

# **STRATEGIC OPTIONS FOR TRADE UNIONS IN THE NAMIBIAN POLICE SERVICE**

by

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## **DECLARATION**

I, the undersigned, hereby declare that the work contained in this thesis is my own original work and has not previously in its entirety or in part been submitted at any university for a degree.

SIGNATURE:

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## **Abstract**

Freedom of association is a constitutional fundamental freedom denied the members of the Namibian Police Service. This led to the researcher to conduct a study on current labour practices in the said organisation. The aim thereof was to establish whether the inexistence of unions has a detrimental effect on labour relations, and also to explore possibilities of introducing trade unions in the Police Service.

A study was conducted within a qualitative approach with the data obtained from existing literature as well as through interviewing police officers and other public office bearers. It was ultimately found that the entire organisation is fraught with labour related problems, which would have been handled differently within unionism. The study therefore recommends that a union be formed for the Namibian Police members.

## **Opsomming**

Vryheid van assosiasie is 'n konsitusionele fundamentele vryheid wat die lede van die Namibiese Polisie diens ontse is. Dit was aanleidend tot die navorser se ondersoek van bestaande werkspraktyke in die gemelde organisasie. Die studie is daarop gerig om vas te stel of die bestaan van unies nadelig inwerk op werksverhoudings asook om die moontlikheid van die instelling van vakunies in die polisie diens te ondersoek.

Die studie is met 'n kwalitatiewe benadering onderneem en data is bekom uit bestaande literatuur asook onderhoudsvoering met polisiebeamptes en ander openbare ampsdraers. Daar is uiteindelik bevind dat die hele organisasie gebuk gaan ander werksverwante probleme wat binne vakunie-verband anders hanteer sou word. Die studie beveel dan ook aan dat 'n unie vir die lede van die Namibiese Polisie ingestel moet word.

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## Chapter 1

### Introduction and background

#### 1.1 Introduction

This document examines the role of trade unions in labour relations. The rationale thereof is to explore the possibilities of establishing a union for the members of the Namibian Police Service. Trade unions have a systematic role to play for the benefits of both employees and employers. They serve as strategic tools for regulating labour relations, mostly by fighting and promoting the interest of workers. Salamon (in Swanepoel et al, 1998:619) defines a trade union as “...an organisation whose membership consists of employees, which seeks to organise and represent their interest both in the work place and society and, in particular, seeks to regulate their employment relationship through the direct process of collective bargaining with management”.

Freedom of association is one of the internationally recognised fundamental human rights. In terms of the International Labour Organisation (ILO) “...workers and employers, without distinction whatsoever, shall have the right to establish and to join organisations of their own choosing without previous authorization” (Blanpain & Engels, 2001:143). Various countries, including Namibia, which are member states of ILO, are, in terms of its constitution obliged to comply with universally accepted labour relation practices as adopted by that constitution.

Considering that each country is unique, the ILO does not oblige its member states to grant the same freedom (of association) to members employed in emergency services (police, defence forces, *etc.*). Freedom of association to police officers is an alarming issue worldwide. The fact that police service is an essential service, which if disrupted causes the countries to be in a state of anarchy, has delayed the process of giving police officers the freedom to form or join trade unions. It has however been noticed that many countries which believe in the principle of democracy have allowed unionisation in their police organisations.

The changes in management philosophy have also significantly impacted on the management of labour relations in the police, and consequently led many countries to allow police officers to form unions. Political transformation in Namibia undoubtedly had an impact on the various organisations that functioned within it. The Namibian Police Service (NAMPOL) was no exception to the rule therein that it had to change its old policing style to be in alignment with the present policing paradigm. NAMPOL adapted the Community policing model, which is the current internationally accepted policing style requiring full employee participation in the decision-making process. This transformation might imply to the people that the police agency is prepared to shift authority to the members on the ground, which however seems not to be the case.

In terms of the community policing model, police management should be a shared responsibility for both senior and junior officers to give their input. Freedom of association however is outlawed in the Namibian Police Service so that members have little or no say in labour related matters affecting their economic and social lives. The presence of unions would serve as a guarantee for just and fair labour practices.

## **1.2 Background**

Prior to Namibia's independence, the labour law of Namibia (formerly known as South West Africa) that provided freedom of association was fraught with discriminatory features as wages and labour conditions were based on race, gender, ethnicity and political affiliation. To a certain extent, these discriminatory labour laws caused chaos and uncontrollable industrial unrest and disharmony among employers, employees and trade unions. The labour situation was further aggravated when the apartheid regime continued with its unfair labour practices, which included suppression of some of the trade unions (Office of the President, 2001). Freedom of association did not apply to the members employed in the police. Instead, the then police force under the South African apartheid regime was used as a state apparatus to disrupt workers meetings, petitions, strikes *etc.*

After its independence, the Namibian government enacted the Labour Act (Act no. 6 of 1992) solely aimed at promoting sound labour relations and fair employment

practices by encouraging freedom of association and the formation of trade unions to protect the rights and interests of the workers (Office of the President, 2001). By this Act an effect was given to provision (article 21 (1)(e)) of the Namibian constitution of 21 March 1990 which reads that: “All persons shall have the right to freedom of association, which shall include freedom to form and join associations or unions, including trade unions and political parties”. It is however regrettable that the Labour Act, in terms of its section 2 (1) (a) is not applicable to a person employed in the police. Additionally, in terms of Regulation 15 (ab)(i) of the Namibian Police Act (Act no. 19 of 1990) members of the Namibian police are not allowed to join or form trade unions/associations. As a result their opportunities to participate in decision-making activities are very minimal.

### **1.3 Justification for the study**

Police officers are not just ordinary human beings as they are also civil servants. Therefore, they deserve rights to fundamental freedoms like other civil servants. The mere fact of deprivation of freedom of association constitutes doubt about the job security, and indeed, raises a question about the fairness and justice in labour relations. Members of the police have complained through Medias about unfair labour practices in NAMPOL.

Given the above, the researcher was motivated to carry out a study on labour situations in NAMPOL. The rationale behind this study was to analyse the labour situations and determine whether there exist a need for the members of NAMPOL to form and join unions. The study targeted the internal policies and practices – with special analysis on their implementation, applicability, compatibility and effect on both economic and social life of the members.

### **1.4 Demarcation and limitation of the study**

The most obvious limitation relates to the fact that trade unions deal with wide ranges of employment issues. For the sake of this study, parameters have been set in that this study was conducted in terms of certain aspects such as human resources issues, grievance procedures, and disciplinary related matters. Unions are regarded as playing vital roles in these aspects.

## **1.5 Research problem**

Formulation of the research problem reads that “Introducing trade unions in the Namibian Police Service might assist in addressing their current organisational challenges”.

## **1.6 The objectives of the study**

The objectives of the study are to analyse the current labour situations in NAMPOL, and to or not recommend the establishment of a union in the Namibian Police Service that will have the following objectives:-

- to improve the working conditions of the members of the Namibian police;
- to ensure members receive fair treatment at work;
- to represent members in decision-making committees;
- to critically analyse the policies of NAMPOL;
- to fight for the general interests of members; and
- to assist in democratising the police.

## **1.7 Research methods and data gathering**

This study was conducted within the qualitative paradigm. Much of the data used in this study are of secondary nature. The following forms of secondary data were used:

- published text books and studies in the field of industrial relations;
- the NAMPOL policy documents;
- journals and newspapers;
- government Acts and publications, such as constitution and Labour Act;
- unpublished materials of direct relevance to the study; and
- information from internet

Comments, ideas, views or concerns arising from interviews conducted with various role players (police officers, and other public office bearers) were also used and presented in fairly broad terms. It was a purposive semi-structured interview targeting sixteen police officers from eight ranks (Constable to Deputy Inspector General) and four other public office bearers. Two members from each police rank were approached, but only fourteen were interviewed as the other two from the rank of commissioner refused or avoided to be interviewed. A semi-structured interview was

also conducted with various public office bearers (the Deputy Labour Commissioner, the Deputy Minister of Labour, the Secretary General of NAPWU, and the Secretary General of NUNW. Seeing that the researcher is a member of NAMPOL at supervisory level, who has been in the police service for a period of nine years, he relied extensively on his own experience, which forms part of the sources of data.

### **1.8 Ethical consideration**

The researcher has requested permission from the employer to conduct this research. A verbal permission was initially obtained after the employer was convinced that the research was needed for academic purposes only. When the research commenced, most of the respondents had difficulties to forward information afraid to violate the rule of “disclosure of information”. As a result, most of them refused to be interviewed till the researcher approached the office of the Inspector General asking for a written permission, which was obtained, and attached hereto as **Appendix A**. Nevertheless, many were still uncomfortable with the interview and had eventually agreed to be interviewed on condition that their identities will not be disclosed. With the exception of a few senior officers, almost every respondent revealed a fear of victimisation; therefore their identities will be treated as strictly confidential. However, some officers who did not provide controversial information had no problem to be identified; therefore few names are mentioned in this document. The reader is also referred to **Appendix B** for the name-list of interviewees.

### **1.9 Outline of the study**

Chapter one commences with an introduction and background to the role of trade unions. This includes the justification of the study, the demarcation and limitation of the study, the research problem and objectives, the methodology and data gathering, the chapter outline, and finally the conceptualisation.

Chapter two provides a review of literature relevant to the role of trade unions in industrial relations. This comprises the historical development of unions, their classification and objectives, their organisation and management, their methods for achieving their objectives, the role of unions in human resources management, and as conclusion a summary of the whole chapter.

Chapter three provides a review of literature on the emergence of police labour organisations. A brief history of police unionism is given and the impact of trade unions on police operations, management and professionalism is looked at. Thereafter, the methods used by the police unions to achieve their objectives and their roles in terms of community policing are discussed, finally followed by the summary of the chapter.

Chapter four is one of the main chapters. It provides a detailed discussion of the employment situation in the Namibian Police Service. Firstly, it gives a brief historical background of the Namibian Police then touches the legal framework on trade unions, and thereafter proceeds with a discussion of the human resources management in NAMPOL. It also looks at issues related to requests or negotiation of compensation and fringe benefits, employment contracts, grievances and disciplinary procedures, and concludes with the summary of the chapter.

Chapter five forms the centre of this study. It covers an analytical and detailed discussion of the labour situation in NAMPOL, general views of the people, findings and finally the summary of the chapter.

Chapter six covers the recommendation and conclusion. This includes the recommended plans for action, a proposed model for the Namibian Police Service, and finally the conclusion of the study as well as the summary of the chapter.

## **1.10 Conceptualisation**

The concepts defined are the following:

**Worker participation:** “A process which recognises the right of employee individually and collectively to be involved with management in areas of organisational decision making beyond those usually associated with collective bargaining” (Nel, 1997:23).

**Strike:** “A temporary, collective withholding of labour, its objective being to stop production and thereby to oblige the employer to take recognizance of the demands of employees” (Bendix, 2001:594).

**Negotiation:** “An interactive process aimed at a fair, reasonable and mutually acceptable positioning of one party in the interaction vis-à-vis the other party” (Nel, 1997:23).

**Labour relations,** according to Bendix (2000:3) it refers to “the relationships between people who work and those for whom they work”.

**Trade unions,** according to Salamon (in Bendix, 2000:150) it refers to “... any organisation, whose membership consists of employees, which seeks to organise and represent their interests both in the workplace and society, and in particular; seeks to regulate their employment relationship through the direct process of collective bargaining with management”.

**Freedom of association:** refers to the employee or employer’s right to participate in the formation of a trade union or a federation of trade unions and to join that trade union (Swanepoel, et al, 1998:623).

**Collective bargaining:** “A process by which representatives of labour and management negotiate wages and working conditions for a given employment entity” (Bower, in Thibault, *et al*, 1998:379).

**Essential service:** “A service the interruption of which will endanger the life, personal safety or health of the entire population or part thereof” (Bendix, 2000:129).

## **Chapter 2**

### **The role of trade unions in industrial relations**

#### **2.1 Introduction**

This chapter aims to give the reader an overview on the role of trade unions in industrial relations. The historical development of trade unions is fairly presented, including the factors which attributed to the formation of trade unions. Traced back to early years, trade unions have been categorised according to the industry of their membership. The various types of unions, their objectives and both their organisational and management structures are discussed. The methods used by trade unions in achieving their objectives which include collective bargaining as a chief method are indicated and in conclusion the role of trade unions in human resources management is briefly described.

#### **2.2 Historical Development of trade unions: An overview**

Worldwide the development of trade unions is attributed to almost similar forces, which are industrialisation and capitalism, labour migration, economic crises, and of course, the general socio-economic status of workers. As Salamon (in Bendix, 1996:166) says, “trade unions may be seen as a social response to the advent of the industrialisation and capitalism”.

Factually, trade unions have emerged following the growth of industrialism and capitalism as noted during the 1920s and 30s in South Africa. Another contributing factor is the rapid growth of inflation and acceleration of labour migration during and after the First World War when the world economy deteriorated. Inflation went up to the extent that employers had to consider cheaper labour, which were usually migrated either from neighbouring countries or elsewhere. This practice caused indigenous workers to act spontaneously in defence of their interests.

##### **2.2.1 Labour situation in South Africa, 1920's and 1930's**

The labour situation became worse in South Africa, following the opening of gold mines on the Rand. People moved from rural areas to urban areas in search of employment. The towns became overcrowded to the extent that job seekers were available whenever they were needed. As a result, it became easier for employers to

dismiss their workers and replace them with others, even at lower wages. As Reynolds et al (1998:406) state: “it is easier for an employer to replace an individual employee than a large group of workers, unionised workers can usually obtain higher wages and better working condition than if they were not organised. If employer opposition is strong and if there are no legal constraints, then the employer may fire any worker it suspects to be a union member”. This overcrowding of towns and low wages led to miserable living standards, such as poor working conditions (Callinicos, 1987:58). This poor working condition necessitated some forms of protection of workers, and in fact, the emergence of a working class.

### **2.2.2 Development of trade unionism in Namibia**

The development of trade unionism in Namibia reflected developments in South Africa. Labour relations in Namibia had been governed by the South Africa’s Wages and Industrial Conciliation Ordinance of 1952. Trade unionism in Namibia was legalised in 1978, but only for branches that were lawfully recognised and linked to South African unions. The National Union of Namibian Workers (NUNW), which is the current national federation, founded during 1978/1979, had been outlawed for many years. Only in November 1986, following the government policy statement officially endorsing the right to freedom of association and collective bargaining, the union was legalised (Harper, 1989:272). The Secretary-General of NUNW (2002) said that currently NUNW comprises ten member unions.

### **2.2.3 Development of Trade unionism elsewhere**

Not only in African countries did the Industrial Revolution affect the social life of the workers, but almost all over the world, for instance the American Revolution impacted negatively on the economy of the country. The rapid increase of inflation contributed highly to the labour exploitation. In order to increase profits, employers needed to decrease costs, and to do that, the employer needed to decrease wages. The fact that employees were not prepared to accept less than what was agreed upon, contributed to the employment of immigrants willing to work for much less. All these practices caused local employees to unionise in defence of their rights (Carrell & Heavrin, 2001:4-5).

## **2.3 Trade union classifications**

The origins of trade union classifications can be found in the development of trade union movements during the nineteenth and early twentieth centuries, particularly in the doctrinal debate between craft, industrial and general unionism. This section has, as its purpose, to introduce readers to the early development of the different types of trade unions which are the grassroot unions of today's trade unions.

### **2.3.1 Occupational unions**

These types of unions seek to unite all workers of a particular craft, trade, occupation or grade of skill, irrespective of the industry in which they happen to be engaged. These unions recruit across a number of industries, as a result, they are to be referred to as 'horizontal in character' (Salamon, 1992:123). Within this category, there are a number of subunions like craft unions, semi-skilled/unskilled unions and non-manual (white collar) unions which are briefly discussed hereafter.

#### 2.3.1.1 Craft unions

Various sources of literature indicate craft unions as the first trade unions to emerge in the numerous industries of the nineteenth century, which relied on a rather small number of skilled workers. These unions intended to control the labour and impose their conditions and terms of work on the employers (Radice, 1978:182). As Blanpain & Engels (2001:446) have put it, these unions formed the backbone of the oldest trade union movements, led by Britain and the United States.

Craft unions are mainly characterised by their concerns for the safety and protection of the skilled status of their membership. In this context, they exert much effort on recruiting, empowering, and regulating the training of apprentices to their trade.

#### 2.3.1.2 Semi-skilled/unskilled union

These unions were established in order to fill the gap left by craft and promotion unions. These unions had emerged in the late nineteenth century to represent unskilled and semi-skilled workers in those industries which already had unions catering for the skilled workers. These unions restricted their membership, particularly, to the lower

level employees, who then represented a specific occupational interest (Salamon, 1992: 123).

### 2.3.1.3 Non-manual (white-collar) unions

This is another type of occupational union which emerged to represent the interests of the non-manual workers, in other words, these are unions for white-collar employees. These unions are mostly found in public sectors. With regard to these unions, Blanpain & Engels (2001:446) say that “the types of white-collar organizations are as variable as those of blue-collar”. In a nutshell the position is that most of the white-collar unions cover the relevant occupation within a single sector or industry, i.e. they group one or several occupations separately from the others within the same sector. Some of the largest unions however organise white-collar occupations across industrial boundaries, even beyond the industrial sector. Unlike most unions whose memberships are restricted to lower level employees, the memberships of the white-collar unions are free to any employee irrespective of his/her occupational position (Blanpain & Engels,2001:446-447).

Generally, white-collar unions are composed of professional employees, such as teachers, police officers, defence force personnel and clerical, administrative, technical and health-care employees (Carrell et al, 1998:454).

### **2.3.2. Industrial unions**

The second major historical model is the industrial union, organising all workers engaged in a particular industry irrespective of their individual crafts, trades, occupations or grades of skill (Salamon, 1992:124). This type of union has developed since the industrial revolution in most industrialised countries, along with the rapid growth of capitalism and mass production industries. According to its orientation, an industrial union has a choice, either to be a monopoly union, where it can be the only union for all workers in an industry, or to be merely a single-industry union, responsible for organising workers in one industry only (Bendix, 2001:153).

### **2.3.3. General unions**

These types of unions are general in nature. Their recruitment is not restricted to a specific industry or sector, but rather accommodates all types of employees

irrespective of their occupation and industrial boundaries. Despite recruiting all workers irrespective of the industry, some of the workers may later on be passed on to the relevant unions in a specific industry (Hollinshead et al, 1999:143). Bendix (2001:153) describes the general unions as "...originated both from the politically inspired ideal of organising the entire working class into one body and from the need to represent non-skilled workers without reference to industries, or to form amalgamation of unions operating in different industries".

## **2.4 Trade union objectives**

From the beginning, trade unions always have had one common objective which is the protection and maintenance of the interests of the workers. It is apparent that, trade unions have emerged as a result of the workers' attempts to regulate their relationship with their employers. Their focus is not only directed at employers or employers' organisations, but, they also negotiate with the governments, especially on the national policy related matters (Bendix, 2001:164). In addition to the national policies, trade unions also get involved with other stakeholders such as the non-governmental organisations, the international labour organisation and others; whose activities or conducts may have impact on labour relations.

Various authors who wrote on this subject have a similar understanding about what the genuine objectives of trade unions are. Bendix (2001:164) pronounces "...unions initially arise out of the desire on the part of employees to counter the power of employers, particularly on the economic front". Radice et al (1978:5) describes unions as have come into being as "...defensive organisations to try and improve the appalling conditions of industrial employees and prevent their exploitation by oppressive employers".

The objectives of trade unions have become multiple and complex. This multiplicity is best illustrated by studying the objectives of the British Trade Union Council, which are:

- to improve the terms of employment;
- to achieve full employment and income;
- to improve social security;

- to achieve fair shares in national income and wealth;
- to achieve industrial democracy;
- to achieve a voice in government; and
- to improve public and social services (Bendix, 1996:171).

In practice, the objectives of trade unions are classified into political, economic and sociopsychological objectives. These three perspectives have according to Douglas et al (1985:478-479), drawn workers to join unions. Their objectives are summarised in the table below:

<b>Reasons People Join Unions</b>		
<i>Political</i>	<i>Economic</i>	<i>Sociopsychological</i>
<p><b>Power</b> To offset the power of management and provide countervailing power to the workers</p> <p><b>Decision Making</b> To provide an avenue for communicating ideas and inputs into the decision-making process</p> <p><b>Class Struggle</b> To offer the working class a way to redistribute the wealth of the capitalistic system</p> <p><b>Justice</b> To provide for due process so that justice prevails over worker disputes</p> <p><b>Protection</b> To create through collective power protection from arbitrary management decisions</p> <p><b>Ideological</b> To be part of an international movement</p>	<p><b>Wages</b> To gain better wages: to ensure equity among all who perform similar work</p> <p><b>Living</b> To improve a worker's standard and quality of living through some control and input on issues of wages and working conditions</p> <p><b>Security</b> To ensure that job movement (upward, transfers, or layoffs) follows some procedure that is fair to all workers: to protect older, senior workers from arbitrary dismissal</p>	<p><b>Alienation</b> To provide a sense of completeness to workers who feel separated from their tools and craft (unions fill the gap and give a link to the past)</p> <p><b>Belongingness</b> To give workers a group to identify with: to give them a sense of group solidarity</p> <p><b>Inner Peace</b> To protect workers from arbitrary management actions and produce a sense of inner peace by reducing stress and fears</p> <p><b>Fulfillment</b> To allow some to move into union leadership roles: these new roles might give people a sense of personal fulfillment</p>

Table 2.1 (Douglas et al, 1985:479)

## 2.5 Organisation and management of trade unions

Just as business organisations have to be structured, organised, and managed in order to achieve their objectives, trade unions as organisations in their own right also have to be managed. They have to plan, set objectives, have to be structured and have to divide responsibilities among themselves.

Although trade unions are unique following the nature of the industry which they represent, they generally display the same patterns of structure. Unlike most

organisations whose power is vested with high level officials. Trade unions are structured as formally constituted, democratic organisations, with ultimate power vested in their members, who own the union, (Kuhn & Herman, 1981: 144). Unions are classified as international unions and national unions. However, for the purpose of this study, only the national organisations will be focused on. Srinivas (1984:100-101) defines the national unions as “national or regional in scope, with their operations limited to a single country”. National unions are structured or organised into local levels, regional levels and national levels. In different countries, most national unions are affiliated with a **labour federation**, which is a mother body for all the recognised national unions.

### **2.5.1 Labour federations**

Labour federations are voluntary associations of unions, organised into regional levels and national levels, with an executive and administrative staff and constitution of their own. Labour federations play a significant role in harmonising labour relations, and indeed, co-ordinate the relations between member unions, mediate inter-union dispute over jurisdiction, represent member unions to governments, and provide various ancillary services to their member unions (Srinivas, 1984:101).

### **2.5.2 Local branches**

It is a fact that local branches are the fundamental pillars on which trade union organisations are anchored. This argument is based on the fact that the real strength of a trade union lies in its members who are usually found at lower levels. Local branches are entrusted with responsibilities of recruiting new members, co-ordinating trade union activities at local level, receiving and processing members' requests, complaints, and suggestions to the higher authority, and interpreting union policies to the local members.

A branch is composed of all the trade union members in a particular area and every branch elects its own chairperson, secretary and treasurer. A branch consists of a branch committee, shop stewards and other elected local members. When the situation demands, a branch appoints full-time officers and full-time organisers (Bendix, 1996:179-180).

**Shop stewards:** a shop steward is a union representative at the workplace who acts as a link between the union, the members, and the management of the organisation. Figure 2.1 illustrates the position of the shop stewards in the labour environment.

The position of the shop steward

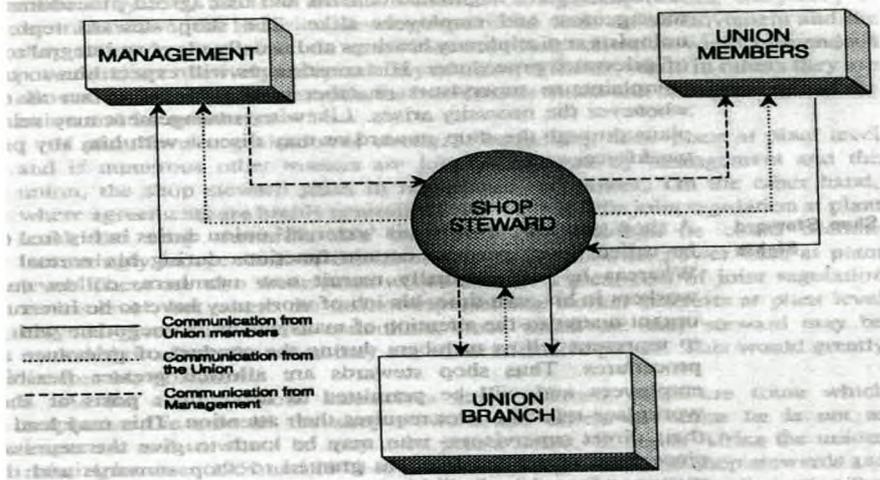


Figure 2.1 (Bendix, 2001:168)

### 2.5.3 Regional level

Regional offices play a significant role in co-ordinating the activities of the union at regional level. One can describe regional offices as the central offices where issues from both local and national offices either upward or downward are co-ordinated. Regional offices establish regional committees, which consist of the chairperson and the vice-chairperson, the treasurer and the vice-treasurer, and the secretary and the vice-secretary. These regional committees act as coordinators of branch activities and as liaison between branches and the national executive (Bendix, 1996:180).

### 2.5.4 National level

The national office is the head office where policies and regulations are developed. It consists of the national committees, and the national executive committees with the following officials: the president, first deputy president, second deputy president, national secretary, deputy national secretary, national treasurer, deputy national treasurer, general secretary, and deputy general secretary (NAPWU, 1995:23-26).

The officials are elected or appointed from within the union and their roles are outlined in accordance with the constitution of each individual union. Members of the

national committee and national executive, who are usually elected by the national congress, mostly come from the ranks of the local or regional committees. The national committee and national executive are entrusted with the task of developing union policies and making sure that those policies are correctly implemented (Swanepoel et al, 1998:622).

## **2.6 Methods by which trade unions attempt to achieve their objectives**

As indicated in the previous section, the unions in order to succeed in achieving their objectives need transparent and workable structures and management. A well-structured union does not automatically guarantee a success. It is a fact that unions need power in order to partake effectively in the collectively bargaining process.

### **2.6.1 What are the sources of unions' power?**

Unions gain power firstly from the **constitution** of the country of the specific union that provides for the freedom of association. In this sense, the unions gain power from the government, employers, and other stakeholders when being registered and recognised as formal trade unions with the potential to represent workers' interests. In attempting to strengthen their power, unions in various countries have taken up membership of the International Labour Organisation (ILO). Secondly, unions gain power through the collective and solidarity, and loyalty of its members and other affiliates Salamon (1992:98-99). Thirdly, they gain power due to their expertise in handling labour-related matters (Carrell & Heavrin, 2001:90).

### **2.6.2 Collective bargaining**

In terms of the labour laws of various countries, employees have the right to form or join unions to bargain collectively with their employers regarding wages, hours and other terms and conditions of employment (Antony et al, 1996:560). Trade unions can embark on bargaining collectively with any sector, particularly those whose policies or other activities affect the general operations of the unions, and especially the economic and social condition of the workers.

According to Carrell & Heavrin (2001:90), collective bargaining is “the continuous relationship between an employer and a designated labor organization representing a specific unit of employees for the purpose of negotiating written terms of employment”. This definition may imply that, collective bargaining must be recognised as a continuous process, beginning with the negotiation of the contract and lasting for the duration of the contract with almost daily interpretation and administration of its provisions.

### 2.6.2.1 Contract negotiation

The negotiation of a labour agreement is of critical importance to both parties. The agreement serves to govern the relationship between parties for a definite contractual period. This section examines the activities involved in bargaining a new contract which includes the prenegotiation period, negotiation period itself, and the post negotiation period.

A contract can be conducted within two basic structures, i.e. single-employer bargaining and multiple-employer bargaining. **Single-employer bargaining** refers to a contract signed between a single employer and a single union. It is apparent that in cases where single employers have several plants in various parts of the country, the union usually represents employees at all plants with one master agreement. It is also a normal practice to have in the case of a large single employer with diverse activities and manufacturing process as more than one union (Carrell et al, 1998:478). Practically, this system applies more commonly in public sectors than in private sectors. See figure 2.2 for the structure involved in single-employer bargaining.

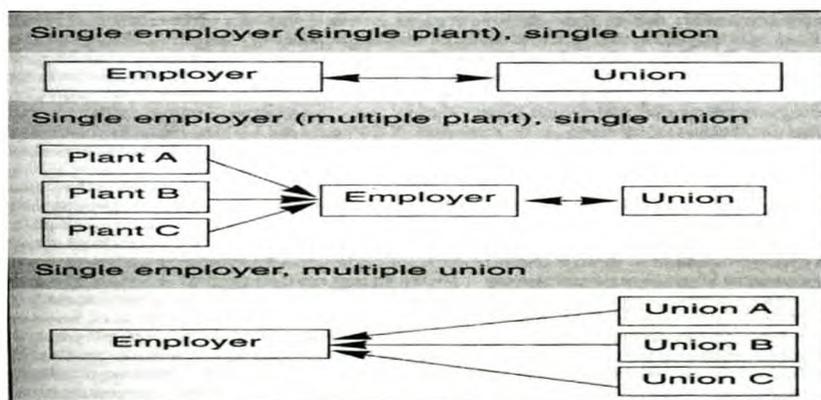


Figure 2.2 (Carrell et al, 1998:478)

**Multiple-employer bargaining** refers to a contract signed between two or more employers and one or more unions. This type of bargaining comprises two forms. One involves contract negotiations between an association of two or more employers and a union federation representing a group of craft or industrial unions. A second type involves industry-wide bargaining whereby several companies in a given industry bargain with a union through an employers' association (Carrell et al, 1998:478). The structure involved is depicted in figure 2.3

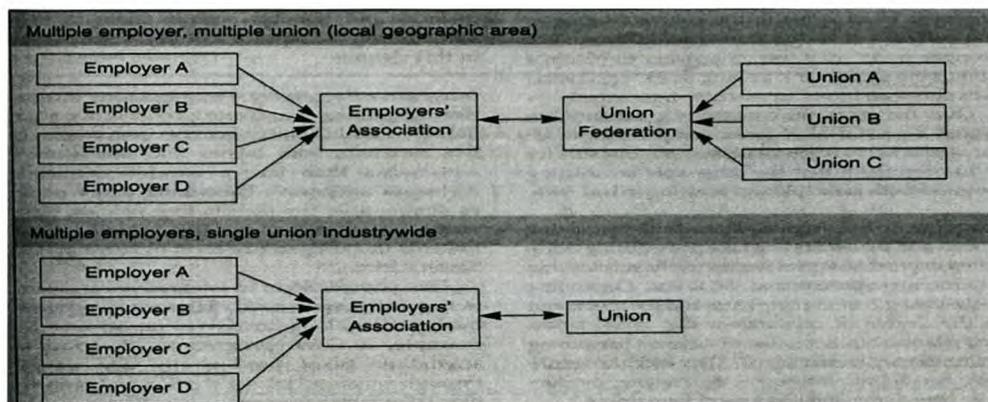


Figure 2.3 (Carrell et al, 1998:478)

#### 2.6.2.1.1 Prenegotiation

This a preparatory stage where both the bargaining parties prepare themselves for the scheduled negotiation (Carrell et al, 1998:479).

#### 2.6.2.1.2 Negotiation

This is the actual negotiation stage at which bargaining parties each sends a team of representatives to bargain at a neutral site – usually hotel suites or out-of-town conference facilities. It is expected that, each party send a team of well-informed officials to avoid unnecessary delays and fruitless negotiations (Carrell et al, 1998:480). The parties involved are obliged to bargain in good faith. According to Carrell et al (1998:480), **good faith** means that “labour and management must negotiate with each other and make every reasonable effort to enter into an agreement”. Ignorance of negotiation in good faith by one or both parties delays the process, and consequently, leads to an impasse.

### 2.6.2.1.3 Bargaining Impasse

Bargaining impasse refers to serious conflicts occurring during the course of negotiation. This is the situation when the bargaining parties reached a deadlock in their negotiation. Should this 'bargaining impasse' occur, there are other options, of which the most important four (mediation, arbitration, strike and lockout) will be defined below.

**Mediation** is when the parties refer the matter to an impartial third party, called a mediator. **Arbitration** is defined by Carrell et al (1998:485) as "a technique that is often quick, cheap and an acceptable means of resolving many types of disputes". They further state that this process requires intervention in disputes by a third party with the consent of the disputants. The arbitrator can then weigh the evidence presented before him/her by the disputants, and make a judgement. His/Her decision is always perceived to be final. This stage is very important in dispute settlement, particularly for essential services such as police work and fire fighting (Reynolds et al, 1998:497). **Strike** is defined by Bendix (2001:594) as "a temporary, collective withholding of labour, its objective being to stop production and thereby to oblige the employer to take cognisance of the demands of employees". A strike is the most effective strategy unions can use to achieve their objectives.

In most countries, employees in government institutions, such as the police services, hospitals, fire-fighting services, *etc*, are not allowed to strike. That is due to the fact that the services they provide are considered essential to the well-being of the public (Sherman et al, 1998:577). **Lockout** is another strategy used. Sherman et al (1998:600) define lockout as "a strategy by which the employer denies employees the opportunity to work by closing its operations". A denial of employment in the public sector is very ridiculous, therefore according to the researcher's view, lockout can only apply in private sectors.

In addition to the above, the following methods are commonly used by the unions in pursuit of their objectives:

- *A sit-down* - when employees remain at their job but refuse to work;

- *A slowdown* - when workers remain at their work but down their output significantly;
- *A work-to-rule* - when workers adhere to set hours of work and only do what they are ordered to do or they have to in terms of their labour contract (Carrell et al, 1998:484);
- *Picketing* - when the union on strike picket the employer by placing persons at business entrance to advertise the dispute and to discourage people from entering the premises;
- *Boycott* – is a tactic of the union to encourage others to refuse to patronize an employer (Sherman et al, 1998:578-579).

#### 2.6.2.2 Contract administration

This refers to the implementation and enforcement of the agreement. The approval of the contract by both parties means the emerging of the new labour relations. All parties are bound to obey and comply with the provisions of the new contract. Failure to honour the contract agreement by one or both parties constitutes an offence punishable by the labour law (Carrell & Heavrin, 2001:382).

#### 2.6.2.3 Grievance procedures

Considering the fact that one of the unions' objectives is to create a friendly work environment, it is argued that this can only be achieved through the proper, effective and transparent grievance procedures. According to Carrell et al (1998:486) a grievance can be defined as "a formal complaint by an employee concerning a possible violation of the labour contract". Sherman et al (1998:609) define a grievance procedure as "a formal procedure that provides for the union to represent members and non-members in processing a grievance". The given definitions are seemingly favouring the side of the unions and workers only, and exclude the employers. In this regard, a question is raised as to whether employers can also raise grievances when workers violate a labour agreement. This question receives an answer from what other authors termed to be a "grievance". Carrell & Heavrin (2001:410) define grievance as "any perceived violence of a contract provisions". They further state that a grievance includes any complaint by an employee against an employer, or vice versa (Carrell & Heavrin, 2001:410).

In the light of the definition by Carrell & Heavrin, both the labour unions and the employers must bargain collectively about the procedures to be followed in handling the grievances. When an employee has violated work rules or some aspects of the contract, he/she may face a disciplinary action within the scope of the contract on grievance procedures. If the employee feels that disciplinary action was unjust, he/she may file a grievance (Carrell et al, 1998:484-485). The operation of a grievance procedure is unique to every individual collective bargaining relationship. The approach towards the raising of a grievance however differs little irrespective of the type of the industry where a grievant is employed. The five step grievance procedure is illustrated in the figure 2.4

**The Five step grievance procedure**

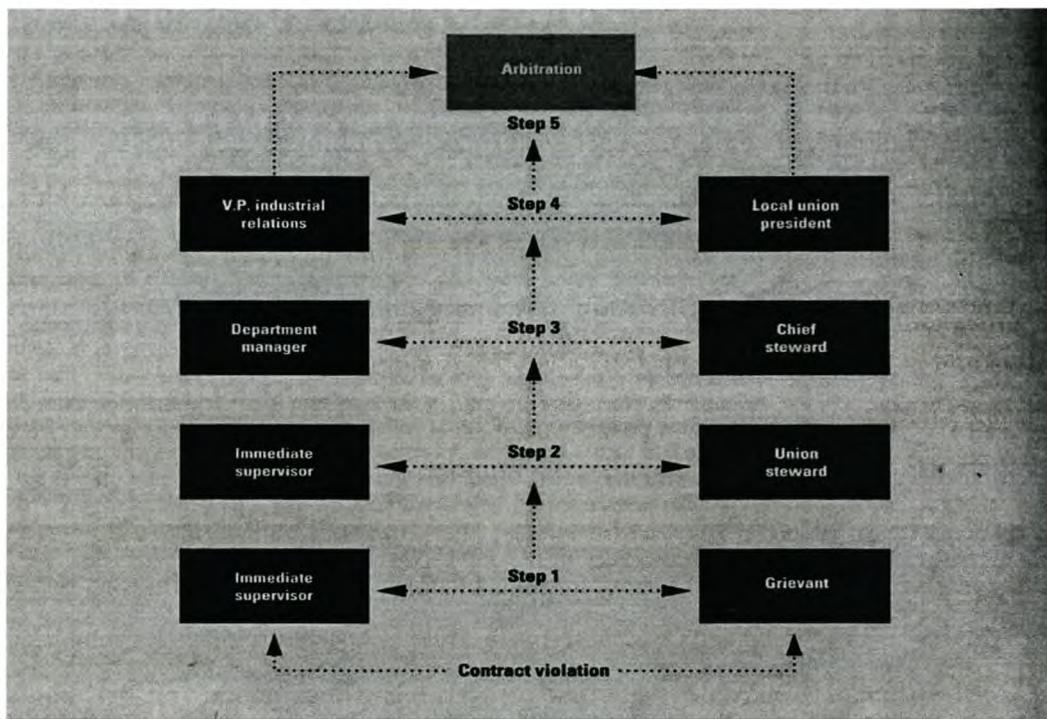


Figure 2.4 (Sherman et al, 1998:610)

**2.7 The overall role of trade unions in human resources management**

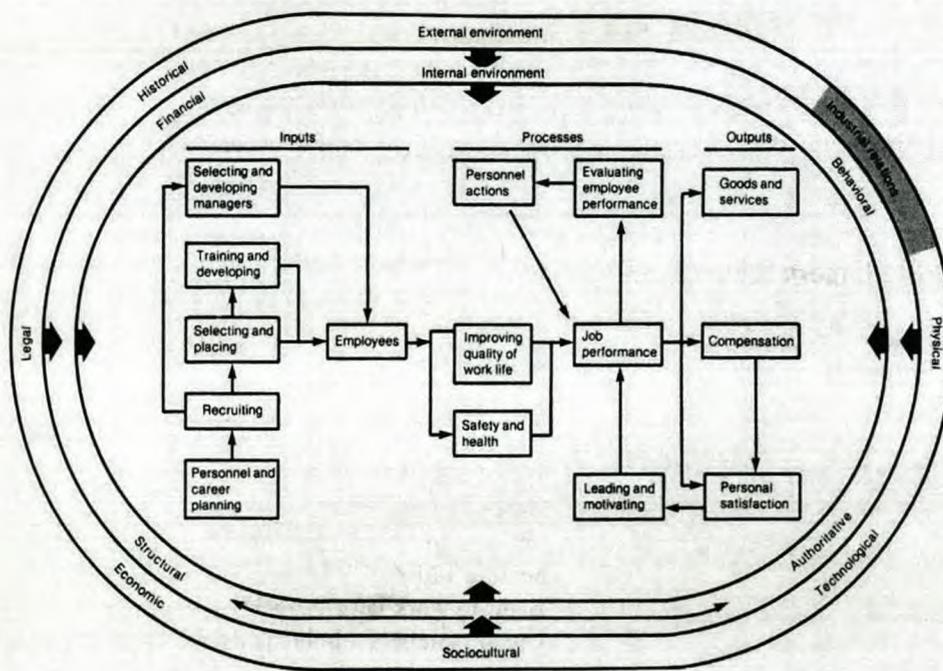
Where section 2.2 discusses the main objectives of trade unions, this section discusses the overall role of trade unions in human resources management. The emerging trend in human resources management (HRM) is clearly towards the adoption of human resources approach through which organisations benefit in two significant ways, namely an increase in organisational effectiveness and the satisfaction of each employee’s needs (Carrell et al, 1998:10). Human resources departments are entrusted

with the following functions: recruitment and selection of new employees; promotion, internal staffing, transfer, and deployment; performance appraisal and performance management; health and safety; training and development; employee induction; compensation systems and benefits; and many more. In addition, human resources departments, according to Carrell et al (1998:11) may also be involved in other activities jointly with other departments in the organisation, including “interviewing, productivity/motivational programmes, training and development, career planning, disciplinary procedures and performance appraisal”.

Labour unions exert a powerful influence on employers and help shape the human resources policies and programmes for union members. They help to regulate and limit the rights and discretions of management by having working conditions determined bilaterally at the bargaining table. They also influence all aspects of personnel and HRM (Megginson, 1981:472). It is indicated in section 5.3 of this document that labour/industrial relations is nothing other than the management of human resources. Figure 2.5 shows how industrial relations fit into the overall personnel management system.

Figure 2.5

**How industrial relations fits into the overall personnel management system**



Source: Megginson (1981:473)

Trade unions can interact with HRM in the development of progressive terms and conditions of employment. This, according to Wilkinson & Oliver (in Hendry, 1995:55) includes an "... approach to organisation based on teamwork and devolved responsibility, careful selection procedures, extensive and intensive consultation and communication, appraisal-based pay ...". Trade unions' influence in HRM include the creation of commitment among the managers. This view is supported by Werther & Davis (1989:502) who claim that, "the unions change the roles of supervisors and the personnel department, which are altered by the addition of more formal rules and regulations that shape their day-to-day activities".

Most of personnel/HRM activities are often constrained by contractual rules and procedures governing promotions, recruitments, job assignments, disciplinary procedures, and so forth (Srinivas, 1984:98). Obviously, there are those managers who do not exercise their authority according to the organizational policies. Admittedly, this type of behaviour causes inconvenience among their subordinates. The task of the personnel managers presumably is to play vital roles in handling employees in accordance with the Labour Relations Act, but according to Van Der Waldt & Du Toit (1997:238) most of them have failed.

Unions' involvement in HRM is perceived to increase opportunities for fairness concerning pay and promotion methods, and employee development (Hendry, 1995:55-56). In essence, the trade unions can assist regulating job environment by ensuring that in job movement (recruitment, transfer or promotion) procedures are followed that are fair to all workers (Douglas et al, 1985:478-479). According to Kochan (1980:163) fairness is needed in the job environment and that is why unions are there to ensure that, no discrimination of whatever nature occurs in the workplace.

Trade unions care highly for employee training and development programmes. Their interest might have come from the fact that development programmes can assist to improve performance, and to enhance individual growth. In essence, the growth of an organisation is closely related to the development of its human resources. To this effect, when employees fail to grow and develop in their work, a stagnant organisation is most likely to result (Carrell et al, 1998:13). Because most unions are committed to promote a better social and economic life for their members, they do

everything at their disposal to assist management in adopting developmental strategies that keep the organisation alive.

Most unionised organisations involve the union representatives, the shop stewards in particular, in their strategic management meetings. The shop stewards being employees with the main task of promoting the workers' interest may know employees and their needs much better than the management. Therefore, the shop stewards' involvement in strategic management options is likely to lead an organisation to succeeding in settling disputes.

Apart from the question of wages and salaries, the organization should see to it that its employees are well taken care of in terms of any kind of social and economic welfare. Harris (1977:3) said that "a good organisation should look upon itself as a kind of family with comprehensive obligations toward its members, and managers should see that these obligations are fulfilled". In this light, Van Der Waldt & Du Toit (1997:238) elaborate that "the public manager must therefore expand and protect the labour rights of employees of the state as well as the authority as employer, and implement legislation in this regard".

## **2.8 Summary**

Trade unions came into existence in order to protect the rights of the workers at work places. Equally, trade unions play a vital role in harmonising the work environment to the benefit of both the organisation and the workers. The development of African trade unions reflects the development in western countries where trade unions originated. Based on the uniqueness of industries, unions developed to serve specific industries, although there are those that serve the interests of general workers. Their objectives range from social to economic and the political. For the smooth functioning of organizations, unions are organised and structured into three levels, namely that of local, regional, and national level. Unions are composed of permanent officials, who for the sake of satisfying the needs of their membership, are entrusted with tasks of negotiating agreements with employers. Collective bargaining is the main technique through which unions obtain their objectives.

## **Chapter 3**

### **The emergence of police labour organisations**

#### **3.1 Introduction**

This chapter examines the development of police labour organisations, their effect and impact on police operations, professionalism and management as well as their impact on police managers and juniors. It proceeds to discussing the methods police unions use to achieve their objectives and finally also the compatibility of trade unions and community policing.

#### **3.2 Brief history of police unionism**

Police unions are like other labour unions in the world equally accepted as bargaining organisations. Their objectives are not differing from that of other unions. They came into existence in order to promote the interests of their members. From the researcher's experience, police unionism is a new phenomenon especially in African countries as to date, only few countries have adopted laws legalising police unionism. In countries where police unionism has been legalised, the freedom of collective actions are limited, as no strikes are allowed. However, Beker (in Reiner, 1978:7) describes police unionism as "a source of democratisation of police forces".

Police unions have originated in Western European Countries as early as the 1870's. This development might have attributed to the western countries' commitment to the principles of human rights. The research reveals that the Western Australian government is the first government in the world to grant permission to the union, Western Australia Police Union (WAPU), to be a union representing members of the police force in 1912. The WAPU's main objective is to protect the rights, interests, and the welfare of its members (WAPU, 1998-2000). Even before 1912, there were in the British Police social clubs which acted exactly like the police unions of today. The first recorded instance of collective actions by policemen occurred in the Metropolitan police in 1872. This occurred as a result of police officers' dissatisfaction with pay, grievance procedures, and general working conditions and some officers went on strike on 16 November 1872 (Reiner, 1978:21). In 1913, following continuous efforts by John Syme, an ex-policeman who was dismissed from the police force on the ground of his involvement in unionism the Metropolitan Police Union was founded.

Since its inception the union had conducted its activities underground, and organised several illegal police strikes until the 1920's (Reiner, 1978:22). In 1918, with the support of the government the police federation was founded in England as a bargaining body representing all the police officers and this weakened the operations of the Metropolitan Police Union (Fielding, 1988:167). Currently, the federation consists of 125 000 police officers (The Police Federation of England & Wales, 2002).

In American police forces, there were also social clubs acting as liaisons between police officers and management for the purpose of improving wages and conditions of employment. The development of these social clubs into unions had been delayed by the authorities' attitudes towards police unionism attributed to the Boston police strike of 1919. The strike had greatly affected the process of recognising police unionism throughout the United States. The well-formalised police unions in USA were founded in the 1960's following President Kennedy's signature on what has been known as 'the Executive Order (10988)'. This Order allows federal government employees, including police officers to organise unions and bargain collectively (Thibault et al, 1998:381).

In South Africa, the police union only came into existence in 1989 following the actions by black police officers who felt discriminated against by the white-dominated management. Founded on 5 September 1989, the Police and Prison Civil Rights Union (POPCRU) has an aim to develop a collective voice for police officers and prison officers in South Africa. Since its inception, POPCRU identified itself as a civil rights union on the one hand, and on the other hand as an industrial union. Among its objectives are the promotion of stability, unity, impartiality, and recognition of the civil and basic rights of all people living in South Africa. In 1993, another union, the South African Police Union (SAPU) was founded. In the interview with Marks and Ali of the Centre for the Study of Violence and Reconciliation (CSVr) Peter-Don Brand, the Secretary General of SAPU in 1995, states that "SAPU was formed to allow workers in the police service to have a collective voice in an industrial based union which was not politically aligned". He further indicates that "there was at the time of its formation no proper mechanism of collective bargaining for the police" (Marks & Ali, 1995)

### **3.2.1 Other contributing factors**

Among issues surrounding the establishment of police unions worldwide are inter alia police officers' feelings to belong, their being subject to frequent public abuse and criticism for a variety of social problems, particularly the rise in crime. Among other things, Whisenand & Ferguson (1996:362-363) consider long hours without pay as one of the contributing factors that forced police officers to form and join unions. According to Juris & Feuille (in Thibault et al, 1998:382) there are other equally significant factors that contributed to the rise of police unionism like:

- lack of internal civil and constitutional rights for officers being investigated for misfeasance and malfeasance;
- lack of functional grievance procedure;
- being called to duty and held on standby or called to court, for no compensation;
- no premium pay for overtime work;
- being transferred from one job to another with no advance warning; and
- physical and verbal intimidation and degradation by superior officers.

Having learnt from their counterparts in both private and public sectors, police officers extremely felt a need to belong to a union that enable them to take control of their work environment. In this regard, Whisenand & Ferguson (1996:363) have warned: "The days of complete police management discretion in the field of labour relations are gone forever".

### **3.2.2 An overview of organisational structure of police unionism internationally**

Each country has its own way of organising. The circumstances surrounding police unionism is different from one country to another. Research conducted by Marks & Ali (1995), as quoted, concludes as follows:

"In the United Kingdom police unions are allowed for, and even encouraged. However, they are not allowed to affiliate to federations. In the UK, there are three representative police unions whose bases are decided by ranking system. In other words, police officers in South African terms who would fall below the rank of captain would be part of one union, while those who are brigadiers and colonels would belong to another, and so on. It is believed here that police in different ranks have differential demands and conditions of service. In Spain,

there are four police unions. These are differentiated by location i.e. there are differing police unions at a national, regional and municipal level. Police in Spain who are part of the Gaurdia Civil are not allowed to organise since they are deemed part of the military. In Denmark, there are two main police unions, one for criminal and one for uniformed police; consequently in this country union differentiation is based on function. But, as is the case in South Africa, there are countries such as the Netherlands where police unions are split based on "political" allegiance or "ideology".

### **3.3 The impact of trade unions on police operations, management and professionalism**

From the researcher's point of view, police operations, management and professionalism form the central point for the image of the police. Police officers have a proper collective interest in various aspects of the job. The collective bargaining rights that are applicable to ordinary unions can also apply to police unions. However, due to the fact that trade unionism is always politically motivated, most police organisations turn out to be against unionism. Generally speaking, trade unions are characterised by political features, which possibly affect both police professionalism, and indeed their autonomy. As mentioned earlier, one of trade unions' objectives is to take control over the management and these may threaten the autonomy of police organisations.

As Das & Marenin (2000:322) indicate: "The sources for demands on police work and rules for working are numerous and include law, professional standards, occupational lore, cultural imagery, organisational regulations, community demands from below, political demands from above and the conscience of officers". In essence, police work is so complex that it requires professionalism and autonomy to a high degree. Laffin (1986:21) defines professionalism as "a peculiar type of occupational control rather than an expression of the inherent nature of particular occupations". Thus, what is distinctive about a profession, compared to other occupations, is that it has been given the right to control its own work. The central aim of a profession is the maximisation of autonomy or freedom from control by external forces (Laffin, 1986:21). Some authors define professionalism as "organisational autonomy from

external forces and fidelity to rational legal norms such as impartiality and political neutrality”.

Having the autonomy, the individual officers must use discretion to decide which issues to grant priority and which to reject. They determine what services they will offer and under what circumstances, and to whom they will offer them (Mayhall et al, 1995:141). It is argued that it is upon the police management to develop a transparent and effective discretion guideline, otherwise external controls will be developed to govern the polices’ use of discretion. Should this occur professionalism would be negatively affected (Reiss, in Mayhall et al, 1995:153). The essential factor in professionalism is that the professional officer, regardless of rank, has some degree of autonomy in decision-making. This degree of autonomy refers to police discretion.

By accepting the fact of autonomy of the police as an independent body, it creates an impression that, external intervention cannot be tolerated in the police. This raises the question whether trade union intervention might be unwelcome and might interfere negatively with the activities of the police. With regard to these questions, Thibault et al (1998:387) lament: “The most crucial factor facing the police administrator – managing the agency – arise from the emergence of collective bargaining and police unionism”. They further challenge those clauses in union contracts that affect police operations for example the union contract may specify that two troopers must be assigned to patrol vehicles during the midnight watch. This type of decisions appears to be the prerogative of the management (Thibault et al, 1998:387). A similar case is the unions’ involvement in actions like deployment, transfer and other personnel related matters, these functions are generally known as management’s responsibility (Whisenand & Ferguson, 1996:367).

The conflict among unions may also impact negatively on the police image. It is apparent that when in March/April 1995, SAPU members embarked on a go-slow over salary issues and working conditions, POPCRU distanced itself from these activities and chastised SAPU for encouraging the protest (Marks & Ali, 1995). This type of events can cause conflicts among the police members, and eventually affect organisational performance. Besides the negative side of it, the well-developed police unions, especially in Western European Countries, have managed to lobby the

government for the benefit of the police organisation. Accordingly, the Canadian Police Association (CPA) at several occasions convenes successfully meetings with the Senate Committee on issues related to social life of police officers (CPA, 2002).

### **3.3.1 The impact of trade unions on police managers**

Regardless whether or not employees belong to a union, it is always imperative to maintain a robust work environment in which both managers and employees share the ownership of the organisation. It is supposedly the management's responsibility to see to it that employees are afforded opportunities to participate in the decision-making processes. However experience proves that most employers never validate the concept of employee involvement. All these contributed to the need for the formation of police unions. From the researcher's experience as a police officer for nine years, most police managers show negative attitudes towards the idea of police unionism. This could have been attributed to various reasons such as the fear of losing authority over the juniors and the belief that police work in general requires strong and unopposed commands. All these may encourage police managers to make greater efforts to avoid unionisation.

Whisenand & Ferguson (1996:374) prefer participative decision-making as it means "improved decisions". They further argue that, in order for the organisation to succeed participation or assistance require a high degree of compatibility of the parties involved (Whisenand & Ferguson, 1996:374). Participative decisions through unions becomes a threat to police managers when it appears the union is intruding into what is termed managerial prerogative, or managerial rights (Leonard, in More & Wegener, 1992:510). Contrary to this fear, More (in More & Wegener, 1992:511) elaborates that "...unions are not running police departments ...". In addition, unionism does not only compel the managers to accept their demands, but it also serves directly or indirectly to educate them in the discipline of people management, which in itself, help improving productivity and of course the labour relations.

### **3.3.2 The impact of trade unions on police members**

Current literatures on police unionism indicate that, trade unions have significantly impacted on the welfare of police members. In contrast to police managers, the police members can in one way or another benefit a lot more. These benefits result from

provisions with administrative, economical, social and moral implications. Administratively, the presence of a union as Srinivas (1984:98) puts it, means that “the terms and conditions of employment are jointly decided through the collective process rather than unilaterally established by management”. Economically, lower ranking officers whose salaries are low have their (salaries) and other benefits improved. Socially and morally, members are protected from the arbitrary exercise of managerial authority (Srinivas, 1984:98-99).

Where Sloane & Witney (2001:26) describe unions as “an employee-regulating device” Reiner (1978:94) is of opinion that “the only way subordinates can influence their positions is by collective action, utilising what power they have through the organised withholding of labour”. This, in essence, qualifies the notion of democratic policing as many police agencies claim to be. Jones (in Das & Marenin, 2000:321) analysed the concept of democratic policing, and associated it with the following values: “...equity, delivery of service, responsiveness, distribution of power, information, redress and participation”. Being part of unions’ objectives, the last four values bear a significant impact on the welfare of the police members, especially in those militaristic police forces. Within unionised police organisation, junior members are not subject to those unquestionable, militaristic, undemocratic rules. According to Newham (2000), a rise of police unionism bears a significant effect on labour relations. Orders from senior ranks started to be questioned. This questioning of orders by the shopstewards is perceived by police managers as contributing to the breakdown of authority and discipline (Newham, 2000).

### **3.4 Methods by which police unions attempt to achieve their objectives**

In chapter 2, the methods by which trade unions attempt to achieve their objectives have been outlined of which collective bargaining is considered to be the chief method. The same methods can also apply for police unions. Nonetheless, to a certain extent the right of collective bargaining for police officers is limited so that they cannot take part in strike activities. This, according to Whisenand & Ferguson (1996:369) can be attributed to the critical nature of the function of the police within government. The police in general are perceived to have been assigned with essential

services. Whisenand & Ferguson (1996:369) state: “Effective alternatives to the right to strike, such as compulsory arbitration, should be made available as methods by which policemen can pursue their collective interests; and model procedures governing this important matter should be developed”.

Traditionally, it has been the police managers who had power to determine which issues concerned the welfare of the members. With the birth of collective bargaining however personnel issues are now dealt with jointly. Coble (in More & Wegener, 1992:511) expresses as this “The negotiation process replaces the arbitrary rule making of chiefs of police, and allows for the joint resolution of issues”.

Mediation, fact finding, and arbitration are the mechanisms mostly applied in non-essential services sectors to avoid strikes. For police, and other essential service agents, binding arbitration is often considered as a method to forestall a strike (Thibault et al, 1998: 384). Binding arbitration refers to the situation in which the parties are bound to the ruling of the arbitrator. Whether the arbitrator rules for or against a party to the arbitration, his or her decision must be accepted (Sloane & Witney, 2001:235).

### **3.4.1 Grievance procedures**

As a component of collective bargaining, grievance procedures are necessary in order to give effect to the contract. Mostly, grievances arise from dispute over administration of the contract (Thibault et al, 1998:391). For police unions, a contract governing the handling of grievances is sometimes supplemented by the so-called “sidebar” agreement. This agreement serves as an alternative to the original agreement – issues not included in the original agreement can be dealt with under the sidebar agreement (Coble, in More & Wegener, 1992:512). According to Whisenand & Ferguson (1996:374) a grievance is “an employee’s complaint that he or she has been treated unjustly by the police agency or one of its members”. In unionised police organisations, members’ complaints are processed to the immediate supervisor and from there through or with the help of the shop steward up to the higher authority (Whisenand & Ferguson, 1996:374). Most complaints are settled at the lowest level of organization (Lambert, in More & Wegener, 1992:513). The reader is referred to **figure 2.4** for a five step procedure which is equally relevant to police organisations.

Also see **Appendix C** for the contract on dispute settlement procedure between the Western Australian Police Union of workers and the Western Australian Police Force.

### **3.4.2 Discipline procedures**

Discipline in police is one of the highly emphasised prerequisites. If the employee's conduct constitutes an offence, an employer can take disciplinary action against such employee. In unionised police organisations disciplinary procedures invariably appear in the collective bargaining agreement. The agreement/contract clearly defines the process by which discipline is imposed in terms of written charges, the parameter for interrogation, and union representation during interrogation. The contract empowers employees to demand a review by an outside arbitrator on the punishment that the agency has imposed on him (Thibault et al, 1998:393).

### **3.5 Trade unions and community policing**

Given the background and the objectives of trade unions, shifts in policing paradigms, and of course, the transformation of police leadership, a rational correlation exists between trade unions and community policing. Both two are new phenomena in police forces, and have almost developed at the same stage.

Mayhall et al (1995:302) describes community policing as “a new philosophy of policing, based on the concept that police officers and private citizens working together in creative ways can help solve contemporary problems related to crime ...” This concept seeks partnership with the community. It is argued that the police alone can not solve the complex problems of crime so the police must create partnership with other stakeholders (Mayhall et al, 1995:48). Supplementary to the above definition, Fox et al (1998:185) view community policing as “a method to change the relationship between the police and the community and to rectify the damage caused to this relationship in the past”. The partnership implies “shared power and require changing relationships between the police and citizens and within police departments”.

The community policing model comprises four principle elements: (1) partnership with the community; (2) participative management; (3) problem solving; and (4)

visionary leadership (Barnett & Bowers, 1990:3). These elements constitute the basement of the notion of the sharing of power. With regard to this, Follett (in More & Wegener, 1995:174) stresses “a police department will be much stronger when management is comfortable sharing power with rather than exercising power over its professional employees”. Participation in the organisation’s decision-making process creates a sense of ownership in and a strong commitment to those decisions (More & Wegener, 1995:174).

In order for the police agency to qualify for all the elements of community policing, it has to consider restructuring organisation to be a tool that allows participation in its decision-making process. Community policing advocates the decentralisation of authority to a considerable degree in that members on the lower level can be fully engaged in the decision-making process (Barnett & Bowers, 1990:3). The decentralisation of police bureaucracy also provides for quality interaction between the police and the community (Eck, in Mayhall et al, 1995:54). From experience it is known that trade unions put pressure on employers to redesign their organisations in order to provide for employee involvement. Though the unions attempt to help democratise the police, they are often viewed by police managers and the public as a negative force, focusing only on financial gain and control over the management (Peak & Glensor, 1996:125-126).

This misperception can be attributed to the fear that police strikes can result in disturbances and disorder which often leaves the community polarised and embittered toward their police (Peak & Glensor, 1996:126). On their part police agencies which adopt a concept of community policing, suggest significant modifications in bureaucratic organisational structures by encouraging collaboration among the ranks (Barnett & Bowers, 1990:3). From the operational perspective, police agencies in conjunctions with trade unions develop and implement special operations and programs, the reasons for and goals of which are explained by public relations. One example of these programs is the institution of a neighbourhood watch (Mayhall et al, 1995:51).

In England the police federation plays significant roles in the issues of integrity, professionalism, training and efficiency across the police service. It advises on

matters affecting operational effectiveness, legislation, welfare and pay conditions (Police federation of England & Wales, 2002). It is inevitably to conclude that the role played by trade unions to the benefit of their members is relative to the principles of community policing. Efficiency, as advocated by the community policing paradigm, can only be realised if the members are satisfied. The unions came into existence in order to satisfy the needs of the workers.

### **3.6 Summary**

Unlike other trade unions, the development of police unionism takes place at a slower pace. Where police unionism is allowed, it is governed by strict laws of which “no rights to strike” is one. The police unionism is hardly growing due to opposition from managements’ side and at some instances from the public. Compulsory arbitration in the police services is a common practice, if not a last resort in dispute settlement. Developed almost at the same stage, police unionism and community policing are equally role players in both the organisational effectiveness and the betterment of the workers’ standard of living. The two however are also interdependent.

## **Chapter 4**

### **The employment situation in the Namibian Police Service**

#### **4.1 Introduction**

The previous chapters have generally dealt with the roles of trade unions in both general employment sectors and police organisations. There have also been indicated how issues of social and economical importance and welfare are dealt with within the unionised environment. In this chapter the focus will be on the employment situations in the non-unionised police organisation with specific reference to the Namibian Police Service. The study will indicate how the Namibian Police operates in the environment of non-unionism. There is started with a brief history of the police forces in Namibia dating back to the colonial era, the current human resources management and other organisational challenges.

#### **4.2 Historical background of the Namibian Police Service (NAMPOL)**

After the First World War the policing duties in Namibia (formerly known as South West Africa) fell under a military command with South African Riflemen carrying out the duties. During that time the military force consisted of about 400 members. This body was disbanded on 31 December 1919 and the members were incorporated into the South West Africa Police Force (SWAPOL). During 1939 SWAPOL was disbanded and the policing responsibility was taken over by the South African Police Force (SAPS). Then on the 1<sup>st</sup> April 1981 the police function was again carried over from the SAP to a newly established SWAPOL. When on the 21<sup>st</sup> March 1990 Namibia became independent, together with the new Namibian nation, birth was given to the new NAMPOL (NAMPOL, 2002a).

NAMPOL, in terms of section 13 of the Police Act of 1990, is charged with the following functions:

- (a) the preservation of the internal security of Namibia;
- (b) the maintenance of law and order;
- (c) the investigation of any offence or alleged offence;
- (d) the prevention of crime; and

(e) the protection of life and property.

According to the Police Chief Inspector at personnel division (2002), NAMPOL currently consists of 13 000 members. Throughout its developmental stages from the colonial police to today's democratic police service, members of the police to a high degree have been oppressed by their commanders, denied their fundamental rights, and subjected to militaristic discipline. The members have never been entitled to equal freedom like other government employees. Ever since being outlawed by former colonial regimes, freedom of association is still illegal. In terms of regulation 15(ab) (i) & (ii) of the Police Act of 1990, the members are not allowed to form or join trade unions.

### **4.3 Legal framework on trade unions**

Freedom of association is a constitutional right enshrined in the Namibian constitution. Article 21, 1 (e) of the said constitution reads: "All persons shall have the right to freedom of association, which shall include freedom to form and join associations or unions, including trade unions and political parties".

Labour relations systems and practices are governed by the Labour Act, no. 6 of 1992. This Act provides for both public and private sector employees to form and join trade unions of their own choice, but makes it illegal for the members of the armed forces (NAMPOL, the Namibian Defence Force, and the Prison Services) to form or join trade unions. Consequently, labour relations in the armed forces are regulated under the Acts and policies of the respective force (armed organisation). However, section 2 (2)(a) of the Labour Act singled out two issues (affirmative action and complaints in relation to unfair discrimination or harassment) as the only that apply to a person employed in the armed forces. The Police Act, 1990 (Act 19 of 1990) in particular, was formulated as the governing law of NAMPOL. Regulation 15 (ab)(i) of the said Act reads that members who "...without the written permission of the Inspector General establish a trade union or become a member of the trade union; (ii) without the written permission of the Inspector General take part in or associate with the activities, object, or matters of trade unions, shall be guilty of a misconduct".

Labour relations in Namibia are handled in accordance with provisions of the constitution of the International Labour Organisation (ILO) of which Namibia is a

member. Article 1 of the ILO constitution requires all its member states to honour the provisions of the constitution. Article 2 of this constitution (Bendix, 1989: 135) states, “workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organisation concerned, to join organisation of their own choosing without previous authorisation”.

Bendix (1981:4) describes the ILO as “international treaties which if ratified by the states concerned, become legally binding on each other”.

#### **4.4 Human resources management in the Namibian Police Service**

Human resources issues are generally dealt with within the framework of the Public Service Act, 1995. Section 36 of the Act reads: “This Act shall apply to or in respect of – (a) all staff members, whether employed in or outside the Republic of Namibia; and (b) all members of the services, but only to the certain extent provided for in this Act”. In terms of this Act, members of the services refer to the members of the armed forces (NAMPOL, Defence Force, and Prison Services). With due respect to subsection (b) of this Act, police human resource issues are regulated mostly within the framework of the Police Act, 1990 (No. 19 of 1990) which serves as guidance for the administration of the police. However, some issues such as compensations and benefits are handled in terms of the Public Service Act (PSA). Otherwise the Police Act plays a vital regulatory role in human resource issues.

##### **4.4.1 Recruitment**

Flippo (1984:141) defines recruitment as “the process of searching for prospective employees and stimulating them to apply for jobs in the organization”. In NAMPOL, the recruitment takes place in stages: the first stage is the search for suitable candidates; the second is the interview and selection stage; and the final stage, the induction. In terms of section G.1.A of the NAMPOL recruitment policy, induction is defined as “all efforts employed to develop a newcomer into a productive member or employee”. The purpose of the induction is to familiarise the newcomers with the police environment.

Both the Station Commanders and Regional Commanders, in conjunction with the Public Relation Officers are expected to visit schools and other places for recruitment

purposes. According to the recruitment policy, the results must reflect the diversity of the Namibian population. As a prerequisite, a potential candidate must first meet the basic requirements before he or she is considered for employment in the police. Some of the basic requirements as per regulation 5 (1) & (2) made under the Police Act, 1990 (Act 19 of 1990) are that “a candidate must be physically and mentally healthy; must be a holder of at least grade 12 certificate; and must be between 18 and 25 years of age”. In reality, none of these requirements is fully adhered to.

The Inspector General uses his discretion to appoint people he deems suitable for particular posts. In his capacity as the Head of the Police, the Inspector General is not obliged by any law to advertise posts inviting interested candidates to apply. Only when there is a need for a larger number of people, are the posts advertised. Otherwise the filling of posts is entrusted to the Inspector General who may fill those posts without advertising them. Since there is no policy defining when and which posts are to be advertised, there is concern about the limit of the Inspector General’s discretion. In real terms, only the entry level posts (constable posts) are advertised, while those of sergeant and above are filled by the members who are directly appointed by the Inspector General, either from within or from outside the police.

#### **4.4.2 Promotion**

Promotion within NAMPOL is the prerogative of the Inspector General of the police. In terms of section E.1.A of the promotion and transfer policy dated 1995.07.03, “promotion is needed in order to ensure an effective and efficient supervision and management”. Promotion does not occur randomly, but rather on the basis of members’ competencies and suitability for promotion. There are two streams of promotion, namely an academic stream and a service stream. Members with tertiary qualification are promoted on the basis of the academic stream, which is a faster track than the service stream promotion (NAMPOL, 1995).

According to the promotion policy, members are qualified to be promoted to the next rank for every year of successfully obtaining a tertiary qualification, provided there are vacant posts available and members have met all other requirements. The members falling under the above promotion streams must have served for at least three years in the police before they can be considered for promotion. Though it is not a must, promotion posts are sometimes advertised within the police calling for

applications. If no suitable candidate is identified, the Inspector General (by the power vested in him in terms of section 4.1 of the Police Act, 1990) can use his prerogative to specify a member himself (NAMPOL, 1995).

#### **4.4.3 Transfers**

Mostly, transfer goes along with promotion. The Inspector General may use his discretion to transfer a member from one post, office, station or region to another where he deems his or her service is needed. NAMPOL provides transportation, accommodation and other aids necessary to reallocate the member. Where a transfer goes with promotion, such promotion can only be effected once the member has reported at his or her new duty station or office (NAMPOL, 1995).

#### **4.4.4 Training and development**

In order to ensure effectiveness and efficiency, NAMPOL has put in place the Training and Development Programmes (T&D) through which the members are equipped with skills, knowledge and attitudes to enable them to perform professionally in Law Enforcement. The T&D programs include both on and off the job training. It is a progressive and motivational, but relates directly to the members' duties and provides the opportunities for personal growth. The members are nominated on merit, but is mostly based on the training need in respect of a particular member. The Field Training Officers (FTO) play critical roles in assessing the training needs at station and regional level, performing the training or recommending that members undergo training elsewhere (NAMPOL, 1998).

#### **4.4.5 Compensation and Benefits**

Compensation refers to the receiving of money for performing a task and is exactly the reason why people work (Tracey, 1994:188). According to Milkovich & Boudreau (1988:790) employees' benefits are "the indirect form of the total compensation; they include paid time away from work, insurance and health protection, employee services, and retirement income".

Compensation and benefits are dealt with within the framework of the Public Service Act, (Act 13 of 1995). Section 13 (1) of the Act states: "Staff members and members of the services shall be paid salaries and allowances in accordance with such scales of

salary and allowances, and shall be entitled to such conditions of services, as may be determined by the Prime Minister for the posts and ranks on different gradings on the establishment”. Depending on the merit, and with approval of the Prime Minister, salaries at higher scales than the minimum of the appropriate scales of salary can be paid to staff members or members of the services. This occurs in cases where an employee has shown exceptional competence or has rendered meritorious service (OPM, 1995).

In terms of section 25 (2)(a) & (b) of the Police Act, 1990, the Inspector General with the approval of the Treasury is empowered to pay to a member a higher salary, wage or allowance than the wage or allowance so payable to the member. In addition to the salaries, the members of NAMPOL receive numerous benefits such as housing subsidies or allowances, entitlement to pensions, medical scheme, substance and travelling allowances, and many more. The members are also entitled to yearly increments on their salaries. This means the members who have not reached the maximum notch of their salary scales receive one notch up every year.

#### **4.4.6 Working hours**

From the experiential point of view, there is no limitation to the length of work in the police, even though the members mostly work eight hours as do other public servants. At certain occasions such as special operations, national events, *etc.* the members work more than eight hours with no overtime pay. There are some instances, such as elections where members work more than sixteen hours jointly with other civil servants (clerks, *etc.*) from different government departments. Others are entitled to claim for overtime pay whereas the police officers are not. In terms of the Police Act, 1990, members of the police are not allowed to claim any overtime payment; in fact, they receive a professional allowance included in their salaries. Section 27 (1)(c) of the Police Act reads: “No person may claim as of right additional remuneration in respect of any official duty or work which he or she is required by any competent authority to perform”.

#### **4.4.7 Health and safety**

The nature of police work is so complex that some members are exposed to both health and life risking environments. The members deployed in hazardous areas, such

as alongside the borders and other places where climate is unfavourable, are more vulnerable to diseases such as malaria and other cross-border transmitted diseases.

The members of the police are equipped with both summer and winter clothing as well. Mosquito nets, though not sufficient, are provided to members deployed in malaria-stricken regions. NAMPOL has recently established a medical unit. According to Shikomba (2002) the members at border posts are visited monthly by the team of medical officers. He further states: “We have in those areas with high cases of malaria medical officers stationed there permanently”. It is a well-known fact that three years ago, before the establishment of the medical unit of NAMPOL, there was in the police a high rate of deaths resulting from malaria. According to Shikomba, the malaria cases have been reduced since the introduction of the medical unit.

With exception of the members of the Reserve Force, no other members are equipped with bullet-proof vests. The members such as those attached to the serious crime unit, a unit that is dealing directly with dangerous criminals, are not armed with bullet proof vests. According to the researcher a bullet proof vest can be described as “an impenetrable wear protecting a member from being struck by a fired bullet”.

#### **4.4.8 Benevolent fund**

The benevolent fund is an internal financial club, founded and administered by the police. Its purpose is to assist members financially when they experience financial problems. The matters qualifying for financing by this club are deaths, study fees, and the medical costs of the members. The members can also apply for financial assistance to finance the funerals, study or medical expenses of their close relatives. The membership to the club is voluntarily. A member who has applied for this membership is subject to the monthly deduction of N\$5 from his or her salary. The financial assistance is given as a loan to the member and is payable in monthly instalments.

#### **4.4.9 The participation of members in the decision-making process**

According to Salamon (in Anstey, 1997:1), worker participation is “a process recognizing the needs and rights of employees – individually and collectively – to participate with management in organizational decision-making areas ...” There are

three important ways through which members of the police participate in the decision-making process:

- The redress of wrongs procedure: In terms of regulation 31 (6) of the Police Act, 1990, members may express their opinions, suggestions, and concerns by writing a letter through their commanding officers to the Inspector General.
- The consultative committees: These are non-commissioned officers' committees supposed to be established in each region, but it appears that some regions have not yet established them. Members from different stations meet on regular basis to discuss issues concerning both their work environment, as well as social and economic welfare. The outcomes of the meetings are sent via the immediate commanders to the higher authority. According to a certain constable (2002), this is one of the best ways of putting their matters forth. He puts it as follow: "Since all of us in the meeting are non-commissioned officers, we always feel at liberty to raise whatever issues, including those sensitive issues that we wouldn't raise in the presence of our commanders".
- The station meetings: The meetings are held at station level between a station commander or commanding officer and his or her subordinates. Decisions made at these meetings are communicated to the regional commanders and, if necessary, to the Inspector General. Some individual members emphasised that the system is effective for unimportant matters only; they cannot discuss sensitive issues that are affecting their social and economic life because of the fear of victimisation.

Despite members' generosity in contributing to the day-to-day performance of the organisation, there are those commanders who believe in the unspoken dictum that "an order from the commander is unquestionable" causing them to ignore and overlook the members' inputs. This is further aggravated by the so-called "no-bypassing principle" of management. Harris (1977:24) states: "the formal channels of communication coincide with lines of authority. No manager or supervisor in the vertical chain should be bypassed as the message moves on its way". There are those officers in NAMPOL who, because of their seniority, undermine views from their subordinates.

## 4.5 Gender balance

Though this study does not present full data on gender balances for the whole NAMPOL, there is a crucial evidence of a high degree of gender imbalances in the management cadre. The current management cadre consists of twenty-nine officers (seven commissioners and twenty-two deputy commissioners) of which all commissioners are males, while only one deputy commissioner is a female. The male officers are heading main divisions, including all thirteen police regions, while the one female in management cadre deputises the Commissioner of Human Resources. The following figure depicting the male and female appointments and promotions at commissioned officer ranks from 1997 – 2002.

Lieut. General		Maj. General		Commissioner		Dep. Commissioner		C/Inspector		Inspector	
M	F	M	F	M	F	M	F	M	F	M	F
-	-	1	-	2	-	8	1	48	4	120	14
-	-	100%	-	200%	-	87%	12%	92%	8%	88%	12%

Figure 4.1 (NAMPOL, 2002)

## 4.6 Compensation and benefit negotiation

Section 5 (l) of the constitution of the Namibian Public Workers Union (NAPWU), empowers the NAPWU representatives at the bargaining table to negotiate on behalf of every public worker who falls within the jurisdiction of their bargaining power. NAPWU as an exclusive bargaining agent negotiates indirectly on behalf of the police. According to Naholo (2002), it appears that whenever NAPWU has successfully negotiated wages with the government bargaining team, the police salaries are also equally affected. This can be witnessed in the year 2000 when negotiation between the government and the trade unions (NAPWU and the Namibia National Teachers' Union) resulted into the general salary increases. That salary adjustment applied equally to all civil servants including members of the police and also the other armed forces (OPM, 2000).

Relatively to the above, Pool (2002) states: "If there is no general salary adjustment, the police make submission directly to the cabinet requesting the changes in police

salaries”. According to Pool, this system is very effective because it does not require lots of bureaucratic channels. In support of that, Tweya (2002) declares “Though, we are not directly represented at the salary negotiation table, our salaries are always increased together with those who are represented. On the other hand, we do not always wait for the government to decide to increase salaries; we write letters to the cabinet calling for police salary increases”.

#### **4.7 Employment contract**

An employment contract refers to an agreement between the employer and employee on the kind of work the employee will do and the nature of the remuneration, and other benefits he will receive (Bendix, 2001:100). The contract is signed between NAMPOL and its individual members. In terms of section 4 (1) of the Police Act, 1990, “the Inspector General shall, subject to the regulations, appoint fit and proper or [*sic*] persons to be members of the force, and shall appoint such members as officers or non-officers as the case may be”. Before a person is appointed under the said section, he or she is issued with the letter of offer. This letter specifies the following conditions: the type of work which the employee will be required to perform; the remuneration he or she will receive; the date of commencement of duty; the name and address of the employer, which is NAMPOL itself; the place of work; provisions pertaining to the compulsory contributions to a pension fund and income tax; the housing subsidy/allowance, and subsistence and travelling allowances; the rank; and the probation period.

On receipt of the letter of offer, a person is expected to indicate in writing to the Inspector General as to whether he or she accepts the offer or not. Should the person sign that he or she has accepted the offer, it means he or she agrees with the conditions of employment; therefore he or she can be appointed in terms of the above section. Despite a variety of contractual forms to be signed at the time of appointment, a final and most binding agreement is signed on the form known as “Accession to Office on Appointment and Enrolment”. In this form, a person swears or affirms to comply with the conditions of the service as set out in his or her letter of offer. Section (c) of the said form reads “that I shall abide by the provisions of the Police Act, 1990 (Act 19 of 1990), and the regulations or rules made thereunder and obey

any order or instructions issued in pursuance of the said Act, regulations or rules". See **Appendix D** for the form "Accession to Office on Appointment and Enrolment".

Among the mentioned regulations is regulation 15 (a) – (aj) pertaining to offences against duty or discipline. This regulation specifies the nature of offences and conducts that may lead to members' dismissals. The content of this regulation is brought to the attention of every member of the force. A Certificate of Appointment with the member's photo affixed thereto forms part of the employment contract. Every member who has been appointed as a police officer is issued with the certificate of appointment to identify him or her as an appointed police officer.

#### **4.8 Grievance procedures**

According to Whisenand & Ferguson (1996:374) a grievance is "an employee's complaint that he or she has been treated unjustly by the police agency or one of its members". Accordingly, all complaints and redress of wrongs raised by the members must be forwarded via prescribed channels to the Inspector General for transmission to the Minister (NAMPOL, 2002b).

Regulation 31 (1) of the Police Act, 1990 (Act No. 19 of 1990) stipulates: "Any member who feels aggrieved by any act or omission on the part of any other member may complain in writing to his or her immediate commander, and if the grievance concerns such commander or if the latter is not empowered or is unable to redress the wrong or otherwise to satisfy the aggrieved member within a reasonable time, such member may refer the complaint to his or her commanding officer". If the commanding officer to whom the matter is forwarded is unable to reach a solution, the grievances should go up the ranks until it has reached the office of the Inspector General. If the Inspector General is unable to redress the wrong to the satisfaction of the aggrieved member, the grievance can be transmitted to the Minister, who will then act as an arbitration officer (Regulation 31, 2 – 3 of the Police Act, 1990).

Throughout the whole process, the aggrieved member should be kept informed about the progress of his or her complaint. Should his or her commander fail to update him or her, he or she in terms of Regulation 31 (5) of the Police Act, 1990, may lodge a complaint directly to the higher authority, provided he or she forwards a copy of such complaint to his or her immediate commander. Complaints relating to affirmative

action and unfair discrimination or harassment, which the police is unable to handle are referred to the Labour Court. The above types of complaints are dealt with as per sections 106 and 107 of the Labour Act, 1992. In terms of Section 2 (2) (a) of the said Act these are the only sections of this Act that can apply to the police.

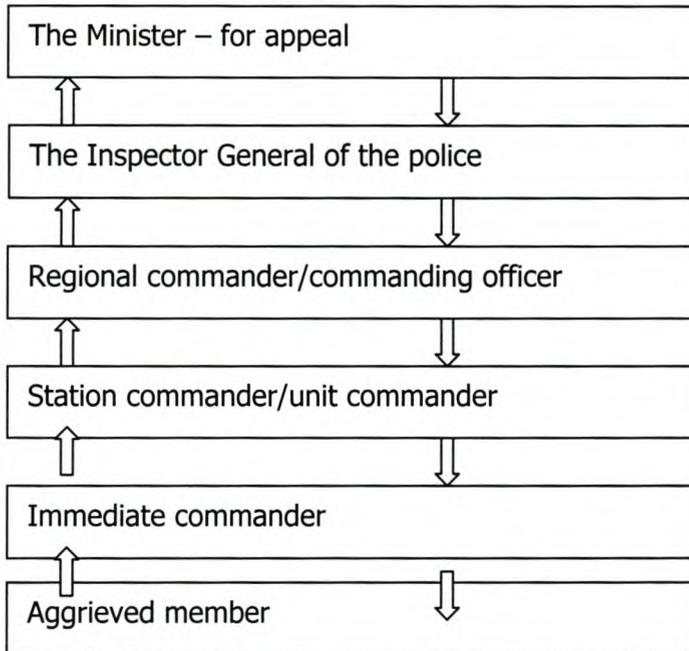


Figure 4.2: The grievance procedure for the Namibian Police Force

#### 4.9 Disciplinary procedures

Article 116 of the Namibian constitution provides for the power of the Inspector General, who has been appointed by the President in terms of article 32 (c) (bb) of the constitution, to make provision for a balanced structuring of the police. Section 116 (2) of the constitution outlines the power as “... to cause charges of indiscipline among members of the police force to be investigated, prosecuted and ensure the efficient administration of the police force”. The broad principles that guide any form of disciplinary action are fairness, equity and the rules of natural justice. In terms of chapter 11, F.3.a.2 of the NAMPOL Administration manual (2002) the concept of natural justice means: “An employee must have a reasonable opportunity to state his or her case, before a decision affecting his or her rights is recorded”. See **Appendix E** for the regulation 15 offences.

#### **4.9.1 Recording and investigation of complaints of misconduct against members**

Any member who receives a complaint from a member of the community or his or her fellow member of the force, against another member, has to record all the facts of the complaint. The complaint is then submitted in a written report via the immediate commander to the Inspector General (Regulation 16 (1) (a) – (b) of the Police Act, 1990).

Upon receipt of the report, the Inspector General may designate an officer of a higher rank than the member to whom such complaints or suspicion relates, to investigate such complaint or suspicion. To ensure fairness, the Inspector General designates an Investigating Officer who is not attached to the same station or office as the member to whom such complaint or suspicion relates (Regulation 16 (1) (c) (i) – (iv) of the Police Act, 1990).

After the investigation is completed, the Investigating Officer submits his or her findings together with all relevant statements to the Inspector General. The Inspector General determines whether any disciplinary proceedings should be instituted or not (Regulation 16 (1) (d) – (e) (i) & (ii) of the Police Act, 1990).

#### **4.9.2 Disciplinary proceedings against members**

In terms of section 18 (1) of the Police Act, 1990, the Inspector General may open a charge of misconduct against a member who is accused of misconduct. Section 18 (2) of the Police Act stipulates: “Disciplinary proceedings shall be conducted in such manner as may be prescribed, before – (a) an officer in the force, not being subordinate in rank to the accused, who has been generally or specifically designated by the Inspector General for the purpose (b) any legally qualified staff member in the public service, designated by the Minister, after consultation with the Attorney-General”.

A copy of the charge sheet is served on the accused person at least seven days before the commencement of the proceedings. Such charge sheet indicates the charge(s), time, date and venue of the proceeding. According to Regulation 12 (6) of the Police Act, 1990, the accused person has the right to give evidence and call witnesses; to cross-examine a person called as a witness in support of the complaint and to inspect any document produced in evidence. All attempts are always made to ensure the

attendance of the witnesses, including the defence witnesses. The state can assist the accused person financially or materially, to make his or her witness available at the proceedings. If the evidence provided by such defence witness is immaterial or of less importance, the state reserves rights to claim from the accused person to refund the cost incurred (Regulation 17 (1) – (7) of the Police Act, 1990).

#### **4.9.3 Penalties for misconduct**

If a member is found guilty of misconduct, the Presiding Officer may, after the member concerned has been given an opportunity of being heard, impose a punishment. The member may be cautioned or reprimanded, his or her salary or rank or both the salary and rank may be reduced, a fine not exceeding N\$ 200-00 may be imposed, the payment of a fine or part thereof may be suspended, or the member may be discharged or be called upon to resign from the force (Regulation 18 (a) – (d) of the Police Act, 1990). In terms of Regulation 18 (3) of the Police Act, 1990 as quoted: “A fine imposed ... may be recovered by way of deductions from the member’s salary or allowance in instalments as the Inspector General may determine, but not exceeding N\$100 per month”. No punishment is effected, unless confirmed by the Inspector General.

#### **4.9.4 Representation at disciplinary proceedings or enquiry**

At any disciplinary proceeding or enquiry held, the member in respect of whom the proceeding or enquiry is held, can be assisted and represented by a legal representative of his own choice (Section 21 of the Police Act, 1990). To this effect, the member is responsible for the payment of fees to any legal representative who appears on his or her behalf. The member (accused person) or his or her legal representative is entitled to make a copy of the record of the proceedings free of charge (Regulation 17 (12) of the Police Act, 1990).

#### **4.9.5 Appeal against conviction for misconduct and penalty**

A member who intends to appeal must within fourteen (14) days after the date on which he or she has been notified of the confirmation of the punishment, lodge a notice of appeal through the Presiding Officer to the Minister. The record of the proceeding and the Presiding Officer’s report are together with the appeal notice

forwarded through the Inspector General to the Minister, who makes a decision (Regulation 19 (1) & (5) of the Police Act, 1990).

#### **4.10 Summary**

With the exception of few administrative issues that are dealt with under the Public Service Act, the whole organisation is managed within the framework of the Police Act. The maintenance of military discipline is considered a major prerequisite; therefore, the Inspector General is empowered to the fullest extent to oversee the prevalence of discipline in the police. He (the Inspector General) is at the same time vested with power to make the final decision in human resources matters (recruitment, training & development, transfers and promotion, etc).

Presently in the absence of the unions, the position is that police salaries and benefits are adjusted along with the salaries of other government employees; grievances are handled according to prescribed procedures and the procedures for disciplinary hearings are the same as for general disciplinary procedures.

## **Chapter 5**

### **An analysis and findings**

*“In Labour Relations we deal essentially with people who, because of their mutual involvement in the work situation, have been placed in a specific relationship with one another” (Bendix, 2001:4).*

#### **5.1 Introduction**

The previous chapter discusses the current employment situation in the Namibian Police Service. However, it was not considered whether its practices are of acceptable standard. One can argue that if the labour practices do not cause harm, inconvenience or jeopardy in the labour relations in one way or another, such practices can be considered as of acceptable standard. Should the contrary be proven however, new intervention techniques should be considered. This chapter will therefore, analyse the labour practices in NAMPOL, with recommendations in the next chapter about whether there exists a need for union interventions. This analysis will focus on those issues that have been discussed in the previous chapter. It is an integrative analysis linking theoretical issues discussed in chapters 2 and 3, to the real life issues discussed in chapter 4. Other issues overlooked in previous chapters may also surface during this analysis. This chapter is crucial in the context of this study as it provides the basis for the conclusions and recommendations outlined in the next chapter.

#### **5.2 Managing labour relations**

In practice, every manager is a human resources manager and entrusted with a task of managing labour relations. It is imperative to start this analysis with the definition and analysis of the concepts of “managing” and “labour relations”. “Managing” is a derivative of the term management. Hersey et al (2001:9) define management as “the process of working with and through individuals and groups and other resources (such as equipment, capital, and technology) to accomplish organizational goals”. According to Finnemore (1996:1) “labour relations” can be “a simple, interpersonal process involving only two people; or it may occur within a group or between groups, such as between management and a group of employees; ... between an association of employers and a trade union federation”. In brief, labour relations is nothing else other than the activities, behaviour and relationship between the employer and the

employee. In support of this argument, Thornhill & Hanekom (1995:13) are of opinion that management is concerned mainly with the human being. They believe "... no institution can be successful if the available personnel are not provided with the motivation to work to the utmost of their abilities". Since these arguments connote labour relationship as having to do with human relationship, this analysis will focus mainly on human resources management in NAMPOL and try to find out whether the human resource issues are handled in a universally accepted manner.

### **5.2.1 An analysis of human resources management in NAMPOL**

Throughout the discussion in the previous chapter, it has been repeatedly mentioned, "*the Inspector General may use his discretion ...*" It seems he is a person vested with absolute power concerning organising, structuring and managing the police in the way he deems suitable for the smooth operation of the force. Along with this view, he should also establish a worker-friendly environment in which members of the police enjoy job satisfaction in economic and social terms. Accordingly, as Grogon (1993:22) indicates, the employer's power of command over the employee is more dominant in labour relationship, "... in reality the relationship between the two reflects a somewhat unequal distribution of social economic power".

#### 5.2.1.1 The current organisational challenges

**Recruitment and appointments.** According to the literature, the recruitment system, the filling of posts and appointments are seemingly the most crucial issues affecting labour relations in the police. In terms of the NAMPOL recruitment policy, recruitment is defined as "a process of searching for suitable employees, stimulating them to apply and make the NAMPOL their career". It is clear that, recruitment is conducted in order to fill vacant posts in the police. The current recruitment policy provides for the vacancies to be filled by advertising them, inviting interested candidates to apply and by direct appointment of a member by the Inspector General. As indicated earlier, the Inspector General is, by virtue of the Police Act, empowered to appoint a person directly to a certain post or rank without necessarily advertising such a post. This gives rise to the question of "transparency and fairness". However, no convincing answer could be found as to what criteria the Inspector General employs when appointing a person directly to a high rank.

It is however understood that it is the management's right to manage its organisation toward achieving its goals. On the other hand, employees have the right to work and be free from unfair labour practices (Poolman, 1985:84-90). Any conduct by an employer or employee, whether lawful or not, that affects the interests or rights of the other could be described as unfair labour practices (Du Plessis et al, 1994:219). This relates to what most members of NAMPOL complain about, namely the appointment of outsiders to the high positions in the police. A certain Deputy Commissioner (2002) has echoed that the current system lacks transparency. Some people are appointed to posts that they cannot handle at all and as a result, the police profession is losing its real image. The officer further states that "with unionism there would be clear, direct and transparent policies".

It is apparent that high positions in the police are being occupied by people who do not have police background, while people who join from the grassroots are just kept at lower levels. The study indicates that the current management cadre of NAMPOL consists of seven commissioners of which three were appointed from outside after 1996 and twenty-two deputy commissioners of which ten were appointed from outside after 1996. In justifying the system, Pool (2002) has argued: "There is nothing wrong to appoint a person directly to the higher rank, provided a person is trained and equipped with necessary skills". While the NAMPOL's Deputy Inspector General (Nghiishililwa) applauds the organisation for the effectiveness, efficiency, and transparency of its recruitment practices, other three more commissioned officers refuted this by saying that "NAMPOL recruitment is highly politicised, and only benefits specific groups of community, who are in favour of the ruling party".

In unionised police forces high positions such as administrative and managerial posts in support units are advertised calling applications from both inside and outside. In fact, unionised organisations, such as the SAPS, conduct their recruitments and appointments in the same manner as other government sectors. In terms of section 27 of the SAPS Act, (No. 68/1995), the filling of posts in the service, whether by appointment, promotion or transfer, shall be done in accordance with section 212 (4) of the constitution (No 200/1993). The said section reads: "In the making of any appointment or the filling of any post in the public service, the qualifications, level of

training, merit, efficiency and suitability of the persons who qualify for the appointment, promotion or transfer concerned, and such conditions as may be determined or prescribed by or under any law, shall be taken into account”.

**Promotions.** The major staffing interest of unions is in the promotion process, where they advocate seniority as a critical factor in deciding who gets promoted (Klingner & Nalbandian, 1993:142). Both the commissioned and non-commissioned officers who were approached about the promotion practices in NAMPOL have expressed almost the same sentiment about the current promotion system, namely that it lacks transparency. This study however has revealed that in the past five years to date members of the police have never been appraised which can be attributed to the non-existence of a policy on performance appraisal. According to Carrell et al (1998:258) performance appraisal is “the ongoing process of evaluating and managing both the behaviour and outcomes in the workplace”. Performance appraisals are used for a wide range of administrative purposes, such as making decisions about pay, promotion and retention (Carrell et al, 1998:258).

At the time of conducting the research, the policy on a performance appraisal system was under review. In the absence of performance appraisal a member is promoted based on the commander’s knowledge about him/her. The commander then recommends and submits a member’s name via the regional commander to the National Headquarter for the promotion committee’s approval. There would be nothing wrong with the procedure per se, but it is a cause for concern when the commander does not know a member for a long time, and there is no record about the member’s performance. Unquestionably, this practice can affect members’ promotion opportunities negatively.

According to the researcher’s experience, as supplemented by the complaints of the various members who were interviewed, there are members in the police who obtained tertiary qualifications six years ago without having been promoted. This, according to some members, causes the high rate of resignation in the force. A certain detective constable has pointed out as follows: “Promotion in the Namibian Police does not go according to performance, but according to who your commander is”. He

further laments that “if you and your commander do not share a drink - forget about promotion”.

Amazingly, there are no other tools used in judging whether a member qualifies for promotion or not - the commanders rely on their common judgements only. Klingner & Nalbandian (1993:151) are of opinion that, testing is the best way of measuring the knowledge, skills and abilities of employees. According to them, “the purpose of testing is to distinguish those who will do better on the job from those who will not”. In unionised organisations and government sectors in general, the promotional posts are advertised whereby interested candidates apply and whoever is shortlisted is subjected to undergo examination (verbal or written test). Promotion is one of the current critical issues in NAMPOL. Besides the fact of the non-existence of an appraisal system, the members complain that “the promotion is not conducted in accordance with the current promotion policy”.

**Training and development.** It has been indicated in chapter 2 that trade unions can also play vital roles in organisational training programs, and that the shop stewards can assist in identifying the training needs. On the other hand, the shop stewards also assist in identifying the needy members. The serious concern in non-unionised organisations is about the reliability of the procedure followed in nominating members for training. It is a pity that there is no written agreement between NAMPOL and its members in matters relating to training. However, NAMPOL as a public institution is automatically bound to train its members for the fulfilment of organisational goals.

According to Reynolds et al (1998:367), only if the job-related issues are agreed upon in the contract, the rights of employees can be protected. Allegations by some members that only specific individual members are always nominated for the most important courses cannot be ignored. However, one should not be misled by the situation where a fellow member is selected on the basis of his duty; for instance, a detective may require more training than a charge office member. Another type of selection criteria which may be used in NAMPOL is that of observable performance discrepancies. According to Klingner & Nalbandian (1993:198) observable performance discrepancies “are indicated by problems such as standard of work

performance not being met, accidents, *etc*". Members' claims can, however, be related to the fact of the non-existence of the performance appraisal policy. One may ask what criteria the management uses to identify, assess and nominate members for the training.

**Salaries and benefits.** Being a professional organisation, according to the Secretary-General of NUNW, NAMPOL would negotiate for its own salaries and benefits. All people who were interviewed in this regard were of opinion that under unionism, police salaries and benefits would improve. This is in line with what Carrell et al (1998:455) considered as functions of unions when they say: "The union, with its collective, will be able to achieve a high level of wages and benefits than could employees acting individually". This statement can be interpreted in terms of NAMPOL's mechanism for making submissions to the cabinet calling for the police salaries to be increased.

In fact, there is nothing wrong with the current mechanisms (direct submission to the cabinet) but the fact remains, such mechanism is not legally backed up. Should it prove ineffective, the police will have no other alternative, than to stay silent. The fact that police salaries are always adjusted along with other government departments does not necessary mean police members are represented at the salary negotiation table. Ironically, NAPWU, which claims to negotiate on behalf of all government workers, has restricted its memberships to the general civil servants only, excluding other professional workers such as police officers, nurses, teachers, etc.

The Secretary General of the Namibian Public Workers Union (NAPWU) (2002) makes it clear that his union does indeed negotiate on behalf of all public workers who fall within the range of its bargaining power. However, during salary negotiation both the unions and the government bargaining teams agree to include armed forces in salary adjustments. Nonetheless, the Secretary General is of opinion that the police as a professional organisation should stand on its own and negotiate for its members. With exception of the police, all professional workers, such as teachers, and nurses have direct representation at the bargaining table, with their associations representing the interests of their members.

Though, they do not indicate their true position about police unionism, two members of the NAMPOL management cadre express a similar view that should the police be afforded bargaining power or be allowed to form a union, there would perhaps be a solution to the current financial problems in the police. They all feel that the police receiving as thin a budget can be attributed to the status of non-unionism. This claim is probably associated with the role of unions in politics.

**Working hours.** This study did not discover a document regulating the working hours for the NAMPOL members. Surprisingly, PART V of the Labour Act that deals with working hours does not apply to the police. This situation of “no policy” created a loophole so that police officers can work more than eight hours a day without overtime payments. Possibly, the situation may be worsening by the common saying that “police officers are twenty-four hours on duty”. It has been noted in chapter three that long hours without overtime payment contributed greatly to the development of police unions. In the unionised organisation, a clause specifying circumstances under which an employee may work more than eight hours a day and the type of compensation paid to the employee is usually included in the contract (Antony et al, 1996:554). Almost every non-commissioned member who has been interviewed complains about long working hours with no additional remuneration (overtime payment).

**Health and safety.** NAMPOL has tried its level best to ensure the health and safety of its members. Health and safety and organisational effectiveness are to a great extent intertwined. However, it is likely that NAMPOL’s efforts are directed at fighting diseases only. Occupational health, according to Srinivas (1984:426) is not only about the absence of disease, but also “a state of physical, mental, and social well-being”. Occupational health, or the work environment’s impact upon employee well-being, may be linked to two separate causal clusters, namely:

- (1) material or physico-chemical causes that can lead to workplace accidents and occupational diseases through toxic emissions, dust, etc; and
- (2) psychosocial causes that can lead to anxiety, depression, burnout, alcohol, and drug dependence, *etc.* (Srinivas,1984:426).

Presently, there are no health and safety programmes in NAMPOL. In other police organisations, such as SAPS there are units specifically established for health and safety purposes. According to Jacobs (2002) health and safety should start at offices, laboratories and extend to the scene of crime.

The most important aspect of health and safety of which NAMPOL has overlooked is the introduction of stress and burnout programmes. The health and safety programmes are important as the organisation is also responsible for creating and maintaining a work environment free from unnecessary hazards that can lead to injury, illness or death (Carrell et al, 1998:418). As repeatedly stated in this paper, the unions can assist in planning and designing training and welfare programs.

**Affirmative Action.** In this perspective the study has focused on gender balance only. According to Carrell et al (1998:63) affirmative action is “a business strategy and process aimed at transforming socio-economic environments which have excluded individuals from disadvantaged groups in order for such disadvantaged individuals to gain access to opportunities based on their potential”. On the basis of this definition affirmative action is one of the current alarming issues in NAMPOL. It has been noted from chapter four that NAMPOL is a male-dominated organisation. This implies that NAMPOL did not comply with the policy of affirmative action, which requires correction of the past imbalances.

According to Article 23 (3) of the Namibian constitution, “... women in Namibia have traditionally suffered special discrimination and that they need to be encouraged and enabled to play a full, equal and effective role in the politic, social, economic and cultural life of the nation”. In terms of this Article NAMPOL as a state department is not excluded from ensuring that people previously disadvantaged, such as women, are afforded opportunity to advance themselves. It has further been directed by article 10 (2) of the Namibian constitution, which states: “No person may be discriminated against on the ground of sex, race, colour ...” It is an undisputable fact that the availability of one female officer in the management cadre of twenty-nine is a true example of discrimination against women.

**Transfer and deployment.** These aspects are part of the employment conditions specified in the NAMPOL employment contracts. Every member who joins the force

is subject to sign a declaration in which he or she swears or affirms that he or she is ready to be deployed, and serve anywhere in Namibia. Despite some members' unsubstantiated claims that the transfers became a tool for expelling members from the service, it is a common belief that the nature of police work does not require a person to work at one place for ever. This belief may be based on the saying that "police officers are vulnerable to bribery".

Various members including some senior officers pronounce it as "the strategy of firing someone from the job". Most of the members have raised a concern that the Inspector General abuses the policy of transfer by using it as a tool to dismiss unwanted members or members suspected of having committed misconducts, by transferring them, mostly to the outskirt areas and even to lower posts than the members' ranks. Some members complain about short notices of transfer, though in this regard, Nghiishililwa (2002) argues that transfers are conducted fairly within the framework of the transfer policy. To avoid losing experienced officers, issues of this kind require an integrative approach or bargaining in which both the member and employer benefit equally. Fossum (1982:340) defines integrative bargaining as "activities leading to the accomplishment of objectives for both parties that are not in fundamental conflict. The parties may define a common problem and work toward its solution".

**Disciplinary actions.** Irrespective of whether the organisation is unionised or not, it is a must to take disciplinary action against a member guilty of misconduct. The NAMPOL's current disciplinary procedure is in congruence with the criminal procedures that are applied in the courts of law. The members, against whom the disciplinary action is pending, are afforded enough opportunities to prepare for their cases. Most of the rights and privileges applicable to the members of the unionised organisations are also applicable to the members of NAMPOL. They have the rights to call their witnesses, acquire legal representation of their own choice and to appeal against the disciplinary decision. However, apart from their own witnesses and legal representative, the members have to try by themselves to see to it that justice has been done to them. In unionised organisations, a union representative is involved right from the start and by the agreement, allowed to be present when the member is being interrogated. Another benefit concerns the access to appeal. Thibault et al (1998:393)

have said: “The contract empowers employees to demand a review by an outside arbitrator on the punishment that the agency has imposed on him” This is not the case with union-free organisations like NAMPOL in particular. In addition, as is the case with the Australian Police Unions, the unions can also provide legal representation for their members.

A large number of junior police officers who were interviewed have commented that members who had been engaged in disciplinary actions, and found either guilty or not afterwards become victims of harassment by the commanders. They explained that if a member won a case, hostility erupts between the member and the commander who made a case against him. However, this might not be the case in a unionised environment. The workplace union representative, as stated in section 65 of the Namibian Labour Act, 1992, plays a role of overseeing that employees are not victimised in one way or another.

**Redress of wrongs.** In terms of the Police Act, a member who feels overlooked or offended by his or her commander, or any act of the organisation may appeal through his/her immediate commander to the Inspector General. This mechanism, as the only formal mechanism of raising grievances, is questionable for its effectiveness. Just the mere fact that sometimes a person through whom a member submits an appeal is the same person whom the appeal or complaint is directed at, constitutes a problem. It is obvious that when a person forwards an appeal, for example about the promotion, to the Inspector General, the commander through whom the matter is forwarded attaches his/her report explaining why the appellant was not recommended for promotion. The whole practice creates the impression that the same person against whom the complaint is lodged may submit a negative report against the member.

With regard to this procedure a certain Warrant Officer (2002) declared: “The system is ineffective, how can you put your complaint forward through the same person you are complaining about? One can easily become a victim”. Major General Pool and Deputy Commissioner Tweya have expressed analogous statements about the effectiveness of the grievance procedure. While showing their sympathy towards members who feel uncomfortable to submit their grievances through the chain of command, they claim that the system is effective, and members make use of it. These

officers have however commented: “In the presence of the union, grievances would be handled differently as no member would feel threatened to raise a complaint against his/her commander”. The current system is very effective in relation to the fact of discipline which is a prerequisite in the police (Nghiishililwa, 2002). He (Nghiishililwa) further states: “At this point in time I can’t see a need for introducing trade unions in the police, we are fine”.

This mechanism is applicable to other matters as well, such as giving suggestions concerning human resources management. It is however reported that the system may be effective for less sensitive matters. It has been noted that some members do not use the system; instead, they prefer raising their general complaints through the media, preferably the national radio’s “Open Line Program” and “the newspapers” where their identities can remain unknown.

Terry (in Salamon, 2000:188) suggests that “in the absence of legal support, employee (as opposed to union) representation can only be partial and if it proves to be ineffective or weak the only alternative to its demise is to become transformed into a union based representation mechanism”. Terry’s suggestion is relatively applicable to the current labour relations in NAMPOL. Though NAMPOL claims to have put some measures in place enabling members to participate in decision-making activities, these measures as can be deduced from literature and members’ views, lack credibility. This apparent supportive climate for members’ involvement does not have legal grounds so that if it proves ineffective, there is no other alternative to backup members’ concerns.

**The origins of the existing communication mechanisms.** The existing mechanism is a unilateral approach, merely the initiative of NAMPOL (without members’ inputs). Blyton & Turnbull (in Salamon, 2000:187) describe this type of approaches as “a mixture of unitarism, paternalism, and authoritarianism”. Pertinently, the state has unlimited authority to make one-sided decisions on how executive institutions should be run, irrespective of the impact these decisions may have on the well-being of the employees (Van Der Waldt & Du Toit, 1997:239). One may say this mechanism was formulated in a manner that suits the need of the formulator (NAMPOL), an argument based on the fact that all conditions of labour are unilaterally controlled by NAMPOL. In fact, the contracts that are signed between NAMPOL and individual members are

unilaterally designed by the police which simply implies that members have to sign them because they want to be employed.

#### 5.2.1.2 General views about police unionism

These are general views directly obtained from various respondents. All were tested on one similar question which is: “what are your views towards police unionism?” This question was posed deliberately in order to link the research problem to the views of the people.

Generally, as Van Der Waldt & Du Point (1997:241) have pointed out, “...strikes by public officials can cause great political unrest”. That is probably the main reason why many governments are against police unionism. However, it appears that where police officers’ freedom of association is guaranteed, it is always accompanied by some limitations, such as no right to strike. Members of SAPS’ rights of freedom of association are regulated in terms of the South African Labour Relations Act, 1995 (66 of 1995), as well as the SAPS’ Labour Relations Regulations 1489 of 1995. However, considering the fact that the SAPS is an essential service, the members are prohibited in terms of section 65 of the Act to strike.

Many cases of unfair labour practices are reported to the office of the Labour Commissioner, but since the police service is not provided for in the Labour Act, the aggrieved members are advised to go to the office of the Ombudswoman (The Deputy Commissioner of Labour, 2002). Concerning unions, she has emphasised as follow: “I would agree with police unionism. Police officers are like other government employees, they should be allowed to form or join unions of their own. By unionising NAMPOL, you create an environment conducive to members to discuss all unfair labour practices”.

Contrary to this, the Deputy Minister of Labour (2002) raises a concern about the possible negative effect the unions may have for the police service. “I do agree that there is a need to have a union protecting our police officers from unfair labour practices, but I have a fear that police officers may abuse such freedoms, I therefore strongly disagree with police unionism.” According to her, the unions have bad influences that can negatively affect police operations. The Deputy Minister’s mixed

feelings are coincidentally in line with that of Nghiishilwa (2002): “We are fine; we are not yet faced with situations requiring unionisation, we have effective ways of addressing grievances, and I totally disagree with the idea of unionism”. Nghiishilwa justifies his argument that the complexity of police work requires quick and spontaneous responses, which one cannot be expected within a unionised force. Most of the senior officers and also a large number of junior officers who were interviewed, have expressed dissatisfactions about the way labour relations are handled in NAMPOL. They however feel that things could be handled differently if they had a right to freedom of association. Following here below are some of the comments by the respondents:

*“Unions would serve as mouthpiece for the police members”;*

*“I would suggest police to be unionised with no right to strike”;*

*“Unions could help negotiate for our salaries and other benefits”;*

*“I don’t see a problem if NAMPOL can unionise provided they do not have rights to strike”;*

*“I am worried our police may abuse the right of freedom of association, I therefore don’t support the idea”;*

*“Unions have bad influence, I don’t support the idea”;*

*“Unions can make the work of the police difficult, negotiation take long while the situation is worsening”;* and

*“Police should have a right to negotiate on conditions of services, we support police unionism”.*

The question concerning the introduction of trade union for NAMPOL was posed to sixteen (16) police officers of whom two police commissioners refused to comment, eleven have responded in favour of the introduction of trade union in NAMPOL, while three do not favour unions for the police. The number of those who are in favour ranges from top senior ranks to the lowest ranks.

The respondents’ views are further represented in the table 5.1 below.

√ = In favour

X = Not in favour

× = refuse to comment

Constable	sergeant	warrant officer	Inspector	Chief Inspector	Deputy Commissioner	Comissioner	Deputy Inspector General
√	√	√	√	X	X	×	X
√	√	√	√	√	√	×	√

Table 5.1: representing the views of the members

### 5.2.2 Findings of the study

On account of the research results the researcher can deduce that the problems and drawbacks experienced in the Namibian Police Service might have not necessarily been caused by the fact of non-unionism, but by various environmental factors. Some might have resulted from the lack of accountability by senior officers; the organisational culture; the lack of equivocal policies; the lack of information or the limitation on fundamental freedoms. All these causes are linked to one major factor, which is the lack of a proper mechanism for employee participation. It is understood that participation can be introduced without necessarily unionising the organisation, but this type of participations will always be questionable in terms of its legitimacy. Therefore, it is preferable to associate participation with the notion of freedom of association whereby employees form or join unions. Although the problems cannot be directly associated to the issue of non-existence of unions, it is believed that in the presence of unions, things would have been handled differently. It is assumed that the unions would help regulating the labour relations, and ensure that effective and transparent policies are developed and implemented accordingly.

The findings of the study are both positive and negative in nature, though those of a negative nature are dominant. The negative findings relate to those that are negatively affecting the economic and social lives of the employees, while the positive findings relate to those that are in line with universally accepted labour relations practices. These two categories will be the focus of this section as illustrated by the exposition hereafter.

(1) It was found that the current Police Act, 1990, empowers the Inspector General with absolute power to the extent that other officers have little or no power to make own decisions. The Police Act, 1990, is fraught with clauses characterising autocratic, and militaristic-style of policing.

(2) The current Labour Relations Regulation of the Police Act lacks the principles of good governance. It is a unilateral document with paternalistic features produced by the authority alone without an input from the affected members. In addition, this document undermines the competence of the national constitution by denying police officers their constitutional rights of freedom of association.

(3) There are various methods of employee participation of which some are effective and others not. A consultative committee is one of the highly commented effective member-friendly methods of participation. However, it has been established that only certain regions or units utilise the system effectively while in others the system has never been implemented at all.

The meetings at station levels between station commanders and members can be another effective way of participation. However, the possibility that the members fear raising sensitive issues at these meetings because of the probability of victimisation cannot be ruled out. Nevertheless, the system is assumed effective for discussing general policing duties.

The formal method “the redress of wrongs” is also another effective way of communication especially for uttering suggestions and views, but in raising grievances it has been found to be ineffective. Although the Act provides for the members’ rights to by-pass their immediate commanders when the grievances are directly involving the behaviours or activities of those commanders, the members find it difficult and insecure to submit their complaints through the said procedure.

(4) The manners in which people are recruited and appointed do not promote equity, nor do they promote the policy of affirmative action. Advertisement is conducted in respect of recruitment of a large number of constables, however, when it comes to the ranks of sergeants and above, the onus is on the Inspector General to appoint a person either from within or from outside the police organisation. The situation is that it is within the Inspector General’s jurisdiction to appoint whoever he deems suitable. Because the power of the Inspector General, as vested in him by the Police Act, is unlimited, there may be a feeling of mistrust that he may appoint people who he favours at the expense of those who are not in his favour.

(5) Despite the availability of the promotion policy, it was found that there is no policy on performance appraisal. This may cause uncertainties about the reliability and fairness of promotions. It has been learnt that there is still a large number of members with tertiary qualifications who meet all the requirements, but have never got promoted. The current policy on promotion is a well-structured and upgraded policy matching the generally accepted standards of promotion policies. Nonetheless, the policy is not implemented accordingly.

(6) As far as the salaries and fringe benefits are concerned, there are no serious problems. Although NAMPOL does not have direct representation at the salary negotiation table, their salaries are well-adjusted along with those of other government employees. This study has revealed that members of NAMPOL are better off in terms of salary than most of their fellow government employees. This claim is reliable in the sense that police are entitled to a salary increase of one notch on annual basis, which is not the case in most government departments.

In addition to the above, NAMPOL has formed a “benevolent” fund aimed at helping members who are in urgent need of finance. Most of the members have benefited from this fund by financing their study, funeral, or medical costs.

(7) There is no act or law regulating the length of working hours in the police and as a result members work long hours in excess of the internationally accepted normal working hours. In terms of the Police Act, the members are not entitled to claim for overtime payment.

(8) There is no health and safety programmes in the police. However, the police medical unit is embarking on fighting diseases, such as malaria by providing mosquito nets and medical services to the members deployed in malaria stricken areas.

(9) The current disciplinary procedures conform to the criminal procedure. With minor differences, the procedure in general is similar to that of unionised organisations. The only difference is that members of unionised organisations are entitled to union representation right at the initial stage of interrogation. Another matter of importance is that union members are entitled to ask for their appeal to be

handled by an outside arbitrator, whilst in NAMPOL, the Minister of Home Affairs plays the role of arbitrator.

(10) The study has shown that women are discriminated against. The whole management cadre comprises one female member only. It has also been found that none of the thirteen police regions is being headed by a woman. Affirmative action is not fully implemented yet.

(11) This study has also established that a large number of members, especially junior members (ref. table 5.1), and other public office bearers, are in favour of police unionism. One junior officer said: "It is time that police officers are treated equally like other civil servants, we want unions".

(12) The exclusion of NAMPOL by the Labour Act aggravated the labour relations in NAMPOL.

### **5.3 Summary**

In summary, the management of labour relations in NAMPOL is arguably not the best. The result of the analysis has been dominated by negative practices exercised in NAMPOL. The organisational labour relations are actually all about the management of human resources. However, if the whole management is dominated by a single person or a small group of managers imposing rules and directives on the individual or group of employees, without their participation in decision-making, such organisation may not claim the status of being democratic.

Seemingly, the entire labour relations management lacks transparency and efficiency. Only through strategic interventions can the drawbacks which were discovered be remedied. Because of the complexity of the work of the police a mere organisational or management development strategy may not be the solution. However, whatever strategy to be recommended must take into account that police is an essential service, which if disrupted may result into a state of anarchy. The next chapter will recommend some strategies necessary to address the labour relations challenges facing the Namibian Police Service.

## **Chapter 6**

### **Recommendations and conclusion**

#### **6.1 Introduction**

The purpose of the research was to analyse the management of labour relations in the Namibian Police Service with the specific aim to prove whether labour-related issues would be handled differently if the police were unionised. The initial idea was to look at specific issues that are assumed to fall directly within the range of responsibilities of trade unions. In the course of the study it was however discovered that trade unions have a role to play almost in all aspects of the labour life and the study was therefore broadened to cover all important areas of labour relations. The study was directed by the real definition of labour relations whereby it became clear that labour relations has got more to do with human resources management; thus the research efforts focused mainly on human resources issues.

On the basis of the findings much need to be done to improve the working conditions in the Namibian Police Service. Due to the fact that the study was very broad, the findings thereof do not, and should not prove whether those organisational problems are directly attributed to the non-existence of unions, but rather indicate that something need to be done to solve those problems. As outlined in section 5.4 those problems might have been caused by various environmental factors. Based on the findings of this study, this chapter recommends some strategies to be followed in order to improve the labour relations in the Namibian Police Service. A conclusion, linking the theoretical views to the practical views is presented, followed finally by the summary of the chapter.

#### **6.2 Recommendation**

It has been previously emphasised that the labour relation practices in NAMPOL are not of the best. Most of its labour practices were found to be unfair and deserved to be declared constitutionally untenable in the sense that the right to fair labour practices and collective bargaining are unjustifiably infringed or negated.

### **6.2.1 Recommended plans for action**

Considering the historical background of the police being isolated from the rest of the community, and regarded as being not part and parcel of the civil service, it is time for the Namibian police officers to be treated fairly as is the case with other civil servants. Also considering the historical background of Namibia where police forces had been utilised by the colonial regimes as apparatus to fight against workers who cause disturbance in pursuit of their interests, the time has come that the Namibian police officers be afforded opportunity to show their solidarity towards their fellow government employees who find themselves in a situation of unfair labour practices. The fact that the Namibian Labour Act, No. 6 of 1992 is not applicable to police members implies that police labour relations are not regulated by the labour law. Labour relations in NAMPOL should not be seen in isolation; the police is employed by the state, render a fundamental service to the public at large and is therefore part of the public service. Given all these facts, including the fact that the freedom of association provided by the Namibian constitution is totally denied the members of the Namibian Police Service, and that the entire organisation is fraught with labour-related problems, it is recommended that:

- (a) the Namibian Labour Act, No. 6 of 1992 should be reviewed to accommodate police officers at full scale;
  
- (b) the Namibian police regulation that denies police officers freedom of association should be declared unconstitutional as it infringes on members' constitutional rights;
  
- (c) members of the Namibian Police Service should be given freedom of association whereby they can form and join their own union which will represent members at salary negotiation tables, while shop stewards will assist members with labour-related issues at station level;
  
- (d) members of the Namibian Police Service should be subjected to fair labour practices which means that the management must improve their policies of promotion, recruitment and appointment;
  
- (e) the issue of absolute power vested in a single person (Inspector General) should be dealt with accordingly which requires that the Police Act, No. 19 of 1990 be reviewed

in order to do away with those militaristic and autocratic features and other clauses that characterise the police as a “one-man’s organisation”;

(f) the management should develop a clear and straight forward policy on the working hours which will eliminate the situation where members work long hours without overtime pay;

(g) the management should introduce a health and safety program that will help to manage stress and a burnout situation among the members.

### **6.2.2 Proposed model for NAMPOL trade union**

To promote solidarity, and avoid fights, one should suggest the introduction of a single union (white-collar) representing all members of NAMPOL with the exclusion of officers ranked from deputy commissioner and above. In terms of the Police Act, these officers are deemed part of management. A similar practice exists in SAPS, where two SAPS unions exist for members below the rank of colonel, while the higher ranking officers are part of management.

This kind of a white-collar union applies mostly in the public sector. As mentioned in chapter two, most of the white-collar unions cover the relevant occupation within a single sector or industry. Because of the nature of the work of the police as an “essential service” it is imperative to introduce an organisational structure that will not harm the normal functioning of the police. It is therefore useful to adapt the model of the United Kingdom Police Unions where the unions are not allowed to affiliate to federations. It is generally understood that an alliance between the police union and the national federation may cause the police under the umbrella of the federation, not to respond actively against unlawful strikes.

It is suggested that a single independent union affiliated to no other unions or federations, with no right to strike, will serve the purpose. Should it affiliate to a union or federation there will be a danger of police getting involved in politics. Their allegiance and solidarity towards other unions will also impact negatively on police operations. A danger of having more than one union in one industry, as is the case with SAPS, which are organised on the basis of political allegiance, should be

avoided as it causes fights among the unions themselves. With unions, members will be represented at station levels and the current mechanism of the “consultative committee” will be replaced by workplace forums with the shop stewards receiving members’ grievances.

### **6.3 Conclusion**

Unions came into being following the escalation of poor working conditions and of course, the unfair labour practices in work environments. These were attributed to the growth in capitalism and industrialism as well. Right from their starts trade unions have been charged with the responsibility of fighting for the rights of the workers and democratising workplace environments. Employers, who recognise the importance of involving their workers in decision-making activities, value the function of unions in this regard.

Despite the importance of employee participation, it is found worldwide that police are the last people to have been granted the rights of freedom of association, usually with a limitation of their activities. Though many organisations, including police organisations have unionised, NAMPOL, in terms of the Namibian law, is still not allowed to form or join unions yet. Labour relations are unilaterally controlled by NAMPOL, as an employer. Grievances, whether “collective” or “personal” in nature are dealt with on an individual basis by higher ranking police officers, with the Minister of Home Affairs acting as an arbitrator. This situation is different from that of unionised organisations where the aggrieved employee has a right to choose a person from outside to act as an arbitrator. This is generally acceptable as a fair practice in the sense that to have a person, such as the Minister of Home Affairs who is also part of NAMPOL management at political level, acting as an arbitrator, constitutes a possibility that a member may not receive a fair arbitration.

In NAMPOL human resources matters are dealt with in an autocratic and militaristic manner. There is no doubt, as mentioned in section 2.7 of this document, that unions would assist to shape up human resources policies and programmes so that human resources will be managed in a fairly and democratic manner. The roles of unions in human resources management are shown in chapter 2.

It is also concluded that the major problem has been caused by the Police Act that empowers the Inspector General with absolute power. If NAMPOL was unionised, matters would have been handled differently. The literature has shown that unions play important roles in creating opportunities for sharing power, and decreasing managerial prerogatives. Presently, all labour-related issues being either of operational or administrative nature are regarded as the prerogative of the Inspector General. Under the same Police Act a discriminatory labour regulation was made, which keeps police officers isolated from the rest of the public servants by denying them their constitutional freedom of association. It resulted in members not having a voice in their work environments. In the absence of unions in the Namibian Police Service, the upholding of democracy at workplace is undoubtedly unachievable.

The exclusion of police officers by the Labour Act is another contributing factor to the unfair labour practices in NAMPOL. This reflects back to the colonial era where police officers were completely regarded as not being part and parcel of the community. It has however been concluded that police officers are ordinary government employees, who deserve fair and equal treatment like their fellow government employees.

Among other things, the inexistence of freedom of association in NAMPOL makes it impossible for members to participate in decision-making activities. The present participation mechanisms (consultative committees, station meetings and redress of wrongs) are reportedly ineffective in the sense that they are not legally backed up. From the literature studied, it is clear that in unionised organisations participation and communication mechanisms are spelt out in the contract which serves as a basis for grievance should one of the parties involved violate the principles of labour relations. With unionisation, members at local level are involved through the workplace forums, and their grievances are forwarded through the shop stewards. This mechanism decreases fear of victimisation among the members.

The research concludes that there is a lack of transparency in recruitment, appointments and promotions in NAMPOL. Though the study did not reveal what the exact causes of a lack of transparency are, it is assumed that the problem is associated with a lack of employee participation and this can only be dealt with successfully through the trade unions. The roles of unions include the creation of an atmosphere

conducive for the managers to be committed to their jobs, and also insuring fairness over pay, recruitment, promotion and other matters concerning employee development. Indeed, the literature reveals that labour unions are needed for regulating personnel management issues.

The lack of policy on working hours in NAMPOL causes members to work long hours without overtime payment. This, according to the literature, has a far reaching effect on both members and their families. Long working hours causes stress and burnout that can culminate in a higher rate of absenteeism and eventually dismissals. As indicated in chapter three, the emergence of police unions cannot only be attributed to poor wages, but also to long working hours. This means that unions have a role to play in regulating the working hours.

It is even worse that NAMPOL has no health and safety programmes through which members could learn how to manage stress. Health and safety is a prerequisite to good labour relations and it is one of the main tasks of unions.

This study concludes that gender imbalance is one of the alarming issues in NAMPOL. It has been discovered that NAMPOL does not fully implement the policy of affirmative action. Generally, affirmative action is a contradiction to gender discrimination, which in terms of the labour laws is outlawed. Gender discrimination, which according to literature falls within the jurisdiction of trade unions, is a matter of national concern.

It is concluded that the unfair labour practices which exist in NAMPOL are the prime motivators for members to express their feelings in favour of unionisation. The testimony of this was evident during the interview when eleven (79%) out of fourteen (100%) police officers indicated that they were in favour, while three (21%) indicated that they were against the idea of unionising the Namibian Police Service. The number of members favouring NAMPOL to unionise comprises both senior and junior officers and also includes some members of management cadre as well as other public office bearers. Generally, members at command level are known to have negative attitudes towards trade unions, which prove not the case in this study.

Given all these, this study concluded that introducing a trade union in the Namibian Police Service could assist in addressing their organisational challenges. Subsequent to this, a trade union model is proposed for NAMPOL.

*NB. Please note that the research has been conducted with a due consideration of research ethics. The findings presented are the result of an attempt at honest and objective evaluation of the facts. The reader however is reminded that the researcher is a member of NAMPOL, the subject of this study; therefore the possibility that the researcher's mental model might have influenced the findings of this study should not be ruled out. However, all attempts have been made to avoid bias.*

#### **6.4 Summary**

In summary, apart from the recommendation of introducing a trade union in NAMPOL which is the major concern of this study, this chapter recommends also some actions to be taken in order to harmonise labour relations in NAMPOL.

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APPENDIX A



*Republic of Namibia*  
*Ministry of Home Affairs*



Department of Police

Your ref :  
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Maj. Gen. F. S. Ngiishililwa  
061 - 2093393  
061 - 228533

OFFICE OF THE INSPECTOR-GENERAL  
Namibian Police  
Private Bag 12024  
Ausspannplatz  
Windhoek

27 August 2002

**TO: ALL COMMISSIONED OFFICERS  
NON-COMMISSIONED OFFICERS  
NAMIBIAN POLICE**

**APPLICATION: ACADEMIC RESEARCH**

It is hereby certified that a permission has been granted to Inspector W. N. Kafidi to conduct a research within the Namibian Police Service. He is conducting a research on the roles of Trade Unions in Police Organizations. You are therefore requested to assist him with information he may need.

The information is needed in order for him to complete his Masters Degree Thesis.

Your co-operation will be highly appreciated.

Yours sincerely,

.....MAJ. GEN.  
**F. S. NGIISHILILWA**  
**DEPUTY INSPECTOR GENERAL FOR OPERATIONS**

## APPENDIX B

### Name-list of interviewees (police officers)

Martin Pool

Fritz Nghiishililwa

Hilma Tweya

Oscar Embubulu

Abed Kashihakumwa

Andrias Nelumbu

Mr. Eiseb

Tsamaseb

Wycliff Shililifa

Mr. Shikomba

Mr. Shipanga

Mr. Freyer

Denis Shikwambi

Tobias Hamutenya

## **Appendix C**

### DISPUTE SETTLEMENT PROCEDURES

(Modified from website <http://www.wapolun.org.au/eba2001b.doc>)

#### **Preamble**

- (1) The parties to this agreement recognise they have differing roles and responsibilities. Accordingly, the Union recognises the Employer has a statutory and public responsibility to the public of Western Australia and the Employer recognises the Union has the right to take appropriate action to protect and improve the working conditions and remuneration of its members.

In recognising their differing roles and responsibilities the parties accept the need for a dispute settlement procedure and commitment to same. Subsequently, the parties to this agreement are committed to avoiding industrial disputes and resolving differences by:

- a) providing a mutually satisfactory procedure for dealing with disputes;
  - b) clearly identifying the issue;
  - c) engaging expeditiously in consultations and/or negotiations;
  - d) acting in accordance with the rules of natural justice;
  - e) endeavouring to resolve issues at the local level or wherever is most practicable for an amicable resolution; and
  - f) treating all issues with utmost confidentiality.
- (2) Any questions, disputes or difficulties arising under this industrial agreement will be dealt with in accordance with the following procedures:

#### **a) Stage 1**

- (i) Any employee or group of employees with a question, dispute or disagreement should discuss the matter with his or her immediate supervisor or Union representative in the first instance.
- (ii) The supervisor or Union representative is to investigate the matter. If the matter cannot be resolved or an authoritative answer given on the day the issue is raised, then a response should be provided within three (3) days.
- (iii) Should a response require time to establish an answer, the supervisor shall keep the employee(s) informed of his or her progress in resolving the matter.

#### **b) Stage 2**

- (i) If the employee(s) continue to be aggrieved or the issue is still in dispute, the matter is to be discussed between the employee's representative and the Employer's nominated representative and an attempt made to resolve the matter. Notification of any question or disagreement may be made verbally and/or in writing.
- (ii) At any stage, the parties may individually or collectively seek advice from any appropriate organisation or person in an attempt to resolve the matter.
- (iii) If the matter is not resolved within five (5) working days of the date of notification in (i) hereof, either party may notify the General Secretary of the Union (or his or her

nominee), or the Employer (or his or her nominee of the existence of a dispute or disagreement).

(iv) The General Secretary of the Union (or his or her nominee) and the Employer (or his or her nominee) shall confer on the matters notified by the parties within five (5) working days and:

- (aa) where there is agreement on the matters in dispute the parties shall be advised within two (2) working days:
- (bb) where there is disagreement on any matter it may be submitted to the Western Australian Industrial Relations Commission.

**c) Stage 3**

Where any matter is referred to the Western Australian Industrial Relations Commission is not resolved by conciliation, it may be resolved by arbitration in accordance with the provisions of the Industrial Relations Act 1979 and the State Wage Principles.

Provided that with effect from 22 November, 1997 it is required that persons involved in the question, dispute or difficulty shall confer among themselves and make reasonable attempts to resolve questions, disputes or difficulties before taking those matters to the Commission.

**SIGNATURES OF PARTIES TO THE AGREEMENT**

Commissioner of Police

Signed.....

Date.....

On behalf of the WA Police Union of Workers

Signed.....

Date.....

APPENDIX D



SCHEDULE A

(Regulation 5 (2) (a) (vii) and (5) )

ACCESSION TO OFFICE ON APPOINTMENT AND ENROLMENT

I ..... solemnly state

- (a) that I shall defend and uphold the Constitution of Namibia;
- (b) that I shall perform my duties as a member of the Namibian Police to the best of my ability, and in particular, faithfully and impartially -
  - (I) preserve the internal security of Namibia;
  - (ii) maintain law and order;
  - (iii) investigate any offence or alleged offence; and
  - (iv) prevent crimes;
- (c) that I shall abide by the provisions of the Police Act, 1990 (Act 19 of 1990) , and any regulations or rules made thereunder and obey any orders or instructions issued in pursuance of the said Act, regulations or rules.

I know and understand the contents off this declaration. I object/ do not have any objection\* to taking the prescribed oath. I consider/do not consider\* the prescribed oath to be binding on my conscience.

\* I swear that the contents of this declaration are true.

SO HELP ME GOD

\* I truly affirm that the contents of this declaration are true.

SIGNATURE OF WITNESS

SIGNATURE OF DEPONENT

I certify that the deponent has acknowledged that he/she knows and understands the contents of this declaration, which was sworn to/ affirmed\* before me on

this ..... day of ..... 19 ..... and signed in my presence.

DATE: .....

PLACE: .....

SIGNATURE OF COMMISSIONER OF OATHS

PLEASE PRINT

FULL NAMES .....

BUSINESS ADDRESS .....

DESIGNATION (RANK) ..... EX OFFICIO

\* Delete the words not applicable

## APPENDIX E

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## CHAPTER II

## DISCIPLINE

## Offences against duty or discipline

15. A member shall be guilty of misconduct if he or she-
- (a) contravenes any rule made by the Inspector-General in terms of section 3(2) of the Act;
  - (b) sleeps on duty;
  - (c) is grossly discourteous to any person whilst on duty;
  - (d) is negligent or indolent in the discharge of his or her duties;
  - (e) without leave or a valid reason is absent from duty or leaves his or her place of duty or post while on duty;
  - (f) fails without valid cause, to report for duty at a stipulated time at his or her station, place of employment or any other place appointed by his or her commander;
  - (g) contrary to any orders or instructions of a superior, goes off duty before being relieved or without having first obtained permission from his or her superior to do so;
  - (h)
    - (i) without proper authority, releases a prisoner or other person in custody, or wilfully or negligently allows him or her to escape;
    - (ii) uses unnecessary force or violence against the prisoner or other person in custody, or otherwise ill-treats him or her;
  - (i)
    - (i) assaults his or her superior, threatens him or her with violence, uses threatening or insulting language towards him or her, resists him or her by word or action or adopts towards him or her a disdainful, recalcitrant or insolent attitude;
    - (ii) falsely imputes improper demeanour or misconduct to a superior;
    - (iii) disobeys, disregards or refuses to carry out a lawful order given to him or her by a person having the authority to give it, or by word or conduct shows insubordination;

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- (j) treats an inferior in a tyrannical or oppressive manner;
- (k) borrows money from or through a member holding a lower rank;
- (l) fights or otherwise behave in a riotous or an unseeingly manner;
- (m) intentionally causes an unnecessary disturbance, give a false alarm or disseminates false information;
- (n) conducts himself or herself in a disgraceful, improper or unbecoming manner which may cause embarrassment to the Force;
- (o) take an active part in any activity which is likely to interfere with the impartial discharge of his or her duties or which is likely to give rise to that impression amongst members of the public;
- (p)
  - (i) malingers, feigns or pretends to be ill, infirm, indisposed, injured or suffering from pain;
  - (ii) obtains or attempts to obtain exemption from duty by advancing a false or exaggerate excuse on the ground of illness, infirmity, indisposition, injury or pain;
  - (iii) wilfully causes illness, infirmity, indisposition or pain or wilfully maims or injures himself or herself on any other member, whether at the request of such member or not, or wilfully causes himself or herself to be maimed or injured by any other person with the intention of rendering himself or herself or such other member unfit for duty or the performance of his or her functions;
  - (iv) as a patient in any hospital or nursing institution, wilfully fails to obey any regulation or rule thereof or any lawful direction given by a member of the medical or nursing staff attached to such hospital or institution;
- (q)
  - (i) deserts the Force, refuses to serve in or carry out the functions of the Force or incites or persuades any other member to desert, refuse to serve in or to carry out the functions of the Force;
  - (ii) knowingly and wilfully receives, cares for, harbours or conceals a member who deserted or, without valid cause, absented himself or herself from duty or, knowing the whereabouts of such member, fails to notify his or her superior immediately or to do everything in his or her power to have him or her arrested;

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- (r) (i) conspires with any other person to commit mutiny or to cause a mutiny, strike, riot or revolt;
- (ii) joins in any mutiny, strike, riot or revolt or incites any person to do so;
- (iii) while a mutiny, strike, riot or revolt takes place in his or her presence, fails to do everything in his or her power to suppress it;
- (iv) while knowing or suspecting any other person to be involved in any conspiracy to cause a mutiny, strike, riot or revolt or to have joined in it, fails to report all the facts which he or she knows immediately to his or her commander or superior;
- (s) addresses any anonymous communication to a Minister, the Inspector-General, any other dignitary or a superior in the Force;
- (t) makes a false accusation against any member or, during an investigation, disciplinary proceedings or inquiry makes a false statement or wilfully suppresses or conceals material facts;
- (u) withholds or unreasonably delays any complaint against or an adverse communication concerning another member;
- (v) wilfully refuses or neglects to discharge any lawful debt;
- (w) without the permission of the Inspector-General-
  - (i) discloses, otherwise than in the discharge of his or her official duties, information gained by or conveyed to him or her as a result of his or her employment in the Force, or uses such information for any purpose other than for the discharge of his or her official duties, whether or not he or she discloses such information;
  - (ii) accepts or demands in respect of the carrying out of or the failure to carry out his or her duties any commission, fee or reward, pecuniary or otherwise, to which he or she is not entitled by virtue of his or her office, or fails to report immediately to his or her commander the offer of any such commission, fee or reward;
- (x) (i) is under the influence of intoxicating liquor or any stupefying drugs without the prescription of a medical practitioner, whether or not he or she is on or off duty;

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- (ii) without the prescription of a medical practitioner, uses intoxicating liquor or a stupefying drugs while on duty;
  - (iii) uses intoxicating liquor excessively or uses stupefying drugs without a prescription from a medical practitioner;
  - (iv) enters, while on duty, any room or place being used for the manufacture, storage, sale or supply of intoxicating liquor, except in the performance of his or her functions or to obtain accommodation;
  - (v) places himself or herself under an obligation to any dealer in intoxicating liquor or any barman or other person in the employ of any such dealer or barman where such obligation is likely to hamper him or her in the proper discharge of his or her duties;
  - (vi) holds shares in unlisted company, the main object of which is the manufacture or supply of a trading in intoxicating liquor;
- (y) demands, solicits, receives or accepts any discount, commission, gift, fee, reward or other consideration or advantage, whether pecuniary or otherwise (except his or her official remuneration), in respect of the acquisition, purchase, sale or disposal of any supplies, arms, ammunition, accessories, transport, animals and other equipment or any other requisites of whatever nature, required for use in, or being the property of the Force, a canteen, mess or any other institution of the Force;
- (z) misappropriates or willfully or negligently causes damage or loss-
- (i) to property of the Government or under the control of the Government or for which the Government is responsible, including property issued to him or her to another member at public expense for use in the execution of his or her or that member's duties;
  - (ii) to property belonging to another member, a club, mess or any other institution of the Force, or to any prisoner or other person in custody;
  - (iii) to property being and exhibit in a criminal case, or property abandoned, lost or unclaimed and found or taken into safekeeping by the member or any other member, or which is in his or her or any other member's possession.

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- (aa) (i) whether on or off duty, knowingly and deliberately wears, exhibits or uses any badge, emblem, standard, colours, salute, greeting, distinctive gesture or device of any kind which associates him or her with any political party or any movement, organisation, body or association having political objects;
- (ii) takes an active part in party-political matters or associates himself or herself with the political activities, objects or matters of a party, movement, organisation, body or association referred to in subparagraph (i) or, subject to the provisions of regulation A13.2(b) of the Public Service Regulations, in any way actively promotes the candidature of a candidate for the National Assembly, the National Council, a regional council established under section 2 of the Regional Councils Act, 1992 (Act 22 of 1992), or a local authority council established in respect of an area declared or deemed to be declared as the area of a local authority under section 3 of the Local Authorities Act, 1992 (Act 23 of 1992), or a school board, beyond recording his or her vote or carrying out his or her functions and official duties in connection with an election;
- (iii) uses his or her position in the Force or utilises any property of the State to promote or prejudice the interest of any political party; and
- (ab) (i) without the written permission of the Inspector-General, establishes a trade union or becomes a member of a trade union;
- (ii) without the written permission of the Inspector-General, takes part in or associates with the activities, objects or matters of a trade union;
- (iii) before the permission contemplated in subparagraph (i) or (ii) has been obtained, whether on or off duty, knowingly and deliberately wears, exhibits or uses any badge, emblem, standard, colours, salute, greeting, distinctive gesture or device of any kind which associates him or her with such trade union;
- (ac) attempts to secure intervention from political or outside sources in relation to his or her own or another member's position or conditions of employment or functions in the Force;

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- (ad) with intent to deceive or prejudice any person, suppresses, conceals, withholds, defaces, alters, destroys or does away, whether wholly or partly, with any report, return, register, book, record, form, claim letter or any other document in relation to his or her functions or duties in the Force, obliterates anything therein or makes, causes or allows to be made or connives at the making of any false, misleading, incomplete or inaccurate statement, record or entry therein;
- (ae) with a view to obtain any privilege or advantage in relation to his or her official position, functions or duties, or to causing prejudice or injury to the Government, the Public Service, the Force, another ministry or public office or any other member of the Force or the Public Service, makes a false or incorrect statement, knowing it to be false or incorrect;
- (af) after having been duly ordered to be present at a specified time and place as the accused, defendant or witness at disciplinary proceedings or a board of inquiry or any other inquiry under the Act or these regulations, fails without just cause to appear at the time and place specified or, subject to the provisions of section 20(2) of the Act and these regulations, if he or she is present, refuses to take an oath or to make an affirmation administered to him or her or refuses or fails to answer all question which have lawfully been put to him or her or refuses or fails to produce a document or thing which he or she has lawfully been required to produce;
- (ag) performs, or causes or permits to be performed or connives at, any act prejudicial to the administration, discipline or efficiency of the Force; or
- (ah) while on duty, on the grounds of another person's colour, race, nationality or ethnic or national origin, wilfully discriminates against such person or treats such person improperly.
- (ai) uses his or her position in the Force or utilises any property of the State to promote or prejudice the interest of any business or private agency, except in the performance of his or her official duties; or
- (aj) is convicted of an offence.