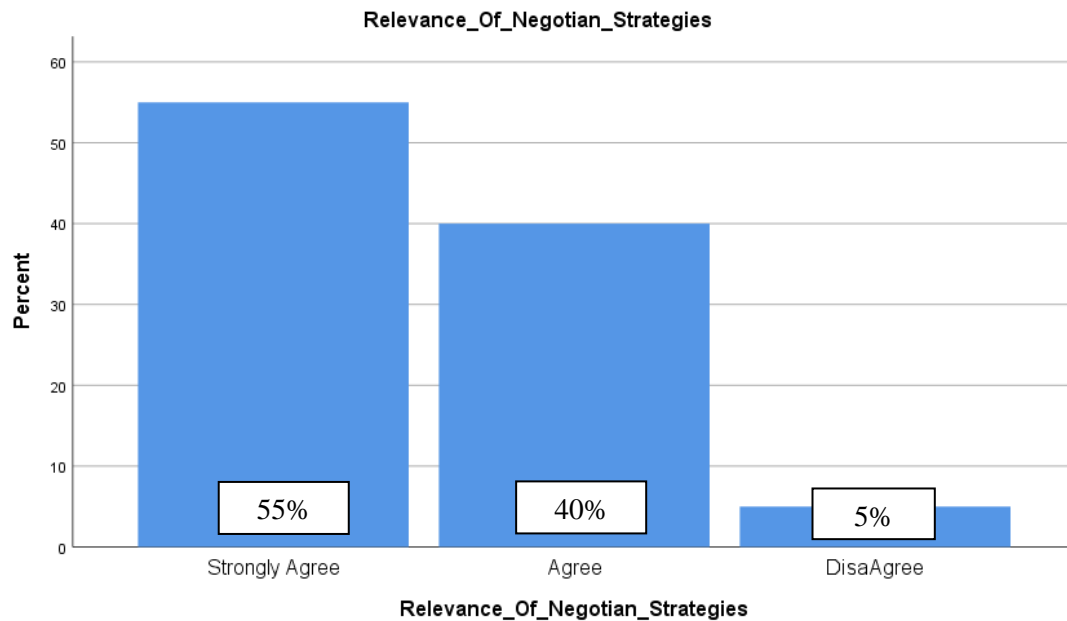


Figure 4.18 Relevance of the strategies to the negotiation processes

The results of figure 4.18 are consistent with the results of figure 4.17. The respondents were asked to indicate if the strategies they used during the wage negotiation processes were relevant and helpful to the wage negotiation process.

The results show that 11 (55%) of the respondents strongly agree that their strategies are helpful and relevant to the wage negotiation processes whilst 8 (40%) agreed that their strategies are helpful and relevant and only 1 (5%) who disagreed their strategies are helpful and relevant to the wage negotiation processes. This, often recurring, single negative response could indicate that the respondent might just have answered without paying attention to the question as result indicate that the majority of the respondents apply strategies and they believe their strategies are helpful and relevant to the wage negotiation processes.

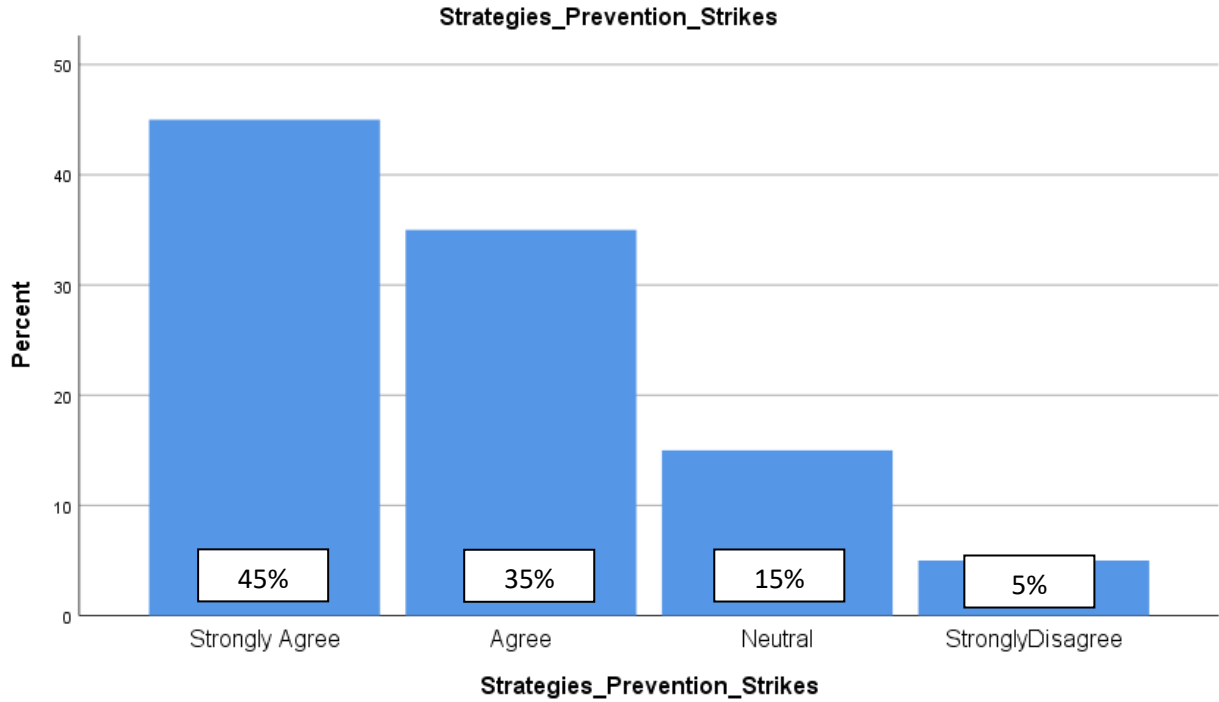


Figure 4.19 Strategies used help to prevent strike action

In figure 4.19 above, respondents were asked to indicate if the strategies they use during the wage negotiation processes are helpful in preventing the strike action. The results of figure 4.19, suggest a strong correlation with figure 4.18 and figure 4.17.

The results showed that 9 (45%) of the respondents strongly agreed that the strategies they used during the wage negotiation process were helpful in preventing the strike action whilst 7 (35%) agreed, 3 (15%) gave a neutral response and only 1 (5%) who strongly agreed that the strategies used help in preventing the strike action.

Therefore, the majority of the respondents 16 of 20 (80%) were of the view that the strategies they used in wage negotiation helped to prevent the strike action.

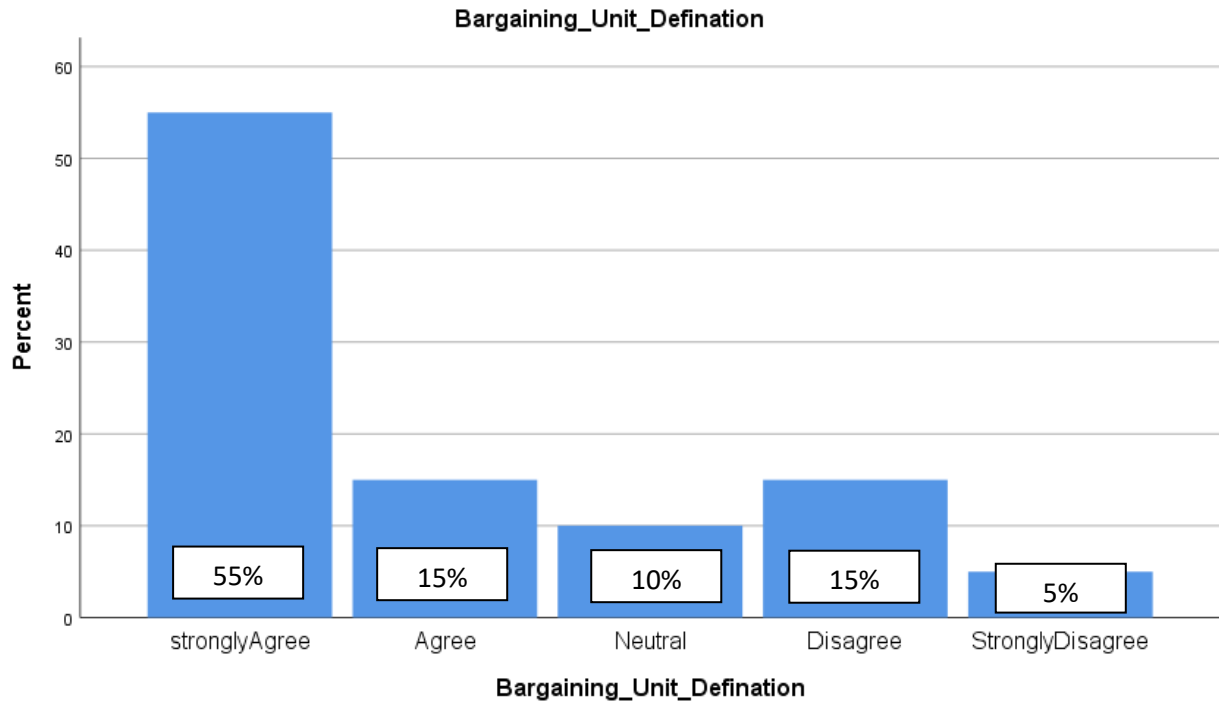


Figure 4.20 Definition of the bargaining unit

Figure 4.20 shows that 11 (55%) of the respondents strongly agree that the negotiating parties have agreed and defined the bargaining unit in the hospitality of KwaZulu-Natal, whilst 3 (15%) agreed, 2 (10%) gave a neutral response, 3 (15%) disagreed and 1 (5%) strongly disagreed.

According to Collins (2015), one of the factors, which contribute to successful wage negotiations, is that the parties must define and agree on the bargaining unit. A bargaining unit is a specific category of employees represented by the Trade Union in a collective bargaining unit. As stated by Brett (2014), it is extremely important for the negotiating parties to identify the constituencies for which they negotiate.

Although figure 4.20 shows that the large number of respondents 14 (70%) responded positively on the definition and agreement on bargaining unit, it should be noted that 6 (30%) of the respondents did not give a positive response to this one important question as outlined by Collins (2015) and Brett (2014).

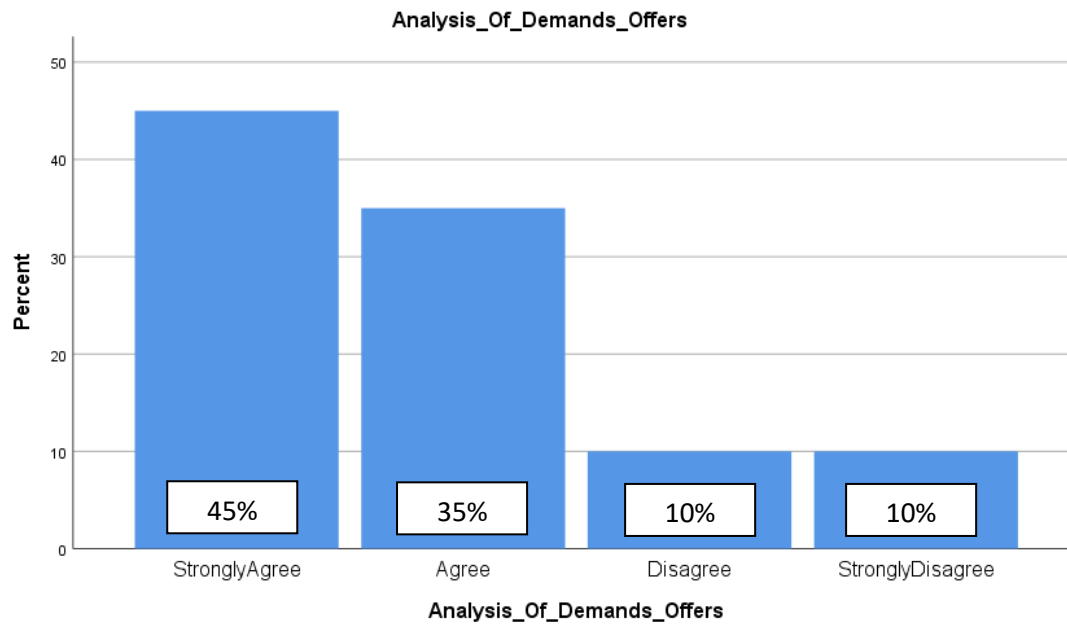


Figure 4.21 Parties analyze each other's demands and counter offers

Figure 4.21 shows that 9 (45%) of the respondents strongly agreed that the negotiating parties have sessions to analyze each other's demands and counter offers. It should be noted that a fairly large number 7 (35%) just agreed, whilst 2 (10%) disagreed and 2 (10%) strongly disagreed that the negotiating parties have sessions to analyze each other's demands and counter offers.

As stated by Jeong (2016:156), the capacity to analyze the wage demands is part of the core of negotiation skills. Therefore, figure 4.21 shows that the majority of the respondents 16 of 20 (80%) support this principle outlined by Jeong (2016), whilst 4 of 20 (20%) of the respondents did not give a positive response on whether the parties analyzed each other's demands and counter offers prior to the wage negotiation process.

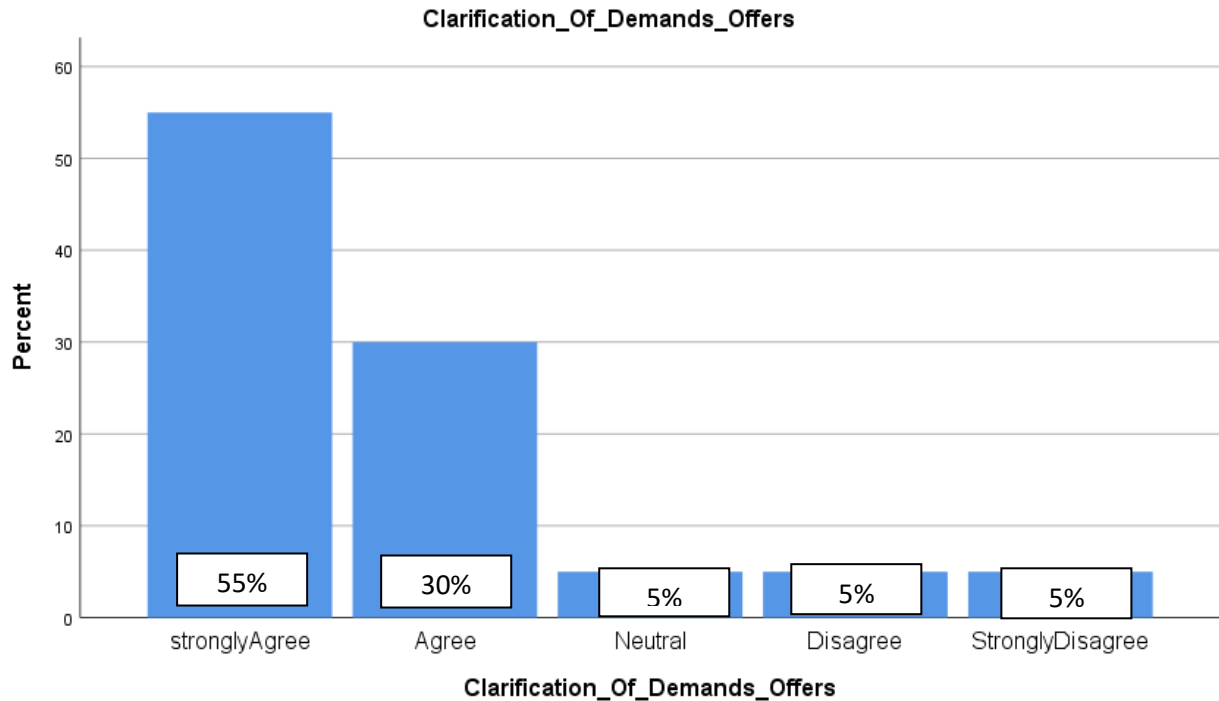


Figure 4.22 Parties clarify each other’s demands and counter offers

Figure 4.22, depicts the results of the statement on whether the parties have sessions to clarify each other’s demands and counter offers prior to the wage negotiation process.

The results show that 11 (55%) of the respondents strongly agree that they had sessions to clarify each other’s demands and counter offers prior to the wage negotiation process. The 6 (30%) agreed with the statements, 1 (5%) gave a neutral response, 1 (5%) disagreed and lastly 1 (5%) strongly disagreed that the negotiating parties had sessions to clarify each other’s demands and counter offers prior to the wage negotiation process.

Therefore the majority of the respondents 11 (55%) strongly agreed that the negotiating parties had sessions to clarify each other’s demands and counter offers prior to the wage negotiation process. The majority of the responses are consistent with the view of Dignall (2014), which says the negotiating parties should create an environment where each party should be able to air its opinions objectively.

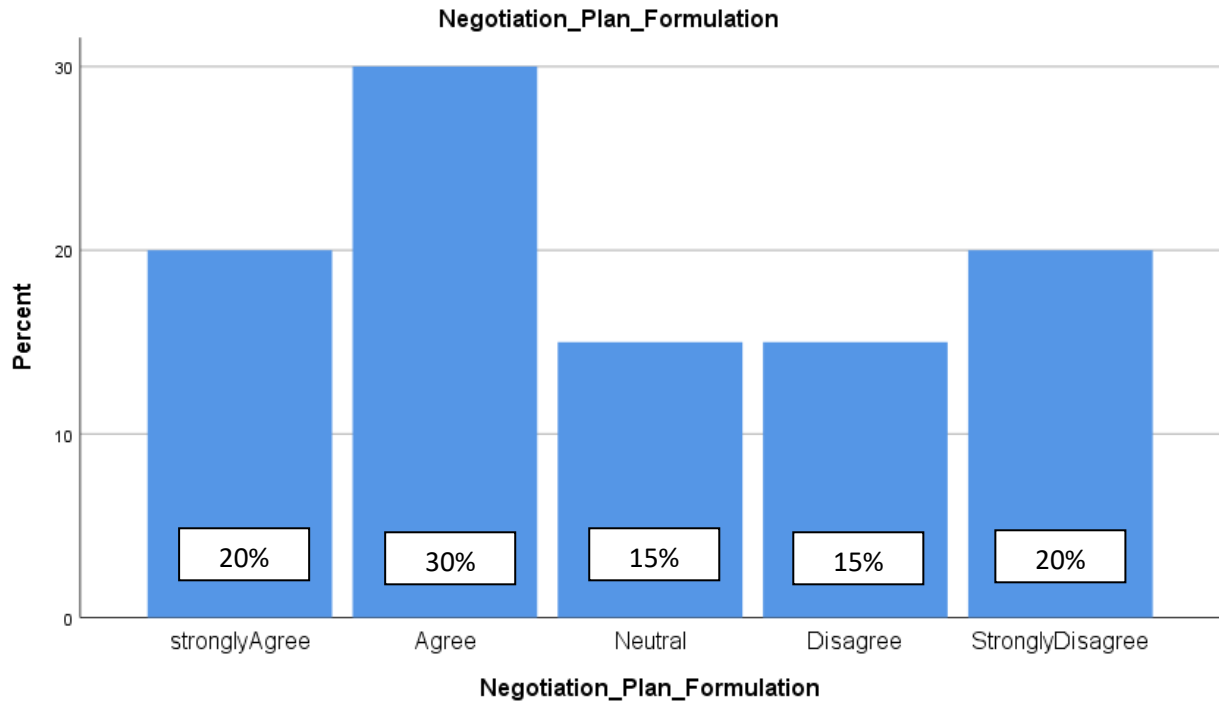


Figure 4.23 Joint formulation of the negotiation plan

Figure 4.23 shows the responses of the respondents on whether the negotiating parties jointly formulate a plan of action to achieve a wage agreement prior to embarking on the wage negotiation process.

The results show that 4 (20%) of the respondents strongly agree that the negotiating parties jointly formulate a plan of action to achieve a wage agreement prior to embarking on the wage negotiation process, 6 (30%) agreed with the statement, 3 (15%) gave a neutral response, 3 (15%) disagreed with the statement and 4 strongly disagreed with the statement.

Therefore, the results of figure 4, 23 shows that only half or 10 of 20 respondents (50%) gave a positive response to the statement. Wood (2013) says the negotiators should have a plan of action aimed at achieving a specific goal and make an agreement when negotiating with each other. The above responses shows that 50% of the respondents do not give a positive response to the statement.

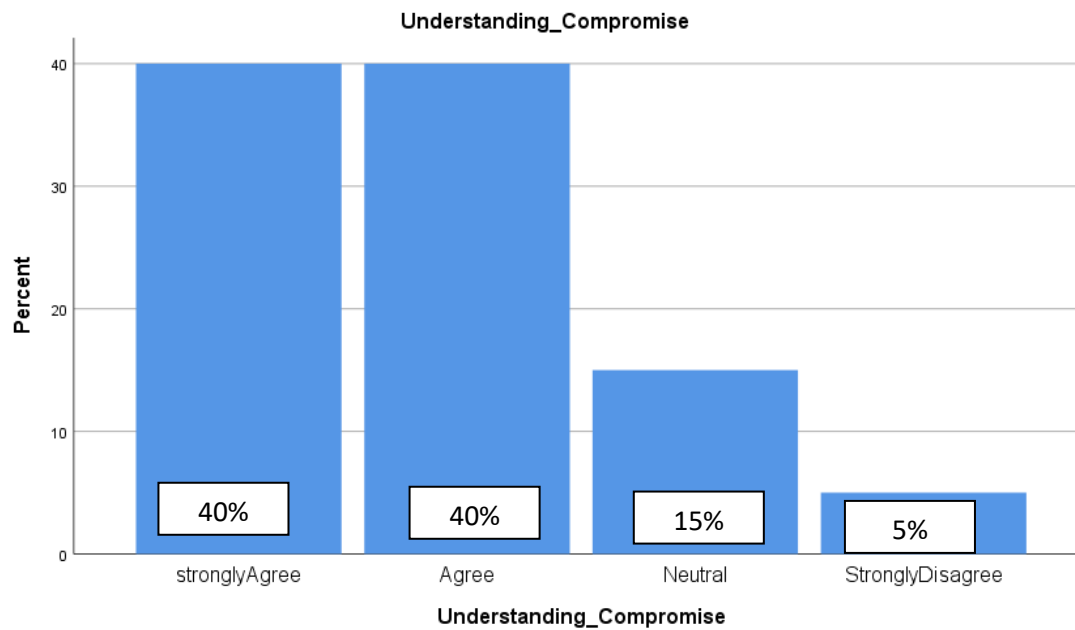


Figure 4.24 Understanding the importance of compromise

Figure 4.23 shows that 8 (40%) of the respondents strongly agree that they understood the importance of win-win or lose – lose principle in the wage negotiation processes, whilst 8 (40%) also agreed with the statement, 3 (15%) gave a neutral response and only 1 (5%) who strongly disagreed with the statement.

Therefore, the results of figure 4.23 shows that the majority of the respondents understood the importance of reaching a compromise during the wage negotiation process. 16 of 20 respondents (80%) who gave a positive response to the statement indicate this.

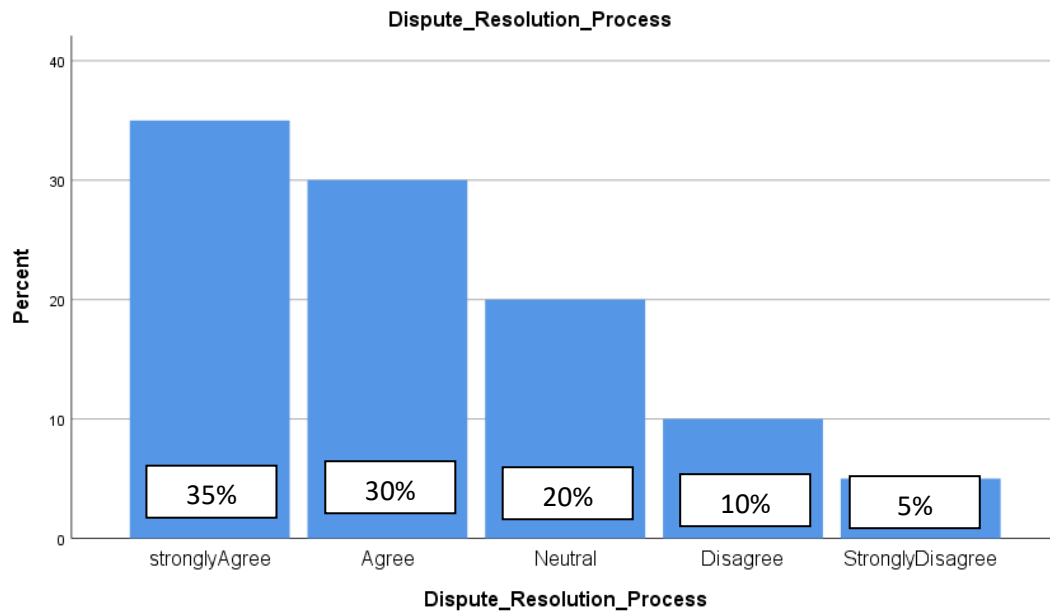


Figure 4.24 Dispute resolution process enables negotiators to settle wage dispute

Figure 4.24 shows that 7 (35%) of the respondents strongly agreed that the dispute resolution processes enabled the negotiators to settle wage dispute, whilst 6 (30%) agreed with the statement, 4 (20%) of the respondents remained neutral, 2 (10%) of the respondents disagreed and 1 (5%) of the respondents strongly disagreed.

Therefore, 13 of 20 respondents (65%) indicate that the dispute resolution process does enable the negotiators to settle their wage dispute. This is consistent with section 112 of the LRA 66 of 1995, which provides for the establishment of the CCMA to resolve dispute between the Trade Unions and the employers. It is also noted that the substantial number of the respondents 7 of 20 (35%) did not give a positive response on the above statement in figure 4.23.

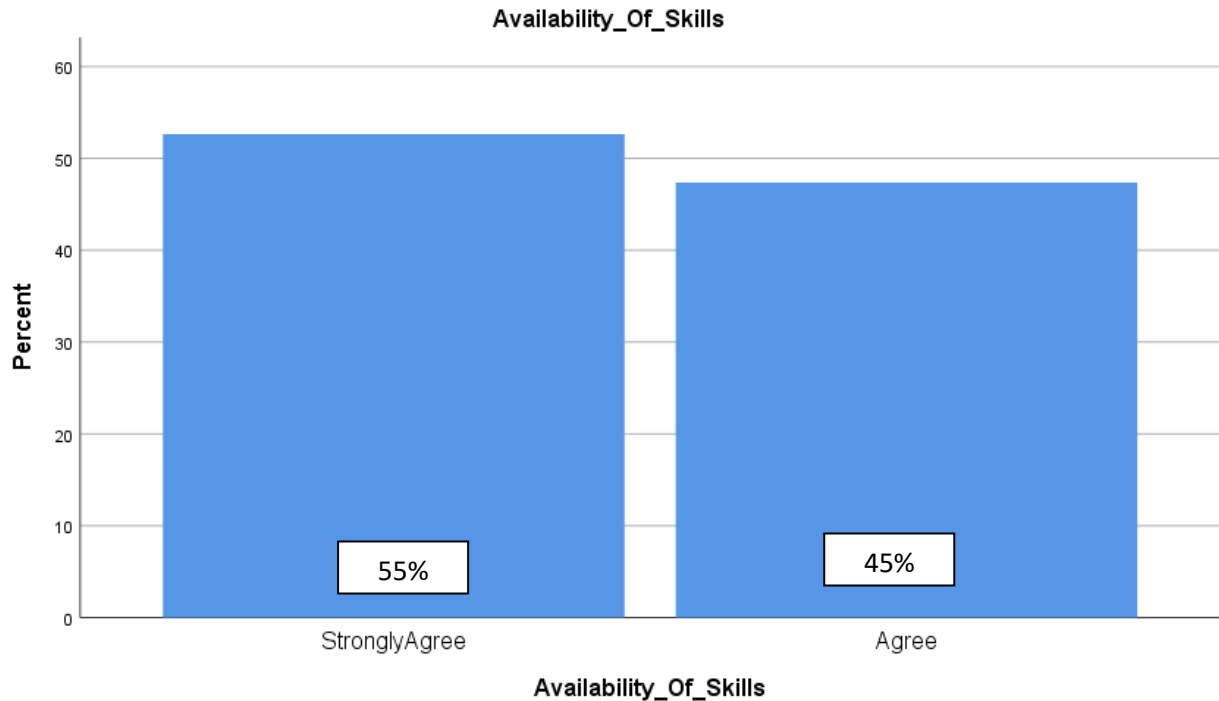


Figure 4.25 Availability of skills and qualifications relevant to wage negotiation processes

Figure 4.25 shows that 11 (55%) of the respondents strongly agreed that they possessed skills and qualifications relevant to the wage negotiation processes whilst 9 (45%) agreed that they possessed skills and qualifications relevant to the wage negotiation processes.

Qualitative responses

This section covers qualitative (open ended) responses within the questionnaire on the strategies used by negotiators during the wage negotiation processes.

Their responses are given below.

- Trade Unions make high opening demands above their mandated position
- Management make low opening offers below their mandated position
- Decentralization of the wage negotiation processes (negotiating at plant level)
- Use the sectoral determination as the bench mark
- Disclosing price increases
- Negotiating a multi-year agreement
- Using the current inflation rate
- Compromising and problem solving approach

- Recognizing the Trade Union representatives
- Establishing good relationship with negotiating counter parts
- Listening and responding accordingly
- Financial transparency
- Costing of total demands submitted
- Demanding equal payment for equal work with equal value

Based on the above responses, it is clear that some improvements are required on the strategies used by the negotiators during the wage negotiation processes. It was noted that some of the respondents indicated that they made demands and counter offers, which were either below or above their mandated official position. This is contrary to the financial transparency which some of the respondents have indicated as their strategy. If there was transparency, there will be realistic demands and realistic counter offers made by the negotiation parties. It was also suggested by some respondents that they used the sectoral determination as the benchmark for the demands and counter offers. This contradicts the strategy of negotiating at the plant level. Sectoral determination looks in the total picture of the industry without concentrating on the plant profitability of each business. This strategy is therefore not helpful in the wage negotiation process.

Some of the respondents suggested that they used compromise and problem solving approaches as their strategy in negotiations. In line with the fundamental principles of ILO as outlined by Fussler, Gramer and Van der Vegt (2017) some of the respondents indicated that they established good relationships and recognized their negotiating counter parts. It was further noted that the respondents demanded equal payment for equal work of equal value and the regulation of working hours as part of their strategies. This strategy is in line with the preamble of the ILO as outlined by Rodgers, Lee, Swepston and Va Daele (2009).

4.5 Barriers and challenges faced by Trade Unions and Employer representatives in relation to wage negotiation processes and strike actions in the hospitality industry in KwaZulu-Natal, South Africa

This section deals with the open ended responses of the respondents within the objective of identifying the barriers and challenges faced by the Trade Union officials and Employer representatives during the wage negotiation processes.

4.5.1 Respondents were asked to explain what they think need to be done by negotiators to avoid strike action from the wage negotiation processes.

Their responses are given below.

- Trade Unions need to make realistic, reasonable and be upfront with their demands
- Employers need to make realistic, reasonable and be upfront with their counter offers
- There should be transparency in the negotiation process
- Trade Unions should research the financial status of the business
- Shop stewards should be trained
- Fair negotiation process
- Parties should engage with understanding
- Open minded attitude in the negotiation process
- Parties should be willing to compromise and use third party and mediators
- Clarification of issues prior to actual negotiation process
- Mutual respect between the parties
- Programs to build relationship between management and labour
- Wage agreement must be put in writing
- Effective communication
- Profit sharing scheme

The results show that some of the barriers faced by the negotiators in the negotiation processes are self-created by the negotiators themselves. The unrealistic, unreasonable and failure to being upfront with the demands and counter offers, are some of the problems created by the negotiators themselves. According to Kolb and Porter (2015:137), the wage negotiation process resumes with each party making its own opening offers and counter offers. This view is further supported by Venter *et.al* (2014:278) who believes that wage disputes are created by

a big gap between the employee demands and employer counter proposals. Therefore, if the parties choose to make unrealistic and unreasonable demands and counter offers, it is clear that the parties themselves are creating barriers to the negotiation process.

The respondents further believed that the fair negotiation process, open minded attitude and proper clarification of the issues and minimized the risk of the strike action. It should be noted that the respondents had also raised the importance of mutual respect and the strong relationship between the management and labour as one of the things which might help to avoid the strike action. The respondents also mentioned effective communication and the training of the shop stewards as critical in avoiding the strike action. These responses were definitely in line with the view of Pressman (2016:35) who stated that one of the critical areas of successful wage negotiations was the ability to communicate the desire to work together for mutual gain. Pressman (2016:30) suggested that the negotiating parties should create the Green Zone of Agreement.

4.5.2 Respondents were asked what challenges they faced during wage negotiation processes, which result to strike action

Their responses are given below:

- Negotiating in bad faith
- Failure to disclose the bottom line
- Negotiators pushing their own selfish agendas
- Lack of consultation by Trade Union officials with their constituencies
- Poor leadership by chief negotiators
- Lack of preparation prior to wage negotiations
- Employers playing tactical games
- Arrogance of the employers
- Unwillingness to compromise
- Lack of financial transparency by employers
- Old negotiation techniques
- Focusing on irrelevant political issues

Some of the challenges mentioned above include the fair negotiation process, which was also mentioned by the respondents when asked what need to be done to avoid the strike action. These include negotiators pushing their own agendas and lack of consultation by Trade Union

officials. As stated by Nel *et al* (2013:53), one of the basic objective of the Trade Union official, must be to protect and promote the interest of its members and working class in general. Therefore, the above-mentioned problem contradict this view and it is clear that this contradiction adds to the challenges faced by the negotiators in the negotiation process. The respondents also mentioned lack of transparency, which has been mentioned by majority of the respondents and arrogance of the employers in the negotiation process. According to Pringle and Starr (2013:20), management has the role of promoting company interest and maintaining good relations with employees. It is clear that management failure to comply with the above view results to some challenges in the negotiation process and can potentially lead to strike action. Old negotiation techniques and focusing on irrelevant political issues by the Trade Union officials are some of the challenges mentioned and faced by the negotiators in the negotiation process resulting to strike action.

4.6 Identify factors contributing to successful wage negotiation processes without strike actions in the hospitality industry in KwaZulu-Natal, South Africa

This section deals with the responses of the respondents within the objective of identifying the factors contributing to successful wage negotiations processes without the strike action.

4.6.1 Respondents were asked open-ended questions on what they think they need to do to minimize the challenges facing the wage negotiation processes

Their responses are given below:

- Conducting a secret ballot to determine whether to go on a strike or not
- Separating the disputes of rights from the disputes of interest
- Signing a labour peace agreements
- Open communication with the negotiating partners
- Avoiding unnecessary negotiation tactics
- Continuous engagement between the Trade Unions and the Employers
- Pre-negotiation meetings between the parties
- CCMA facilitated seminars and training of shop stewards
- Openness and flexibility during the negotiation processes
- Making realistic demands and counter opening offers
- Financial disclosure
- Consideration of the current inflation rate

- Adherence to the basic condition of employment

Based on the above responses, it is clear that some of the respondents believe that conducting a strike ballot can minimize the challenges facing the wage negotiation. It must be noted that there is no provision of the strike ballot in section 64 of the LRA 66 of 1995, where the procedures of a protected strike are outlined. However, the current Labour Relations Amendment Bill (2012) does make this provision. It is therefore interesting that the respondents see the strike ballot as one of the things, which can minimize the challenges facing the wage negotiation process. According to Kennedy (2017:178), negotiating parties should decide where to begin with negotiations and where they intend to end their negotiation process. This view is in line with the suggestions made by respondents above. The respondents believe that avoiding unnecessary negotiation tactics, pre-negotiation meetings and open communication between the negotiating parties can minimize the challenges facing the wage negotiation processes. These views are in line with the beliefs of Kennedy (2017). It is noted that financial disclosure and transparency between the negotiating the parties is one point which came repeatedly from the respondents. Therefore, financial disclosure and transparency is strongly taken note of. As stated by Du Plessis *et al* (2014:126), BCEA 75 of 1997, set minimum employment standards of the employees. It was therefore noted that some of the respondents believed that adherence to the basic condition of employment could minimize the challenges facing the wage negotiation processes. This point is in line with the first suggestion from the respondents, which says there should be the separation of the disputes of rights from the dispute of interest. As stated by Okene and Emejuru (2015:136), disputes of rights can be settled in courts without resorting into a strike action. This view is also in line with section 115 (1) (b) of the LRA 66 of 1995 which provides for the resolution of the disputes of rights through the arbitration process of the CCMA.

4.6.2 Respondents were also asked open-ended questions on what needs to be done by the negotiating parties to minimize the risk of the strike action

Their responses are given below:

- Resolve issues through consensus
- Minimize differences and promote objective reasoning
- Preparedness to compromise on issues
- Start the negotiation process early
- Adherence to the negotiation processes and procedures

- Honesty and proper engagement during the negotiation process
- Open communication
- Transparency on financial performance of the company
- Transparency on the financial position of the company
- Mutual respect and mutual trust
- Doing away with unnecessary threats

Based on the above findings, it is clear that the respondents had clear ideas on what needs to be done by the negotiating parties to minimize the strike action. As stated by Venter et al, it is vital for the Trade Union officials and the Employers to have all the relevant information at their disposal in order to facilitate a successful wage negotiation process. This view is in line with the ideas of the respondents, which says there should be transparency on the finances of the company. This also support the respondent's ideas on open communication and honesty in the negotiation process. The respondents further believe that resolving issues through compromise and doing away with unnecessary threats, can assist in minimizing the strike action. This point is also in line with the view of Pressman (2016:30) which says the parties should create the Green Zones of Agreement or creating space for what one party wants and what the other party wants. Section 23 (1) (a) of the LRA 66 of 1995 states that the collective agreements are binding between the parties who are signatories to that agreement. In line with this provision, it makes a very good idea that the respondents are also stating that the parties should adhere to the agreed negotiation processes and procedures.

4.6.3 Respondents were asked what they think need to be done by their negotiating counterparts to minimize the risk of the strike action

Their responses are given below:

- Focusing on main issues and not distracted by side issues
- Make reasonable demands and reasonable counter offers
- Disclose their main demands and counter offers early
- Advice constituencies on the reasonable demands and reasonable offers
- Parties should engage and agree on relationship by objectives
- Employers should not undermine the unions and negotiate as equals
- There should be transparency in the negotiation process
- Feedback should be provided to the constituencies consistently

- The consultation process should take place in advance between the parties
- Honesty of the negotiating parties
- Parties should comply with the provision of all labour related legislations

The responses indicated above, reveal that there are a number of interventions and changes, which needs to be done by the negotiators during the negotiation process. Making realistic and reasonable demands and counter offers prove to be the important point from the respondents. This is also followed by disclosing the main demands and offers early. The respondents also raised a suggestion for financial transparency, openness and honesty between the parties. The respondents also revealed communication with the constituencies, providing feedback and continuous consultation as the main important points. The respondents also raised focusing on main issues during the negotiation process, engaging in relationship by objective sessions and complying with labour legislations.

4.6.4 Respondents were asked what they think are main contributors to the strike action in relation to wage negotiations.

Their responses are given below:

- Negotiating in bad faith
- Unwillingness to compromise
- Lack of financial transparency
- Providing false information
- Unpaid working hours
- Unwillingness to share profits
- Nonexistent relationship
- Inconsistent application of rules and procedures
- Unequal pay for work of equal value
- Lack of leadership
- Lack of trust
- Lack of mutual respect

Based on the above responses, it is clear that lack of trust, mutual respect, and poor relationship between the negotiating parties are the triggers of the strike action. Lack of financial transparency, dishonesty, failure of being open and disclose relevant information between the negotiating parties result to strike action. The respondents also disclose that due to the trust

relationship, there should be sessions and trainings on relationship by objective to assist the negotiating parties to build the relationship amongst each other.

Most surprisingly, the respondents also raise the failure of the parties to comply with the labour legislation; this is seen on the point of unequal pay for the job of equal value. According to clause 3 of the Employment Equity Regulations (2014), an employer must take steps to eradicate inequalities in employment conditions including salaries of employees who perform work of equal value. Therefore, the employer party should take lead and eliminate any unjustifiable differences on pay for work of equal value. This will be one way of complying with the labour legislation.

The respondents also raise the issue of unpaid working hours. Section 32 (1) of the BCEA 75 of 1997, dictate that the employers must pay an employee the hours worked at the work place. Therefore, failure to pay the employee the agreed and worked hours is the violation of the BCEA and such should be avoided to avoid the strike during the wage negotiations. Likewise, dispute about noncompliance with labour legislation, should be referred to CCMA for arbitration and compliance, it must not result to strike action. This makes the issue of leadership and the training of the Trade Union officials to be also an important point raised by the respondents. Such training and proper leadership will ensure that the employees understand their labour related rights and what recourse they have to take should there be any violation.

4.7 Conclusion

This chapter provides a full presentation, analysis and interpretation of the data gathered from the Trade Union officials and managers who participate in wage negotiation processes. This presentation and analysis was done according to sections used in the questionnaires. The data was analyzed using the Nvivo for analyzing qualitative questions and SPSS for transforming collected data and presenting it in qualitative format.

The findings indicate that the negotiating parties in the hospitality industry do have collective agreements in place regulating the wage negotiation processes. The findings farther indicate that the negotiating parties do understand the collective agreements and the procedures of the negotiation processes. They respondents indicate a clear understanding of these collective agreements and procedures. Most importantly is that the majority of the respondents indicated that they participated and took part in the formulation and the improvements of the collective agreements and the policies regulating the negotiation processes of the hospitality industry of

KwaZulu-Natal. On the positive side, the majority of the respondents indicated that these policies and collective agreements provided for the fair representation of the Trade Union officials and the Employer representative in the negotiation processes of KwaZulu-Natal hospitality industry.

It is however noted from the responses that some of the strategies used by the negotiators create some barriers and challenges in the resolution and signing of the wage agreements. The respondents were able to identify the challenges and the barriers they face in the negotiation processes. These barriers, as stated above result to strike action in the hospitality industry of KwaZulu-Natal. On the positive side, the respondents were able to identify the factors, which they believe they can contribute to the successful wage negotiation processes and thus prevent the strike action in the hospitality industry of KwaZulu-Natal.

The overall response rate from the respondents was good, and, as a result, the research objectives were achieved.

The next and final chapter presents conclusions, suggestions and recommendations.

CHAPTER FIVE

Conclusions and Recommendations

5.1 Introduction

The previous chapter dealt with analysing data and interpreting processed data in order to establish meaning and making sense of the phenomenon that was under investigation. The focal point of this study was to investigate the challenges faced by negotiators during the wage negotiation processes, resulting in strike action in the hospitality industry in KwaZulu-Natal, South Africa.

This chapter links the objectives of this study to the findings presented in chapter 4. Conclusions are drawn and some recommendations are made based on data collected and analysed.

The objectives of the research were:

- To establish the existence of any collective agreements on wage negotiation processes in the hospitality industry in KwaZulu-Natal, South Africa.
- To investigate strategies used by Trade Union representatives and Employer representatives during wage negotiation processes in the hospitality industry in KwaZulu-Natal, South Africa.
- To identify barriers and challenges faced by Trade Unions and Employer representatives in relation to wage negotiation processes and strike actions in the hospitality industry in KwaZulu-Natal, South Africa.
- To identify factors contributing to successful wage negotiation processes without strike actions in the hospitality industry in KwaZulu-Natal, South Africa.

5.2 Achievement of the research objectives

This section focuses on determining whether the objectives of this study were attained. Each objective of the study is discussed at length by focusing on the analysed data and its interpretations. This confirms whether the objectives of the study were attained or not.

5.2.1 Objective 1: Establish the existence of any collective agreements on wage negotiation processes in the hospitality industry in KwaZulu-Natal, South Africa

The first objective was to ascertain if there are any collective agreements, which governs the wage negotiation processes between the employers and the employees in the hospitality industry of KwaZulu-Natal. According to Sun (2017), collective agreements governs the relationship in employment between workers and their employers. The existence of such collective agreements will therefore minimise the challenges faced by negotiators during the wage negotiation processes. It is therefore important to determine if there are any such existing agreements between the employers and the employees.

The relevant information regarding the first objective was gathered from both from the Trade Union officials who represent and negotiate on behalf of the employees and the Managers who represent and negotiate on behalf of the employers in the hospitality industry of KwaZulu - Natal. The findings from the primary data are reflected in chapter four.

Both Trade Union officials and managers, who participate in wage negotiations, suggest that there are collective agreements, which regulate the negotiation processes in the hospitality industry of KwaZulu-Natal. This is symbolised by 85% of the respondents who either strongly agreed or agreed that there are collective agreements in the hospitality industry of KwaZulu-Natal. The respondent's responses are in line with the SACCAWU constitution (2012) which clearly indicate that once the membership is recruited in each business, there will be collective agreements negotiated and signed by the Trade Union and the Employers. The results indicated in figure 4.11 of this question, are also in line with section 21 (3) of the LRA 66 of 1995, which provides for the conclusion of the collective agreement once registered Trade Union has recruited members and whose members are the majority in the workplace. Based on the findings and the literature, it suggested that this practice of concluding the collective agreements should remain in place as it assist the parties in the regulation of their relationship.

There was a minority of the respondents who remained neutral and or disagreed with the existence of the collective agreements in the hospitality industry of KwaZulu-Natal. This negative view only amount to 15% of the respondents. This could be an indication of the respondents not being aware or not have access to such agreements. It should therefore be recommended that the concluded collective agreements should be widely publicised and

workshopped to all the stakeholders so that everyone is fully aware of such agreements and its implications.

The majority of the respondents also indicated that they know and understand the collective agreements. It was also encouraging to see that the respondents not only understand the collective agreements, but they also indicated that these collective agreements do have procedures on how to conduct the wage negotiation processes. The findings indicated that 75% of the respondents indicated that they either strongly agree or agreed that they understand the collective agreements and the same percentage indicated that they either strongly agree or agree that these collective agreements provide procedures on how to conduct the wage negotiations. These responses are in line with the view of Venter *et al* (2014:399), who stated that collective bargaining is a process premised on the collective regulation of the employment relationship through the negotiations between the employers and the employees through their representatives. However, the findings showed that exactly 25% of the respondents, who were either neutral, disagreed or strongly disagreed with understanding the collective agreements and on whether the collective agreements have procedures on how the wage negotiation processes should be conducted. This percentage of 25 % cannot be ignored and it is substantial enough to result to undesired wage dispute and ultimately the strike actions. It is therefore recommended that there should be an easy access to all the signed agreements and the sharing of such by the negotiating parties. The negotiating parties should be aware as to where the agreements are being kept and how to access them.

According to the section 24 (1) of the LRA 66 of 1995, every collective agreement should provide procedure for the resolution of dispute. It is encouraging to note that 80% of the respondents either strongly agree or agree that the collective agreements does provide procedures for the resolution of dispute. Above all, this is supported by 75% of the respondents who indicated that they comply with the provisions of the collective agreements. The responses are in line with section 23 (1) (a) of the LRA 66 of 1995, which dictate that the collective agreement binds the parties to the collective agreement. Again, the 20% and 25% of the respondents who either remained neutral, disagreed and strongly disagreed that the collective agreements provide procedure for the resolution of dispute and that they do not comply with the collective agreements, is a good percentage to be worried about. As mentioned above, this percentage is strong enough to bear the strike action in the hospitality industry of KwaZulu-Natal.

Therefore the same recommendation is offered, respondents should be trained and workshopped on all the collective agreements signed by the negotiating parties. There should also be an easy access to such collective agreements. The negotiating parties should know where the collective agreements are kept and there should be an understanding of the implications of not complying with the signed collective agreements. This could be achieved by creating a shared file on the computer system and through the training of the negotiators by an independent institution like CCMA. According to Van Zyl (2018:19), the CCMA is empowered as part of its discretionary functions to advise the parties and train them on the primary objects of the LRA.

The respondents were to indicate if they have any policies on the wage negotiation processes. They were also asked if they know these policies, if they participate in the formulation of these policies, if they participate in the improvement of these policies and lastly if they believe the policies are relevant to the wage negotiation processes of the hospitality industry of KwaZulu-Natal. The findings showed that between 70% and 90% of the respondents who either strongly agreed or agreed with these statements and between 10% and 30% of the respondents who either indicated a neutral response, disagreed or strongly disagreed with the statements. Again, it is good that the majority of the respondents gave positive answers in these statements, however, it must be worrying enough that the figure of 10% to 30% of the respondents who gave a negative response to these statements. As stated above, these negative responses are big enough to bear strike action. Therefore, it is recommended that trainings and easy access to the policies must be provided to all the negotiating parties. Over and above such trainings and sharing of policies, where the employers are of the belief that it's their prerogative to formulate the policies of the company, it is strongly recommended that such policies should be consulted with the Trade Unions. Balfour (2018) stated that consultation between the employer and the employees is the meeting ground and it helps in the reduction of the strike action. The consultation process involves an attempt to influence decision-making. It is independent formulation of problems concerning any aspect of management policy by elected members on behalf of workers and attempt to influence management policy⁸.

Consultation processes on its own, does not put an obligation to the management to agree and sign an agreement with the employee representatives. It however gives an opportunity to the

⁸ <https://repositary.up.ac.za/bitstream/handle/2263/27290/03chapter7-8pdf> Accessed on the 11 January 2018 at 12h00

employee representatives to express their viewpoints on the proposed policies prior to implementation. This will definitely ensure that the respondents are aware of the policies, understand the policies and they see the relevance of such policies to the negotiation processes.

5.2.2 Objective 2: To investigate strategies used by Trade Union representatives and Employer representatives during wage negotiation processes in the hospitality industry in KwaZulu-Natal, South Africa.

The second objective was to investigate the strategies used by the Trade Union officials and Employer representatives during the wage negotiation processes. As stated by Najjar, Singh, Mulla and Picard (2018), negotiators need to make concessions in order to make agreements, using different concession strategies during the process of negotiations.

The findings of this study indicate that negotiators use different strategies during the negotiation processes. This can be seen when the respondents were asked to indicate if they apply any strategies during the negotiation processes. 95% of the respondents either strongly agreed or agreed that they apply certain negotiation strategies. It is only 5% of the respondents who gave a neutral response and none of the respondents gave a negative response on this statement. The same percentage of the respondents indicated that their strategies are relevant to the negotiation process and they prove to be helpful to the process itself. However, it can be noted that 5% of the respondents were not neutral on this point, but they disagreed with the strategies being relevant and helpful to the negotiation processes. Consistency of the responses could be seen on the statement whether the strategies help to prevent the strike action. Although there was a slight decrease of the positive responses, because 80% either strongly agreed or agreed with the statement and only 20% who gave either a neutral response or strongly disagreed with the statement. The respondent's answers are consistent with the view of Kolb and Porter (2015) that the Trade union officials use different strategies and techniques to fight for the interest of their members in the wage negotiation process. Venter *et al* (2014) also support this view when he stated that the Employer representatives would use different strategies to protect the interest of the business. Venter *et al* (2014) further outline those strategies as affordability of the employer to pay the demanded wage increase, comparing the employer with other competitor's wages to their employees, comparing the productivity of the employees to the demanded increase and using the CPI as the measure of what is the appropriate wage increase.

Based on the findings of the research and the answers provided by the respondents, it can be concluded that the negotiators do use different strategies in the negotiation processes. However, the negotiators need to be extra careful if their strategies are useful and they help to prevent the strike actions resulting from the failed wage negotiation processes. It is strongly recommended that the negotiators should adopt the factors of successful wage negotiations as suggested by Collins (2015). These factors are, defining the bargaining unit, proper analysis of the Trade Union demands, and proper clarification of the mandate by both the employers and the Trade Unions, planning the negotiation strategy and managing the process of wage negotiations effectively. Wood (2013), stated that the negotiation strategy should aim to achieve a specific goal and to find and reach agreement in the negotiation process. He further stated that the strategies used by the negotiators in the wage negotiation processes, should also include managing the relationship between the employers and the employees during the negotiation processes. Therefore, it is recommended that the negotiators should follow the above suggestions laid down by both Collins (2015) and Wood (2013) in order to minimise and avoid the strike action resulting from the wage negotiation processes.

As stated above, another suggestion made by Collins (2015), is that of the negotiating parties should defining the bargaining unit? Brett (2014) who stated that it is extremely important for the negotiating parties to identify the constituencies for which they are negotiating supports this view. The findings showed that 70% of the respondents either strongly agree or agree that they have defined the bargaining unit in the hospitality industry of KwaZulu-Natal. However, it concerning that 30% of the respondents either gave a neutral response, disagreed or strongly disagreed that they have defined the bargaining unit for which they are bargaining for. Failure to define and agree on the bargaining unit may result in a situation where by it is not clear as to who is covered by the negotiating forums and its resolutions. It can however be concluded that the large number of participants have given a positive response in terms of defining the bargaining unit. It is also strongly recommended that the negotiating parties should define the bargaining unit covered by the wage negotiation processes. Such definition of the bargaining unit should be done in advance and not during the wage negotiation process. If it is done during the wage negotiation process, this will have a possibility of another dispute between the negotiating parties even before they resume with the wage negotiation processes.

The findings also reveal that the negotiating parties have sessions of analysing each other's demands and counter offers. This is supported by 80% of the respondents who indicated either

that they strongly agree or agree that they have sessions of analysing each other's demands and counter offers. The responses from the respondents showed that only 20% of the respondents who either disagreed or strongly disagreed those they have sessions of analysing each other's demands prior to the actual wage negotiation processes. In line with the view of Jeong (2016:156) who believed that the capacity to analyse the wage demands and counter offers in the negotiation process, is part of the core of negotiation skills. It can therefore be concluded that the majority of the respondents do have the sessions of analysing each other's demands and counter offers prior to the actual wage negotiation process. The parties can only be able to give informed responses and be able to offer alternatives if they have analysed the demands and offers. This will assist the parties to reach a wage agreement and be able to avoid and prevent the strike action arising from the failed wage negotiation process. It is therefore important that analysing the demands and counter offers should be done prior to the wage negotiation process.

Strongly aligned to the analysis of the demands and counter offers, is the opportunity given to each negotiating party to clarify its own demands and counter offers. Clarification of the demands and counter offers will assist the parties to understand better the reasons for the demands and counter offers. As per the study conducted by Kanto (2016) in Japan. The Japanese Shanto wage negotiations comprise of the process where labour representatives are asked by management to provide justification for their demands. This process helps the other party to be clear about the demands made. It is for this reason and others that the Japanese department of Health, Labour and Welfare Ministry (2016) has not reported any strike actions resulting in the wage negotiations in the year 2017 in Japan. According to Venter *et al* (2014:289), it is vital for the Trade Unions and Employer representatives to have relevant information at their disposal in order to facilitate a successful wage negotiation process. This can be achieved if the negotiating parties have an opportunity to clarify each other's wage demands and counter offers.

The findings from this research indicate that 85 % of the respondents either strongly agree or agree that they have an opportunity to clarify each other's demands and counter offers. It is only 10%, who indicated either that they disagreed or strongly disagreed with this statement, whilst 5% gave a neutral response. Therefore based on these findings and its results, it can be concluded that the negotiating parties do have an opportunity to clarify each other's demands and counter offers in the wage negotiation processes of the hospitality industry of KwaZulu-

Natal. It therefore seems that clarification of demands and counter offers should be encouraged to the negotiating parties in order to avoid and minimise the strike incidents arising from the wage negotiation processes. This recommendation is in line with the view of Dignall (2014) which says the negotiating parties should create an environment where each party will be able to air its opinions objectively.

According to Wood (2013), negotiators should have a plan of action aimed at achieving a specific goal and make an agreement when negotiating with each other. This view simple indicate that the negotiating parties should have a common purpose of when they are engaging in their negotiations. They should have a common purpose of reaching a wage agreement at the end of the day. It is seriously worrying to notice that 20% of the respondents strongly disagree that they have a plan of action while 30% disagree. This simple indicate that 50% of the respondents indicate that they have no plan of action prior to the wage negotiations processes. This can be one of the triggers of the strike action in the hospitality industry of KwaZulu-Natal. The findings indicate that 15% of the respondents gave neutral answers, 15% disagreed and 20% strongly disagreed. On the balance of probabilities, it can be concluded that there is no plan of action done by the negotiators prior to the wage negotiation processes of the hospitality industry in KwaZulu-Natal. As indicated by Wood (2013), it is strongly recommended that the negotiating parties in the hospitality industry of KwaZulu-Natal should engage in the process of formulating a negotiation plan prior to engaging in the wage negotiation process. If this recommendation is implemented, there will be strong possibilities of avoiding the strike actions arising from the failed wage negotiation processes.

According to Moritz (2017:53), compromise as an alternative dispute resolution describe a principle where people experience loss not as a strategy to produce gain but rather as a practice of caring at a cost to themselves. This will result to an agreement with both parties in the negotiation process have lost something but gained an agreement. When the respondents were asked to indicate if they understand the importance of compromise or win-win or lose-lose in the wage negotiation processes. The majority of the respondents, 80%, indicated either that they strongly agree or agree that they understand the importance of compromising in the wage negotiation processes. According to Presman (2016:33), Green Zones of Agreement result to some points being agreed and other points being removed from the agenda by the negotiating parties. This approach result to the wage agreement being signed. This is definitely the essence of compromising. This is where one party will let go of its own demands and the other party

improving its own counter offers. Based on the findings of this research, it can be concluded that the respondents understand the importance of compromise in the wage negotiation process. It is therefore recommended that the responded should not only understand, but they need to go a step further, and compromise on the issues during the wage negotiation processes.

Section 112 of the LRA 66 of 1995, provide for the establishment of the CCMA to assist in the resolution of disputes between the Trade Union and the Employers. The parties in the negotiation process have this route to take should they reach a deadlock in their negotiation process. The findings showed that only 65% of the respondents who either strongly agreed or agreed that that the dispute resolution processes enables negotiators to settle wage dispute. It is noted that 35 % either gave a neutral response, disagreed or strongly disagreed that the dispute resolution processes enables the negotiators to settle the wage dispute. Although there is a majority of the respondents who believe that the dispute resolution processes is helpful, it is however worrying that about 35% of the respondents could not give such a positive response. It can therefore be concluded that the dispute resolution processes are not as effective as it would be preferred to be by the negotiators. It is therefore recommended that the dispute resolution institutions like CCMA should re-look on their approach and interventions when it comes to the dispute arising from the wage negotiation processes in the hospitality industry. Revisiting their approach and intervention strategies can result to an acceptable improvement and the reduction of this negative response rate of 35%. As noted above, 35% of negative responses is big enough to trigger a strike action in the wage negotiation processes.

The statistics showed that 55% of the respondents strongly agree that they possess skills and qualification relevant to the wage negotiation processes whilst 45% agreed that they possess skills relevant to the wage negotiation processes. Being in possession of a skill is one thing and being able to implement the skill you possess is another thing. It can therefore be concluded and it is applauded that the majority of the respondents are in possession of the relevant skills and qualification. There was no single negative response in this statement from the respondents. It can therefore be concluded that the respondents are in possession of the skills and qualification relevant for the wage negotiation processes in the hospitality industry.

It is recommended that the respondents should be trained and workshopped on how best to put their skills and their qualification in practice. They should be trained on how best to implement their skills and their qualification. If this training can be provided, we can experience the benefit

of skill possession and implementation of such skill, thus resulting into successful wage negotiation processes.

When the respondents were asked open-ended questions on the strategies, they use during the wage negotiation processes, it was interesting to note that there is some strong improvement, which needs to be done, and some training on the strategies they use. The most important noted point is that the negotiators use the strategy of making unrealistic demands and counter offers. This noted on their point of high demands and low opening offers. Strongly related to these points, is the lack of financial transparency. The above three points clearly indicate that the negotiators are not honest to each other when they start the wage negotiation process. This approach result to delayed wage negotiations and it has a potential of creating tension between the parties and their constituencies who are eager to get wage resolution timeously.

It is therefore recommended that parties should be open and honest to each other right from the start of the wage negotiation process. This will have a potential of the quick resolution and conclusion of the wage negotiation processes. If there is financial transparency, there will be no need of making high and unrealistic demands since the parties will understand the financial position of the business. On the same token, there will be no need of making unrealistic counter offers. It is recommended that both negotiating parties should engage in a new system where they are open, transparent and realistic in their wage negotiation processes.

The respondents indicated that they use decentralised bargaining system as one of their strategies during the wage negotiation process. Decentralised bargaining is simple when the negotiators negotiate at the plant level. This strategy strongly contradict the other strategy of using the sectoral determination as the benchmark. Mixing these two has a potential of creating a deadlock. Sectoral determination refers to the employment conditions and wage increases determined by the minister of labour after the negotiating parties have negotiated at the central level and reached an agreement. It can be concluded that the respondents approach of having their bread buttered on both side, really create a very big problem. This means if the sectoral determination favours one party that favoured party will push for the sectoral determination provisions. If the plant level provisions favours one party, that other party will also push for the implementation of the plant level resolution. This therefore will result to the negotiating parties having different interest and fail to reach an agreement or the compromise.

It is recommended that the negotiating parties in the hospitality industry of KwaZulu-Natal should sit down, discuss and agree on what is most suitable for the industry. The parties should stick with their resolution once they have agreed. If the parties opt to negotiate at the central level, they should stick with that. If they also opt to negotiate at the plant level, they should stick with that and not mix the two during the wage negotiation processes.

It is commendable that the parties have raised establishing good relationship and recognition of Trade Union officials as one of the strategies they use during the wage negotiation processes. This also include compromising and problem solving approach. Nothing can be said further on these strategies, as they definitely help the negotiating parties to reach an agreement. This also include listening and responding accordingly.

Demanding equal payment for equal work of equal value is one of the strategies the negotiators use in the negotiation processes. This is a legal requirement in terms section 2 of the Employment Equity Regulations (2014). It is therefore recommended that matters, which could be addressed in different forums, should not cloud the wage negotiations. It is recommended that if there is a concern about unfair discrimination on the salaries, the affected party should refer the matter to the CCMA for conciliation and arbitration, without waiting for the wage negotiation processes. Therefore, equal pay for work of equal value falls under the dispute of rights. As stated by Okene and Emejuru (2015:136), dispute of rights can be resolved in courts and arbitration proceedings without resorting to strike action. This view is in line with section 115 (1) (b) of the LRA 66 of 1995, which provides for the resolution of the dispute of rights through the CCMA arbitration process.

5.2.3 Objective 3: identification of barriers and challenges faced by Trade Unions and Employer representatives in relation to wage negotiation processes and strike actions in the hospitality industry in KwaZulu-Natal, South Africa.

When the respondents were asked to indicate what they think need to be done by negotiators to avoid strike action, their responses showed that they a very well clear of the challenges they are facing. Their responses were actually very good proposals for reaching a settlement in the wage negotiation process. The respondents indicated that both they need to make realistic and reasonable demands and counter offer. Above all, they need to be upfront with their demands, and counter offers. Venter *et al* (2014:278), stated that wage disputes are caused by the big gap between the employee demands and employer counter offers. It can therefore be concluded that

the negotiating parties are fully aware of some of the interventions, which can quickly lead to the wage agreement.

It is therefore recommended that the negotiating parties should begin to trust each other, be open and transparent on their mandated demands and counter offers. As the respondents stated, they need to be fair with each other and engage with understanding.

Transparency on the financial position of the company is one of the points raised by the respondents. It will be difficult if one party is transparent yet the other party do not understand what is being disclosed. It is therefore recommended that the shop stewards and Trade Union officials should be trained on basic financial skills so that they can be able to objectively understand the disclosed financial status of the business. It goes without saying, that the Trade Unions, should also research the financial status of the business in advance as the form of preparing for the wage negotiation processes. Another important recommendation is that the negotiating parties should have a financial workshop addressed by the senior financial officer of the business prior to the actual wage negotiation process. An independent party, to ensure the smooth running of the process, shall facilitate this. This approach will assist the parties to be on the same level of understanding about the financial performance of the business. The employers should ensure that they respect the integrity of the Trade Union official by being fair, honest and transparent in their presentation. The business should be prepared to share a certain amount of profits with the employees and such amounts should be disclosed during the financial disclosure sessions.

When the respondents were asked to list the challenges they faced during the wage negotiation process, lack of financial transparency, failure to disclose the bottom line and negotiating in bad faith came on top of the list. As stated above, it can be concluded that there is no transparency in the hospitality wage negotiation process. This lack of transparency should be looked on both the Trade Union representatives and the Employer representatives. The Trade Unions do not disclose their financial bottom line demand and the employers are reluctant to disclose the financial position of the business together with the financial bottom line offers. This approach result to the deterioration of the trust relationship and perception that either party is arrogant. This is seen on the responses whereby the respondents believe that the employers are sometimes arrogant. It is again recommended that the negotiating parties should engage on the trust building training session, commit to be open and upfront with the main demands and

counter offers and lastly commitment into disclosing any financial information required by negotiating parties to reach an agreement in the wage negotiation process.

Negotiating parties should understand that they do not represent their interest during the wage negotiation process, but that of their constituencies. It is therefore recommended that the negotiating parties should put their personal interest aside, consult with their constituencies broadly and do thorough preparation for the wage negotiation process. Thorough preparation should include on looking on other alternatives should there be no agreement on what is being demanded or offered in the negotiation process. This is in line with the view of Ne *et al* (2013:53) who proposed that one of the basic objectives of the Trade Union should be to protect and promote the interest of their constituencies. Pringle and Starr (2013:20) who said the management has the role of promoting company interest and maintaining good relations with employees also support this. Compliance with the above propositions will result to the wage agreements being signed in the hospitality industry without the strike action. It is for this reason that a recommendation is made to both the Trade Union representative and the Employer representative.

5.2.4 Objective 4: Identification of factors contributing to successful wage negotiation processes without strike actions in the hospitality industry of KwaZulu-Natal, South Africa.

The respondents listed number of proposal on what they think they need to do as negotiators to minimise the challenges facing the wage negotiation processes. These proposals are valid and it shows that the respondents either they know or they are aware of what they are supposed to be doing in order to minimise the risk of the strike action. It can also be concluded that the negotiators are clear about the differences on the dispute of rights and the disputes of interest. This show is evident in their responses, which suggest that the negotiating parties should separate the disputes of rights from that of interest. Negotiators are also aware that they need to use the CCMA services to facilitate a resolution where there is a deadlock. This is in line with section 115 (1) (b) of the LRA 66 of 1995. Most importantly, the respondents also suggest that there should be strike ballot conducted prior to the commencement of the strike action. This point is part of the Labour Relations Amendment Bill (2012). In line with the proposition of Okene and Emejuru (2015), which says disputes of rights should be settled through the courts, the respondents also suggest that there should be a clear separation of the disputes of rights from the disputes of interest.

It was also not surprising that the respondents also raised the issue of financial disclosure, openness and flexibility in the negotiation process, making realistic demands and counter offers, continuous engagement and avoiding unnecessary negotiation tactics, which delays the whole process of wage negotiation. It can therefore be concluded that the negotiators are aware of the interventions, which can minimise the strike action in the hospitality industry of KwaZulu-Natal. It is therefore recommended that the negotiators should be trained on the skills of effective implementation of what they are aware of.

The responses received show that the respondents are also aware of what needs to be done by their negotiating counter parts in order to minimise the risk of the strike action in the hospitality industry of KwaZulu-Natal. Both Trade Unions and Employers indicated that each party do not make reasonable demands and reasonable counter offers during the wage negotiation process. This being the failure to communicate the reasonable offers and demands to the constituencies during the process of the formulation of the demands and offers. The negotiators also pointed the issue of transparency on either side or honesty in the negotiation process. Sound relationship was suggest as the possible solution, if it is strong amongst the negotiating parties. The responses above indicate that the parties need to be trained, need to be open and understand the importance of being transparent on their demands and counter offers and ensure proper financial transparency.

The respondents revealed that there is a huge problem with the lack of financial transparency, poor relationship between the negotiating parties, serious lack of trust between the negotiating parties, inconsistency in the application of rules and labour legislation, bad faith negotiating, possible due to lack of trust, unwillingness to compromise and poor leadership by the chief negotiators.

Based on the responses by the respondents, it is clear that there are some interventions required in order to minimise the risk of strike action in the hospitality industry. What is more encouraging is that the respondents know what they need to do and what needs to be done by their negotiating counter parts. Therefore, the findings of this study, confirm what both Trade Union officials indicated and Employer representative is indeed true.

Based on the responses given by the Trade Union officials and the Employer representatives who both engage in the wage negotiation process, it is recommended that relationship by objective be established, and training be conducted relating to negotiation skills or strategies

that can lead to wage settlements. It is further recommended that parties must negotiate in good faith and that the financial status and information be disclosed prior or during to wage negotiation process.

5.3 Conclusion

The main objective of the study was to investigate the challenges faced by negotiators during the wage negotiation processes, resulting in strike action in the hospitality industry in KwaZulu-Natal, South Africa. It was established that indeed there were challenges facing the negotiators. The study revealed that lack of trust between the negotiators, result to the lack of honesty during the negotiation processes. The negotiators are not upfront with their main demands and counter offers. This was demonstrated by the responses, which showed that the negotiators make unrealistic demands, and unrealistic counter offers. This study also revealed that lack of transparency and poor relationship between the negotiators is also the major challenge facing the negotiators. However, we should take note that both the Trade Union officials and the Employer representatives were able to identify these challenges and they understand the negative impact it has on the wage negotiation processes. It also important to note that the hospitality industry does have the collective agreements and policies on the negotiation processes which appeared to be a very positive thing in this research. In addition, the respondents seemed to be experienced and have good understanding of the industry through their length of service.

Another down side which was revealed on this research is that there are some instances of none compliance with the labour legislations. The issue of equal pay for work of equal value was sharply raised by the respondents and the failure of the Trade Union officials to comply with the collective agreements was another concern raised by Employer representatives.

5.4 Recommendations

In order to ensure that strike actions are minimised in the hospitality industry of KwaZulu-Natal due to dispute arising from the failed wage negotiation processes:

- The respondents should be trained on the actual and practical implementation of the trust relationship.

- The respondents should be encouraged to comply with the labour legislation and to refer the dispute of rights appropriately.
- Session on relationship by objectives should be conducted in advance to improve the relationship between the negotiating parties.
- The study further recommends that training be conducted relating to negotiation skills or strategies that can lead to wage settlements.
- The study further recommends that parties must negotiate in good faith and that the financial status and information be disclosed prior or during to wage negotiation process.
- Negotiating parties should desist from making unrealistic demands and unrealistic counter offers

5.5 Recommendation of future research

It is recommended that future research should not be limited on one industry (hospitality industry). Future research on the wage negotiation processes should be extended to other industries and different Trade Unions in order to minimise the high rate of strike incidents in South Africa emanating from the failed wage negotiations.

5.6 Limitations of the study

The limitations to the study was that the study only covered the respondents who are SACCAWU members. Although SACCAWU is the majority union, but, there other Trade Unions which operate in the hospitality industry of KwaZulu-Natal. It will be desirable on any future studies to be inclusive of all the Trade Unions, which represent the employees in the hospitality industry. In addition, the employers who were identified were only those where SACCAWU has membership. There are other employers who do not have SACCAWU as the majority union who can have a meaningful contribution to this study, as such, any future studies should consider including those employers.

5.7 Conclusion

This study has revealed that in deed, the Trade Union representatives and the Employer representatives who participate and lead the wage negotiation processes, are very much honest in diagnosing the causes of the industrial actions emanating from the failed wage negotiations.

Of utmost importance, is that the respondents have a clear understanding of needs to be done to reduce the strike actions. However, as much as they know what needs to be done, but they do not do it due to the lack of trust.

Parties in the negotiation process needs to be open and honest in their dealings. Unnecessary techniques should not be used. Parties need to focus on the core of the business and do what they know best without playing any games, which end up affecting the financial performance of the business and the salaries of the employees. It is clear from the study that structures designed to minimise the strike actions. Parties know what they need to do and what need to be done by their negotiating counter parts.

Therefore, parties need to work together and develop trust without playing dangerous techniques, which do not benefit anyone at the end of the day. None from the respondents who indicated that they enjoy embarking on a strike action. Therefore, parties have a capacity to end strikes and as such, they must end the industrial actions. It is all in their hands and no one else.

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Appendix A – Letter of information

University Of KwaZulu-Natal, School of Management, IT and Governance

Dear Respondent

Research Project

Researcher: Mr. MS Khomo, Masters Research Student at UKZN

Contact Details: Telephone number: 031-5805060/0769114492 Email: mthokokhomo@ymail.com

Research Office: Humanities & Social Sciences Research Ethics Administration, Govan Mbeki Building, Westville Campus, Tel: + 27 (0)31 260 8350, Email: hssreclms@ukzn.ac.za

I, Mthokozisi Samuel Khomo a master's research student in the School of Management, IT and Governance at the University of KwaZulu-Natal. I am specifically conducting my research in Industrial Relations. You are kindly requested to be part of a research project entitled:

Wage Negotiation Processes and Strike Action in the Hospitality Industry in KwaZulu-Natal in South Africa.

The aim of this research is to establish how wage negotiation processes can prevent the strike action in the hospitality industry in KwaZulu-Natal in South Africa. The results of the study will provide recommendations to the Trade Unions and the hospitality industry employers on how to negotiate and prevent strike actions emanating from their wage negotiation processes. It will express the views of Trade Union officials and the company management representatives who participate and lead the wage negotiation processes and the strike actions.

Your involvement in this project is voluntary. You are at liberty to decline any involvement or to your participation from the project at any point in time with no penalties or punishment for such withdrawal. There will be no financial reward for being involved in this research project. The researcher and the School will maintain confidentiality and anonymity of records. All data collected, will only be used for research purposes and only be destroyed after a period of 5years.

This study has been ethically reviewed and approved by the UKZN Humanities and Social Sciences Research Ethics Committee and the approval number is:

The questionnaire should take approximately 25 minutes to complete. Thank you for your time.

Faithfully,

Researcher's Signature _____ Date _____

Mr MS Khomo

Appendix B – Consent letter

University Of KwaZulu-Natal
School of Management, IT and Governance

RESEARCH PROJECT

Researcher: Mr. M.S. Khomo, Research student at UKZN

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Research Office: Humanities and Social Sciences Research Ethics Administration, Govan Mbeki Building, Westville Campus, Tel: + 27 (0)31 260 8350, Email: hssreclms@ukzn.ac.za

CONSENT TO PARTICIPATE

I _____ (full names of participant) hereby confirm that I understand the contents of this document and the nature of the research project, and I consent to participating in the research project. I understand that I am at liberty to withdraw from the project at any time, should I so desire.

Agree Disagree

Date

Appendix C – Questionnaires

QUESTIONNAIRES DRAFT

INSTRUCTION

- Kindly complete the entire questionnaire.
- Please complete the informed consent form.
- Kindly submit BOTH the questionnaire and the informed consent document to the research.
- Please be assured that your responses will be kept confidential and entirely anonymous
- This questionnaire is to be completed by both the Trade Union Officials and identified managers who participate in wage negotiations processes
- It will take you between 20 and 30 minutes to complete these questionnaires
- Mark the relevant box with a cross (X) and furnish a brief responses where applicable

The questionnaire is divided into 3 sections:

Section A: Demographic Data

Section B: Collective agreements in hospitality industry, strategies used in negotiations and factors leading to successful wage negotiations.

Section C: Challenges and barriers faced by wage negotiators.

SECTION A: BIOGRAPHICAL INFORMATION

1. What is your gender

Female	
Male	

2. What is your age group

20 -29 years	
30 – 39 years	

40 -49 years	
50 – 59 years	
60 – 65 years	
➤ 66 years	

3. What is your highest educational qualification?

Doctorate	
Masters	
B Tech/ Honours	
Diploma/ Degree	
Grade 12 (matric)	
Other (please specify)	

4. Occupation and rank:.....

5. How long have you been employed in your current position.....

0 -5 years	
6 -10 years	
11 -15 years	
16 – 20 years	
21 and above	

SECTION B:

6. Please mark with an X on the statement which best suits your choice (opinion) about the policies and collective agreements that relates to wage negotiation processes.

Statement	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
7.The negotiating parties have a policy on wage negotiation processes in the hospitality industry					
8.The policy on wage negotiations is known by negotiating parties					
9.I am happy with the negotiation policy					
10.I am allowed to contribute towards the formulation of the negotiation policy					
11.I am allowed to contribute towards the improvement of the negotiation policy					
12.The wage negotiation policy is relevant to the negotiation processes of the hospitality industry					
13.Trade Unions and Employers in the KwaZulu-Natal hospitality industry have collective agreements					

14.I understand the collective agreements of the KwaZulu-Natal hospitality industry					
15.The collective agreement has a procedure on how to conduct wage negotiation processes					
16.The collective agreement provides for the fair representation of employees and employers in the negotiation processes					
17.The collective agreement provides a procedure for the dispute resolution					
18.Negotiating parties comply with all the provisions of the collective agreement					

Strategies adopted by Trade Unions to maximise their contributions to wage negotiation processes and preventing strike action

Statement	Strongly agree	agree	Neutral	Disagree	Strongly disagree
19.Do you apply any specific negotiation strategies during the wage negotiation processes					

20.Are your strategies helpful to the wage negotiation process					
21.Do your strategies contribute to the prevention of strike actions					

22. Briefly explain the strategies you use during the wage negotiation processes

.....

.....

.....

Factors contributing to successful wage negotiation processes without strike action in the hospitality industry.

Statement	Strongly agree	Agree	Neutral	Disagree	Strongly disagree
23.Negotiating parties have defined and agreed on the bargaining unit in the hospitality industry in KwaZulu-Natal					
24.Negotiating parties have sessions to analyse each other's demands and counter demands prior to the negotiation processes					
25.Negotiating parties have sessions of clarifying each other's demands and counter demands prior to the negotiating processes					

26.Negotiating parties, jointly formulate a plan of action to achieving a wage agreement prior to embarking on the wage negotiation processes					
27.Negotiating parties understands the importance of the win-win or lose-lose principle					
28. The dispute resolution processes enables the wage negotiators to settle the wage dispute.					

29. Briefly explain what else do you think needs to be done by the negotiating parties to avoid the strike actions from the wage negotiation processes

.....

.....

.....

SECTION C: OPEN ENDED QUESTIONS

30. What challenges do you face during wage negotiation processes which result to strike action

.....

.....

.....

31. What do you think you need to do to minimise the challenges facing the wage negotiation processes

.....
.....
.....

32. What needs to be done by the negotiating parties to minimise the risk of the strike action in the hospitality industry

.....
.....
.....

33. What do you think need to be done by your negotiating counter parts, to minimise the risk of the strike actions in the hospitality industry

.....
.....
.....

34. What are the main contributors to the strike action in the hospitality industry in relation to wage negotiations?

.....
.....
.....

35. The skills, qualifications and abilities you possess are relevant to the wage negotiation processes.

Strongly agree	Agree	Neutral	Disagree	Strongly disagree

Appendix D – Ethical clearance



10 October 2018

Mr Mthokozisi Samuel Khomo (214581076)
School of Management, IT & Governance
Westville Campus

Dear Mr Khomo,

Protocol reference number: HSS/1089/018M

Project title: Wage negotiation processes and strike action in the Hospitality Industry in KwaZulu-Natal in South Africa

Approval Notification – Expedited Application

In response to your application received on 24 July 2018, the Humanities & Social Sciences Research Ethics Committee has considered the abovementioned application and the protocol has been granted **FULL APPROVAL**.

Any alteration/s to the approved research protocol i.e. Questionnaire/Interview Schedule, Informed Consent Form, Title of the Project, Location of the Study, Research Approach and Methods must be reviewed and approved through the amendment/modification prior to its implementation. In case you have further queries, please quote the above reference number. **PLEASE NOTE:** Research data should be securely stored in the discipline/department for a period of 5 years.

The ethical clearance certificate is only valid for a period of 3 years from the date of issue. Thereafter Recertification must be applied for on an annual basis.

I take this opportunity of wishing you everything of the best with your study.

Yours faithfully

.....
Professor Urmilla Bob
University Dean of Research

/ms

Cc Supervisor: Dr Brian Kwazi Majola
cc Academic Leader Research: Professor Isabel Martins
cc School Administrator: Ms Jessica Chetty

Humanities & Social Sciences Research Ethics Committee
Professor Shenuka Singh (Chair) / Dr Shamila Naidoo (Deputy Chair)
Westville Campus, Govan Mbeki Building

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Website: www.ukzn.ac.za



Founding Campuses: Edgewood Howard College Medical School Pietermaritzburg Westville

Appendix E – Permission letter



SACCAWU
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 Tel: (031) 304-1956/305-6505
 Fax: (031) 304-9086

18 April 2018

**To: All Union Officials
 All Shopstewards
 All Union Members
 All Union Structures**

Dear Comrades

AUTHORISATION TO CONDUCT A RESEARCH

This serves to confirm that Mr Mthokozisi Khomo is authorized to conduct research within the sectors that we are organising. Such a research may involve interaction with the structures of the union, union officials, Shopstewards as well as membership at large.

The research will on the wage negotiations and strike action in the Hospitality Sector/industry within the Province of KwaZulu Natal.

We thank you in anticipation of your cooperation and understanding in this regard.

Comradely Yours

**Mathews Ndlovu
 Regional Secretary**

Cell : 082 336 9245

SACCAWU SUPPORTS ACTIVISM AGAINST WOMEN AND CHILD ABUSE!

DURBAN LOCAL P.O. Box 48282 Qualbert 4078 Tel: (031) 301-7505 (031) 301-76951- Fax: (031) 305-432041	PINETOWN LOCAL 207 Harbour House 27 Crompton Street Pinetown 3603 Tel: (031) 702-7117 Fax: (031) 701-0574	PIETERMARITZBURG LOCAL P.O. Box 2101 Pietermaritzburg 3200 Tel: (038) 394-3234 Fax: (038) 345-6295	LADYSMITH LOCAL P.O. Box 130 Ladysmith 3370 Tel: (036) 637-5759 Fax: (036) 637-2993	NEWCASTLE LOCAL P.O. Box 2367 Newcastle 2940 Tel: (034) 312-2367 Fax: (034) 312-2374	VRVHEID LOCAL P.O. Box 2395 Vryheid 3700 Tel: (034) 982-1685 Fax: (034) 982-1621	KOKSTAD LOCAL P.O. Box 790 Kokstad 3790 Tel: (039) 727-4156 Fax: (039) 727-4351	PORTSHEPSTONE LOCAL P.O. Box 186 Portshepstone 4260 Tel: (059) 682-7121 Fax: (059) 682-7953	EMPANGENI LOCAL Postnet Suite 41 Private Bag 42004 Empangeni 1880 Tel: (035) 793-2258 Fax: (035) 793-2100
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Appendix F – Permission letter



Tsebo Solutions
Group (Pty) Ltd

Registration No
2016/224394/07

BOARD

14 March 2018

T.G. Wallers
Dr C.R.Jardine
T.L.B. Boikhutso
P.P.Z. Mbele
N.V. Mokhesi
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RE: REQUEST TO PERMISSION TO CONDUCT RESEARCH WITH THE MANAGERS WHO HAVE PARTICIPATED IN WAGE NEGOTIATIONS

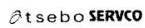
I Ignatius Mthembu, the Regional HR Manager of Fedics KZN, hereby grant permission to Mr. Mthokozisi Khomo to conduct the study with Fedics KZN managers who are involved in participating in wage negotiations with the Trade Union Officials.



Thank you



Yours Faithfully




Ignatius Mthembu
Regional HR Manager

Appendix G – Permission letter



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Servest Connect 0860 2255 84
info@servest.co.za
www.servest.com

Date: 26th March 2018

To: Mthoko

Dear Mr M Khomo

RE: Permission to conduct the study.

Permission to conduct the study with our company managers has been granted.

For further assistant kindly contact the author on the signature.

Yours Sincerely,

Siyabonga Cabe

HR/IR Manager
Landscaping & Turf

+27 72 900 2662

✉ SiyabongaC@servest.co.za