



**A THEORETICAL FRAMEWORK FOR THE LABOUR RELATIONS BETWEEN
THE FARMER AND FARM WORKERS DURING INDUSTRIAL STRIKE ACTIONS**

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DECLARATION

I Emelda Melissa Petersen herewith declare that all contents of this research study is my own work. I further declare that this dissertation was not previously submitted for any sort of academic examination towards any type of qualification. It represents my own opinions and not those of the Cape Peninsula University of Technology.

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Signed

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Date

ABSTRACT

The purpose of this study was to analyse the labour relations of the workers in the agricultural sector, with reference to the De Doors area in the Western Cape.

Despite the political, social and economic changes to better the lives of the farm workers that have been implemented to rectify the inequalities of the past, the labour conditions on farms stayed unchanged. It is evident that there is a gap in the labour relations in the agricultural sector, due to the 2012/13 strike actions that took place.

Qualitative research methodology was employed in the study; it provided the researcher with the opportunity to personally interact with the farm workers. It further allowed the researcher to gain a holistic understanding of the daily lives of the farm workers which would foster a better understanding of their daily struggles. Interviews were used as method of data collection. This methodology also enables the researcher to interpret and describe the actions of participants.

Good labour relations play a vital role in any industry or organisation. Farm workers are generally classified as vulnerable and the most exploited group of the South African society. They often work irregular hours throughout the year in various weather settings. Regardless of the physical strain that their jobs entail, farm workers earn a low wage and are often deprived of the basic benefits that an employee should be entitled to. This was the reason the farm workers embarked on a strike in 2012/13.

The researcher proposed recommendations to the Agricultural department on how to improve the labour relations on the farms in the De Doorns area by suggesting that more labour inspectors are being employed to oversee that legislation are implemented. Skills Development needs to be become compulsory for all farm workers as farming is becoming more technological. Skills Development unlocks talents and creative energy for the farm workers which have a positive impact on production.

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LIST OF ACRONYMS

BAWUSA – BAWSI Agricultural Workers Union of South Africa

BCEA – Basic Conditions of Employment Act

CCMA – Commission for Conciliation, Mediation and Arbitration

LRA – Labour Relations Act

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CHAPTER ONE

INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

This research study sought to examine the Labour Relations Act in terms of workers' rights during strikes in the agriculture sector, in the De Doorns area, in the Western Cape, South Africa. The study's intention is to raise awareness of the working conditions of workers in the agriculture sector and formulate criteria for improving their plight. This study assumes that better working conditions improve agriculture, farming and minimise industrial strike actions. The focus of the study is upon the 2012/13 labour relations strike in De Doorns that broke out because of unbearable conditions of employment.

The various social and economic challenges that farm labourers are faced with is the result of discrimination stemming from the colonialism, apartheid, capitalist development and post-apartheid neglect (Atkinson, 2007: 4). Farm workers' the status of individual South African farm labourer and his circumstances may have changed if not always improved during the last hundred years; due to certain upheavals in political and economic interests and fortunes. The post-apartheid government strove to develop both the work conditions and work environments of farm labourers. The historical pressures on farm workers and their families was however not fully comprehended (Atkins 2007: 4).

Genis (2012) maintains that with the new dispensation coming into power in the early 1990's the advantaged position of the white money-making farmers ended in South Africa. The newly appointed democratic government was headed by a new political party that introduced policy changes that focussed on regulating labour relations on farms. The Labour Relations Act 66 of 1995 is an example of one of these Acts that transformed the agriculture sector.

The agricultural sector in South Africa can now be classified as a refined and efficient sector. Among the evidence cited in support of this view is the fact that South Africa is self-sufficient with respect to most of its major agricultural commodity requirements (Southern African Department of the World Bank, 1994: 9). South Africa is self-

sufficient in virtually all major agricultural products and is a food exporter. The South African agriculture sector operates under difficult circumstances since the government drastically reduced the subsidies of the agriculture sector. Atkinson (2007: 65) confirms that the South African agriculture subsidies are now amongst the lowest globally. It is estimated to be in the region of 2.7 per cent of the total output.

Van Reenen (1995: 192) is of the opinion that management of labour relations in all sectors in South Africa became more prominent and complicated over the past decade. The labour relations system is at present so fluid that fixed patterns and trends cannot be predicted. This is all the more reason for farming enterprises to maintain healthy labour relations (Van Reenen 1995: 192). The Western Cape agriculture sector was shocked by violent rural unrest during the 2012/13 strike actions. The strikes and protests caused physical damage to property and production systems; damaging relations within the sector (Annual Report of the Agriculture Department, 2012-2013: 12).

1.2 RESEARCH PROBLEM

The problem which lies at the core of this investigation is the genesis, nature and development of industrial strike action on farms in the De Doorns area, Western Cape in 2012/13. Jacobs (2013) contends that the severity and long-term impact of these strikes by the Western Cape farm workers should alert government and business concerning the social, economic and political dangers of poor labour conditions in the agricultural sector.

South Africa is faced with a methodical unemployment problem. Legislation appears to be ineffective. The topic of productivity is often avoided by both government and unions as it is regarded as labour replacing. The recent increase in the minimum wage does not do justice to the objective of employment creation in agriculture as set out in the National Development Plan (Reddy, 2013). Additional concerns include but are not limited to housing and service delivery (residing either on or off the farm), adequate training opportunities, rights of farm employers and employees (Agriculture South Africa memorandum 2013).

For over a decade the agriculture sector has faced considerable changes, including the transformation to democracy. Despite the various political, social and economic variations enforced by the provision of the Constitution of the Republic of South Africa

Act 108 of 1996 in an earnest if ineffective attempt to rectify past inequalities working conditions on farms have stayed largely unchanged. Atkinson (2007: 79) maintains that the globally oriented South African economy benefits from agriculture exports yet commercial agriculture is hamstrung by numerous onerous regulations. Government's stated concern for the welfare of farm workers is belied by a decline in services to that sector of society: something which, from the point of view of farm workers, appears to resemble government's neglect and indifference. Although South African agriculture benefits from global exports, there is still much that needs to change in order for the economy to thrive. Industrial strike actions damage the economy and labour relations between employer farmers and employee farm labourers. Farmer owners and farm workers need to build sound relations of trust that benefit both parties, minimise or eradicate industrial strike actions and have positive effects on the economy.

1.3 RESEARCH OBJECTIVES

Objectives of this research study are to:

- Investigate relations between farm employers and their employees relating to labour relations; with the aim of improving their position in agriculture industry;
- determine the challenges that affect working conditions of farm labourers in the Western Cape;
- determine how capacity building interventions can improve the working conditions of farm workers; and
- recommend to the Agricultural Department in the Western Cape Province interventionist strategies for improving labour relations between farm owners and farm workers

1.4 RESEARCH QUESTION

The main research question for this study is as follow: -

To what extent were relations between farm employers and their employees damaged during the industrial strike actions which took place in 2012/13?

The secondary research questions are:

1. What are the existing obstacles between farm owners and farm workers?
2. In what way can relations be adapted to benefit both parties?
3. What benefits can the farm owner and farm worker derive from improved working conditions on farms in the Western Cape?

1.5 SIGNIFICANCE OF THE STUDY

Agriculture plays a major role in industrial development, and is the back bone in any society. The prosperity in agriculture raise the income of the majority of the rural communities, and for this reason the researcher focused on the industrial relations in the agriculture sector in the De Doorns area where the 2012/2013 strike broke out.

1.6 RESEARCH METHODOLOGY

Welman et al (2005: 2) maintain that research methodology is the system that both explores and explains the reason for research methods and techniques: how researchers conduct the study. In the following section the type of research methodology the researcher will use for the study is briefly discussed.

1.6.1 QUALITATIVE RESEARCH METHODOLOGY

This research will employ a qualitative research methodology which would allow the researcher to personally interact with research participants that would allow for a more holistic understanding of their daily trails and struggles. Due to its level of interaction qualitative research generally uses the research participants' own written or spoken words pertaining to their experiences and perceptions. In qualitative research numbers are not assigned to observations (Brynard & Hanekom, 2006: 37).

Qualitative research focusses on obtaining a holistic understanding of a specific organisation or research participants instead of using a surface description of a large sample of a population. Qualitative research aims to provide patterns found among a group of participants and generalise it across the population (Saint-Germain, 1997: 15).

1.6.2 DATA COLLECTIONS

Data will be collected from both farm owners or managers and farm workers in the form of unstructured interviews on the farms in the De Doorns area. Data collection can be described as the process in which data is obtained from the research participants, unit of analysis and field of study (Babbie & Mouton, 2004: 251). Unstructured interviews provide participants more flexibility. Should more information be required, this data collection tool allows for the follow-up of more significant avenues. Burns and Grove (2005: 42) is of the opinion that data collection is the methodical gathering of data which is deemed as relevant to the research.

Data should be recorded immediately: i.e. during the collection process or immediately after collection, to ensure that nothing is lost or to ensure that, at a later stage, the researcher does not have any doubt about the accuracy of the data (Burns & Grove 2005: 42). Several authors (Creswell, 2009; Locke, Silverman & Spirduso, 2010 Marshall & Rossman, 1999) concur that in qualitative research the most frequently used sources of data collection are: interviews, observations and document reviews. Interviews will be employed to collect data for this research study. Welman, Kruger & Mitchell (2005: 166) believe that unstructured interviews are informal and can be used to extensively explore general areas of interest.

According to Welman et al (2005: 188), interviews enable the researcher to understand how individuals experience their life-world and how they interpret what is happening around them. The interviewer's questions should be directed at participants' experiences thus fostering a response that taps into their feelings about the theme in question. In this case it will be directed at labour relations on farms in the De Doorns area. In an unstructured interview, the interviewer focuses on the particular first-hand experience of their life-world rather than on their interpretation or speculative explanations of it.

At the beginning of each interview the researcher will explain the purpose of the study to the prospective participants in order to seek their co-operation. A position of trust will be built with prospective participants through frankness and honesty from the interviewer/researcher.

1.6.3 POPULATION AND SAMPLING

Purposive sampling will be used in the study. The researcher purposely identified ten (10) farms on which to undertake the study. Ten (10) farm owners or managers and forty (40) farm workers will be interviewed. The researcher will rely on the experience of the farm workers, the farm owners or managers and previous research findings to obtain information that can be generalised to the entire relevant population.

1.6.4 DATA ANALYSIS

Welman et al., (2005: 241) stat that qualitative data analysis involves analysing interviews and content analysis which is defined as: 'A special application of systematic observation occurs in the content analysis of personal documents and mass media material' (Welman et.al. 2001: 195). Open-ended questions and the contents of unstructured interviews may be used for qualitative analysis (Welman 2001: 195).

1.6.5 VALIDITY AND RELIABILITY

Bless & Higson-Smith (1995: 129) concur that validity deals with how accurately the observable measure represents the concept in question. Validity asks questions such as: 'what does the instrument measure?' and 'what do the results mean?' Validity in the study will be ensured by using the data that is collected during interviews. When conducting interviews all responses should captured and be considered as data, the transcripts of each interview will allow the researcher to reinterpret and check the research. In order for the research to be valid, the same data, if used by another researcher, should yield the same results.

Reliability is defined as the extent to which the apparent (or empirical) measures that symbolize a theoretical concept are true and befitting when used in studies (Bless & Higson-Smith 1995: 129). Bless & Higson-Smith (1995: 130) state that reliability is concerned with the consistency of measures. In most cases the reliability of measurement is the degree to which that instrument produces equivalent results for repeated trials.

Reliability in this study will be ensured by checking if, how and to what extent consistent methods and processes are employed. Reliability refers to how consistently data are measured.

1.6.6 ETHICS

Permission for ethical clearance will be sought from the Faculty of Business and Management Sciences ethics committee at the Cape Peninsula University of Technology before the researcher conducts the research. Whenever a researcher collects data, the problem of persuading participants to co-operate with the researcher is ever present. Informed consent, discretion and briefing will be employed throughout the study. There are certain rights of the participants that should be respected at all times.

As stated by Leedy (1997: 116) the Code of ethics that must be adhered to is as follows:

- All research participants are entitled to privacy and protection against personal harm;
- Findings should be presented accurately;
- The researcher should remain neutral and professional; and
- All relevant sources should be accurately referenced.

The researcher will uphold these standards.

1.7 PRELIMINARY LITERATURE REVIEW

Fink (2012: 3) confirms that a research literature review is considered to be both reproducible and explicit as well as a systematic way of ascertaining and assessing a complete body of knowledge in a particular field of study. The agricultural sector is inclusive of all economic activities; from the provision of farming inputs, farming and value adding. New legislation needs to be formulated to accommodate the continuous changes to the marketing and production environments (South Africa, 2003: 14).

The Basic Conditions of Employment for farm workers are set out in the Basic Conditions of Service Act, No 75 of 1997: farm workers were previously excluded from the Act (South Africa, 1997: 4). The Sectoral Determination 13: Farm Worker Sector

is applicable to all farm employees besides those covered by a bargaining council agreement or other determinations. Any matter not covered by this determination will be catered for in The Basic Conditions of Employment Act (South Africa, 1997: 2). The Farm Sectoral Determination 13 regulates aspects such as wages and working hours.

Working Hours

A farm worker is only required to work 48 hours for each week. Work on Sundays, meal breaks and overtime are not taken into account when calculating the weekly hours of work (Van Reenen, 1995: 206).

Compressed Working Week

The Basic Conditions of Employment Act, No 75 of 1997 states that workers may agree in writing to work longer working days up to 12 hours per day without compensation for overtime. However, these workers may not exceed –

- 45 hours per week (ordinary hours)
- 10 hours' per week overtime
- 5 days per week

Night Work

If workers are working between 8pm and 4am they must –

- receive an added stipend amounting to at least 10% of the daily wage
- be provided with transport.

Employers requiring employees to perform night work regularly should inform the workers in writing or orally if unable to read. A worker suffering from a specific health condition that is associated with night work may request that his/her shifts be changed (South Africa, 1997: 11).

Meal Breaks:

Workers are entitled to a lunch break 60 minutes after 5 hours' work unless required to work during a meal break due to the absence of fellow employees (Basic Conditions of Employment Act, No 75 of 1997). A written agreement may reduce meal intervals

to 30 minutes; however, an inspector of the Department of Labour must give written consent to make such an arrangement (Van Reenen, 1995: 206).

Rest Period:

Workers should have a 12-hour rest period each day and a consecutive 36 hour break each week. Unless the worker is living on the property then the daily rest time of the worker may be reduced to 10 hours (South Africa, 1997: 10).

Overtime Hours:

Workers may only work overtime if it's mutually agreed upon. Overtime is limited to a maximum of 10 hours per week and a maximum of 12 hours per day (Landis, 2005: 110).

Compensation for Overtime:

Employees are to be compensated 1.5 times the usual wages for all hours worked overtime. If not compensated financially an employer by mutual agreement may give an employee time off for the overtime hours worked. All overtime hours worked on either a public holiday or on a Sunday is to be compensated for according to the provisions stipulated for working on either a Sunday or a public holiday (Landis, 2005: 110).

Public holidays:

Employees are to be compensated for public holidays; wages for public holidays are to be paid out on the usual pay day of the employee. The compensation amount for the public holiday will be determined by the fact that the employee either worked on the public holiday or not. If the employee did not work on the day a normal wage per day is applicable whereas if the employee did work on the day additional compensation is due (Landis, 2005: 112). Landis (2005) states that, where work is performed on a public holiday, the holiday falling on a day which would ordinarily be worked, and payment are at least double the ordinary daily wage.

Annual Leave:

Employees are eligible to receive 21 consecutive days of annual leave per annual leave cycle of 12 months. Such leave must be on full normal pay; if a public holiday falls within that period of leave it must be extended by a day (Gorgan, 1999: 60).

Payment may not be made in place of taking annual leave unless on termination of employment (Basic Condition of Employment Act, section 20 (11) (a)).

Sick Leave:

Grogan (1999: 60) states that employees are to be given one day of sick leave for each 26 days' period worked during the first 4 months of employment, and thereafter to the number of days he or she normally works in six weeks during a cycle of 35 months.

Where the employee lives on the premises, however, the employer must provide 'reasonable assistance' if necessary to enable the employee to obtain a medical certificate (Gorgan, 1999: 61).

In compliance with the BCEA section 22(6), policy

(6)(b) an employee is entitled to compensation:

(i) for sick leave days taken; at a rate of at least 75 percent of the normal daily wage.

Proof of incapacity may be required by the employer.

Maternity Leave:

In keeping with the Basic Conditions of Employment Act section 25(1), (2)

25. Maternity leave

(1) A female employee should be allowed to take off for at least four consecutive months for maternity leave.

(2) Maternity leave may start:

(i) Four weeks prior to the expected date of birth, unless otherwise mutually agreed upon; or

(ii) On the recommendation of a Dr or midwife due to medical reasons;

Resumption of work may only be 6 weeks post birth; unless the employee is medically certified as being fit to begin work (Landis, 2005: 120).

Family responsibility leave:

Landis (2005: 122) states that employees who worked for a minimum period of four months and works at least four days per week for a particular employer should be granted a minimum of 3 days' family responsibility leave that is fully paid for.

Poor housing conditions:

Farm workers, residing on farm and those residing in other farm dwellings, are often relegated to sub-standard living conditions that are unhygienic, unsafe and that does not provide the basic protection from elements extreme cases would see the farm workers residing in accommodation that was not originally intended for human habitation (Ripe with Abuse, 2011: 10).

Right to Family Life:

Farmers associations often portray a great deal of concern for the promotion of a happy family and happy family lifestyles of farm workers. This statement however becomes questionable with the actions of farmers that forbids the adult children who are not farm workers from living with their families. Their motive for these type of actions is based on the notion of overcrowding the farm dwellings with non-farm workers. Regardless of the concerns farmers should strive to create a balance between their fear of overcrowding and the protection and promotion of family life (Ripe with Abuse, 2011: 55).

Skills Development:

Nel (2011) is of the opinion that a key component of employee relations is the relationship between employers and their employees.

The employment contract between the two parties is deemed as an important governing component.

Written Particulars of Employment:

At the offset, employers should provide workers with a written document containing personal and work-related information. An example of such a document is provided in the form of an appendix. The period of contract must be stipulated; as this is important and should be updated if there is any change in details.

Employers should keep copies of all relevant work information of its employees on personal files for the duration of their employment and a minimum period of three years post their exit. If the employee is unable to understand the contents of the contract it is the duty of the employer to explain the information to the employee in a manner that is understood (Basic Conditions of Employment Act, No 75 of 1997).

INDUSTRIAL STRIKE ACTION IN DE DOORNS IN 2012/13

The protest experienced in the Western Cape's rural areas commenced on the 27th of August 2012 when farm workers in the De Doorns and neighbouring areas decided to down their tools. The concerns were but not limited to poor pay, unfavourable living conditions and discriminatory labour practice. The history of abusive and exploitative labour relations in the agricultural sector over three centuries is ingrained in the present. Eddie Webster and Andrew Levy, is of the opinion that strike conflict has intensified, rather than diminished post-apartheid South Africa (Jones 2013: 29).

Certain farms have a long history of general distrust, anger and hatred that is a direct result of punishments and sexual abuse and alcohol misuse which were all common during the colonial and apartheid era.

Farm workers are vulnerable in South African society: rural areas are characterised by high levels of poverty. Farm worker incomes are constricted because supply of unskilled cheap labour in the rural economy far exceeds demand. Natural conditions such as climatic variability are additional risks in farming; just as uncoordinated policies and unintended effects of policies are. Farm workers have a history of human rights abuse and they are confronted with various social malpractices that are the aftermath of this history. Examples of these are: unfair dismissals, unfair labour practices, assaults, illegal evictions.

The protest action that accord around farms in the De Doorns area, Western Cape Province fuelled by the anger felt by farm workers. Farm workers face low wages, unfavourable living conditions and unwarranted tenure; as well as widespread racism,

intimidation and humiliation. Some farm owners decide when farm workers may receive visitors, whether or not they can join a union, when children must leave school, whether they can stay on the farm with their families after the completed school etc. Oppressive conditions are rooted deep into the history of farm workers to such an extent that being beaten or oppressed for perceived 'transgressions' has become acceptable. Life for farm workers in the rural have deteriorated over the past few decades with a rise in poverty among farm workers.

Government, despite with all its stated good intentions, included farm workers in the Labour Relations Act, promulgated the Eviction and Security Tenure Act, the Sectoral Determination for Agriculture Workers, the Employment Equity Act as well as the Skills Development Act. These laws mentioned above came and went, without materially improving the daily lives of the majority of farmworkers. Farmers are aware that the Labour Department lacks the capacity to enforce these laws so they ignore such legislation. This neglect and ineffectual legislation was the chief reason why farm workers decided to strike in De Doorns in 2012/13.

1.8 KEY CONCEPTS

The following are the definitions of key concepts around relations between farm owners and farm workers during industrial strike actions.

1.8.1 LABOUR RELATIONS

Labour relations can be referred to as the day to day dealings between the employer and its employees regarding various employment conditions that are unionised, or with the potential to become unionised. In the agricultural sector, this is no different. Gorgan (1999: 9) emphasises that, like public servants, farm workers were initially excluded from the 1956 Labour Relations Act. Unlike state employees, however, employment in the agricultural sector was governed exclusively by common law. In 1994, however, the Agriculture Labour Relations Act Section 50 of 1994 extended legislation to protect farm workers from unfair labour practice and human rights abuses.

1.8.2 CONDITIONS OF EMPLOYMENT

As maintained by the Human Right Watch (2011), South Africa has legislatively made provisions that governs wages, benefits and the working and living conditions of farm workers. The reality however is the opposite of what the law makes provisions for and

this is largely due to the lack of monitoring and control on the part of government in relations to farm workers.

The strikes in 2012/13 by farm workers in the Western Cape should alert government and businesses to the dangers of poor labour conditions in the agriculture sector. Farm workers often do not have or have limited access to basic essential services such as adequate housing on farms and due to their weak land tenure; they are vulnerable to evictions or displacement (Cameron Jacobs 2012).

1.8.3 TRADE UNIONS

Van Reenen (1995: 225) states that a trade union is an on-going organisation established by employees to protect themselves in their place of employment, in an attempt to progress their working circumstances by collective bargaining, to try to improve their living conditions and to provide a means by which farm workers can put their points of view. According to the Labour Relations Act 66 of 1995 Section 95(8) (5) a trade union can be defined as; 'an association of employees whose purpose is to regulate relations between employees and employers (farm workers and farmers in this study) including any employers' association'. The expression "principal purpose" specifies that the parameter of relations between an employer and its employees is about functions of a trade union; a body which is permitted to bring pressure to bear upon government, involve itself in both community and social affairs. The core purpose of a trade union, is to represent the interest of its members within their workplace (Gorgan 1999: 218).

1.8.4 CONFLICTS, GREIVIANCES AND DISPUTES

Definition of Conflict:

Webster's Dictionary (1983) defines conflict as a severe disagreement or conflict of interests. Conflict in the workplace has a tendency to reduce the moral of staff which inevitably reduces performance and promotes absenteeism. Brand (2001: 7) mentions that conflicts, which are an integral part of our social relations, can become too intense. At this point, the level of conflict becomes unbearable and can no longer be tolerated. This is a pivotal trigger point which represents a major step in the transformation process.

Definition of grievance:

Grievances, in accordance with Salamon, as cited in Brand (2001: 480) are partly a formalised expression of individual or collective conflict – usually dissatisfaction in respect of workplace-related matters. Brand (2001: 11) mentions that a grievance may relate to a number of issues such as: the terms or interpretation of a collective agreement, managerial policies, actions of the employer or other employees, customs in the workplace, or practices in the workplace itself.

Definition of dispute:

Disputes are highly formalised manifestations of conflict related to the workplace that often include the failure to resolve or address a grievance (Brand 2001: 481). It is important to recognise that conflict, grievances and disputes are manifested or form part of a single process: these processes should not be isolated from one another, as stated by Brand (2001: 9).

1.8.5 BARGAINING PROCESS

The bargaining process is negotiation of the terms and conditions of employment between the employer and its employees. The terms and conditions of employment include aspects such as the basic conditions of employment, the working conditions and policies and rules applicable to the workplace. It further includes the human resource aspects such as salaries and leave. The central objective of legislation that affects modern industrial relations is to promote collective bargaining as a method to govern relations between employers and employees (Grogan 1999: 242). Collective bargaining, according to Grogan (1999: 242), is the process by which employers and employees reconcile conflicting views through mutual agreement. Collective bargaining is unique as it fosters a sense of willingness from both sides to reach a resolution and jointly find common grounds.

1.8.6 STRIKES AND LOCK-OUTS

Van Reenen (1995: 203) mentions that, in terms of the Labour Relations Act No 66 of 1995, strikes can be defined as momentary stoppage of work by employees of workers to represent a grievance or request to management, or to prevent management from carrying out an unpopular action. Strikes are an important feature of South African industrial action as they are elsewhere in the world. For this reason, farmers must be

prepared to be able to handle strikes and to act in accordance with a contingency plan (Van Reenen 1995: 202).

Landis (2005: 365) states that lock-outs are prohibitions by the employers of employees; in an attempt to force employees to accept a particular demand in respect of mutual interest between both parties.

The Labour Relations Act No 66 of 1995 confers on workers the right to strike. Employers, by contrast, has an option to a lock out, provided that action complies with the act. A lock-out of non-strikers renders the employer susceptible to claims for breach of contract which may mean an exclusion from statutory immunities afforded in a case of primary course of action: i.e. the lock-out of striking employees (Landis 2005: 364).

1.8.7 DISPUTE RESOLUTIONS

The Labour Relations Act No 66 of 1995 Section No.115 places great emphasis upon consensus seeking as a first step in dispute resolution (South Africa. Labour Relations Act No 66 of 1995). Brand (2001: 17) mentions that there can be no doubt that the Labour Relations Act brings about a major change in labour law and the manner in which labour relations are conducted. The 'fit' between the Labour Relations Act and the new constitutional order is itself a totally new change of legal paradigm for South African law. Recognising freedom of association, organisational rights and the regulation of industrial action are all now in line with international labour standards.

Introduction of new substantive rights does not, however, mean that the new Act will do away with all disputes in one fell swoop. In view of the pivotal recognition of the Labour Relations Act, settling disputes is one of the key sections of the new Act (Brand, 2001: 17).

1.9 CHAPTER OUTLINE

Chapter 1: INTRODUCTION AND BACKGROUND

Chapter one of this study contains the proposal of the study; it formulates the core issues, research questions, the way in which the study will be conducted and the data collection and data analysis. The organisation of the study as a whole is outlined.

Chapter 2: LITERATURE REVIEW

The Second chapter discusses the most relevant and recent literature consisting of a legislative overview and theoretical overview pertaining to the topic under discussion.

Chapter 3: RESEARCH METHODOLOGY

Chapter three describes the research methodology employed to conduct this research.

Chapter 4: DATA ANALYSIS

Chapter four of the study will discuss the data analysis and findings of the study.

Chapter 5: RECOMMENDATIONS AND CONCLUSIONS

This chapter will conclude the study and will forward recommendations.

CHAPTER TWO

LITERATURE REVIEW

2.1 INTRODUCTION

This chapter comprises of the review of relevant literature most pertinent to this research investigation. Smith et al., (2009:133) argue that the process of reviewing literature can be defined as the setting in which the research is located and justifies the study. Smith et al., (2009:133) maintain that a thorough reading of current and relevant literature allows the researcher to demonstrate a knowledge of the area of study. Fink (2012:3) concurs that a literature review is explicit and is a reproducible method for categorising, evaluating and creating the existing framework of the recorded research produced by researchers and academics.

2.2 BACKGROUND:

The long history of farm employees and the problems they are faced with daily are products of apartheid social engineering and post-apartheid neglect. According to Genis (2012), white dominance among farmers in South Africa came to an end in the early 1990's; when political changes were implemented. In late 2012 and early 2013, a sequence of strikes occurred in farming areas throughout the Western Cape. The strike that commences on the 27th of August 2012 on Keurboschkloof Farm was a direct outcome of a new farm owner trying to enforce a lower wage. The strikes had a snowball effect on other farms which resulted in more strikes spreading rapidly throughout the Western Cape; escalating rapidly by late October 2012. Strikes occurred on other farms as well as in other areas according to Andrews (2014).

In light of the 2012 farm worker strikes in the Western Cape, widespread concern existed regarding the socio-economic sustainability of the agricultural sector in the province. Protests caused significant reputational damage in international markets and even loss of market share. The breakdown of relations on farms has been a negative consequence for farm employers and farm employees to have to deal with. The agriculture sector inevitably is undergoing structural changes that might lead to mechanisation which would require a different and more skilled farm worker in the future. However, key to planning appropriate responses is gaining an understanding

of the dynamics and fabric of rural communities and the challenges they face (Annual Report 2012-2013: 21).

2.3 LABOUR RELATIONS

Labour relations can be referred to as the interaction between employers and employees regarding employment circumstances that affect workers. A more informative definition is the relations between an employer and its employees that are unionised. In the agriculture sector, this is no different.

Gorgan (1999:9) emphasises that, like public servants, farm workers were initially excluded from the 1956 Labour Relations Act. Unlike state employees, however, employment in the agriculture sector was governed exclusively by common law. In 1994, however, the Agriculture Labour Relations Act (Act 66 of 1994) in particular Section 50 extended legislation to protect the rights of farm workers. History plays an important role in shaping individuals' attitudes towards labour. Despite the fact that discrimination on the basis of race, sex or creed has been eliminated on paper from labour and other legislation, racial and political divisions still exist and new problems keep on cropping up. Labour relations are complex: parties involved in labour are, primarily, the employee, the employer and government that creates legislation or the legal framework in which labour should take place.

Protests by farm workers in De Doorns in the Hex Valley of the Western Cape in November 2012 and 2013, and the subsequent responses by organised agriculture, as well as attempts by unions to support the workers, illustrate the complexity of a defective agriculture sector with little state attention given to its inequities. Protests sparked by frustrations over low wages emphasised the uneasy history of labour relations in the agricultural sector and brought to light different versions of reality (PLAAS, 2013:1). Progressive labour legislation and regulations in the 1990's and expectations of protected tenure and employment rights had little impact. The state failed to enforce these regulations. As a result of job shedding and mechanisation, many workers were worse off than before. Sophistication and modernisation of the sector led to a decrease in secured agriculture employment; casualisation replaced the large permanent workforce previously needed on farms (PLAAS, 2013:1).

The number of farm workers was reduced drastically and their agricultural skills went largely unrecognised. The agriculture sector remains neglected by government and

the industry. In 2012/13, farms in the Western Cape experienced a series of strikes emanating from unfavourable living conditions and low wages. Historical patterns of oppression produced a high level of stressful human relations on many of the farms; not just in De Doorns, but across South Africa. Farm owners in South Africa are faced with issues such as globalisation as well as having to adapt to the changing political environment of the country. Legislation governing the regulation of wages for farm workers have been implemented. According to Ortmann and Machethe (2013) there are numerous labour laws in place that affect the agriculture sector that was introduced in the mid-1990s. The main Acts of Parliament are: The Labour Relations Act (Act 66 of 1995), the Basic Conditions of Employment Act (Act 75 of 1999), and the Employment Equity Act (Act 55 of 1998). Although these laws are intended to benefit employees, they often result in a higher transaction and wage expense for employers of the agriculture sector; this in turn raises the cost of dismissing and/or downsizing the manpower and increases the total cost of labour by requesting employers to pay steeper rates for work performed on both public holidays and Sundays. Economists are of the opinion that labour laws often increase the total cost of labour which ultimately leads to a higher level of unemployment. Increased labour costs may also result in farm employers / owners to replace human labour with machinery (e.g., herbicides and new crop varieties, which was proved to be less labour intensive), or employ machinery and labour contractors (Goedecke and Ortmann, 1993; Newman and Ortmann, 1996).

The question that should be posed is: how and where do we reposition farm workers? A progressive agriculture sector should contribute to the equitable and comprehensive growth of the rural economy, invest in skills, create sustainable jobs, enable equitable land access and allow for well-supported and diverse farming models. The agricultural sector should be part of a larger social vision. Farm workers' protests drew attention to a long-standing unresolved issue of deep historical significance and highlighted the danger in side-stepping challenges within the agriculture sector. It clearly indicated that some 'impossible' action was possible as change was inevitable. Should the agriculture sector have allowed the dust to settle on this matter before the fundamental problems facing the sector were tackled? A momentum has been created by the protests: something which signals the need to negotiate a comprehensive re-arrangement of the whole political and economic organisation of agriculture; the

obstacles for farm worker livelihoods and the equitable development of the industry (PLAAS, 2013:2).

One of the key lessons of the strike was the fundamental difficulty of negotiation between the unions or the farm workers' committees, and farm employers. Workers had no-one to talk to about their problems; this difficulty sparked the uprising. Since South Africa has been an internationally recognised democracy for over two decades, it can too easily and falsely be assumed that labour relations in all sectors are in a better state than they were during the previous dispensation. South Africa, however, is rated 144th out of 144 countries in respect of cooperation in labour-employer relations in World Economic Forum's Global Competitiveness Report of 2014/15. This rating reveals a dismal labour environment in which the employer must manage labour as a business risk to ensure productivity and sustainability (Wehncke: The Daily Mail April 2015). Labour relations are a vexed issue in South Africa: a cause for considerable shame internationally, and extensive suffering on our lands. The time has come for everyone to make a determined effort to better the current state of affairs in labour relations.

2.3.1 UNDERLYING ISSUES OF LABOUR RELATIONS

According to Van Reenen (1995), there are common and conflicting interests between farmers and farm workers.

Common interests:

- Farm owners and workers are interdependent. The one party cannot exist without the other. Farm owners require workers to do the work and workers need the farm owners' assistance, advice and guidance to do the right things in the right way.
- Workers would like to be employed so they can earn money. Similarly, the farm owner is prepared to pay them for the work that they do because there will be no production if employees do not work.

Conflicting interests:

- Farm owners have to keep their production costs (e.g. labour costs) as low as possible. If this attempt is unsuccessful, it leads to a decrease in the profitability of the farm and can even result in bankruptcy.

- On the other hand, farm workers want the highest possible wages to be able to maintain a better, often simply liveable, standard of living. Workers often do not realise that they have rights and options (Van Reenen 1995:193).

Farm owners and farm workers are co-dependent and have to work with each other if they want to make a profit, benefit mutually and create good labour relations.

2.4 CONDITIONS OF WORK

Farm worker communities are increasingly under pressure concerning their social circumstances. Farm owners do not always have access to adequate support structures to solve problems they encounter daily on their farms. The Human Rights Watch (2011) contends that in South Africa farm workers' living conditions, wages, benefits and working conditions are governed by legislation. The reality however is that due to a lack of monitoring and evaluation of these conditions farm workers are not enjoying their intended benefits and suitable living conditions. The 2012/13 strike by farm workers in the Western Cape alerted government and business to the plight of farm workers who are among the lowest income earners in the country and who often endure the most unfavourable working and living conditions. Many workers have limited access to essential services (Jacobs 2012).

Due to the land tenure regulations that were put in place by government, many farm owners unlawfully evicted their farm workers because they did not want to share their land or farms with farm workers. This was done by many farm owners as a precaution; to hold onto their farms. This action was detrimental to farm workers who had nowhere to go. Most of them worked on the farms all their lives for a wage so low that they could barely make ends meet.

It is critical to distinguish between a minimum wage and a living wage. Farm workers demanded an increase in 2012 in the minimum wage to make it a living wage; that is a salary on which a wage earner's family could reasonably exist. The desire to earn a living wage is socially desirable. Poverty engendered by poor and insufficient wages encroaches upon the rights that are essential to dignity and democracy; thus creating and sustaining a sub-class of citizens (Sims, 2013:73).

2.5. THE ROLE OF TRADE UNIONS

Trade unions can be defined as independent organisations who represents employees to their employers. By joining a trade union, workers join an organised body that would negotiate employment issues such as salary, working hours as well as other conditions. The trade union movement in South Africa is the biggest and most disciplined in the continent. It has played an integral role in influencing the labour market and industrial relations policies of the country, according to Info SA (2015). A trade union, according to the Business Dictionary [April 25] is: 'A body whose membership comprises of workers and union leaders, unified to protect and enhance common interests'. The core purposes of labour unions, according to the Business Dictionary, are to:

- negotiate wages as well as the terms of employment,
- regulate relations between employers and employees,
- enforce the terms and conditions of the collective bargaining council,
- make new demands on behalf of and for the benefit of its members, and
- assist with the settlement of grievances.

A trade union is defined in the Labour Relations Act 66 of 1995 Section 95(8) (5) as; 'an association of employees whose purpose is to regulate relations between employees and employers (farm workers and farmers in this study) including any employers' association'. Principal purpose means to regulate relations between an employer and its employees. The key function of a trade union is to represent and defend its members in the workplace.

According to Gorgan (1999:218) the role of South African trade unions are to try and rectify the imbalances in the workplace that resulted from policies and legislation from the previous dispensation. The apartheid era saw trade unions succeed in its attempt to show employers the benefits of negotiating with their employees. Unions were able to agree upon wages, the conditions of service and workplace restructuring.

The Constitution of the Republic of South Africa recognises trade unions that provides for employee's rights: to join trade unions, and thereafter for all unions to collectively bargain and strike. The Labour Relations Act (Act 66of 1999) has given employees

and their unions compensation through mediation, conciliation and arbitration. Labour unions have long been part of the struggle for improved working conditions and better standards of living for South African employees. As human rights and the right to freedom in the workplace have become focal points in post-apartheid society, labour unions have had the role of protecting the rights of employees, which includes: safeguarding working environments, ensuring basic wages and leave for employees, as well as adequate care for employees in cases of injuries sustained at work (Schutte and Lukhele, 2013:70).

Van Reenen (1995:225) states that a trade union is an on-going, permanent organisation established by employees to defend themselves in their work, to advance their working conditions by collective bargaining to try to improve their living conditions and to provide a means by which farm workers can put their points of view. South Africa recognises the importance of collective bargaining as it can effectively regulate and determine workers' salaries and benefits. Sectors in South Africa including the public service, now have representative unions that is responsible for resolving workplace issues. All employees have the right to join and be partake in activities of the trade unions. Employees belonging to a trade union are legally protected against discrimination by employers.

With the recent legislation on trade unions, it is now lawful to dispute the rights of a trade union: this protects employees from unlawful wrong doing.

2.6. STRIKES AND LOCK-OUTS

Jones (2013:29) maintains that strikes have intensified in post-apartheid South Africa. A strike may be defined as an impasse: that moment when employees refuse to work in order to gain the attention of their employers and convince them to agree with their calls for better working conditions and the need to have grievances dealt with. The right to strike is entrenched in the Constitution of the Republic of South Africa and the Labour Relations Act.

Landis (2005:360) argues that an employee's have the right to freedom of association which is protected by the Act and discrimination for exercising those rights in terms of the Labour Relations Act may not occur. The following three basic elements are required for a strike to transpire:

- stoppage of work
- collective actions by employees; and
- a demand made by employees: to obtain something or to prevent the employer from conducting arbitrary or unilateral actions.

The case of the farm workers' strike in De Doorns was no different. Employees went on strike because they were dissatisfied with their wages and with the fact that the new farm owners wanted to reduce their wages when they signed new contracts. Farm employees demanded a salary increase from R69 to R150, and requested payment for rainy days that ultimately prevents employees from pursuing their tasks, as well as an 8 hour working day. Women also demanded to be paid equal to men and to be paid maternity leave, as well as paid annual leave. The farm workers wanted an end to labour brokers which would allow the workers to be directly employed by the farm owners, rent-free housing and improved living conditions.

Strikes are an important feature in South Africa as elsewhere in the world and for those reason farmers must be prepared to be able to handle strikes and be able to act in accordance with a contingency plan (Van Reenen 1995:202). The researcher determined that strikes and lock-outs enables employees to achieve productive working circumstances such as equity, security and the right to human dignity. Strikes and lock-outs on the Western Cape farms in 2012 were allowed as long as employees followed the protocol of taking off the number of days outside the working environment due to labour disputes; involving the refusal to resume duties, temporary work stoppage and the go-slows. The Labour Relations Act prohibits employees from striking illegally: the law can take its course when an employee is found guilty of participating in an illegal strike and may be punished by imprisonment for a certain term or a fine.

Olivier (2010:39) maintains that the Labour Relations Act (Act 66 of 1995) is built on the fundamentals of the Constitution that affords "every employee has the right to strike and every employer has recourse to lock out..." (Section 64(1) of the Labour Relations Act (Act 66 of 1995). The Labour Relations Act (Act 66 of 1995) is grounded on the notion of either a protected or a unprotected strike/s and lockouts. If the specific procedural requirements that are contained in the Labour Relations Act have been

adhered to then the strikes or the lockouts are protected and the various parties that are involved will be protected against legal consequences which normally emanates from these types of action. Most strike action occurs when employees completely refuse to work. Strike action can either result in employees taking a break from or refusing to do their work.

Farm workers may decide to strike when their superiors commit any partial labour malpractice: for instance, by declining to identify workers' labour organizations such as unions. When farm workers and their unions are incompetent to reach a cooperative negotiating agreement and the most current proposal on the table is unacceptable to employees, union members vote to either participate in the strike process or not. Employees and unions need a two-thirds majority vote in order to strike. Even for protected strikes the employer still has the right to impose the principle of "no work no pay". Employers may use alternative or replacement labour during strikes. Striking employees and their trade unions often resort to misconduct due to the nature of strikes which inevitably leads to the possibility of them being disciplined. If strike actions are not in accordance to the requirements of the Labour Relations Act, it can be declared as an unprotected strike and the striking employees may face dismissal as long as fair procedure has been followed (Olivier, 2010:39).

Strikes and lockouts are both essential components of a collective bargaining process in a working environment. Strikes and lockouts provide both the employer as well as the employee with an ideal position to leverage their demands. Section 23 of Constitutions of 1996 awards each employee with the right to strike. The fact that this right appears in the Constitution indicates its level of importance in the land. A lockout can be defined as a deliberate act by the employer to keep the doors of the workplace closed to employees until demands are met. The lockout is only imposable once the prescribed procedures of the Labour Relations Act (Act 66 of 1995) have been followed (Olivier, 2010:39).

Van Reenen (1999:231) is of the opinion that a lock-out means the farmer prevents farm workers from entering the premises and from going on with their work. This is usually the weapon that the farmer uses to compel farm workers to comply with certain demands and is the opposite action to a strike. Its purpose is to compel farm workers to:

- agree or consent to certain demands or suggestions
- accept a change in the conditions of employment; and
- agree to the employment or dismissal of a person.

In De Doorns, some farm owners locked out the farm workers. On some of the farms this was done for the protection of property because farm workers came onto the farms to destroy crops and burn farms. In other instances, farm owners used this tool to punish farm workers because they participated in the strike action. Landis (2005:365) states that a lockout may be implemented regardless of the fact that an employer breaches its contracts with employees in the process. The Labour Relations Act No 66 of 1995 confers the workers right to strike. A lock-out of non-strikers makes the employer susceptible to claims for breach of contract and may mean an exclusion from statutory immunities afforded in a case of primary course of action; the lock-out of striking employees (Landis 2005:364).

Legal and illegal strikes

The bill of Rights entrenches the employee's right to strike. The Labour Relations Act No 66 of 1995 controls strike action & "aims to advance economic development, social justice, labour peace and the democracy of the workplace". Both the Bill of Rights as well as the Labour Relations Act makes no reference to the concept of legal or illegal strikes. Farm workers may decide to strike when their superiors commit partial labour malpractice, for instance by declining to identify the workers' right to belong to a union. If strike doesn't comply with the requirements of the Labour Relations Act, it will be declared as an unprotected strike and the employees who are partaking may be dismissed using the relevant procedures (Oliver, 2010: 39).

Van Reenen (1999:231) is of the opinion that a lock-out means the farm owner prevents farm workers from entering the premises and from going on with their work. This is usually the weapon that farm owners use to compel farm workers to comply with Section 67 of the Labour Relations Act no 66 of 1995 which requires that:

- Deputes be referred to the Commission for Conciliation, Mediation and Arbitration or to a council;
- Certificates for unresolved disputes be issued;

- A minimal period of 30 days must have passed post the referral; and
- A written notice of a strike must be presented to employers 48 hours before a strike.

If the above is implemented a strike will be protected and no legal action may be taken against anyone participating. On the other hand if the above measures are not met the strike will be considered to be unprotected for which an employer may obtain a court order and claim for loss and damages that were a result of the strike. Participation in an unprotected strike constitutes dismissal. In De Doorns the strike was unprotected because farm workers did not follow the procedures set out in the Bill of Rights or the Labour Relations Act. This justified some farm owners to impose lockouts and to dismiss some of the farm workers they wanted to get rid of previously.

2.7 CONFLICTS, GRIEVANCES AND DISPUTES

Conflicts and grievances are two components that are part of labour relations. Conflict resolutions, the development of systems to settle disputes are objectives of labour relations. Brand (2001:7) mentions that, at some point, that conflicts form an integral part of our social relations and can become too strained. At this point, the level of conflict becomes unbearable and can no longer be tolerated. This is a trigger point which represents a major step in the transformation process. A grievance, according to Salamon (cited in Brand 2001:480) is a partly formalised expression of individual or collective conflict: usually dissatisfaction in respect of workplace related matters. Brand (2001:11) mentions that a grievance may relate to a number of issues: the terms or interpretation of a collective agreement, managerial policies, actions of the employer or other employees, customs in the workplace or practices in the workplace itself.

A dispute is a formalised display of a misunderstanding with regards to matters arising in the work place such as the inability to address a grievance (Brand 2001:481). It is important to recognise that conflict, grievance and disputes are manifested or form part of a single process. These processes should not be isolated from one another (Brand 2001:9). Government implemented the Labour Relations Act No 66 of 1995 to ensure that a stable resolution to the challenges facing farm employees was reached. This legislation promised to end the phase of oppression and exploitation; ensuring

justice for farm employees. The Act attempts to defend farm workers' rights: but that is only on paper.

The researcher considers, on the basis of the research undertaken in this project that both farm workers and farm owners should attempt to resolve their dispute through straight, internal negotiations. Employees and employers might avail themselves of arbitration which is needed to produce a binding disposition of the case, supported by the courts and accountable for discussion of disputes.

The Labour Relations Act affords any person or party the opportunity to report any disputes regarding the rights of employees to a bargaining or statutory council, the Commission for Conciliation, Mediation and Arbitration (CCMA), or the Labour Court. Disputes, strikes and protests in the Western Cape farming communities have changed the face of agriculture and enabled farm workers and rural communities to fight apartheid slave conditions on farms and develop good labour relations.

2.8 BARGAINING PROCESS

The central objective of legislation relating to modern industrial relations is to promote collective bargaining as a method to relations between employers its employees and the settling of disputes between them (Grogan, 1999:242). According to Grogan (1999:242) collective bargaining can be defined as the process in terms of which employers and employees collectively seek to reconcile their conflicting goals through a process of mutual accommodation. Unlike mere consultation, collective bargaining assumes willingness from both parties to allow one another to speak and listen in an attempt to reach mutual agreement.

Employers and trade unions are allowed to establish bargaining councils. The core functions of bargaining councils are to resolve labour disputes and establish proposals for various labour practices. Accountable officers for the bargaining process resolve conflicts by ensuring that delegates use the collective bargaining process to develop a mechanism that can assist to pay for Union Representatives, development of a program as well as facilities and benefits for farm workers. Western Cape farm workers' families promoted the resolution that the agriculture sector will develop workers' leadership organizations to provide farm workers with the relevant skills to perform their duties and initiate representational programs to meet the needs of future groups of farm workers in the province.

The preparation of a bargaining process includes: the approval of listed workers' demands, common practices, and matters to be incorporated, the right to contribute in the decision making process, realistic strategies by top management, arbitration processes, cooperative arrangement merits and demerits of collective bargaining. The researcher determined that all parties involved in the bargaining process must be completely adaptable and should be willing to accept change once all options have been considered and presented.

2.9 REFORM OF LABOUR RELATIONS ON FARMS

Du Toit (1993:325-29) state that, to remain relevant in the industry the Western Cape fruit industry post 1990 farming industries were forced to adapt to applicable marketing practices which saw the transformation of the traditional dominance in the sector. This transformation brought about a great emphasis on employee productivity and the financial success of farms. An additional benefit that these transformation processes brought about for the farm workers was that farm management now had to formalise its human resource processes. Du Toit further stated that the relations between farm owners and farm workers had only experienced a minute change.

Control of farms were not replaced but were liberalised. The authority of workers was restricted to particular points and the execution of their right to speak was facilitated by the farms management.

A long history of oppression, abuse, eviction and injustice steered up ill feelings among farm workers. They felt as if their dignity was not considered (Robb & Davis 2010:21; White 2010:677). Farm workers were treated and seen as inferior and therefore experienced a great deal of discrimination, gender inequality with a minute amount of social investments such as education offered to them. Social ills were highly prevalent among the low skilled and casual farm workers.

Casual workers enjoyed a much smaller benefit list than permanent workers and a move from a permanent to a casual job was definitely considered to be a downgrade in social and financial status. Living conditions were generally not conducive conditions. Many farm workers had little access to basic services and were often exposed to chemicals without proper safety equipment. Due to a lack of education and a lifetime of exposure to social ills they were often vulnerable to issues such as alcohol

abuse (Atkinson 2007:15,120, 260-61; Anon. 2011:1; Barrientos & Visser 2012a:22, 37).

Poor household lacked the general resources. According to Du Toit (2004:17, 22) stated that a low income was the course of low food security. In 2002 Du Toit and Ewert (2002:80) determined that almost half of the Western Capes rural population lived in extreme poverty. The most common disease recorded in De Doorns were malnutrition, kwashiorkor and scurvy which courses were all described by the Agriculture, Forestry and Fisheries Minister Tina Joemat-Pettersson as a direct result of neglect on farm workers. Driven by their problems and their trials and tribulations farm workers fell into debt and therewith find themselves at the mercy of loan sharks (Anon. 2013c:12).

A transition to off sight accommodation brought about a sense of independence for farm workers. The move however saw farm worker losing out on the opportunity to benefit from the social wage paid by farm employers. Workers that move from farm houses to alternative off sight accommodations often find themselves being exposed to harsher living conditions than that experienced on farms (Du Toit & Ewert, 2002:94).

Post-apartheid the agricultural sector has seen the transition from a protected, heavily subsidised industry to one that is faced with global competition. With this transition came a great deal of debt among farmers due to government funding being cut. Those farmers who made significant amount of loans in an attempt to strengthen their business now suddenly found themselves under pressure for product prices from supermarkets.

3. PRACTICAL OVERVIEW OF LABOUR RELATIONS IN AGRICULTURE

In the previous sections, the researcher provided a legislative and theoretical overview of labour conditions and rights in Agriculture. Farm worker protests in 2012/13 due to inadequate labour conditions changed South Africa's agricultural landscape, said Agriculture Minister Tina Joemat-Pettersson (Mail and Guardian 26 Nov 2012). The protest actions of 2012 and 2013 represented a breakdown in labour relations in large parts of the agricultural sector: with special reference to the De Doorns area. To address the causes of this breakdown, it was necessary to understand how the circumstances in which workers live and work changed. This in turn makes it necessary to understand how the rural labour market has changed over the last ten

years; how it is expected to change in future. According to Jenna Etheridge (Mail & Guardian 26 Nov 2012) striking farm workers in De Doorns mentioned that they cannot wish away their problems, nor can they be in denial: they have to face up to the challenges and should not be blamed for what transpired because of these challenges.

This was a historic moment in agriculture. Farm workers realised that if they did not stand up for your own rights, no-one would recognise their pain and agony. The Human Rights Commission reports post 1990 portrayed the various atrocities experienced due to matters such as low wage and poor living conditions.

The influx of foreign nationals seeking employment in South Africa has proved to be a salient factor in the country's labour strikes. Farm owners often hire migrant workers who have the advantage in their employers' view: they are frequently cheaper to hire. Some workers are in South Africa illegally, and are thus easy to exploit by unscrupulous employers. Migrants from neighbouring countries or from elsewhere in the Eastern Cape Province have settled into farming communities to seek scarce employment and utilise scarce resources (Sims, 2013:76). A major concern is the blatant disregard for government regulation and the exploitative working conditions experienced by farm workers and the inability of government departments to enforce compliance to protect farm employees and farm dwellers. Many lessons were learnt during the course of the strike action of November 2012 – January 2013. The farm workers' strike was perceived to be much more than just about an improved living wage. It suggests a socially dysfunctional environment which is more complex than a farm owner and farm worker relation.

3.1 STRATEGIC PLAN OF THE AGRICULTURE DEPARTMENT

The critical role of the broader agricultural sector is to regulate the needs and the position of the sector in relation to national issues. The then president of the Republic of South Africa Thabo Mbeki was briefed in 2001 about the host of red tape that prevented the agricultural sector from performing at maximum potential which would allow it to contribute efficiently and effectively to economy (Department of Agriculture 2001).

The strategic agricultural plan lists the following objectives:

- Formulating a unified vision for stakeholders;

- Create and implement a framework to regulate policies and its implementation for the future;
- Foster investor confidence, general understanding and social relations;
- Encourage participation through capacity empowerment programmes;
- Amalgamate resources and distribute equally among partners;
- Foster international best practise to encourage new investment;
- Introduce mechanisms to foster appropriate development; and
- Develop lasting relationships among all (Department of Agriculture, 2001).

The researcher discovered that the strategic objectives set above were implemented to rectify the imbalances of the past within the agriculture sector by ensuring that farmers adhere to the plans stipulated: in order to satisfy both employees and their stakeholders. The plans set are imperative for the industry and government to work in collaboration; in order to produce best agriculture production that will boost the country's economy. Government launched this strategy in order to revitalise the agriculture sector and implemented these objectives in order to improve the lives of the farm workers; by ensuring that there are available programmes which focused on fighting for workers' rights. The strategic plan's intention was to emphasise economic growth, food security and inequality through improved productivity in the Western Cape farms and job creation in the agriculture sector as a whole.

The strategic objectives have been defined more closely to ensure better performance from the Western Cape government. The previous challenges facing the agriculture sector brought job losses and the deterioration in the country's economy. The strategic plan addressed the issues that might arise and devised ways to resolve those issues. However, overcoming the challenges of the agricultural sector requires a progressively focused sector and a competitive global market: cultivating a culture of caring for employees and putting first their basic requirements in a fair and decent way. The agriculture sector requires a proven reputation for just labour relations in order to attract discerning buyers from overseas who value fair labour practice on the farms from which their merchandise is sourced. Increased orders from overseas consumers contribute towards job creation in rural areas of the Western Cape. The strategic plan highlights that jobs will be created in the medium-term through provincial job creation projects; utilising opportunities during the production and processing value chain.

3.2 THE AGRICULTURAL SECTOR VISION

A unified and flourishing agriculture sector.

This vision could be understood as the sustained profitable contribution in South Africa's agricultural economy. This vision recognises the necessity to maintain and improve commercial production in an attempt to create international competitiveness while rectifying the irregularities of the past. The following strategic goal supports the vision for the agricultural sector:

- To create adequate access to and participation in an internationally competitive, lucrative and self-sustainable agricultural sector that effectively contributes to a better life for those involved.

The researcher feels that the vision provides a clear view of what the South African government envisages for the agricultural sector for the future. The main obstacle to effectively achieving the successful implementation of this strategy is the failure to use the resources and skills at its disposal effectively. Low profits and extremely poor competitiveness indeed restrain participation which ultimately result in a number of smaller problems that each comes with its own challenges. The strategy set out the above vision to transform the agricultural sector into a profitable, commercially-oriented and competitive economic activity that delivers high quality employment to all employees. The idea of a non-racial, cohesive and successful sector is constructed on tactical objectives of access and involvement, effectiveness and success. Long-term visions are crucial: to convey new, diverse and larger agricultural structures. Government constructed a framework of enhanced agricultural productivity and farm incomes: protecting land resources and the environment. The Government's vision focused more on a paradigm shift from sustenance agriculture to agriculture that operates as a profitable business.

4. INTRODUCTION OF LEGISLATION

The following section explores legislation and policies which underpin the core purpose of the study. The Department of Agriculture takes its mandate from Section 37(ii) of the Constitution of the Republic of South Africa.

4.1 LEGISLATIVE OVERVIEW

This section focuses on Acts and Regulations which specifically pertain to labour relations in the Agriculture department.

4.1.1 LABOUR RELATIONS ACT IN AGRICULTURE

According to the Constitution of the Republic of South Africa, Act 108 of 1996, the Labour Relations Act, (Act 66 of 1995) is a tool that is used to guide employers to fulfil their roles regarding labour relations in the workplace. The Department of Agriculture intends to maintain harmony and equality among its employees by ensuring adherence to the Labour Relations Act.

Chapter 2, subsection 23(1) of the Constitution of the Republic of South Africa states that it is imperative for agriculture employees to know that:

- Every employer has a right to equal labour practices;
- Every employee is entitled to:
 - be part of a union;
 - partake in the activities of the union;
 - strike when applicable;
 - join employer's organisation;
 - partake in activities of an employer's organisation;
- Each employer's organisation and trade union may create their own activities such as:
 - organisation activities;
 - the formation and joining of a federation;
- All trade unions, employer's organisations and employers have the right to partake in collective bargaining. National legislation can be decreed to normalise collective bargaining to the point of limiting a right of this chapter on condition that it complies with section 36(1).

The guidelines above provide the employer with knowledge of labour relations pertaining to the labour in the Department of Agriculture. The Labour Relations Act (Act 66 of 1995) was implemented to rectify the imbalances of the past: many farm labourers experienced inequalities and discrimination. Employees in the agriculture sector before the advent of democracy were seen, and frequently treated as, slaves. The Labour Relations Act (Act 66 of 1995) allows all employees to have rights and exercise their claims to justice. The Labour Relations Act (Act 66 of 1995) allows agriculture employees to negotiate with their trade unions whenever they experience problems in their places of employment. Employees have been given the right to follow grievance procedures and protest when wrongful decisions are being taken against them by those in charge.

The following section deals with employees' rights to strike; as well as employer rights to lock-outs: strikes and lock-outs form part of the Labour Relations Act (Act 66 of 1995).

Strikes and Lock-outs:

Section 64(LRA No 66 of 1995) Right to strike and lock out

(1) employees all have the right to strike and the recourse to lock out on condition that : (a) the dispute was referred to a council or the Commission as stipulated in the Act, and if

(i) a certificate proving that a dispute is unresolved was issued; or

(ii) a minimum period of 30 days or an agreed upon date has lapsed since received by the commission or council;

(b) notice to strike was presented to the employer 48 hours prior to the strike, unless

(i) the dispute being dealt with pertains to a collective agreement to be finalised in a council; or

(ii) the employer belongs to an employer's union in which case the notice must be presented to the union; or

(c) in the event of a proposed lock out at least 48 hours' notice should be given in writing to all unions that is involved in the dispute. If no unions are involved, then it should be given to the affected employees; or

3 (b) the strike or the lock-out is compliant with prescribed procedures set out by collective agreement;

(c) employees strike is due to noncompliance of this chapter on the part of the employer;

(d) employers instituting a lock down due to employees partaking in strikes that do not comply with the procedures stipulated in this chapter

(e) noncompliance from an employer regarding the requirements of subsections (4) and (5).

Strikes and lockouts are part of the Labour Relations Act No 66 of 1995 and clear guidelines are set out on how they can be enforced. Employees have the right to strike but it should be a legal strike. Unions are compelled to give the employer 48-hour notice before a strike can take place. The law states that a strike may only occur if the issue in dispute is unresolved and the issue at hand was referred to the commissioner. To legalise a strike, the union must obtain a certificate from the Commissioner stipulating that the dispute is unresolved and that a minimum period of 30 days has elapsed.

Lock-outs, like strikes, have certain guidelines. The Labour Relations Act (Act 66 of 1995) is clear that an employer must give employees 48-hour notice prior to the lock out. Lock-outs can take place only if the matter in dispute has been sent to a council or to the commission. A certificate to show that the dispute is unresolved must be issued before the lock-out can take place. It is illegal for any employer to lock out their employees without obtaining a certificate from the Commissioner. However, on some of the farms in the De Doorns area, illegal lock-outs still took place.

Section 65 (LRA No 66 of 1995) Limitations on the right to strike or the recourse to lock-outs

(1) the participation in a strike or lockout is prohibited if:

- (a) a person is bound by collective agreements that prohibits striking or lock –outs;
 - (b) is bound by an agreement that requires arbitration;
 - (c) on the grounds that the matter in dispute is the exercising of a parties right to refer to arbitration or the Labour Court in terms of this Act;
 - (d) the individual is engaged in:
 - (i) a service that is deemed essential; or
 - (ii) a is considered to be a maintenance service provider.
- (2) (a) Despite section 65(l)(c), an employee may take part in in a strike or a lock out if the matter in dispute is dealt with in sections 12 to 15.
- (b) if a registered trade union has given notice to strike, it cannot refer the matter for arbitration in terms of section 21 for a maximum period of 12 months from the point of the notice.
- (3) if there is a collective agreement then no person may partake in a strike or lock-out:
- (a) if the individual is bound by:
 - (i) any means of arbitration or agreements that controls the matters in dispute; or
 - (ii) any decision made by the Minister that controls the issue in dispute; or
 - (b) any decisions made regarding the Wage Act.

Collective agreements between employer and employees are of utmost importance. This section of the Labour Relations Act (Act 66 of 1995) is clear on the limitations of strikes or lockouts. Employees right to strikes and lock outs has limitations: clear guidelines are set out clearly regarding the limitation to strike or for a lock-out. No employee can strike, and no employer can lock out unless a collective agreement has been tabled. Employers and employees are bound by an agreement, and the process of arbitration needs to take place if the agreement they concluded is breached. Before implementation of the Labour Relations Act (Act 66 of 1995), employees were not protected and employers abused their power.

Section 66(LRA No 66 of 1995) Secondary strikes

(1) Secondary strike refers to conduct of employees against its employer that does not include a strike that pursues a demand.

(2) employees may only take part in a secondary strike if:

(a) the strike complies with the provisions of sections 64 and 65;

(b) the employer of the employees partaking in the strike is informed at least seven days prior to its commencement; and

(c) the extent of the strike is reasonable in terms of its effect on the employer;

(3) Section 68(2) and (3), states that if the secondary strike contravenes subsection (2) the employer may apply for it to be prohibited or limited.

(4) A request may be made for the lodging of an investigation to enquire if the requirements of subsection (2)(c) have been met.

(5) upon this request the Commission must appoint a qualified person to conduct the investigation;

(6) The Commission's report must be considered by the Labour Court before making an order.

Secondary strikes are strikes that occur when employees strike in support of others but this usually happens when the issues at hand affect the employees that join the strike in one way or another as well. The Labour Relations Act (Act 66 of 1995) provides for sympathy or secondary strikes, which is where there are no specific grievances in the workplace, but where workers decide to strike in support of demands of fellow workers employed elsewhere. Secondary strike actions occurred in the De Doorns agriculture strike: employees on farms where there were no grievances joined the strike as a way of showing sympathy. On other farms where the farm workers joined the strike, it was because they had unresolved grievances too.

Section 67(LRA No 66 of 1995) Strikes or lock-outs in accordance with this Act

(1) A protected strike as well as a protected lock can be defined as a strike and lock out that complied with provisions set out by this Act.

- (2) An employee does not breach his/her contract by taking part in:
- (a) either a protected strike or lock-out; or
 - (b) any action in mediation of a protected strike or lock -out.
- (3) an employer is not obligated to reimburse an employee for the services that was not rendered due to the protected strike or lock -out however:
- (a) employers should not discontinue any remuneration that is paid in kind to employees such as (accommodation); and
 - (b) after the protected strike or lock-out has been concluded an employer may claim back expenses paid in kind to employees via civil procedures established in the Labour Court.
- (4) an employee may not be dismissed for attending a protected strike or any action related to that strike.
- (5) an employee may however be fairly dismissed due to their conduct during a strike.
- (6) Civil legal procedures may not be established against employee for:
- (a) taking part in a protected strike; or
 - (b) taking part in any actions in leading to a protected strike.
- (7) the failure of a trade union or employer's organisation to conform to the condition stipulated in its constitution to conduct an open ballot to all those members whom it intends to invite to the strike.
- (8) The provisions of subsections (2) and (6) are not applicable to any action in the build up to the strike if that action is an offence.
- (9) any action to the build-up of the strike that contravene the Basic Conditions of Employment Act.

Protected strike action and protected lock-outs protect employees from being dismissed or victimised by the employers. When partaking in a protected strike or protected lock-out, the employer can decide not to remunerate the employee but the employer must still provide accommodation and other forms of payment in kind to the

employee. The employer can, however, recover of all payments made in kind that he offered the employee during the strike period through civil proceedings instituted in the Labour Court. If all guidelines for a protected strike and protected lock-out are followed, it protects both parties.

4.1.2 BASIC CONDITIONS OF EMPLOYMENT ACT, ACT 75 OF 1999

The Basic Conditions of Employment Act (Act 75 of 1999) aims to govern and to influence to the practice of fair labour. The Basic Conditions of Employment Act (Act 75 of 1999) seeks to achieve fair labour practices as per section 23(1) of the Constitution. This is done through the establishment of provision to regulate basic employment conditions and therewith comply with the obligations set by the International Labour Organisation.

An additional objective of the Basic Conditions of Employment Act (Act 75 of 1999) is the advancement of economic development and growth. The primary objectives are:

- (a) to ensure fair labour practices according to section 23(1) of the Constitution in:
 - i. formulating and implementing basic conditions of employment; and
 - ii. to govern the differences of the basic conditions of employment.
 - iii. to implement the incurred obligations of being a member of the State of the International Labour Organisation.

Prior to the 1994 democratic dispensation, there was the Native Labour Relations Act of 1911 which was implemented to prohibit employees' rights to participate in any legal strikes concerning employment issues or to join trade unions. The Basic Conditions of Employment Act (Act 75 of 1999) was implemented to ensure that workers received equal treatment from their employers; regardless of employees' health problems, colour and disability status. The Basic Conditions of Employment Act (Act 75 of 1999) gives rights to employees to contest unfair dismissal, to promote long-service employees and to ensure appreciation from the employers.

Relevance to farm workers

1) Sections 6A, 10(2A) and 14(4A) of the Basic Conditions of Employment Act (Act 3 of 1983) remain relevant to the employment of a farm employees until such time that a determination for the regulation of farm matters becomes apparent.

2) Section 17(3) remains applicable to workers working after 20:00 and before 04:00 for a minimum of five times per month of fifty times annually.

The Basic Conditions of Employment Act (Act 75 of 1999) was formulated to protect all farm workers working hours, provisions and the required minimum notice period before retrenchment or dismissal. Farm workers are vulnerable due to their economic, legal and social impediments which hinder the protection of their rights. The Basic Conditions of Employment Act (Act 75 of 1999) applies to farm workers; especially those farm workers who work beyond the normal allowed working hours.

Compensation in kind for domestic workers and farm workers

3) Section 1(1) of the Basic Conditions of Employment Act (Act 3 of 1983) states that the definitions of wage and payment in kind remain applicable to the employment of both domestic workers and farm workers.

(2) Through notice in the relevant Gazette, the minister may amend any prescribed cash amount in terms of section 37 of the Basic Conditions of Employment Act (Act 3 of 1983).

In South Africa, commercial farms are in general both a place of work and a place of residence for farm employees and their families. Historically, and in the present, farms can be described as places of both production and social reproduction. The relation between farm management and farm workers involves economic, political and social arrangements, with obligations deeply rooted in the labour process that normally exceed the standard labour-wage.

In De Doorns, wages were one of the grievances some of the farm workers highlighted. Farm workers remain one of the poorest groups in South Africa: not only because of their remote geographical location, away from basic services and opportunities to educational development, but because they remain one of the lowest wage earners.

Ordinary hours of work

4) farm, mine or security guard employees may be required to may be requested to work irregular hours other than those prescribed by section 9(1) and (2).

On condition that:

- (a) the maximum hours of work do not exceed that of any law or wage regulation applicable to that industry;
- (b) employees and employers don't conclude an agreements set in sections 11 and 12.

The Basic Conditions of Employment Act (Act 75 of 1999) specifically stipulates some farm worker's limitations which include that of number of working hours allowed per day and week; the time allowed for every employee to rest or take lunch, how the overtime must be paid and Sundays and public holidays. On Sundays and public holidays employers should pay employees a double payment and workers are allowed to work a maximum of 5 hours during the specified days. Farm workers are limited to work night shifts. The Basic Conditions of Employment Act (Act 75 of 1999) protects farm workers to work no more than 45 hours per week in order to get enough rest and to prevent slavery; even if employees live on their working premises. The Basic Conditions of Employment Act (Act 75 of 1999) protects pregnant women's right to take maternity leave in order to protect them and their unborn babies.

4.1.3 AGRICULTURAL LABOUR ACT 147 OF 1993

"(1) An employer may conclude a written agreement with a farm worker, signed by both parties, in terms of which the ordinary working hours of the farm worker for a period agreed upon, but not exceeding four months in any continuous period of 12 months, are extended, but not by more than eight hours per week: provided that the ordinary working hours of the farm worker shall be reduced in such a way that over the same period of 12 months, the average ordinary working hours of the farm worker shall not exceed 48 hours per week.";

(c) the replacement for subsection (2A) of section 10 of the following subsection:

"(2A) If farm employees perform duties which is expected to be carried out on a Sunday the employer shall:

- pay the employee double his/her ordinary wage if the total amount of hours does not exceed two hours, a calculated amount of double his/her usual wage in respect of the entire duration worked: on condition that the minimum payable amount will not be less shall not be less than the usual wage for two hours worked; or

- pay a rate not less than the usual wage for hours worked excluding overtime; or
- grant the employee time off for the hours worked.

The Agriculture Labour Law Act (Act 147 of 1993) allows for the implementation of the Labour Relations Act, 1956, as well as the Basic Conditions of Employment Act, 1983. An agricultural labour court was established in order to settle any labour disputes or unfair labour practices.

Some farm workers and farm owners in De Doorns ended up in the agricultural labour court, as a result of the dispute between them that pertained to unfair labour practices.

4.1.4 SECTORAL DETERMINATION 13: FARM WORKER SECTOR

A sectoral determination can be defined as a piece of legislation that regulates particular actions within a sector such as wages and many other financial benefits such as medical aid and pension. These determinations are usually implemented in those sectors with collective bargaining such as domestic and farm workers.

The widespread strike in the Western Cape in 2012 resulted in sectoral determination 13 coming into effect. As previously stated Farm Sectoral Determination governs the human resource practices of farm workers.

Farm workers in this region wanted their working and living conditions improved; arguing for an increase of R150 a day. The strike resulted in the Minister of Labour changing the Sectoral Determination; indicating that workers will have to earn R105 a day starting from March 2013; whereas previously workers earned R69 for a nine-hour work day (Department of Labour, 2012 the Sectoral Determination).

(a) Overtime Hours

Overtime needs to be mutually agreed upon and must be restricted to 15 hours per week and a maximum of 12 hours per day.

The Sectoral Determination implies that workers work overtime only when such agreement has been reached and then to a certain limit. When autocratic employers force their employees to work slavery hours, employees may contest that agreement and report such employers to the Labour Court.

(b) Pay for Overtime

An overtime rate of at least 1.5 times the normal wage is payable by employers.

A worker may alternatively accept time off as compensation.

Work done on Sundays should be compensated in accordance to the provisions for Sundays and public holidays.

This implies that if a worker works overtime, he should be paid 1.5 times his normal wage and double payment applies on Sunday or public holidays.

(c) Written Particulars of Employment: see Annexure

The individual employment contract forms the foundation of any employment relations. The moment any person offers his abilities and services to another person in exchange for remuneration, a contractual relation is formed. In such a contractual relation the employer needs all particulars of the employee in writing.

Annual Leave (Farm Workers)

Employees are entitled to a minimum of 21 consecutive annual leave days per leave cycle. Pay outs for annual leave is only applicable upon the termination of employment.

Sectoral Determination 13: is applicable to all farm employees including:

- Security guards
- Domestic workers

The sectoral determination is not applicable to employees covered by:

Any other sectoral determination; or

An agreement by a bargaining council.

Number of Leave Days

Employees are entitled to at least 6 weeks fully paid sick leave in a three-year cycle.

However, employees that's are employed for 6 months or less are restricted to 1 day's paid sick leave for each 26 days worked.

Proof of Illness

A certificate of illness may be issued by a:

- Dr
- Nurse at a clinic
- Psychologist
- Traditional healers and
- Community health workers.

A medical certificate becomes a requirement if the employee is absent for more than two days or if an employee is off sick more than twice within an 8-week period.

If an employer needs to pay for medical fees it may be deducted from the employees' wages.

In South Africa there is renewed interest in the future of farming and working conditions of farm workers in the agriculture sector. This interest has been heightened; especially after the 2012/13 farm workers unrest over the minimum wages and living conditions in De Doorns in the Western Cape. The Western Cape agricultural strikes started in the De Doorns region and spread to other parts of the province.

According to the Labour Department 2003, "Farm workers are isolated and often are at the mercy of their employers. Most farmers are fair in their dealings with workers and employ best labour practices. Unfortunately, this is not universal and on some farms conditions are still those of our lamentable past - where workers are subjected to appalling wages and enjoy no rights. The sectoral determination has been promulgated to deal with those recalcitrant employers but also to provide guidance to those employers who wish to embrace the decent work philosophy."

4.1.5 SKILLS DEVELOPMENT ACT

According to the Skills Development Act (Act 97 of 1998) as stipulated in the Government Gazette no. 19420 the Act is the baseline used to formulate new strategies to improve the skills level of the South African workforce. These strategies need to be integrated into the National Qualifications Framework envisaged in the South African Qualifications Authority Act (Act 97 of 1998). It should provide for good

leadership and funding that would lead to recognised occupational qualifications it should provide for regular employment services and matters connected thereto.

The overall purpose of the Skills Development Act (Act 97 of 1998) is to develop a skilled and productive labour force to meet the requirements of the economy. South Africa has a legacy of low predictability rates; especially when compared with other countries with similar economies. One of the main reasons is that South Africa has not developed its human resources for many years. The lasting effects of apartheid have left the majority of its people illiterate and unskilled to meet the demands of economic growth. The workplace and other environments conducive to skills development have not been optimally utilized for developing people, with the aim of gradually improving productivity in the country.

In order to improve South Africa's national productivity levels and for the country to compete successfully internationally there is a definite need to develop the country's human resources to their full potential. The Skills Development Act (Act 97 of 1998) puts in place the structure to support workplaces as centres of learning and further creates a legislative framework that promotes skills development in general, in the country.

In De Doorns farm owners and managers have realised the importance of skills development programs. They realised that improving the skills of the farm workers are beneficial for the farm workers and productivity as well.

4.1.6 EMPLOYMENT EQUITY ACT

The objective of the Employment Equity Act (Act 55 of 1998) is to ensure equity in the work environment through the promotion of equal, fair opportunities through the elimination of unfair discrimination and by rectifying the imbalances created by the previous dispensation and irregularities of the past. Through this ratification government intends to ensure equal representation of all race groups in all levels within an organisation.

As a result of previous systems such as apartheid and its discriminatory laws a major gap exists in the employment and labour markets. These irregularities created a major disadvantage for certain race groups. In an attempt to address and ensure the

constitutional right to equality employers should promote democracy and eliminate unfair discrimination.

The Employment Equity Act (Act 55 of 1998) was specifically implemented to reduce unfair practices in the working environment by promoting fair treatment to those facing forms of discrimination due to sex, colour, disability, health issues and religion. The Act protects employees in terms of disciplinary measures and dismissals, recruitment process and all work-related procedures to be followed. Employment Equity Act (Act 55 of 1998) guides employees on how to resolve disputes by referring the conflict matter to the CCMA. If the CCMA fails to resolve the issue, then the parties have the right to go to the Labour Court.

4.2 CHAPTER SUMMARY:

In this chapter the researcher provided an overview of the legislation that has an impact on labour relations. All the legislation mentioned above provide the necessary guidelines within which the farm owners and the department of agriculture should operate to ensure a speedy and effective implementation of legislation in order to improve the labour relations between the farm owners and farm workers.

The next chapter focuses on the research methodology used to collect data and address the research problem.

CHAPTER THREE

RESEARCH METHODOLOGY

3.1 INTRODUCTION

This chapter outlines the research methodology of the study. The research was conducted in the De Doorns area where the 2012/13 farm strikes occurred. Research methodology entails the logic behind research methods and techniques. Welman et al., (2005: 2) point out that it is focused on the manner employed by researchers to conduct their study. In qualitative research studies the researcher is considered to be the primary instrument of the data collection and its analysis.

Babbie and Mouton (2001: 75) are of the opinion that research methodology is focused on the processes and kinds of tools and the various procedures used in order to produce results which are reflective of the study. The researcher used face-to-face interviews as the method of collecting data for this study. Van Zyl (2014: 394) postulates that an interview a data collection method that obtains information via oral questioning. An interview can either be formal or informal, unstructured or structured. In this study unstructured interviews were conducted as the primary method of data collection. The researcher used secondary data to substantiate the statistical findings.

In addition to the research methodology chosen for this study this chapter further addressed the following:

- research approach;
- data collection method;
- population and sampling;
- data analysis;
- ethical considerations; and
- limitations of the research.

The previous chapter provided a legislative and theoretical overview of labour relations in the Agriculture sector: with specific reference to the De Doorns area. It was concluded that, despite guidelines, policies and legislation, labour relations between farm workers and farm owners continue to be tense.

3.2 QUALITATIVE METHODOLOGY

Qualitative research methodology was employed by the researcher: it afforded the researcher the opportunity to get to know people personally, and to meet with them in their own setting; on farms in the De Doorns area. This research methodology enabled the researcher to both interpret as well as describe the information that was gathered by participants. Qualitative research methodology produces data that is derived from the participants own words and experiences. Numbers or counts are not assigned to these observations (Brynard & Hanekom 2006: 37). Saint-German (1997:15) is of the opinion that qualitative research strives for a deeper understanding of a research problem or event, instead of using a shallow description of a sizable sample of a particular population. This was the researcher's intention when the researcher chose the qualitative methodology.

The unique characteristic of qualitative research is its ability to extrapolate data from small sample groups. Its outcomes are generally of an explanatory nature that captures in words the feedback from research participants and therefore cannot be measured and quantified. An outstanding advantage of qualitative research that sets it apart from quantitative research is that it allows the researcher to capture a complete description and analysis of the data collected without hampering the nature of the responses (Collis & Hussey: 2003). The researcher conducted interviews in the three 'zones' of the De Doorns area. De Doorns is a relatively broad agricultural area but the researcher conducted the interviews across the area. The whole De Doorns area is divided into three zones: the upper valley, middle valley and lower valley. Community workers who assisted in setting up interviews suggested that interviews occur across the three zones in order to gain a sense of all farm workers across these three zones.

3.2.1 RESEARCH APPROACH

The researcher opted to follow an inductive approach for this research study. The study began with detailed observations that would be used to formulate theories and conclusions for the study. The research felt that an inductive approach would be appropriate due to its ability to take into account the context of small sample groups that produce qualitative data.

The rationale for the use of a qualitative research approach was due to its ability to explore and describe the experiences of farm workers in the De Doorns area with regards to labour relations; issues that turned into strike actions during 2012/13. The researcher wanted to capture the experiences of the farm owner or manager as well as the farm workers: for that reason, both parties were interviewed. A qualitative approach was the most appropriate way to capture their experiences because the researcher met participants in their natural setting.

3.2.2 DATA COLLECTION

Burns & Grove (2005: 42) state that the process of data collection is the methodological collection of information that compliments the objectives, questions and purpose of the research study. Data was collected by requesting farm workers through the farm owners or managers to participate in face-to-face interviews. The farm owners or managers were interviewed as well. Participation in interviews was subject to respondents being willing to participate in the interviews. Consent was given before the interviews were conducted: it was explained to participants that they could withdraw from the interview at any given time. The letter of consent is reproduced as Appendix A.

The data collection methods and tools that were used for the purposes of this research were in-depth interviews with either the farm owners or managers on the farms as well as with the farm workers and secondary data. In-depth interviews are classified as an unstructured interview that strives to discover and explore the emotions, feelings and opinions of the research participants regarding a particular research topic. An advantage of using in-depth interviews is that it allows the researcher to personally interact with research participants which naturally encourages interaction and participation.

The reason for collecting data was to gather information, record it in an effort to use it at a later stage in the research for decision making on important issues relating to labour relations and strike actions that took place in the De Doorns area in 2012/13. The information gathered would be made available for academic and information purposes. The primarily data that was gathered provided information that informed the reasons why the farm workers strike occurred in the De Doorns area between 2012/13. Data were recorded immediately: i.e. during the collection process, and immediately

after collection, to ensure that no data were lost and that the data were as accurate as possible.

3.2.3 INSTRUMENT OF DATA COLLECTION

The researcher used the data collected from in-depth interviews as primary data and documents as secondary data. Several authors (Creswell, 2009; Locke, Silverman & Spirduso, 2010; Marshall & Rossman, 1999) concur that interviews are the most common source of data collection when using a qualitative research methodology. Goddard and Melville, (2001: 49) are of the opinion that an interview involves one on one contact time between the researcher and the research participants. Unstructured interviews were the instrument employed to collect data. Welman, Kruger & Mitchel (2005: 166) maintain that in-depth interviews are informal and are used as a method to thoroughly explore areas of interest. Unstructured interviews as instrument of data collection worked well because farm workers who were interviewed felt relaxed: they were interviewed in their own setting. This led to them giving more information than was required of them. While conducting interviews in De Doorns, the researcher noticed that respondents had various emotions with regards to the strike. They remembered incidents clearly, and were verbal about the cause and aftermath of the strike: new problems arose after the strike.

Interviews were scheduled over a 5-week period. The researcher went to De Doorns every Wednesday for the month of August 2017 to conduct the interviews. The researcher visited two farms per week: 10 farms were used to conduct the research. Information was gathered from the farm workers and farm owners or managers who were interviewed. Interviews were conducted during working hours for both the farm workers and farm owners or managers.

According to Welman et.al. (2005: 188) an attempt is made during interviews to understand how individuals experience their life-world and how they interpret things around them. Interview questions were directed at participant experiences, feelings, beliefs and convictions about the 2012/13 strike actions that took place in De Doorns and how the events there affected them.

The researcher started each interview by explaining the purpose of the study to participants in order to seek their co-operation and build trust. The researcher indicated to participants that they had the option to withdraw from the interview at any

time should they feel the need to do so. The researcher clearly indicated that the data was for academic purposes only. Participants were at no point forced to participate and it was emphasised that they could withdraw from being interviewed at any given time.

3.2.4 SAMPLING

The researcher conducted the research on selected farms in the De Doorns area. For this research, 40 farm workers and 10 farm owners or managers were used as the sample group; employing purposive sampling.

3.2.4.1 PURPOSIVE SAMPLING

The sampling method used in this study is what Maree et al., (2007: 79) refer to as purposive sampling rather than probability or random sampling approaches. Purposive sampling is regarded as a sample selected from a group of people interested in the study and can contain knowledge of the problem being studied. Purposive sampling indicates that the researcher selects the sample that is deemed appropriate for the study (Flick, 2011). Welman et al (2001: 63) hold that purposive sampling is deemed as the most important kind of non-probability sampling. The researcher relied upon the experiences of farm workers and farm owners or managers during strike actions, and previous research findings, to purposefully obtain units of analysis to ensure that the sample represents the characteristics of the population.

The researcher purposely selected this kind of data collection method. The rationale behind this decision was that the farm workers and farm owners or managers have the experience and knowledge of the matter studied. The researcher drew detailed answers from participants who were rich with information.

3.2.5 DATA ANALYSIS

Bogdan and Biklen (2003) state that qualitative data analysis is a “working with the data, organising them, breaking them into manageable units, coding them, synthesising them, and searching for patterns”.

Welman et al., (2005: 241) state that qualitative data analysis involves the process of analysing interviews and conducting content analysis. According to Welman et al., (2001: 195) a special application of systematic observation occurs in the content analysis of personal documents and mass media material. This may be done with

open-ended questions and the contents of unstructured interviews in an attempt to report quantitatively in addition to the qualitative analysis of the essence of the contents of such interviews (Welman2001: 195).

The researcher reported some of the questions in a quantitative format: it gave more meaning to the data analysis. Examples of such reporting were the number of years a particular farm worker was working on the farm, the gender of the participants and the race group they belong to. All other questions that were posed to farm workers were open-ended questions that lead to narrating and giving their point of view in a meaningful way rich with information.

3.2.6 VALIDITY AND RELIABILITY

In order to collect data, some form of measuring instrument has to be used. The researcher made use of interviews and secondary data. Field notes were kept since the researcher employed qualitative research. Respondents in the study participated in the data collection process in the field because they were interviewed on the farms where they are employed. A huge number of mass media materials were used as well as previous research that was conducted with regards to the strike in the De Doorns area in 2012/13: this material was used as secondary data.

Bless & Higson-Smith (1995: 129) concur that validity questions how accurately observable measure represents the notion in question. Validity asks questions such as: 'what does the instrument measure?' and 'what do the results mean?' In this case the instrument measured labour relations on the farms in De Doorns. Reliability however can be described as the extent to which observable (or empirical) methods that characterise a theoretical concept are true and stable when utilised in studies (Bless & Higson-Smith 1995: 129).

Bless & Higson-Smith (1995: 130) state that reliability is concerned with the consistency of measures. In most cases reliability of measurement is the degree to which that instrument produces equivalent results for repeated trials. The trustworthiness of collected data was secured by ensuring that data from respondents during interviews were obtained in a transparent and open manner: consent was obtained. Interview sessions were recorded and transcribed. Notes were used to ensure that the views that were expressed were accurately reported. Participants were given an opportunity to review the findings to ensure that the data obtained were

captured correctly. The researcher repeated the notes at the end of the interview sessions to ensure that the findings were correct.

The researcher employed interviews because they are generally considered highly valid: they allow the researcher to discuss issues with the respondent in great depth. This happened in De Doorns while conducting interviews: discussions were in-depth and the researcher extracted a rich knowledge base from the respondents.

3.2.7 ETHICS

Permission for ethical clearance was obtained from the relevant Ethical Committee of Cape Peninsula University of Technology and permission was granted to the researcher to conduct the research. The researcher had to submit the interview questions to the committee for their approval. See Appendices B and C.

Whenever a researcher collects data, the problem of persuading participants to cooperate with the researcher is ever-present. What made the fieldwork easy is the fact that permission to conduct interviews on the farms in De Doors was granted by the Department of Agriculture as well as the BAWSU union. These letters can be found as Appendices D and E. Informed consent, the confidentiality of respondents and the notion of debriefing were considered throughout the study. Participants were given the option to be debriefed after the interview sessions if needed as labour relations is such a sensitive issue.

As stated by Leedy (1997: 116) the code of Ethics that must be adhered to when conducting research is as follows:

- Every respondent has the right to privacy and dignity;
- Research should not cause any form of harm to research participants;
- The finding of the research should be presented without distortion;
- All sources should be correctly acknowledged; and
- Confidentiality of the identity of participants and the sensitivity of information should be maintained throughout the research.

The researcher adhered to the code of ethics: the ethics committee of the university, department of agriculture, union and respondents gave permission to conduct the research. The information that was gathered during the field work was kept confidential

and gathered with dignity. Confidentiality is the assurance that the information is kept private and will be seen only by people who need to do so for the purposes of the research study.

3.3 RESEARCH LIMITATIONS

No budget was allocated for the study; resulting in constraints on the size of the respondent group for the research. The researcher had to travel between Cape Town and De Doorns weekly for data collection and interview purposes at her own expense. In the letter of consent for the research to be done, the Department of Agriculture mentioned that no budget was allocated for this research. The researcher faced time constraints because interviews were scheduled during working hours. This was understandable to a certain extent: farm workers were interviewed at work, and time is precious especially for production. As the researcher continued conducting the interviews, the farm owners or managers became aware that the research would be to the benefit of the broader farming sector.

The community workers who were the liaison officers between the farm owners or managers and the researcher were not always available to secure farms where the research could take place. Because of a recent huge farm robbery, it was not always easy to secure appointments on the farms: farm owners were sceptical about allowing strangers on their farms. Some farmers did not want to allow their farm workers to be interviewed. Their reason for not allowing them was that the information could be used as a political plot. Because of the political climate in South Africa this is understandable but this was a definite limitation because valuable information or data could not be gathered from certain farms.

3.4 CHAPTER SUMMARY

In this chapter, a detailed overview was provided of the processes undertaken to develop the research instrument as well as those of data collection. The next chapter presents the analysis of data collected by employing qualitatively methodology.

CHAPTER FOUR

DATA ANALYSIS

4.1 INTRODUCTION

Findings in this section will be presented with charts for the general questions but mainly descriptive methods will be used because qualitative research methodology was employed in this study. This chapter forwards the findings of the research study that was employed with regards to the labour strike that occurred in 2012/13 in the De Doorns area in the Western Cape. The De Doorns area is divided into three broad sections: Upper Valley, Middle Valley and Lower Valley. The researcher purposely chose farms from each section for the study to cover the whole De Doorns area.

When in-depth, narrative descriptions of a small population are researched, the researcher usually makes use of descriptive methods as a tool to organise data into patterns that emerge during analysis. Where general questions were posed to respondents by the researcher, it is easier to present the results in a quantitative manner. One such example is the number of years the farm workers are working on the farm. The researcher interviewed both male and female farm workers on the farms: both sexes are employed on the farms and this is presented in chart form as well. The open-ended responses provided by the respondents will be presented in a descriptive or qualitative manner by presenting the answers most frequently given.

A qualitative research design was used to research labour relations issues that gave rise to the 2012/13 De Doorns farm worker strike action. Commercial farms prior to 1994 fell outside the parameters of labour relations leading to the exploitation of the agriculture labour force.

4.2 BIOGRAPHICAL DATA

The biographical data of the forty (40) farm workers and ten (10) farm owners or managers who participated in this research study are presented below, along with a clear calculation of how long they worked on the farm, their gender and race.

FIGURE 4.2.1 BELOW DISPLAYS THE YEARS OF SERVICE OF THE RESPONDENTS ON SPECIFIC FARMS.

Years of working on the farms	1-2 years	3-5 years	6-10 years	10 and more years
Farm workers	8	10	15	7
Managers	-	1	3	6

Response

The results indicate that in the farm worker category, fifteen (15) farm workers, the largest percentage of respondents, have 6-10 years of work experience followed by ten (10) farm workers, in the category of 3-5 years' work experience, followed by eight (8) farm workers in the 1-2 years' category of work experience; and the least which is seven (7) farm workers have 10 or more years of work experience.

Most respondents worked on the farms between 6-10 years and the lowest number worked on the specific farms for 10 or more years. This is a clear indication that farm workers in the De Doors area do not work on the same farm for long periods of time or until they retire. Farm workers indicated that they seek work where there are better prospects. The results of their response indicate that this is the case.

In the case of managers' work experience on the farms, the results are as follows:

Response

Six (6) of the managers have 10 years working experience or more, followed by three (3) managers who have 6-10 years and only one (1) manager had 3-5 years' experience.

Managers' results show a different picture from the farm works results in the De Doorns area when it comes to the total number of years working on the farms. The managers tend to work on the farms for longer periods of time. In the case of the manager who had 3-5 years working experience as a manager, it is because of promotion that he falls into that category. His total number of years being employed on the farm exceeds 3-5 years.

FIGURE 4.2.2 BELOW ILLUSTRATES THE GENDER DISTRIBUTION OF THE RESPONDENTS.

Farm workers	Gender	Managers	Gender
Male	24	Male	9
Female	18	Female	1

Response

The results depict that among the farm workers, 24 (60%) were males while 16 (40%) were female: and, of the 10 farm owners or managers, 9 (90%) were males, while 1(10%) were females.

According to the study that was employed in the De Doorns area, more males are being employed as farm workers: 60 % of the population of farm workers and 90% of managers are males. Only 40% of females are employed on farms as farm workers and 10% of managers. This is a clear indication that males are dominating the human resources on the farms in the De Doorns area in the Western Cape

FIGURE 4.2.3 ILLUSTRATES THE RACE OF FARM WORKERS AND MANAGERS.

Race	Coloured	Black	White
Farm workers	25	15	-
Farm managers	3	-	7

Response

The results depict that among the farm workers 25 (62, 5%) were coloured, while 15 (37, 5%) were black; with no white farm worker. In the case of the managers, it is a totally different situation. In this category we had 3 (30%) coloured managers and 7 (70%) white managers with no black people as managers on the farms.

In the De Doorns area the race employed mostly on the farms as farm workers were so-called 'coloureds'. From the forty (40) respondents, twenty-five (25) were coloured and fifteen (15) black in the farm worker category. In the case of the managers, the picture was totally different. The manager category was dominated by white males, while only three (3) coloured managers were employed, one (1) being a female.

4.3 DESCRIPTIVE RESULTS FOR THE SAMPLE OF FARM WORKERS

Qualitative research methodology was employed by the researcher: it afforded the researcher the opportunity to get to know people personally, and to meet with them in their own setting which was on farms in the De Doorns area. The methodology enabled the researcher to understand and describe the information that was gathered by the participants. The nature of this study lends itself to a qualitative research methodology in that it seeks to provide a detailed description of events. Qualitative methodology refers to "research which produces descriptive data, generally peoples own written or spoken word" (Brynard and Hanekom, 2007: 29).

¹The term 'coloured' is disputed because such a large percentage of so-called white Afrikaans and English speakers in South Africa have been shown by DNA testing to be 'coloured' or of mixed race origin. This fact makes nonsense of any anachronous and pejorative distinctions between white and 'coloured' races. The term 'coloured' is used in this research merely as a practical measure and show no approval of the term or the desire to distinguish by race.

The sample for this research consisted of forty (40) farm workers and ten (10) farm owners or managers on the farms in the De Doorns area that is situated in the Western Cape. The majority of participants were males; constituting 60% of the total sample, representing all farm employees in the De Doorns area. Males dominated the farm owner or managerial positions in comparison to their female counterparts, who only occupy 10% of the managerial positions. This indicates that farm owners and managerial positions within the agriculture sector were mainly dominated by males. The farm worker positions were occupied mainly by males as well but the gap is much narrower than in the case of the managers. Although a huge number of farm workers are male female workers are slowly but surely filling the gap.

4.4 INTERVIEWS WITH FARM WORKERS

Question: Please tell me what your working hours is per day, and how often you are off in a week?

Response

All respondents are working a 9-hour day, with an hour lunch break, which is within the regulations of the law. All respondents are entitled to 2 days off during the week, which falls over a weekend. It is a clear indication that all farms that were visited complied with Basic Conditions of Service and the Labour Relations Act No 66 of 1995. Respondents all acknowledged the fact that farm owners and managers after the 2012/13 strike turned the tide when it came to hours of work. In some instances, where the farm owners or managers misused the farm workers by expecting them to work longer hours without compensating them, this practice has come to an end.

The farm workers are pleased that legislation finally included them and has given them the liberty to fight for their rights like all other citizens. Some of the farm workers had lost their faith in the transformation on farms; the decision to strike as a weapon to gain much-needed attention was vital. This worked well in their favour: many farmers are now forced to comply with legislation.

The Basic Conditions of Service stipulates that with regards to the hours of work, employees are allowed to work only 9 hours a day with a 1-hour lunch break and employees must be off at least 2 days a week. According to the Constitution of the

Republic of South Africa, Act 108 of 1996, the Labour Relations Act, (Act 66 of 1995) is a measure to control and monitor employers in fulfilling its role in implementing labour peace and equality in the workplace.

Question: Is your spouse employed on the farm?

Response

Most of the respondents confirmed that both husband and wife were working on the same farm; if not on the same farm, then on another farm. But 90% of the farm worker couples are both employed on a farm. In some instances, both husband and wife work on the fields, while in other cases the wife is a domestic worker or the husband a driver while the other partner is working on the field. In the farming communities it is a usual for husband and wife to both works on the same farm.

One of the unique aspects of working on a farm is that husbands and wives often work closely together. Farm worker operations and family life are tightly inter-woven. Usually in rural areas there is not a wide range of job opportunities: most people are not educated or partly educated and usually work on farms.

Question: How many days are your annual/yearly leave?

Response

All the respondents confirmed that they were granted 21 days paid leave per annum. They usually rotate the leave period in order to have some workers on the field while others are on leave.

Respondents are more aware of the legislation with regards to labour issues, and their awareness is working in their favour. Gone are the days where farm owners or farm managers can misuse or abuse the farm workers when it comes to acquiring of leave.

On a few farms the rotation works well because workers are encouraged to rotate jobs as well, in order to get to know what the other person's job is about. This makes the leave period less stressful: more than one farm worker is able to do a specific job. Since this job rotation is not done on all farms, the leave period on some farms is not as smooth as on other farms.

The Basic Conditions of Employment Act (No 66 of 1997) chapter 3 clearly states the provision for annual leave for an employee. It stipulates that an employee must be granted a minimum of twenty-one consecutive days' annual leave with full remuneration per leave cycle.

Farm owners or managers have come to realise that farm workers are well informed about their conditions of employment: legislation that applies to them.

Question: Do you get paid more for working Sundays and Public holidays?

Response

Some of the respondents stated that before the strike in 2012/13 they were expected to work some Sundays and on Public holidays and received their usual pay for those days. Only after the strike action that occurred in 2012/13 De Doorns that the farm workers now reap the benefits of the legislation with regards to remuneration for Sundays and Public holidays.

All the respondents agreed that they were being paid more for working on Sundays and Public holidays. A few farmers opt to have no work force working on the farms during a public holiday, as a means of curbing costs. This is a blessing to the farm workers: on the other hand, as they get to spend time with their family or just take time off.

As previously mentioned, farm workers are well aware of the legislation pertaining to them. The Basic Conditions of Employment Act (No 66 of 1997) chapter 2 clearly states that: unless otherwise agreed upon or unless it forms part of the work week an employer needs to pay its employees double the normal wage for working on a Sunday. After the 2012/13 farm worker strike all farm owners now remunerate their workers according to the guidelines as set out in the Basic Conditions of Employment Act. Gone are days of exploitation of the farm workers with regards to Sunday and Public holidays working hours

Question: Do you get any Skills Development training?

Response

All respondents for this research confirmed that they have the opportunity of developing themselves: all farm owners or managers are providing them the opportunity to gain skills for themselves. On some farms farm workers are seeing the benefit and they are developing themselves and enrolling for the skills development programs that are being offered. Unfortunately, not all farm workers make use of this opportunity because they are not educated or informed enough to understand that this is to their benefit. The researcher obtained conflicting views in the responses pertaining to the role of employer-driven skills development in the sector. Some research respondents felt that there has been expanded skills development among farm workers while other respondents felt that it was mere a driver to comply with the law.

The Skills Development Act aims to improve the skills of workers by promoting education and training in the workplace. According to the labour department 2003 due to their isolation farm workers are often at the mercy of their employers. Most farmers are reasonable and fair in their dealings with farm workers and implement best labour practices. This is unfortunately not the universal practice as many farm workers are still subjected to appalling wages without and benefits.

The agricultural sector development works hand in hand with the rural development who considers skills development to be an important pillar in both. It is important that skills development happens at every level of the agricultural value chain. What is equally important is that tailor made training packages be provided to ensure and enhance skills development among farm workers (Agricultural sector strategic skills plan: 14).

The aim of the Skills Development Act No 97 of 1998 is to: effectively enhance and develop the skills set of the South African workforce and to ultimately improve the quality of life of employees. It strives to enhance productivity in the work environment. Skills development is broader than the work place alone: it empowers the farm worker with skills to improve him or herself.

Question: Are you performing the job you were employed for, or were you promoted or changed from your first job?

Response

Only the respondents who are working in the category of 1-2 years are all still doing the work they were initially employed to do. All other farm workers interviewed were promoted or applied for promotion jobs after they were trained through skills development programs. On some of the farms, workers are rotating responsibilities in order to give every worker the opportunity to improve their skills. Usually farm workers are eager and confident when performing the rotational duties: they are aware of the fact that these are opportunities for promotion.

The study is evidence that promotion opportunities are created on farms in the De Doorns area: most of the respondents have been promoted or have changed jobs. Rural development plays an integral role in government's plan to ultimately try and reduce poverty and the inequality employees are facing while boosting economic and employment growth. Due to the location of agricultural activities cultural development is to a great extent linked to rural development. Consensus has been reached throughout the policy terrain in South Africa to include skills development into the development programmes or plans that are designed to address immediate crises (such as De Doorns).

Question: Do you pay UIF?

Response

All respondents confirmed that their employers deduct UIF from their salaries. This was not always the case as they explained: but after the 2012/13 strike, employers felt the brunt of the strike and are trying their level best to comply with the law and make a positive impact in the lives of their workforce.

Not all farm owners deducted UIF from the farm workers before the 2012/13 labour relations strike. It was during and after the strike that farm workers educated themselves with regards to labour relations that apply to them. Before the strike most of the farm workers were aware of this legislation but they never held the farm owners accountable for not complying with the legislation. After the 2012/13 De Doorns strike farm workers became adamant to ensure that were treated according to the prescripts of the law.

The Unemployment Insurance Contributions Act, No. 4 of 2002 assist to provide for the obligation and gathering of contributions to benefit the Unemployment Insurance

Fund; and to provide for matters connected. According to the Act Employers should pay UIF contributions of 2% of the total value of each employee's salary per place to ensure that a worker will have an unemployment benefit should he or she be retrenched.

Question: Do you belong to a trade union?

Response

More than 90% of respondents indicated that they did not belong to any trade union. On the farms where there is no trade union, workers formed a committee that deals with their grievances. These committees are elected every 2-3 years and consist of farm workers from different levels of employment.

These committees are established to solve all the grievances the farm workers experience; whether it is work related or social issues. The committees come together as soon as a problem arises. They usually sort the problems out before they become unbearable.

Only 10% of the farm workers are affiliated to a union. The other 90% of farm workers have committees on the farm that are elected by farm workers every 2-3 years in the place of the union. It is clear that the committees work well, and that farm workers prefer committees which handle the issues that arise on farm level and sort them out as soon as possible. On one of the farms, the committee organised farm workers to help during the protests when the farm they were working on was set alight. All the farm workers who were on the farm worked together and saved their farm from the hands of the protesters setting the farm alight. This was not an easy task but they managed to save their place of work from going up in flames. Respondents concur that this was not going to be possible if they belonged to a union which would expect them to abide by the union's decision.

The Human Rights Watch report as of 2012 indicates that only 3% of farm workers in the Western Cape at that point belonged to trade unions. The minimal representation of farm workers belonging to unions weakened their bargaining position and power. The workers who do not belong to unions are ineligible to participate in protected strikes; resulting in those who partook in the strike putting their jobs at risk.

Question: Do you get time off to attend union meetings?

Response

Respondents acknowledged the fact that farm workers belonging to unions get off to attend union meetings. However, in the case where there are no unions and the farm workers make use of the committee as a way to sort out their grievances, the committee member and affected farm workers do get time off to meet.

Farm workers who belong to unions do get time off to attend union meetings. In the case where farm workers make use of committees, committee members and farm workers get off to sort out the grievances that crop up. Farm workers made it clear that the committee is a better way of dealing with grievances: it is farm related and any grievance that arises is being sorted out on farm level which saves them from having to wait long for the union to address the issues.

Question: How often do you meet as union members? Or do you just meet when problems arise?

Response

According to the respondents, union members do not meet often. The only time they meet is when a problem arises. Because of the low percentage of farm workers who belong to a union it is not always easy to gather and meet. Members are spread over various farms.

Union members or the committees that exist on most of the farms usually meet when grievances are tabled. The Bawsi Agricultural Workers Union of South Africa (BAWUSA) came out at the forefront of the strike in De Doorns in January 2013. The secretary general of BAWUSA Nosey Pieterse, indicated that the union's membership increased during the strikes.

Question: Can you tell me whether you have meetings with management to discuss issues relating to problems you face at work?

Response

All respondents confirmed that they do have meetings on the various farms with management when problems arise. The problem they are facing is that management

does not always take their problems seriously. For this reason, that in the last quarter of 2012, saw a series of farm worker strikes occurring in the Western Cape.

The farm worker uprising that occurred in 2012 near De Doorns in the Cape Winelands District Municipality was headed up by a group of women who reacted to a new farm owner who requested employees to sign a contract specifying a lower wage. This problem was discussed with management. But due to management not attending to the problem, farm workers reverted to strike action. This strike inspired other farm workers to join the strike and the strike spread quickly to other farms around the Western Cape.

Question: If yes, are minutes taken and are issues resolved before they become unbearable?

Response

Respondents concur that minutes are not always taken when they have meetings.

The 2012/13 strike action is a clear indication that issues are not always resolved before they become unbearable. However, not all issues that are unresolved escalate into strike actions. Respondents confirmed that some issues are resolved at farm level.

It is clear that where the committees are in place instead of unions, the committee members take the workers' issues seriously. This could be the case as committee members and farm workers are on the same farm. In the case of unions, the members and the union officials are not on the same farms which make deliberation and intervention difficult at times.

4.5 INTERVIEWS WITH FARM OWNERS OR MANAGERS

Question: Do you employ more seasonal employees or permanent employees? And what is your reason for your choice?

Response

Respondents concurred that more permanent employees are employed on the farms. They make use of seasonal workers but this is just for the period that the seasonal workers are needed: farm workers cannot cope with the work load during the season

time. According to the managers, it is more profitable and easy to employ permanent workers who get to know each other and usually build a good working relation. With seasonal workers or non-permanent staff, the same relations cannot exist because the person is on the farm for too short a while.

Respondents stated that permanent employees are usually preferred because good working relations are important to enhance production. However, after the strike, some farmers retrenched workers and evicted them and their families; while some permanent workers were fired, evicted and simply replaced with seasonal workers. This was merely done since some farmers felt they could not trust the workers. As time went by, most of the farmers re-employed the permanent workers.

Question: What are the working hours per day for employees, and how often do they get off per week?

Response

The Basic Conditions of Service clearly stipulate that the working hours are 9 hours per day with a 2 day off period within a week. All managers confirmed that the farm workers work a 9-hour day and get 2 days off per week.

All respondents concur that they are abiding by the regulations that pertain to the working hours and time off per week. Respondents became aware of the fact that the farm workers are informed with regards to the labour law that governs them.

Question: Do you deduct UIF from your employees? If not, what is the reason for not deducting UIF?

Response

All respondents confirmed that they do deduct UIF from their employees. By doing this they are protecting their employees should the employees (the farm workers in this study) lose their job for one reason or another.

The managers on the farms all acknowledge the fact that UIF is being deducted from all farm workers. Managers mentioned that this is small deduction but one that is of utmost importance for the farm workers.

According to the Act, Employers are supposed to pay UIF contributions amounting to 2% of the total value of each employee's salary per place to ensure that a worker will have an unemployment benefit should he or she be retrenched.

Question: How many days are your employees entitled to annual leave? How do you manage the work load while some employees are on leave?

Response

All managers or farm owners confirmed that the employees are entitled to 21 days of leave per annum. In The Basic Conditions of Employment Act (No 66 of 1997) chapter 3 clearly states the provision for annual leave for an employee is twenty-one consecutive days of annual leave with full remuneration in respect of every annual leave cycle. The managers that make use of the rotation schedule on their farms have few problems with staff compliment: the rotation of jobs works well. If some farm workers are on leave, their jobs are being done by other farm workers who are filling in for them. In other cases, where the rotation of jobs is not taking place, farm workers are requested to work overtime.

The managers made it clear that they are complying with legislation because the farm workers know their rights and are familiar with the laws relating directly to them. Where the rotation of jobs is not taking place on farms, farm workers are requested to work overtime in order to fill the gaps of the farm workers who are on leave.

Question: Are you currently happy with the conditions of employment on your farm?

Response

Most of the respondents are happy with the current conditions of employment on their farms. After the 2012/13 labour relations strike actions, most farmers realised that it will be to their benefit to better conditions on the farms. The strikes severely affected production. De Doorns for example saw a total reduction of 400 000 of fruit cartons from 1 000 000 to only 600 000 cartons. This had a negative effect on the farmers, who then realised that, the farm worker and farm owner relation is interdependent.

Where fair labour practices are being exercised, farm owners or managers are happy with the conditions of employment on their farms. Poor salaries, unfavourable living

conditions and oppressive / discriminatory labour practices were the main grievances that led to the protests. However, it is not all farm owners that treat their farm workers badly. On eight of the farms where the researcher conducted interviews the farm houses were well kept, and the researcher sensed that the workers were happy with their working conditions on the farms. This can only be accomplished if managers and farm owners are happy with the working conditions on their farms.

Question: Do you provide Skills Development programmes for farm workers in order to develop them so they will be more productive?

Response

Skills development is bigger on some farms than on others. On the one particular farm, Skills Development is key. The manager stated that skills development is the cornerstone of their farm. According to her they have skills development programs on a regular basis, but they do not force the workers to participate in these programs. She indicated that most of the farm workers on their farm are not working in the positions they were employed for initially, as they were promoted because of skills development. One of the farm worker children, who usually help out on the farm during vacation time, will be starting his 3-year agriculture diploma soon, due to the Skills Development programs.

Through the Skills Development program, farm workers are more productive; and this is what the farm owners are aiming for. The aim of the Skills Development Act No 97 of 1998 is to: enhance the skills of the South African workforce and to better the quality of life of employees and their future prospects of work. It strives to increase productivity in the work environment as well as the competitiveness of employers. This Act aims to improve the skills of workers by promoting education and training in the workplace. Skills Development has become the buzz word on some farms. Most farmers hold Skills Development programs on their farms. After the strike in 2012/13, most farmers are trying their level best to comply with all legislation.

Question: To what extent do you encourage your employees to develop themselves holistically?

Response

Employees are encouraged to enrol in skills development programs. Some farm owners or managers have workshops on their farms with regards to life skills. Job security is enhanced on farms where farm workers are more productive on farms and they have job security.

Farm workers are being enrolled in different competitions as a way of developing themselves, and encouraging them to strive and better themselves. On a particular farm in the De Doorns area an intern won the prize for best administrator, while the manager won the 2nd prize for administration and management. On another farm one of the farm workers won a prize for irrigation specialist. On another farm a worker was sent to Boland College to their research department to investigate how research is being done.

These competitions are national competitions and are being run by the department of agriculture. It is thus evident that farm owners and managers are encouraging their employees to develop themselves holistically.

Farm owners are going the extra mile when it comes to development of their farm workers. One of the respondents who was once a farm worker in the De Doorns area is now a grade R teacher on the farm. The employer (farm owner) encouraged her to study and he paid for her studies. On the farm they have a pre-school for the farm worker's children: this is where the teacher is now employed.

It is evident that some of the farm owners really go the extra mile in developing their workers holistically. Two farm owners where the research was conducted are paying for the schooling of the farm workers' children. These children are at the best schools in the area.

Question: Do you as management belong to a trade union? If yes to which union do you belong? If no, do you not think it is important to belong to a union?

Response

On the farms where the research was conducted, no farm owner or manager belonged to a union. On some of the farms, the management was part of the committees that the farm workers formed where they (the farm workers) could address their grievances. Managers informed the researcher that the committees are working well

because they are not politically affiliated. Respondents indicated that it is important to belong to a union but that they do not always have the time to attend meetings.

Management is of the opinion that unions are too political. Not all respondents indicated that they belong to a union: most workers believed that the committees established on the farms work well as there is no political interference when it comes to problem solving on the farms.

Question: Do your employees at times come to you with grievances relating to working conditions? If yes, to what extent do you try and solve the grievances before they get out of hand?

Response

Yes, employees do bring their grievances relating to working conditions. The respondents stated that they at all times try to solve the grievance before it gets out of hand. In the case of the 2012/13 labour relations strike actions, farm workers approached their employers with their grievances, but when they were not resolved and became unbearable, farm workers decided that enough is enough and they embarked on strike action.

Respondents confirmed that not all grievances are easy to handle. If the grievance is farm related, it is easy for the farm owner or manager to meet with the employees who then try and solve the grievance. However, if it is a broad issue that affects a range of grievances on various farms it is more difficult to solve.

The researcher gathered that respect and trust on farms play a vital role in working conditions on farms: such qualities ease the tension when it comes to problem solving.

After the strike action in 2012/13, it was not easy for farm owners or managers to trust farm workers: most of the farm workers joined the strike. Farm owners and managers concur that it is not always easy to solve all grievances immediately, but they strive to solve problems as they arise.

Question: If you can't solve the grievance yourself, what action will you take in trying to solve it?

Response

As mentioned earlier, on the farms where the research was conducted, no farm owner or manager belonged to a union. However, committees are used to solve grievances in the absence of unions on the farms. Managers stated that up till now they have not encountered a case that they could not solve.

The respondents concurred that they will make use of a neutral person in the form of a mediator to try and resolve any grievance; should they not be able to solve it on their own.

The committees on the farms where the research was undertaken work well and farm owners and managers prefer to work with the committees rather than with unions which are politically affiliated and create their own sets of problems. According to managers, the 2012/13 strike action was not about the minimum wage since most of the farm workers earned above the minimum wage. The strike was a build-up of other issues not addressed by relevant farm owners.

Question: How would you describe your working relation with your employees?

Response

Managers described the working relation between farm workers and farm owners or managers as good. This was, however, not the case just after the strike actions of 2012/13. According to respondents it took time, effort and hard work to get relations to the place where they are now. The researcher noticed that the farm workers and farm owners or managers have respect and trust for one another. The respondents mentioned that there was tension between farm owners or managers and the farm workers just after the strike. This is understandable since farm owners or managers did not trust farm workers.

It is in the best interest for any working relations that the employer and employees are on good terms: they are dependent on each other.

Question: How do you as an employer see the next few years in the agriculture sector with regards to the labour relations issues?

Response

Respondents agreed that the role of Agriculture remains vital in South Africa despite its somewhat small influence on the gross domestic product (GDP). They concur that the sector plays an integral role in terms of job creation, specifically in rural areas: agricultural activities take place in these rural settings. The rural population is more aware of agriculture's value in South Africa than the urban population because they are directly linked to the agriculture sector; according to the respondents.

According to some respondents, agriculture does play a great role in the total economy of the country; even as a small primary industry. The economy of these rural towns is intertwined with South Africa's agriculture economy.

The whole political environment, policy frameworks and legislation on expropriation and land reform is currently playing a substantial role in the agriculture sector. These uncertainties as the farm owners call them create fear in the sector. But most of the respondents are positive about the future of agriculture within the next few years. All of the respondents agree that agriculture plays a vital role within job creation and that it is a big segment of the National Development Plan. As much as there are uncertainties in the agriculture sector, the outlook is good. Farmers and managers are excited about the future and state that it can be a blossoming sector if labour relation issues are resolved satisfactorily.

In his 2017 Budget Review, Finance Minister Pravin Gordhan said government will, over the next three years, spend more than R5.5bn on conditional grants to the Comprehensive Agricultural Support Programme. Gordhan stated that National Treasury is considering the feasibility of agricultural insurance for poor farmers to protect them against economic shocks and natural disasters. This will help the struggling farmers and will boost the economy.

4.6 Chapter Summary

This chapter forwards the analysis of the data gathered through interviews, primary and secondary data. The interpretation of the findings presented in Chapter 3 (Research Methodology) and the information that was discussed were linked to what was presented in Chapter 2 (Literature Review). This chapters presented the responses of various respondents on the farms where the interviews were conducted. The sample, however, was limited to ten farms in the De Doorns area in the Western Cape where the 2012/13 labour relations strike action started. Findings are not

conclusive regarding all farms in the area; findings are based on responses received from ten (10) farms in the De Doorns area.

The conclusions are derived from all these discussions and are presented in the following chapter.

CHAPTER FIVE

RECOMMENDATIONS AND CONCLUSION

5.1 INTRODUCTION

The primary objective of this research study was to consider the Labour Relations Act in terms of labour relations between the farm workers and farm owners or managers during industrial strike actions. The main focus of the research was around the farm worker strike action that took place in the De Doorns area in the Western Cape in 2012/13. The proposed recommendations will assist farm workers and farm owners or managers to handle these tense situations and disputes in a more constructive manner. Although a number of policies and legislation were drafted and implemented since 1994, implementation has been slow. According to the Constitution of the Republic of South Africa, (Act 108 of 1996), the Labour Relations Act, (Act 66 of 1995) is a measure use to control and monitor employers in acknowledging and effecting labour peace and the democratisation of work environments.

5.2 SUMMARY OF THE RESEARCH

The Human Rights Watch, (2011) stated that the advantaged situation of commercial farming in South Africa ended in 1994 when political and policy changes were made to regulate the human resources and labour relations on farms. The strikes and protests in De Doorns, Western Cape have altered the face of South African agriculture permanently. It has set the scene for workers and rural communities to fight apartheid slave conditions on farms not only in the Western Cape but across South Africa.

In general, farm workers are isolated from mainstream social interaction because of their location: they do not have regular access to life skills training. In most cases they lack awareness of the dangers of substance abuse: breakdown of the social fabric in their communities. It is therefore essential to build self-respect amongst farm workers who contribute towards the success of the agriculture sector.

Improving agricultural performance is at the heart of improved economic development and growth. Eradicating poverty and the restoration of human dignity can never be over-emphasised. The focus of this study was to determine the labour relations

between the farm workers and farm owners on farms in the De Doorns area in the Western Cape in 2012/3. The objectives of the research study were as follows:

Objectives of this research study are to:

- Investigate relations between farm employers and their employees relating to labour relations; with the aim of improving their position in agriculture industry;
- determine the challenges that affect working conditions of farm labourers in the Western Cape;
- determine how capacity building interventions can improve the working conditions of farm workers; and
- recommend to the Agricultural Department in the Western Cape Province interventionist strategies for improving labour relations between farm owners and farm workers

This study employed a qualitative methodology. On most of the farms where the research was employed, relations were good between the farm worker and the farm owner. The researcher is of the opinion that this was the case because most of the farm owners use the committee model to solve grievances on farms.

Farm workers in general and in the Western Cape specifically are faced with different working conditions. What should be highlighted is the fact that farming activities take place in rural settings which on its own has challenges. Rural areas are isolated and basic service delivery is not readily available. Rural communities tend to have a bigger problem with alcohol abuse: social activities are minimal, if they have social activities at all.

In an attempt to achieve the set objectives, the researcher conducted an investigation in the De Doorns area in the form of interviews, and legislation and policy documents were reviewed. Interviews were conducted to gain the views of the farm workers and farm owners or managers regarding issues that affect them.

Chapter 1 contains the proposal of the study; it states the problem, research questions, the way in which the study was conducted, data collection and data analysis. The organisation of the study as a whole is provided.

Chapter 2 discussed the literature review which consists of the legislative overview and theoretical overview. The literature review looked at the practical overview of labour relations between farmers and farm worker in the De Doorns area with regards to the 2012/13 industrial strike actions.

Chapter 3 described the research methodology that was employed to conduct this research, the way in which the researcher secured permission from the agriculture department, the farmers and farm workers to conduct the study and the limitations the researcher faced.

Chapter 4 contained the data analysis and presented the findings based on the analysis.

Chapter 5 provides conclusion and recommendations of the research study.

5.3 RECOMMENDATIONS

The following recommendations are made:

5.3.1 RECOMMENDATION ONE

LEGISLATIVE FRAMEWORK

The major power balance between farm owners and farm workers needs to be corrected. Government has pursued progressive labour legislation which is a starting point to eradicate the imbalance but such legislation needs to be implemented at a rapid pace. South Africa has well-drafted legislation but what good is legislation if it is not implemented? The researcher urges the office manager of the Farm Support and Development to put pressure on the Department of Labour in order for labour to ensure that legislation is implemented. By doing this, these two departments will ensure that legislation is adhered to. By implementing legislation effectively, the plight of the farm workers will be alleviated.

5.3.2 RECOMMENDATION TWO

SKILLS DEVELOPMENT

Farm workers remain one of the poorest groups because of their remote areas of employment, lack of basic services and educational training as well as the fact that they are the lowest paid category of employee. Skills Development needs to become compulsory for all farm workers since farming is becoming more technological. Most

of the respondents were not aware of the importance of Skills Development for the purpose of work and in their personal lives. Skills Development unlocks talents and creative energy for the farm worker which has a positive impact on production.

With the increase in salary, the department together with the farm owners should give the farm workers soft skills training. One example should be how to budget and work with money instead of using extra income to acquire alcohol which creates more social problems instead of solving them.

5.3.3 RECOMMENDATION THREE CHANGES IN AGRICULTURE

Farm owners should create equitable access to participation in global competitiveness and profitability for the farm workers: this will create a better situation for all. Most importantly, it will increase investor confidence. Agriculture has changed drastically over the last few years. Farm workers and farm managers need to be at least semi-skilled. Investor confidence is imperative: it will boost the economy and the farming sector.

5.3.4 RECOMMENDATION FOUR CONDITIONS OF SERVICE

Although most of the respondents confirmed that farm owners were complying with the conditions of service, more needs be done to improve the lives of farm workers who are one of the most vulnerable groups in society. Merely complying with legislation is not enough. Farm owners need to reach out to farm workers in various ways: for example, by assisting workers and their children in creating better lives for their families. This could be done by assisting with education or having soft skills workshops on the farms. Farm owners should encourage farm workers' children to study and make bursaries available for students who qualify to go to university or college. This will ensure that the farm owner will have more qualified staff; which will be mutually beneficial to both parties.

5.3.5 RECOMMENDATION FIVE

WORKPLACE FORUMS/COMMITTEES

The agriculture department needs to encourage workplace forums/committees (substitutes for unions) which encourage all employees to participate in furthering their interests in the workplace. On the farms where the research was conducted these forums or committees are made up of elected farm workers who meet with interested parties on a regular basis to discuss working conditions on the farms. The issues dealt with by workplace forums/committees are better suited to resolution through consultation with the affected parties. These forums/committees are not politically affiliated; something which eases the process of problem solving.

5.4 FURTHER STUDIES:

Further studies could be explored on how the labour relations between the farm owners and farm workers can be improved, using the current legislation to the benefit for both parties. This will not only place focus on current legislation but it will ensure that legislation is being adhered to.

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