

# **Electronic Ratification: The Collective Bargaining Implications**

A thesis submitted in partial fulfilment  
of the requirements for the degree of  
**Master of Commerce in Management**  
at the  
**University of Otago**  
by  
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## **Acknowledgements**

To Ian McAndrew, who provided unfaltering support throughout this project, and without whom I would never have made it into the world of research. Thank you for your guidance and friendship. It is your fault that I am still studying.

To my family; Mum, Euan, Amber, and Michael; and Ian, Dallas, Mia, and Arlo. Thank you for all your support throughout my life and studies, and for always being there when I needed you. I hope that I can do the same for you.

Thank you to Mike and my awesome friends for always providing that much needed break from research that kept me sane throughout this journey.

Thank you also to the Department, all of whom have assisted me with my studies at one point or another.

Thank you to the participants throughout the country for your great contributions to this work, and to Helen Kelly for your assistance with finding participants. I hope that we can work together in the future, and that you all find use for this research.

## **Abstract**

The ratification procedure is the last phase in the negotiation of a collective agreement, in which the union membership is given the opportunity to vote to accept or reject the proposed agreement. Traditionally, union leaders held meetings to inform the membership of the bargaining team's expert assessment of the proposal. However, with the development of electronic communication, union members have begun to question the necessity of meeting attendance. This poses a problem for the union leaders, as without the ratification meeting, the leadership may lose their ability to impart their knowledge and opinions on their members, and their ability to influence the vote. The purpose of this research is to assess how a change from traditional meetings-based ratification to electronic ratification impacts the negotiation process, and most particularly what Walton and McKersie (1965) refer to as the "Intra-organisational Bargaining" sub-process.

In order to explore this, sixteen semi-structured interviews were conducted with union negotiators. The interviewees covered both the public and private sectors, and a wide variety of industries including manufacturing, finance, health, public safety, transport, education, hospitality, and entertainment. The interviewees were asked to describe their current bargaining process of claims development, selection of the bargaining team, communications during negotiations, and finally, ratification. They were then asked to talk back through the process as if the ratification had changed (from meetings-based to electronic, or visa-versa). The data gathered from these interviews were analysed using the theory-building Grounded Theory approach of Strauss and Corbin (1990).

The creation and growth of Information Communications Technology (ICT) and particularly the Internet have enabled the development of processes that have the ability to replace traditional communication processes. One major implication of this is the ability for union members to cast ratification votes online. This concept presents the union negotiators with a problem, as the traditional meetings were used to persuade the membership to vote in the way the bargaining team believed was in their best interests. In order to mitigate this problem, changes to the claims development process will require membership consultative unions and their opposite, representative democracy unions, to converge. Bargaining teams who have traditionally been reluctant to communicate with their membership have indicated a need to increase member engagement, and those with larger memberships have discussed an increase in the role of the delegate structure to disseminate information and also to provide a channel for feedback. As for the ratification phase, some interviewees discussed different

voting procedures that include tests of understanding to ensure that voters have received the message from the bargaining team.

The findings indicated that in order for union leaders to mitigate the potential challenges presented by electronic ratification, there was a need for significant changes to the claims development process, communication during negotiations, and the ratification procedure. The purpose of these changes is to ensure that the bargaining team has the opportunity to present the members with their opinion of both the proposed agreement and the actual negotiations, and thereby lead the negotiations to closure.

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## 1.0 Introduction

The development of the Internet from the 1970's onwards has radically shifted the way people engage one another, and this is no different for those in labour organisations. The Internet has enabled real-time communication and access to information in a way that was previously impossible. Unions, which have arguably been slow to utilise the full capabilities of this new technology (Kerr & Waddington, 2013; Lee, 1997; Shostak, 1999), have now begun to use the Internet in many different ways (Kerr & Waddington, 2013). Because of this shift, the idea of taking the ratification of collective agreements 'online' has arisen, as union members become more and more used to conducting their business over the Internet.

The ratification of collective agreements has traditionally been seen as not only a test of acceptability of the proposed agreement, but also, and more importantly, as a mechanism to "increase its acceptability" (Summers, 1967, p. 84). The focus of this thesis is to examine how a shift from traditional contract ratification to ratification through electronic means (online) affects how the union leadership conducts their *intraorganisational* bargaining. This is significant because while ratification was traditionally conducted in a meeting, chaired by either the bargaining team or their representatives, electronic ratification negates the need for meeting attendance (at least in the eyes of the membership), and consequently the leadership's communication at that most crucial stage. The following literature review will explore the development of the modern union, negotiation and intraorganisational bargaining, democracy within unions, and finally ratification and communication within unions. These areas have been chosen to set the scene of this study, as the ratification phase of collective bargaining is one of the main sources of democracy within the modern union. Furthermore, the dissemination of information from the bargaining team to the membership is key to the members' understanding of both the negotiations and the implications of the proposed agreement.

## 2.0 Literature Review

As a result of the grouping together of individuals, labour organisations have been cited to often lack a united view on their negotiation objectives (Walton & McKersie, 1965, p. 281). The lack of consensus results in internal conflict, which in turn requires the use of *intraorganisational bargaining*, often at multiple stages throughout the negotiation, in order for proposed agreements to pass the often required membership ratification procedure. The ratification procedure is of particular importance because it is the final stage of contract approval. However the implications of the ratification procedure in collective bargaining have rarely been discussed previously. The majority of the literature closest to this topic is based on one of two ideas:

1. that democracy within a union is good, and
2. union negotiators need the support of their constituency.

These two ideas create a paradox: how can a union negotiator negotiate effectively without the absolute authority to reach agreements when any potential agreement can be vetoed by the membership?

Union leaders have traditionally utilised the ratification meeting to provide guidance to their members, through their descriptions of how the negotiations unfolded, what the union could realistically achieve, and how that compared to the proposed agreement. However the use of an electronic ratification procedure has the potential to impact this communication resulting in voters not receiving this guidance, who are less likely to compromise and meet any proposed agreement that delivers less than their individual targets.

This can therefore result in protracted bargaining, or even make bargaining impossible to conclude, due to unrealistic expectations. A second outcome could be that it leads to factionalization of union membership due to differing values of the issues in negotiation of a package. Third, it could even increase the union's negotiating power as management would be required to give more to gain an agreement.

It is important to explore whether these potential issues associated with electronic contract ratification could be realised, and if so what can be done to mitigate these problems. To do this, the following literature areas will be discussed below:

1. Why people join unions,
2. The purpose of unions,

3. Membership engagement
4. Negotiation,
5. Intraorganisational bargaining,
6. Democracy in unions,
7. The public policy concern with union democracy,
8. Democratic process' within unions,
9. Ratification procedures,
10. Bargaining power, and
11. Union communication.

The order of the literature has been chosen to initially set the context of this study, by describing the union movement as a whole. It will then move into a discussion of the democratic processes within unions, of which the ratification of proposed agreements is one of the main processes. The final notes will address bargaining power and union communication. This literature review has been organised in the aforementioned way in order to best define the niche area of this study; as the topic of the thesis has rarely been discussed previously the literature must be drawn from different spheres.

## 2.1 Why People Join Unions

Sidney and Beatrice Webb (1919, p. 1) define a trade union as “a continuous association of wage-earners for the purpose of maintaining or improving the conditions of their working lives”. This definition highlights the point that there are both economic and non-economic factors that compel workers to unionise. The economic reasons are obvious, however it is important to note that it was not just the improvement of conditions that drove workers to unionise. As the Webbs describe, it was often to maintain the conditions by protest against what they perceived as attacks on their existing working conditions. Geare and Edgar (2007, p. 59) note “it was usually not bad conditions *per se* which resulted in a demand for unions, but a worsening of conditions: a pay cut, a speed-up of work or a lay-off of employees.” The non-economic motives, noted by Golden and Ruttenberg (1942, p. 3), include “equally compelling psychological and social ones, so that they can participate in making the decisions that vitally affect them in their work and community life.”

Research by Farber (1990, p. 75) has indicated a relationship between demand for unions and worker satisfaction, with an increase in workplace satisfaction being linked to a “decline in non-union workers’ belief that unions are able to improve wages and working conditions.”

While some scholars argue that society has become more individualistic indicating selfish motives to unionise (Brown, 1990), more recent research has confirmed that the rationale for workers joining unions rests largely in collective reasons (Cregan, 2005; Kerr, 1992; Tolich & Harcourt, 1999; Waddington & Whitston, 1997). Research by Geare, Edgar, and McAndrew (2009) found that workers' ideology at a societal level was clearly more aligned with a pluralist viewpoint, and, expectedly, current union members were significantly more likely to hold a pluralistic viewpoint. However this does not hold true for workers discussing their own workplaces, with workers who did not belong to a union indicating that their workplaces were more unitarist (union members maintained their pluralistic viewpoint).

The findings of this work are consistent with other research into the rationale for joining a union, such as that by Waddington and Whitston (1997), who found that the two central reasons to join a union were for mutual support and improved pay: both of which are made possible through collective organisation. Research by Cregan (2005) looked at both union and non-union workers' attitudes toward unions. She concluded that "most workers recognized the instrumental power of collective strength and were prepared to pay for it" (p. 301). However unions in general were seen as ineffectual at convincing workers that the costs of membership were worthwhile, and many workers "resented what they perceived as union inefficacy, particularly when it involved failed strikes and leaders who were out of touch with the rank and file (p. 300)." This alludes to the importance of democracy within a union, as the democratic process', such as contract ratification, ensure that the leadership does not fall out of touch with the goals of the majority.

## 2.2 Purpose of Unions

The previous section identified that individuals join unions for mutual support and improved pay, however these views of the purpose of unions are not universal. Freeman and Medoff (1985) discuss trade unionism as having "two faces" when viewed from outside the institutions; the Monopoly Face, and the Collective Voice/Institutional Response Face (pp. 5-11). The Monopoly Face shows unions raising wages to uncompetitive levels, reducing efficiency through restrictive work practices or rules, increasing income inequality through wage increases for highly skilled workers, and due to their (often) monopolistic status "breed corrupt and nondemocratic elements" (Freeman & Medoff, 1985, p. 13). The Collective Voice/Institutional Response Face argues that unionism brings efficiency through reduced labour turnover, pressuring management to seek-out more efficient production policies, and

improving morale and cooperation, while also limiting inequality in organised workers across workplaces and whole industries (Freeman & Medoff, 1985). The Collective Voice/Institutional Response Face also argues that they only represent the will of their members, as democratic institutions.

It is clear from this discussion that there are contradictory understandings on the fundamental issues of both faces of unions, and it is therefore important to understand both arguments. These tensions over the purpose of unions have not fallen on deaf ears. This has been evident in the continually changing nature of employment relations, which is the focus of the next section.

### 2.3 Changing Nature of Employment Relations

The relationship between employers and employees has seen numerous changes throughout history, such as the shift from the guilds, which existed as a tiered system of employment. At the top of the organisation were the Master Craftsmen, or the owners/managers of the business. Paid workers known as journeymen made up the tier below, who aspired to one day become master craftsmen themselves. The bottom tier consisted of apprentices, who were training to become journeymen themselves. The guilds date back as far as ancient Rome and Greece, and there are written records of Korean guilds from the ninth century, and in London during the tenth century (Geare & Edgar, 2007, p. 58). The industrial revolution and the migration of workers created an oversupply of labour, which in turn allowed for reductions in pay and working conditions.

From this development, two types of modern unions were established to combat the erosion of (and to also improve) worker's conditions. In the United States, unions initially developed based on the trades or crafts, conveniently known as Craft Unions. Craft unionism is a product of the guilds, which gains strength through the control of entry to a particular job. The second type of union developed under the principle of power in numbers and focussed on organising entire industries, which is known as Industrial Unionism. Both Craft and Industrial Unions found strength through joining forces and amalgamating (to a point where national and even international unions exist) in order to place increased pressure on employers to meet their demands. From the Second World War there has been an increase in the number of 'white collar' unions, which has paralleled the changing nature of work and the increase in proportion of 'white collar' work (Geare & Edgar, 2007, pp. 64-65). There has also been a significant difference between the private and the public sector, with New Zealand public

sector union density sitting at 68 percent in 2006 while the private sector was only 13 percent unionised (Feinberg-Danieli & Lafferty, 2008).

More recently there has been a move from collective bargaining towards Human Resource Management practices accompanied by increased individual employment protection legislation and a side-lining of unionism (McKersie & Cutcher-Gershenfeld, 2009). With the exception of the Scandinavian nations, the majority of the Western world has seen a steady decrease in union density. Figures from the United States show union membership dropping from a peak of 32.5 percent in the 1950's, to just over 20 percent in 1980, resulting to today's figure of just over 11 percent (Farber, 1990; McKersie & Cutcher-Gershenfeld, 2009; OECD, 2014). In New Zealand the decline in union membership occurred later, but was more dramatic as a result of legislative changes, including the introduction of the Employment Contracts Act 1991, which removed statutory compulsory unionism and encouraged individual employment contracts. New Zealand union density peaked during the 1980's at 56 percent, and dropped drastically from 44.7 percent in 1989 to 28.8 percent in 1992, but has stabilised at around 20-22 percent from 1999 onwards (Crawford, Harbridge, & Walsh, 2000; Geare & Edgar, 2007; OECD, 2014).

From the introduction of the Employment Contracts Act 1991, union membership in New Zealand became voluntary. This meant that for the unions to be effective in fulfilling their purpose as seen by their members, it became important for the membership to be involved in the union movement, and the activities of their union. This is the focus of the following section.

#### 2.4 Member Engagement

Over recent years there has been a new stream of literature (developing largely from the United States) that is concerned with new strategies for membership engagement based on union recruitment. This has come as a response to the decline of labour organisations, which has coincided with increasingly anti-union strategies being utilised by employers, and specific legislation both in the US and New Zealand designed to limit the power of unions. Geare and Edgar (2007, p. 319) described the overt anti-unionism shown in The Employment Contracts Act 1991 by the New Zealand Government who “removed all legislative support for unions, and in fact tried to suggest unions did not exist, by never referring to unions as ‘unions’.”

The literature on union recruitment is based around a shift from *servicing* members to *organising* members. The Servicing recruitment model focuses the distribution of resources on the provision of “experts to negotiate wages and conditions, settle disputes, protect jobs, and provide advice” to members (Cregan, 2005, p. 283), in exchange for a fee. The success of the union was measured by how well they provided these services, and therefore individuals’ propensity to membership was linked directly to how effectively the services were provided. The Servicing model prospered in the post-war era, but by the 1980’s and 90’s it became clear that this model was not stemming the tide of declining membership (Cregan, 2005), when the labour movement was facing increasing anti-union activity. It became clear that if unions were to survive, a different recruitment strategy was necessary, and the call was answered by the creation of the United States based AFL-CIO Organizing Institute in 1989.

The Organizing Institute was established by the AFL-CIO “to help build the union movement primarily through identifying, training and developing organizers from our membership, staff, community and college campuses across the country” (AFL-CIO, 2014). The shift in direction that Organising offers comes from the reallocation of resources from “providing services to existing members to recruiting new members. It laid heavy emphasis on the role of workplace leaders and activists in attracting other workers to the union, leading to a decentralization of power” (Cregan, 2005). Cregan (2005) also mentions that Organising can be seen as a transformational strategy that attracts new members through mobilisation: the engagement of the rank-and-file in union activities and campaigns. Fletcher and Hurd (1998) had identified three different applications of the Organising model to private sector unions. The first is a holistically implemented organising attitude that permeates every aspect of union business. The second is based on organising around arguably the most important part of union activity, contract negotiations. The third application is centred on developing intra-organisational communication, and also working with other unions. All three of these applications will be expanded below, with reference to the findings of the present study.

#### *2.4.1 The Organising Attitude*

The first application described by Fletcher and Hurd (1998) implemented Organising into every part of union activity, and is the standard by which every activity is measured for effectiveness. Union delegates were ‘internal organisers’, individual worksites were monitored for member commitment, and the recruitment and development of rank-and-file leaders was prioritised. Provided the individual workplaces are large enough, a team of

volunteers could be built for each site consisting of unit officers, a chief steward, stewards, worksite organisers, and political activists. The central union provides training (as do the internal organisers) so that the volunteers can manage the daily operation of their site, such as grievance handling. The internal organisers are focussed on the mobilisation of the membership, and are expected to organise at least two actions each month. This is wholly extended for bargaining, which brings in the assistance of the political activists, and the rank and file leaders become the media spokesmen for the campaign.

#### *2.4.2 Organising for Contracts*

The second style (and described as more common) is a focus on contract negotiations. For each negotiation campaign (this type of union holds multiple contracts) the union recruits local members into a contract committee, and a union organiser trains the committee on how best to effect their bargaining campaign. There is a focus on one-to-one communication and high levels of rank-and-file development of the issues and claims. The membership are highly engaged in this scenario, with the membership being wholly responsible for their agreement, creating high levels of buy-in. Between contracts however the story is much different, with member activism waning unless there is a crisis.

#### *2.4.3 Organising for Communication*

The third application of Organising seen in the private sector is enabled through a focus on communication. The president of the local holds weekly meetings with delegates and organisers to discuss developments and future actions. The delegates, in turn, disseminate the information to worksite councils monthly. There is a monthly newspaper that highlights the union's strategic direction, and reports on militant campaigns either by the union or by their brother or sister unions. The worksite councils and organisers also work together to create a site-specific quarterly newsletter. Contract negotiations are always approached as campaigns designed specifically to mobilise the membership right from the start. This type of operation only engages a small percentage of highly active members, which creates "an image of member involvement that is not matched in reality" (Fletcher & Hurd, 1998, p. 41).

#### *2.4.4 Organising Issues*

The shift from a servicing to an organising model of operation is not a simple one. It requires a complete reorientation of the organisation's culture, and a redesign of the roles of

the people within it. Fletcher and Hurd (1998, p. 42) describe the challenges that unions face when attempting to shift from the Servicing to the Organising model as:

Staff representatives are experienced in servicing, and most were hired because of their negotiating skills and expertise in the grievance/arbitration process. They are proud of their work, and many oppose the shift to an approach that may leave them behind if they cannot adapt. These concerns are often mirrored in the initial response of members, who have not been expected to take responsibility and are accustomed to being serviced. The typical member is not interested in the activities of the union except at contract time and when there is a problem at work. A worker with a grievance will want to talk to a representative rather than trusting a steward; a common refrain is “that is why I pay dues.”

The resources necessary to initiate an organising approach are also a source of resistance. Bronfenbrenner and Juravich (1998, p. 35) states that “It would be incorrect to suggest that the union-building model of organizing is less expensive than the more top-down methods. In fact, in the short run, it may be more costly.” The benefits of a well organised and unified group of workers has been well documented, it is the reason that unions rose to hold the power that they did, and why it took both employers and the governments of nations to bring them down. The organising model has the potential to reinvigorate the power of the labour movement (albeit to a more limited position), however as described here there are significant barriers to effective implementation.

From Bronfenbrenner and Juravich’s (1998) work a list of strategies that unions can use to increase the positive vote for National Labor Relations Board (NLRB) elections has been devised, which are:

1. Aggressive and comprehensive grassroots campaigns,
2. Rank-and-file participation and responsibility,
3. A long-range campaign,
4. An organising culture,
5. Mobilising the membership, and
6. Picking your fights.

These are based on member recruitment for NLRB election campaigns, but have been found to hold particular relevance to this study. This is because they are focussed on engaging members into union activities, rather than purely recruiting numbers.

As discussed in this section, bargaining is often the primary activity of a modern union. Accordingly, the following sections are dedicated to this.

## 2.5 Negotiation

By far the most common and effective way that unions further their interests, both for the organisations and for the memberships, is to negotiate with their members' employers. However negotiations occur every day in every nation, and can occur between children, between a child and a parent, between friends, between a lawyer and client, between a union and a company, between businesses and even between nations. Negotiation is either a decision-making process or a conflict resolution technique. Because negotiation can occur in such diverse situations, it becomes difficult to define. In the first published work by arguably one of the most important modern authors on the subject of negotiation, Jeffrey Z. Rubin and Bert R. Brown (1975) initially discuss the difficulty in defining negotiation, and begin by identifying a difference between negotiation and bargaining.

Throughout the literature some authors have attempted to distinguish negotiation from bargaining for various reasons. One example is Rubin and Brown (1975, p. 2), who state that negotiation is "to deal or bargain with another or others... to confer with another to arrive at the settlement of some matter", while bargaining is "to negotiate over terms of a purchase, agreement, or contract... to establish an agreement between parties settling what each shall give and take or perform and receive in a transaction between them." While this definition highlights the need for an element of conflict to be present in order for parties to engage in negotiation, they do not arrive at a clear definition of what negotiation or bargaining actually is, short of them being almost synonymous. The only difference between bargaining and negotiation that Rubin and Brown (1975) identify is that they believed bargaining was more inclined toward individuals, while negotiation was usually between larger parties. Another distinction between bargaining and negotiation has been used by Lewicki, Barry, and Saunders (2010, p. 3), who use bargaining to refer to "competitive, win-lose situations," while negotiation refers to "win-win situations." This distinction is also problematic, as while there may be significant differences in negotiated outcomes, there would rarely be a situation

with a negotiated outcome that one party is seen to have *completely* lost, as this would not be an *agreed* outcome.

For the majority of uses however bargaining and negotiation are seen as synonymous, and as the focus of this work is on *collective* bargaining, they will be used interchangeably throughout this work. Arguably one of the clearest and most concise definitions has been phrased by Pruitt (1981, p. 1) as:

Negotiation is a process by which a joint decision is made by two or more parties. The parties first verbalize contradictory demands and then move toward agreement by a process of concession making or searching for new alternatives.

The key concepts from this definition are that negotiation requires *at least two* parties, who have *contradictory demands*, or in other words are in conflict over a mutually valued interest. The process of negotiation is then the *movement* of the parties towards a *joint decision*, or mutually acceptable outcome. In the context of collective bargaining, the parties are the union(s) and employer(s) who are in conflict over the conditions of employment and the exchange of reward for labour. For negotiation to be successful the outcome would generally be a settled collective agreement. It should be noted however that collective agreement may not always be the desired outcome of negotiation. Other outcomes may include an agreement to reconvene bargaining later, agreement over interpretation of an existing clause, a change in attitude, or a change in the relationship. The parties may also have differing desired outcomes from negotiation. Collective bargaining, while widely seen as the most significant negotiation for unions, is not the only type of negotiation that unions engage in, as unions often handle the individual grievances of their members as well as other matters.

Walton and McKersie (1965) in their book *A Behavioral Theory of Labor Negotiations* discuss four distinct sub-processes of bargaining, all of which could be (and are usually) present in any single labour negotiation, often multiple times and at many different stages of bargaining. They are Distributive Bargaining, Integrative Bargaining, Attitudinal Structuring, and Intraorganisational Bargaining. The first three will be discussed here, with Intraorganisational Bargaining following on in the next section as it is the area of negotiation that this study falls under.

Distributive Bargaining is the process of “dividing limited resources (Walton & McKersie, 1965, p. 11)”, where one party gains from what the other party relinquishes. For example if the management wishes to increase productivity and profitability by replacing labour with machinery, this would come at a cost to the employees who are being replaced therefore the union would then look to replace this loss in another area, such as redundancy pay-outs, which would in turn impose a cost on the employer. This is often the most dominant (but not always most important) type of bargaining within labour negotiations.

Integrative Bargaining is a process that attempts to create mutual gains from an often initially adversarial situation. Fisher and Ury (1999, pp. 10-12) argue that rather than competing over the distribution of limited resources (Distributive Bargaining), the negotiators should “change the game.” Fisher and Ury (1999, p. 11) state that through the application of four points of people, interests, opinions, and criteria, almost any negotiation can be transformed into a mutually beneficial one. The first point is to “separate the people from the problem.” That is to remove the negotiators’ emotions and ego’s from the equation. The second point is to “focus on interests, not positions.” This allows for the exploration of the underlying rationale for positions, and compromises. Third, Fisher and Ury (1999) argue that negotiators should “generate a variety of possibilities before deciding what to do.” The generation of alternatives is the key to integrative bargaining, as it is the stage where the negotiators work together to look for mutually beneficial alternative solutions. The final point is to “insist that the result be based on some objective criteria.” This is done in order to ensure that the measurement of the outcome is not based on a party’s opinion, which Fisher and Ury (1999) argue can bring even stubborn negotiators back into bargaining. Integrative bargaining can often be seen toward the latter stages of labour negotiations, where both sides are working together to find a solution.

The purpose of Attitudinal Structuring is to change the relationship between the parties. The relationship between the parties has a significant effect on the outcome of negotiations, to the point that the other types of bargaining may not even be possible without some level of Attitudinal Structuring taking place first to build or repair the relationship between the parties. Walton and McKersie (1965, p. 185) discuss two important factors that influence the relationship between the parties; the first being the result of four “attitudinal dimensions”: motivational orientation (competitiveness), opinions of legitimacy (of the other party), trust, and friendliness/hostility. The second important factor is the attitudes of the parties’

members, which may be significantly different from those who are actually conducting the negotiations.

## 2.6 Bargaining Power

The success of a party in negotiation can often be put down to the concept of *power*. The concept of power is well known, yet explicit definitions of what power actually is, are often lacking (Geare & Edgar, 2007; Kirkbride, 1985). In a discussion of power Bacharach and Lawler (1981, p. 43) argue:

Bargaining power is not simply a part of the bargaining context or environment; it is not just another variable to be included in predictive models; it cannot simply be equated with payoffs or utilities; it is not simply a heuristic device for the retrospective interpretation of empirical findings. Bargaining power pervades all aspects of bargaining and is the key to an integrative analysis of context, process, and outcome.

Bargaining power has been defined as “the cost to A of imposing a loss upon B” (Slichter, 1940, p. 57). The union’s bargaining power is derived from the ability for the membership to withhold labour. As Commons (1934, p. 267) put it:

We have two meanings of Human Ability – producing power and bargaining power. Producing power is the mental, managerial, and manual ability which power is to create wealth, but bargaining power is the proprietary ability to withhold products or production pending the negotiations for the transfer of ownership of wealth.

Chamberlain and Kuhn (1965, p. 61) note that “the union membership will almost always give its bargaining committee full authority to call a strike”, which means that the union negotiators have “full authority to reject all proposals for a collective agreement, while having no power to conclude an agreement without membership approval.” The ratification procedure has often been a point of contention, as Chamberlain and Kuhn (1965, p. 63) go on to state:

Not without basis, some employers have also pointed out that where skilful negotiators have extracted from the company every possible concession but the union membership has nevertheless rejected the agreement, the company is placed in the undesirable position of having to make further, “impossible,”

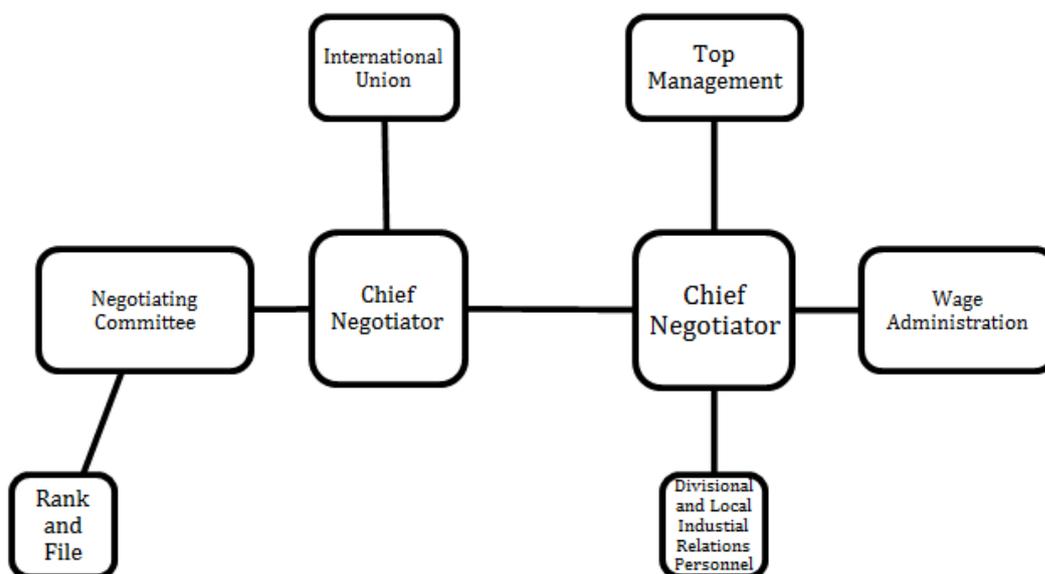
concessions or of facing a strike. This is where the democratic procedure potentially becomes a problem for management.

This example describes the need for union negotiators to be able to act as effective leaders of their constituency. This has been discussed previously in section 2.5, and will be expanded in the following section.

## 2.7 Intraorganisational Bargaining

Labour negotiators often find themselves having conflicting expectations placed on them. On the one hand they may be expected to be diplomatic representatives looking toward a negotiated agreement, and to take a leadership role (Friedman, 1994) in managing their constituency to accept what is likely below their personal expectations of bargaining. In order to bargain effectively the negotiators' opponents generally demand that the union negotiator will be able to "shape and trim" their principals' proposals (Friedman, 1994, p. 66). On the other hand they are expected to be fierce combatants, but working at the will of the membership, or in other words effective followers of the constituency (Friedman, 1994). It is clear then that in labour negotiations there are a number of different "axes of pressure" acting upon the lead negotiators, which have been further discussed in a paper by McKersie, Perry, and Walton (1965, p. 465). This is the source of the diagram below:

**Figure 1: Bargaining Interactions**



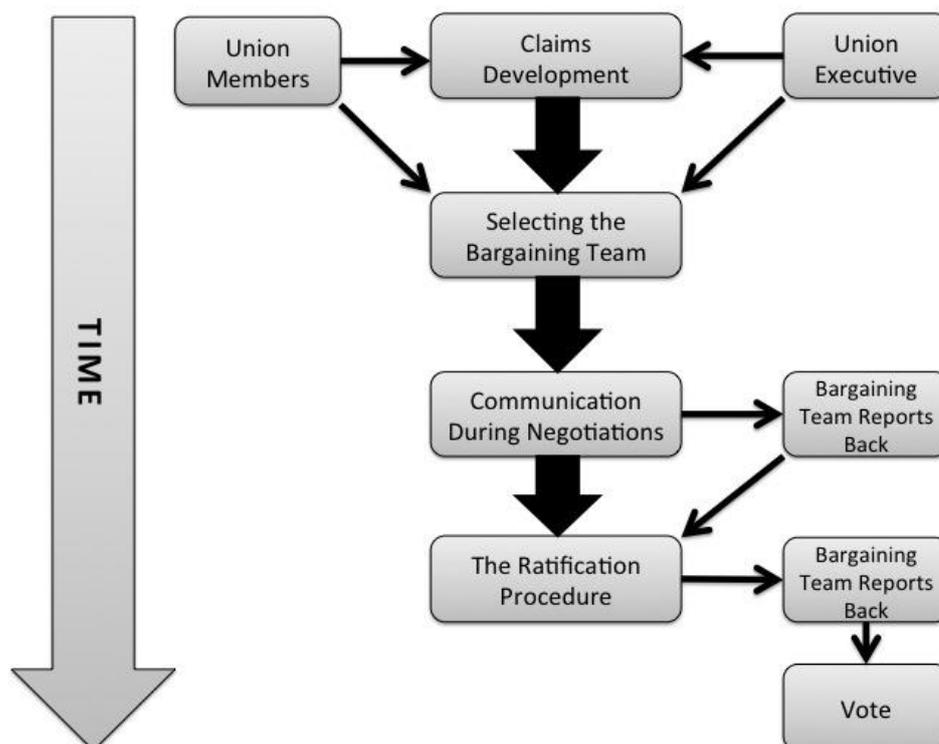
As figure one indicates, the chief (lead) negotiators are involved in numerous interactions occurring 'behind the scenes', and often simultaneously with the main negotiation. This study focuses on how electronic ratification impacts the intraorganisational bargaining, but as the

four subprocesses of negotiation are inextricably linked, any changes to the intraorganisational bargaining will have impacts on the other negotiation interactions, such as the interaction between the chief negotiators, and their ability to extract the maximum concessions for their principals.

### 2.7.1 *The Intraorganisational Negotiation Process*

The negotiation process varies dramatically depending on the parties engaged, their principals and constituents, the timing, and many other factors. This thesis concerns itself with only one side of the negotiations, which is the intraorganisational negotiation process. This is not to imply that the intraorganisational negotiation process is not affected by changes to the wider process, but rather it is done to focus the discussion. The intraorganisational negotiation process (henceforth referred to as the negotiation process) has been broken down into four distinct phases. This has been developed on the points of contact between the bargaining team and the membership, and is based on the description of the timeline of enterprise negotiations developed by Fells (2012, p. 188). The negotiation process used in this thesis consists of the four stages of Claims Development, Selecting the Bargaining Team, Communications During Negotiations, and The Ratification. Figure two has been developed from the diagram of Fells (2012, p. 188), and shows the interactions over time:

**Figure 2: The Intraorganisational Bargaining Process**



As can be seen in figure two, there are different stages of interaction between the bargaining team and the membership, who ultimately decide on whether or not to accept a proposed agreement. The interactions between the bargaining team and the membership are therefore key to successful collective bargaining. If these interactions were changed, as the concept of electronic ratification has potential to do, it is imperative to know how the negotiation process will be affected. This is the purpose of the present study.

### 2.7.2 *Intraorganisational Conflict*

Intraorganisational Bargaining is the category of negotiations that occurs ‘behind the scenes’, between the negotiators and their principals, which in the union context is the bargaining team and their membership. It is rare for labour organisations to have complete consensus on the objectives they will pursue through bargaining (Walton & McKersie, 1965, p. 281), which is where Intraorganisational Bargaining comes in. In order to discuss this negotiation category, an understanding of the types of conflict inherent in this situation is required. Walton and McKersie (1965) discuss two main types of internal conflict: Boundary Role and Factional conflict.

Boundary Role conflict occurs because of differing expectations of the outcome of negotiations. This is often caused by the membership having a different understanding of the negotiations and the outcome sought than that of the negotiator, and therefore the negotiator is forced to mediate the difference between their own position and that of their constituency. More often than not this is seen in the negotiator having to reduce expectations, usually towards the concluding stages of negotiations. This has been discussed by Parnes (1956, p. 61) who noted that “it is probable that in the majority of cases the rank and file is more, rather than less, “extreme” than the leadership in pressing for contract demands”, and that:

Frequently, if not generally, the function of the leadership is not to arouse the membership and to convince them of the righteousness of their demands, but rather to restrain the rank and file from pressing for terms which the leaders’ wider experience and greater knowledge tell them are either unwise or indefensible.

Factional conflict on the other hand stems from the heterogeneity of the membership. This type of conflict can arise throughout the negotiation, where differing elements of the negotiators’ own constituency have competing demands or objectives (Walton & McKersie, 1965). This can become a problem both at the drafting of initial proposals phase, and towards

conclusion of negotiations as individuals may have placed differing values on various parts of an agreement, such as seniority pay and superannuation.

## 2.8 Intraorganisational Bargaining Tactics

Walton and McKersie (1965) discuss the use of six different Intraorganisational Bargaining tactics that the negotiator can employ to increase internal consensus. The tactics are to *avoid* incompatible expectations, to *persuade* revisions of expectations, to *manipulate* the situation so that the idea to change expectations seemingly comes from the situation, to *rationalise* the discrepancy, to *obscure* the discrepancy, or to engage in *tacit bargaining*. The deployment of these six tactics generally follows the timeline of negotiations, and these will be expanded upon below.

### 2.8.1 Avoiding Incompatible Expectations

The first phase of intraorganisational bargaining is to discuss what is realistically attainable through negotiations. This is where the bargaining team attempts to manage the expectations of the membership, and also brings differing and sometimes competing factions within the membership together to form a unified group. The negotiator is often in the best position to advise the constituency on the feasibility of the claims through their previous experience and understanding of the opposing side. The negotiator may also chose to avoid committing to a position on a certain issue in discussions with the membership, rather opting to *investigate* the issue in bargaining so that when a settlement is proposed there is no clear measure as to whether that claim was achieved or not, and in turn whether the negotiator failed in their task. Another option available is to reduce the participation of the membership in the formulation of the proposal, as Garfield and Whyte (1950, p. 7) found it was “inadvisable to have the actual formulation of contract demands come out of the membership meeting, because people are likely to be overenthusiastic and commit the union to things that are totally unobtainable.” However the literature suggests there is a need for some level of input from the membership at the proposal formulation stage, as Summers (1967, p. 95) points out, the upward communication from the membership to the negotiators is “essential if the negotiators are to get any sense of the members’ system of priorities” when it comes to ratification.

### 2.8.2 *Persuading Expectation Revisions*

Even after the negotiating team has developed claims that are not only acceptable, but also attainable through the use of the previous intraorganisational bargaining tactics (and especially if they were not utilised), the membership may still develop unrealistic expectations of the outcome of negotiations. This is where the bargaining team needs to persuade the membership to revise their expectations, which can be done through rational arguments or invoking personal or positional power. The use of rational arguments places claims against the feasibility of their achievement based on patterns of previous settlements, comparable industries, or other constraints such as budgetary limitations in the public sector or financial performance in the public sector, and other economic data. The negotiator needs to be careful to maintain his position, however as the arguments are often the same as those that are coming from the opposing side of the bargaining table. The use of personal or positional power may also be a factor that influences the membership when the rational arguments are put to them, and the negotiator's reputation may be all that is required to sway the opinion of dissenters. The positional power comes from being the elected official; the membership has empowered them to negotiate on their behalf, therefore the membership should trust them to work in their best interests. This notion brings with it an inherent danger that if the negotiator is not seen to perform as expected, they will likely not be re-elected to represent the union. The performance of the negotiator is not just measured on the substantive outcomes, as Friedman (1994, p. 51) identifies that the constituents' expectations of the negotiation *process* are just as important as the agreement itself.

### 2.8.3 *Manipulating the Situation*

Another way of revising the membership's expectations is to change the situation so that the rationalisation stems from the membership themselves. This is a tactic that can circumvent the risks of betraying the expected behaviour of the negotiator, as the negotiator can avoid being seen to take a contradictory position against the membership. One way of doing this is to bring delegates into the bargaining so that they can see for themselves the arguments from the opposing side. This carries with it a danger of the negotiator losing face both to the company side, if the tactic is seen as irresponsible, or to the membership as the negotiator could be seen as shirking their responsibility of bargaining for their membership. Another way of manipulating the situation is to bring up the notion of a strike-vote to bring the membership face-to-face with the possible consequence of rejection of the claim. This

would be effective when a vocal minority is fixated on an unrealistic position, or a low-priority issue is taking over the vision of the whole package being negotiated.

#### *2.8.4 Rationalising Discrepancies*

If the negotiator has failed to revise the positions of the membership during negotiations there comes a need to do so before the ratification vote is held. This is where the negotiator needs to either rationalise the discrepancy or obscure it as discussed in the next section. In order to rationalise the discrepancy after negotiations have concluded, the most important thing is for the negotiator to comply with the behavioural expectations of the membership, which in effect is to convince them that he or she did all that they could. Walton and McKersie (1965, p. 329) have put this best as:

Convincing the membership that the union negotiator has “given it his best” is often aided by the physical condition with which the union negotiator greets the membership. Often, he has bargained into the late hours, and as he appears at the membership meeting, he obviously gives the impression of one who has tried his “darndest.”

The purpose of rationalising the discrepancy is to revise the expectations of the membership after the fact. This means that the membership come to terms with the final proposal being all that was realistically available, and shifts the blame from the negotiator to the situation within which the bargaining took place. The blame can then be placed on situational factors such as power discrepancies, economic difficulties, governmental policies, or even the failure of the membership themselves, if an industrial campaign was used but ultimately failed, or a strike-vote was rejected.

#### *2.8.5 Obscuring Discrepancies*

The other option available to the negotiator after bargaining has concluded is to obscure discrepancies, that is to hide the real level of achievement from the membership so that dissatisfaction is minimised. In order to do this the negotiator must limit the visibility of the members or groups that hold the issues being misrepresented or disguised from the actual bargaining. This is where the use of smaller bargaining teams comes into play. The ability for some issues to be kept complicated or ambiguous can also aid their acceptance, as the members look to the negotiator for guidance on whether to accept or reject the proposed settlement. Other claims may be able to be kept quiet, and not discussed in membership

meetings as the meetings may be focussed around the priority claims, or structured in such a way that the issues that were 'won' are the centre of attention.

### 2.8.6 *Tacit Bargaining*

The final tactic is one to assist with the behavioural expectations placed on the negotiator by his or her constituency in order to deploy the previous two tactics of rationalising or obscuring discrepancies. Tacit bargaining involves communication between the parties that is not overt, and an understanding between the sides is required. The bargaining may be over issues that both negotiator's understand to be unimportant, however the party's principals still believe they are significant, or the principals believe that the negotiations have not yet 'run their course'. In tacit bargaining certain language may be used that means one thing to the party's membership, but a different thing to the other party's negotiator. Walton and McKersie (1965, p. 337) cite an example of this found in an article by Blum (1961):

During negotiations, management offers 8 cents; the union persists in demanding 9 cents. As has happened nearly always in the past, the end of the week draws near and it is time to arrive at a settlement. The union representative slams down his papers, shouts that he has had enough, that he will call his men out Monday if they don't get the 9 cents, and stalks toward the door. Each year he does something like this, and each year this is a signal for the manager to get up, calm him down, offer 8 ½ cents, and sign the agreement; then everyone can rush home to their families for the weekend.

Of course this tactic places a heavy reliance on the relationship between the negotiators, and also relies on the parties' principals to see the negotiators 'going through the motions' as proper negotiation.

Intraorganisational bargaining can be seen to form the basis of democratic control of the organisation, as it is the members who have the final say in the acceptance of an agreement. However intraorganisational bargaining alone has not been regarded as enough of a check on the democratic control of labour organisations. Other parties in the industrial relations field have felt the necessity for further democratic processes within unions, which is addressed in the following sections.

## 2.9 Democracy in Unions

Democracy in a union has been viewed by some as counterproductive to achieving the main objective of the membership (of maintaining or improving the terms and conditions of employment) because it weakens or complicates their ability to negotiate effectively (Chamberlain & Kuhn, 1965; Estreicher, 2000).

The concept of democracy in unions is a controversial topic, as is noted by Lipset (1973, p. 393) who said:

The concept of “business unionism,” which assumes that a union performs only the one major function of securing the best possible contracts for its members helps prevent internal politics and conflict and encourages only limited participation on the part of the members. Any conception of trade-union functions which increases the involvement of the members in the organization increases the potentialities for democratic conflict.

This indicates that democracy within a union can reduce the effectiveness of the union, however the use of an oligarchical structure also brings with it problems, namely with the people that are vested the power.

Michels (1915) Iron Law of Oligarchy argues that even the most democratic organisations will eventually turn oligarchical, through bureaucracy which leads to power, which then brings corruption. However Lipset (1973, p. 394) attempts to mitigate the negative aspects of this by stating that “even the most dictatorial union is a better protector of workers’ economic interests, and of political democracy within the larger society, than no union, provided that the union is not a tool of either the state or the employer.”

The balancing act that union leadership must accomplish has most eloquently been portrayed by Levi, Olson, Agnone, and Kelly (2009, p. 203), who posit:

trade union leaders serve dual, seemingly contradictory roles. They must command militant organizations in conflicts with employers. Simultaneously, they must be accountable and democratically responsive to their members. Few unions possess the institutions or leadership to accomplish both.

Public policy has often been established to limit the power of the leaders of labour, and stem the oligarchical tendencies of labour organisations. This is discussed below.

## 2.10 Public Policy Concern with Union Democracy

In order to illustrate how public policy has been used to impact collective bargaining, examples from the United States will briefly be discussed. The National Labor Relations Act (popularly known as the Wagner Act) was introduced in 1935 and legitimised the presence of unions in the workplace. This was in response to increasing violent struggles between workers and management, who often despised the existence of unions. This led to unions and the labour movement as a whole enjoying their most fruitful years, during WWII and up until the early 1950's when unionism peaked at almost 33 percent (Troy, 1965).

The Labor-Management Relations Act (Taft-Hartley Act) was passed through Congress in 1947, which was well regarded as an attempt to reign-in the power that had been gleaned by unions from the pro-labour Wagner Act. It should also be noted that this legislation was in part a means of reducing any communist influence within unions, as the United States during this period in history was gripped with the perceived communist 'threat' during the Cold War. The peak of unionism coincided with an articulated concern for democracy within unions, however when legislation was brought in (the Landrum Griffin Act), unionism was already on the decline (less than 29 percent in 1959) (Summers, 2000; Troy, 1965). This legislation was focussed on reducing corruption within some unions, by requiring open reporting and disclosure of the activities of union officials.

Democratic procedures within unions have continually been a point of contention, especially in the public eye. The processes of democratic control have often been cited as mechanisms to 'protect' the rights of the workers from leadership corruption, such as that in the International Brotherhood of Teamsters, United Mine Workers of America, and the International Longshoremen's Association. This has led to the passing of legislation to impose democratic procedures on union operations. An example of this is the Labor-Management Reporting and Disclosure Act (Landrum-Griffin Act) which requires (among other things) that elections for local leaders be held regularly and election results can be scrutinised by the Secretary of Labor if questioned or contested (Goldberg, 2000; Herman, 2011; Hopkins, 2010). It is clear that the more recent public policy has been concerned with removing autocratic and corrupt union leaders, and possibly reducing the power unions have gained by encouraging opposition to leadership and reducing the ability for leadership to exercise the power of the membership outright. New Zealand has recently seen this through the Secret Ballot for Strikes amendment to the Employment Relations Act, which is effectively a democratic check on union power (see section 2.12 for explanation).

The discussion on the purpose of unions has identified one main function: to further the economic motives of employees, which begs the question of why democracy in unions is even necessary? Even the most notoriously corrupt unions (the Teamsters and the United Mine Workers) still advanced the cause of their constituency, and many would argue they were much more effective. The cry for union democracy has been convincingly attributed to sources outside the unions, often in the guise of union leaders not being statesmen, and not being mindful “of the public interest or long-range economic considerations” (Stein, 1963, p. 52). However this can be understood as union leaders acting at the will of their membership (democratically), by seeking employment security and wage increases.

The democratic process in unions also comes into contention with the ways unions increase their power: by increasing their membership. Stein (1963, p. 47) argues that “the lessening of union democracy is inextricably and inevitably interwoven with the large growth of the individual union.” An increase in union membership or extension of bargaining coverage inevitably leads to a reduction in the individual member’s input into the bargaining targets. However reducing the bargaining from a national level to a local level (generally regarded as a more democratic level) will clearly reduce the power of the union to apply (or threaten) economic sanctions in order to gain agreements, particularly when many organisations operate at the national or international level.

### 2.11 Democratic Processes

Democracy within a union can take many forms, and democratic procedures may be seen in a number of activities that unions engage in. Voss (2010) discusses three differing styles of union democracy, each being defined by the level of membership participation. These are constitutional democracy, behavioural democracy, and participatory democracy. Constitutional democracy requires only some democratic procedure, such as a local or national election for the union to be labelled democratic. Behavioural democracy is the next step along the continuum from oligarchy to democracy, which requires a ‘check’ on the power of union officials, such as the turnover of officials, or an institutional opposition to the leadership. Participatory democracy requires membership participation, such as membership voting on strikes and contracts. However, as Voss (2010) notes, this is hard to gauge, and the presence of these measures does not mean that the union is free from autocracy. This level of democratic process is the one that this study is concerned with, as this is widely understood as the authoritative indicator of democracy within a union (Jarley, Fiorito, & Delaney, 2000;

Levi et al., 2009; Stepan-Norris & Zeitlin, 1996; Voss, 2010). However the mere existence of participatory democracy does not in itself guarantee a democratic organisation, as authoritarian nations often show high levels of participation even though the leadership is not necessarily responsible to their constituency (Lipset, Trow, & Coleman, 1962).

Research into participatory democracy within unions is scarce and usually restricted to case studies at the local level. One notable recent example is a study by Levi et al. (2009) which examines the International Longshore and Warehouse Union. The requirements for participatory democracy include both the requirements for constitutional and behavioural democracy, as well as provisions for rank-and-file control of the union such as membership voting on both elections and contracts, low thresholds for recall, and clear communication channels both between members and between members and officials (Levi et al., 2009). Estreicher (2000) has written prescriptively on the subject of democratic processes within unions, suggesting that secret ballots should be held with participation by all employees represented (not just union members) on the following occasions:

1. authorisation of the bargaining representative;
2. periodic reauthorisation of the bargaining agency;
3. the employers final agreement proposal
4. proposed strikes;
5. contract ratification; and
6. the setting of membership dues.

This prescription of democratic control clearly reduces the ability for the union leadership to act freely. Whether this is to the benefit or detriment of the union as a whole is disputable. The ratification procedure as a manifestation of democratic control has been discussed as both confirming that agreements are acceptable to the membership, and also increasing membership ownership of the agreement, and therefore having the membership feel more bound by the agreed terms (Haller & Holden, 1997; Summers, 1967). As the ratification procedure is a key part of this, it requires further discussion.

## 2.12 Ratification Procedures in Unions

While ratification procedures are generally regarded as a core process in union democratic procedure, scholars have seemingly steered clear of the subject (Cappelli & Sterling, 1988).

One exception to this is a study by Herbert (1968), who looked at the national constitutions of 73 American unions in 1964, representing 90 percent of total United States union membership at the time. Herbert (1968) notes that of the 73 unions, only 24 required ratification of proposed agreements by the membership. Thirteen of those required the vote to be held at a meeting, while nine had no requirements for the system of voting, and six required a secret ballot. Interestingly ratification requirements were found to be more frequent for local negotiations rather than national negotiations.

It is a statutory requirement in New Zealand for the ratification procedure to be set out at the outset of bargaining, and the other party (or parties) must be notified of this. The agreement is not ratified unless the stated ratification procedure is adhered to (Employment Relations Act 2000, s 51). To gain a brief insight into what is currently in place in terms of contract ratification in New Zealand, four union constitutions that outline their ratification procedures have been examined; the New Zealand Nurses Organisation (NZNO); the New Zealand Engineering, Printing & Manufacturing Union (EPMU); the Post Primary Teachers Association (PPTA); and for comparative reference the International Longshoremen's Association (ILA), which is based in the United States. All constitutions require a simple majority for ratification of proposed agreements, although the EPMU membership can, before the commencement of negotiations, define a higher-level majority. The PPTA and ILA both require that the ratification procedure be by secret ballot in specially convened meetings, however the PPTA constitution contains a provision for the executive to stipulate a different procedure by an agreement of two-thirds majority, if the membership had previously expressed a majority decision to be bound to the different procedure. The EPMU does not specify the process of ratification. The NZNO constitution prescribes a standard ratification procedure, which is voting undertaken at meetings, however it does allow for postal or online ballots, or combinations of meetings and other methods.

Currently the New Zealand legislation has no requirements for ratification procedures in collective bargaining, however in 2012 the Employment Relations Act was amended to require union membership to undertake a secret ballot to approve by a simple majority any strike action, before commencement of the strike. The requirement of a secret ballot before strike action can commence has essentially the same effect as a requirement for ratification of proposed agreements, since ultimately the alternative to accepting an agreement is to strike.

The ratification procedure clearly acts as a democratic check on the power of the union leaders, however it also can act as a catalyst for communication within the union. This is

because for the membership to cast a vote that is based on understanding of both the bargaining process and the substantive issues that have been negotiated, they need to be *informed*. The idea of ratification as a catalyst for communication forms the discussion of the next section.

### 2.13 Ratification for Communication

Summers (1967, p. 84) states that “ratification does more than measure the acceptability of an agreement; it also serves to increase its acceptability.” This highlights the importance of effective communication, because in order to increase a potentially unacceptable or marginal agreement, the union leadership must communicate the terms of the agreement in such a way as to make it acceptable to a majority. It is well known that the most common cause of rejection of a proposed agreement by the membership is due to communication failures (Summers, 1967, p. 92). The problem of communication is compounded by both the growth of the union and the complexity of the terms of an agreement. Because many contracts today are highly complex, it requires specialisation within the negotiating team for various economic elements, which can be far beyond the understanding of the membership. It is therefore up to the leadership to disseminate the information in lay-terms. Also, with the growth of the union, the communication channels inevitably get stretched, which in turn increases the risk of incorrect or inadequate communication. This is particularly relevant for industry-wide, or national level bargaining.

The communication between union leadership and membership is also important in terms of keeping membership demands grounded and realistic. Due to the nature of collective bargaining, only a few are privy to the actual negotiations, and therefore have a duty to inform the membership on how the negotiations are progressing. The union bargaining team while negotiating with management must also undertake intra-organisational bargaining, in order to quash unrealistic demands, and mediate between groups with different and sometimes competing interests (Summers, 1967, p. 95).

The ability of the leadership to impart their expert opinion of both the substantive issues and the bargaining itself is referred to within this thesis as *informing*. This is a key concept throughout. The changes in communication that electronic ratification present a union can directly impact the way that union leaders have traditionally *informed* their constituents.

## 2.14 Changes in Communication

In recent years there has been a significant shift in the way people communicate, from the traditional face-to-face to the contemporary online communication medium. This change has impacted unions, giving rise to the use of an online ratification system in some unions and interest among the membership of other unions.

The use of an online ratification system removes the need for the union leadership to meet with the constituents, and also impacts on the leadership's ability to 'sell' a tentative agreement to their membership. This becomes problematic because traditionally a number of union members have relied on the expertise and understanding of the bargaining team to recommend whether a proposed agreement should be accepted or not. Stein (1963, pp. 48-49) states that "It is utterly unrealistic to expect that the membership will be able to pass informed judgement upon the mass of economic, actuarial, and technological considerations underlying a collective bargaining agreement." This statement may underestimate the understanding of today's average union member, however the underlying message is still relevant.

It is important that the bargaining team is able to impart their knowledge and expertise on both the substantive issues and the negotiation process to their constituents. The transfer of the bargaining team's knowledge and expertise is more readily conveyed through face-to-face communication such as in a meeting, as opposed to the electronic communication channels of email and social media. Because of this there is a need for exploration of how the different ratification procedures impact the negotiation process.

The focus of the following section is on how unions have embraced the changes in communication presented by the development of Information Communications technology, and the Internet.

## 2.15 Unions and the Internet

Today many different types of organisations have been increasingly reaping the benefits provided by the development of ICT and particularly the Internet. Employee organisations, while being perceived as slower than other types of organisations such as corporates and governments (Hogan & Grieco, 2000), have found particular use for these developing technologies. Recent research by Kerr and Waddington (2013) suggests that the majority of unions now have some level of web presence. This is confirmed when looking at the New Zealand Council of Trade Unions directory, which lists 35 affiliate unions of which 25 have dedicated websites, while the other 10 have at least an email contact for enquiries. All of the

unions interviewed had some level of union website, some much more comprehensive than others with members-only areas, video campaigns, and FAQ pages, while others were merely a place to identify the union structure and give contact details.

One of the pioneering pieces of literature on unions and their use of the Internet is by Diamond and Freeman (2002), who hypothesised that the internet would increase the reach of unions as it allows unions to engage workers outside of their workplace cheaply and directly through ICT mediums such as email communication.

The impact that ICT has had on unions' ability to communicate with their members is massive, with all unions engaged in the sample for this study realising the benefits of email communication and website communication at some level (from email newsletters to direct engagement with the membership). The impact of ICT on engaging workers outside of union workplaces was not explored in this study, however the significant boon of ICT in enabling very remote workplaces and those with very small numbers of members to engage with union leadership was discussed.

Diamond and Freeman (2002, p. 583) also hypothesised that unions would be able to engage in "Cyber-Democracy". This is said to enable large labour organisations to challenge Michel's Iron Law of Oligarchy, which states that even the most democratic organisations will over time turn oligarchical (Michels, 1915). This is due to the availability of information to potentially all members of the organisation (provided they have access), and the ability of the leadership to effectively engage with their membership quickly and at a relatively minimal cost. Two of the consequences of the increase of union democracy provided for by ICT are the increase in voter turnout and acceptance of contracts, and increasing the ability for dissenter groups to engage with the members.

## 2.16 Literature Summary

From the literature it becomes clear that people join unions in the interests of maintaining and improving their working conditions, and because of the power of collective action (Cregan, 2005; Geare & Edgar, 2007; Kerr, 1992; Tolich & Harcourt, 1999; Waddington & Whitston, 1997; Webb & Webb, 1919). Employment relations have been continually changing over time (Geare & Edgar, 2007), and due to a decline in union membership (McKersie & Cutcher-Gershenfeld, 2009) a call for a new membership engagement strategy has been put out. This call was answered by the Organising strategy (Cregan, 2005), which

has its roots in union recruitment and NLRB elections in the United States (Bronfenbrenner & Juravich, 1998; Fletcher & Hurd, 1998).

The negotiation of collective agreements, collective bargaining, was often seen as the primary function of unions. However negotiations were not simply one party bargaining with another, as there were many other stakeholders identified behind the scenes. This is where the need for intraorganisational bargaining became apparent (McKersie et al., 1965). The purpose of intraorganisational bargaining is generally to align the expectations of those not at the negotiating table with those at the table. This then becomes more convoluted when the stakeholders, who in the case of unions are the membership, have the ability to reject a proposed agreement (Chamberlain & Kuhn, 1965). A need for the membership's understanding of both the bargaining process, and the substantive issues in negotiation, to be guided by the expert opinions and assessments was identified. This was referred to as *informing* the membership, and should be read henceforth to take this meaning.

As a result of the effectiveness of unions in protecting and advancing the interests of their members, public policy has been used to limit their power. Some of this policy has been directly imposing democratic checks on union processes, one of which is the ratification of proposed collective agreements (Estricher, 2000). The ratification of collective agreements was also found to facilitate communication between the union leadership and the membership (Summers, 1967). Recent changes in communication, such as the development of the Internet, have enabled almost instantaneous communication over great distances at relatively little-to-no cost. Unions, while being seen to be initially slow to take up the possibilities of the internet (Diamond & Freeman, 2002), have great potential for utilisation of this technology, and have begun to realise this potential.

### 3.0 Methodology

The purpose of this study is to investigate how a change from meetings-based ratification of collective bargaining agreements to electronic ratification impacts the negotiation process. Throughout the literature review process there were no such comparable studies found to use as a basis for structuring this thesis, therefore a need for a theory-building method was identified. Interviews with experienced union negotiators were determined to be the most appropriate method to effectively gather data for this study, as it was unknown at the outset whether electronic ratification was a future or current process, nor was it known how widespread its use was.

Research approaches can generally be categorised into one of three overarching strategies of enquiry: qualitative, quantitative, and mixed methods. Qualitative research is designed to explore and understand human behaviour and the rationale for such behaviour. Quantitative research is used to test existing theory by examining relationships between variables through statistical method. The mixed methods approach is a combination of both qualitative and quantitative strategies that best suits the research question. As this research is focussed on investigating an area that is relatively unexplored, with the purpose of this study being to understand and inductively build theory, a qualitative strategy of inquiry appears most appropriate.

There are a number of methods used to conduct qualitative research. Creswell (2008) discusses five main strategies, while Tesch (1990) discusses twenty-eight. For the purposes of understanding the methodological selection, the five strategies discussed by Creswell (2008) will be briefly examined here.

Ethnography is a research strategy that has emerged from anthropology. The basis for ethnography is to build understanding from the perspective of the research subjects. Research in this style requires flexibility and a responsiveness to change (Saunders, Lewis, & Thornhill, 2003). Ethnography usually takes the form of participant observation, in which the researcher joins in with the subjects and partakes in their lives and activities, becoming part of the 'group'.

Grounded Theory is a phenomenological process that deviates from the standard of taking theories to the field and testing them, to rather letting the observations and data speak for themselves and to see if a theory could be developed (Tesch, 1990). This approach is also referred to as 'theory building'. The purpose of the Grounded Method is to allow a theory to

emerge from an area of study, rather than hypothesise and test. It is a theory that is “inductively derived from the study of the phenomenon it represents” (Strauss & Corbin, 1990, p. 23). Grounded Theory is the most popular qualitative method in a number of areas of academia (Bryant & Charmaz, 2007), therefore it is a well-practiced and more importantly well documented method. The process of Grounded Theory is discussed in detail at 3.2.

Case study is centred on empirical investigation of an existing theory with relation to real life context. The methods aligned with case study may take different forms, such as a questionnaire, interviews and observation. Case study allows for the testing and challenging of theory, and also allows for the development of new hypothesis (Saunders et al., 2003).

Phenomenological research is used to portray the experiences of a phenomenon from the perspective of those that have experienced it. In phenomenological research “the researcher brackets or sets aside his or her own experiences in order to understand those of the participants” (Creswell, 2008, p. 13).

Narrative research is generally used to study the lives of individuals using stories, which the researcher then adds their own perspective on the data and retells the story, generally chronologically (Creswell, 2008).

Because the purpose of this study is to understand how collective bargaining has been impacted (if at all) by the use of electronic ratification, it is aligned with the Phenomenological approach. Grounded Theory is a well-documented and specific method of Phenomenological enquiry, which uses a systematic set of procedures to meet four central criteria of fit, understanding, generality, and control (Strauss & Corbin, 1990). Due to time constraints imposed by the degree sought from this research, the planning, data collection, analysis, and write-up needed to be completed within one year. Therefore the researcher elected to use the process of Grounded Theory to conduct Phenomenological research rather than full Grounded Theory, to ensure completion within the required timeframe.

### 3.1 Interviews

The data collection procedures of observation, interviews, documents, and audio-visual materials are discussed and compared by (Creswell, 2008). Observation allows the researcher a first-hand account of the phenomenon, however in this case it would require the researcher to be present for the entire negotiation process, which due to time constraints would prove impractical. Documents allow the researcher to access the data at times that are convenient to him/her. However due to the nature of this research documentation of the impacts of

electronic ratification are simply non-existent, neither are audio-visual materials. Interviews are therefore the most suited of the data collection processes, with face-to-face interviews being selected as they would provide the largest opportunity for a rapport to be built between the researcher and the participants, and consequently allow deeper insight into the data to be obtained.

The interview process was based on a semi-structured open-ended interview schedule, developed to allow the interviewee time to explain their answers and include personal experiences, attitudes, and opinions. The interviews lasted an average of one hour each, and were structured along the negotiation process model of Claims Development, Selecting the Bargaining Team, Communication During Negotiations, and the Ratification Procedure. The interviewees were asked to describe their current negotiation process from Claims Development through to the Ratification Procedure, and then talk back through the process indicating what would be different if the Ratification Procedure had changed, either from meetings-based to ratification, or visa-versa. This allowed for both interviewees who currently use electronic ratification and those that do not to be fully involved in this study.

The interviews were conducted in three separate stages, throughout the year, in order to reflect on the previous stage and adjust the interview process to reflect the developing of the theory. In total sixteen interviews were conducted with union leadership located in Auckland, Wellington, Christchurch, and Dunedin. The interviewees were selected to cover a range of industries, membership sizes, and locations. The interviews were audio-recorded and transcribed verbatim, in line with the process outlined by (Strauss & Corbin, 1990) for emerging researchers. It was decided to keep the identity of the participants (and their unions) anonymous so that the interviewees would feel more comfortable in speaking openly about their bargaining strategies.

It should also be noted that the interviewer has had no previous experience with collective bargaining or unionism.

### 3.2 The Participants

For this study sixteen interviews were conducted from fourteen different unions from both the public and private sector across a number of industry sectors including health, education, manufacturing, entertainment, and transport. There were ten male and seven female participants (one interview was conducted with two participants representing the same union). The participants all held previous bargaining experience ranging from three to over

twenty years, except for the interviewee representing the greenfield (brand new) collective. All of the participants were paid union employees, with the majority holding positions such as President, Secretary, Industrial Officer, or Regional Organiser. Many of the participants had come to their position from being members of the union themselves. The bargaining teams that they managed and worked with ranged from two to eight people.

Throughout this thesis there will be distinctions made between and within unions due to size of collectives; this should be read to mean the number of employees covered under the agreement. For the purposes of this discussion a large agreement covers 1000+ employees, while a small agreement is less than 1000. The interviewees who represented unions with multiple collective agreements were often asked to compare and discuss the differences (if any) between large and small agreements, in order to increase the coverage of the study.

Of the interviewees, eight spoke from personal experience with electronic ratification, while the others hypothesised about bargaining under electronic ratification. Only one of the unions engaged used electronic ratification for a large agreement. Twelve of thirteen unions engaged held multiple agreements, ranging from two to 200+ agreements covering hugely varying numbers of employees. The other union not in this group had just completed negotiations for a greenfield collective, and at the time of interviewing was preparing for ratification.

### 3.3 Coding

Qualitative Research as discussed by Strauss and Corbin (1990) consists of three major components: the Data, the Analytic or Interpretive Procedures, and Written and Verbal Reports. The Analytic or Interpretive Procedures in the method of Grounded Theory are the various Coding procedures, discussed as Open, Axial, and Selective Coding. The purpose of coding is to break down the data, in order for it to be understood and put back together in new ways. The process of coding is also where the Grounded Method allows for the rigor necessary for scientific acceptance. The process of coding is discussed below in a logical progression, however the different types of coding should not be seen in sequential stages, and the researcher is encouraged to revisit the different coding procedures as the theory builds, in order to create better understanding. Strauss and Corbin (1990, p. 59) quoting Dising (1971) note:

The procedures are not mechanical or automatic, nor do they constitute an algorithm guaranteed to give results. They are rather to be applied flexibly

according to circumstances; their order may vary, and alternatives are available at every step.

For this study all three types of coding were utilised, and they are discussed in detail below.

### 3.3.1 Open Coding

The process of open coding is designed to identify and categorise phenomena through the “close examination of data” (Strauss & Corbin, 1990, p. 62). Open coding was completed by breaking down the transcripts into the four separate parts of the negotiation process (Selecting the Bargaining Team, Claims Development, Communication During Negotiations, or The Ratification Procedure). They were then examined for similarities and differences. The transcripts were analysed at a sentence level, and categorised based on the idea that is held within, in line with the explanation by Strauss and Corbin (1990, p. 73).

The comments were branded both by the *union* represented and by the *ratification procedure* that the comment was in reference to, in order to distinguish them during axial coding. The sentences that were being analysed could be assigned to multiple categories, and once the entire selection was categorised they were re-visited and further categories were added or removed as necessary.

An example of this is shown in the table below:

<b>Communication During Negotiations</b>			
<b>Union</b>	<b>Ratification</b>	<b>Comment</b>	<b>Categories</b>
‘A’	Electronic	From time to time, who knows, it might get junked the e-bulletin	Electronic
‘B’	Meeting	We do two forms of reporting, one is an electronic communication that goes out to our members, it goes to the media as well	Channels Electronic
‘C’	Electronic	If we were doing it by email communication the first thing that you need to understand is that we have a large number that do not have access to email	Electronic

Altogether 491 individual comments were selected and analysed from 14 hours and 17 minutes of audio. The selection criteria for an individual comment to be included in the analysis were that it was either:

- repeated within the interview,
- emphasised through non-verbal cues (tone of voice, volume etc.),

- discussed at length, if the participant stated that it was “important”,
- expanding discussion on similar views, or
- if it was significantly different to the views of other interviewees.

The comments were also selected if they gave a contrast between the two ratification procedures. Repetition of comments was quite frequent, however additional similar comments by the same interviewee were only included in the analysis if they brought additional information with them. Individual comments could also be assigned multiple categories. The comments were assigned to their respective phase of the bargaining process, with the identifiers of which interviewee it was attributed to and whether it was under discussion of either electronic or meetings-based ratification. In total 491 comments were included in the axial and open coding procedures. Fifty-five comments covering 12 categories were identified under the Selection of the Bargaining Team. For the Claims Development phase 13 categories were attributed to 91 comments. The Communication During Negotiations data consisted of 20 categories assigned to 186 comments. The Ratification Procedure discussion was based on 159 comments that were catalogued into one (or more) of 15 categories.

The interviews themselves also allowed for a certain level of further analysis, which is based on the Flip-Flop Technique (Strauss & Corbin, 1990, pp. 84-87). This technique is used to mitigate the effects of biases and assumptions, by envisaging the very opposite and flipping the concept that dominates upside down. For this study the Flip Flop Technique was implemented in the development of the interview schedule, as it was a tool to moderate bias from both the interviewee and the interviewer. As mentioned in the previous section, the interviewees were first questioned about the negotiation process with their current ratification procedure (e.g. Meetings-based ratification), and then asked to discuss the process again as if the ratification procedure had changed (e.g. to Electronic ratification). This allowed for even those who were vehemently opposed to the idea of electronic ratification to discuss it in a predictive and analytical way.

### 3.3.2 *Axial Coding*

The categories identified during the open coding are then re-examined to create a list of phenomena, or in other words central concepts. These central concepts are the root of different actions that have differing consequences, dependent on the conditions of their occurrence. An example of this is shown below, using the phenomenon of a bargaining

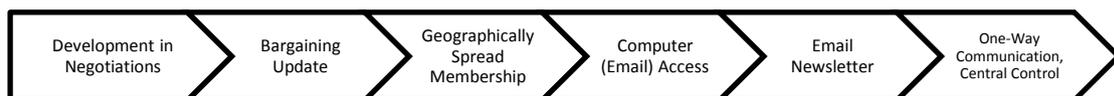
update. The categories that do not make the cut as central concepts generally then become other steps in the axial coding such as consequences. This is because the central concept (phenomenon) was not fully extracted during the open coding.

After the open coding has identified and categorised the phenomena, the data is then brought back together in a different way through Axial Coding. The process of Axial Coding as discussed by Strauss and Corbin (1990) is systematic, beginning from identifying causal conditions, and eventually resulting in an understanding of the consequences of the action, as seen below:



The *causal conditions* are the events that have led to a *phenomenon* (central concept) happening. The *context* is the specific assets that identify that phenomenon as different from other occurrences. The *intervening conditions* are the other properties that impact on what *action/interaction strategy* are available or can be implemented. The final stage is to look at what are the results and impacts of the selected action/interaction strategy, known as the *consequences*.

An example of this would be looking at the phenomenon of bargaining updates. This has been mapped out below from a number of comments relating to email newsletters from a single interview transcript:



From this diagram it is clear that the *phenomenon* of the need for a bargaining update is *caused* by a new development in negotiations. The *context* that identifies this type of bargaining update as different from other types of bargaining updates is that the membership is sporadically dispersed throughout the country. However the membership all use computers at work and have email access, which is (one of) the *intervening conditions*. The *action strategy* that best suits this situation is therefore to create a bargaining update in the form of an email newsletter. However the analysis also calls for an examination of the *consequences* of this action, which include one-way communication (a product of which is a lack of feedback), and central control of the communication.

Axial Coding allows for an understanding of how categories have come to be, through examining the subcategories and how they interact to create the category. In other words it is a logical process to extract what the causal factors were that led to a particular phenomenon.

### 3.3.3 *Selective Coding*

Selective Coding is the final coding process, and is similar to Axial Coding but is done at a more abstract, or higher level (Strauss & Corbin, 1990, p. 117). The first step of selective coding is to develop the story line, which is “the conceptualisation of a descriptive story about the central phenomenon of the study” (Strauss & Corbin, 1990, p. 119). The aim of this thesis was to examine how a change from meetings-based ratification of collective bargaining agreements to electronic ratification would impact the negotiation process. In order to conduct selective coding the data must then be analysed in terms of how the change from meetings to electronic ratification impacts the negotiation process as a whole, not just at the four stages of negotiation in isolation. To do this the identification of the *core category* is required, which is the phenomenon that is central to all of the data. In this study the core category was defined as the communication strategy, which was found to be influential in every aspect of the bargaining process.

## 4.0 Meetings-Based Ratification: The Negotiation Process

This chapter will discuss the phenomena identified during the open and axial coding of the data from the discussions about the negotiation process for meetings-based ratification. The discussion will be split into the four stages of the negotiation process: Claims Development, Selecting the Bargaining Team, Communication During Negotiation, and The Ratification Procedure. The major phenomena identified under each stage will be discussed in detail, based on the axial coding of the central concepts. The reason the discussion has been structured this way is to best describe the process as a whole, because each stage of the bargaining process impacts on the next. For direct comparison chapter five on the negotiation process for electronic ratification is structured in the same manner, with corresponding sections.

### 4.1 Claims Development

The claims development for the collective agreements covering the larger number of members is heavily reliant on top-down development, with the leadership developing (sometimes solely) the claims that will be brought to the table, and there is a reluctance to allow the membership to have too much input into the process. In the smaller unions the interviewees discussed there was a lot more interaction between the leadership and the membership in terms of developing workplace issues into claims, with some negotiators openly asking their members “what do you want?”

This has led to the identification of two clear strategies for claims development, which will be discussed below. The other themes that emerged were about the number of claims that went to the table, and the prioritisation of those claims. Both the membership consultation and the number of claims were the most significant changes from the current process (see sections 4.2.2 and 4.2.3), while the prioritisation of the claims was clearly important as it was often the basis for the first communication with the membership.

#### 4.1.1 *Executive Strategy*

The executive committees and bargaining teams control the development of the claims for the larger collective agreements quite tightly, as illustrated by this quote: “Our whole claims process is different [from the past process] in that it is not actually about you telling us what you want anymore, we actually construct what we think are the critical issues.” The rationale for this was that “if you ask members, they all want fifty percent [wage increases] and they

want it yesterday.” However only two of the unions developed the claims solely within the executive committee and bargaining team, one representative of which said “you will not have to consult with members, because members themselves are on the committee.” The same representative also noted that they have an extremely comprehensive agreement, and rarely have any new claims, their negotiations are generally just based on increasing areas such as pay. The other union negotiators who developed the claims within the union executive noted that their bargaining specialists could at any time write on their hand the key issues for their sector and be 95 percent correct, saying “if not [correct] then we are not communicating with our members on a daily basis” through the delegate structure.

The claims for the other larger collective agreements were formed through consultation and development with various sub-committees and sample groups. Claims that arise from the union leadership are generally tested on the sample groups for acceptability, while the sub-committees consisting of delegates are used to feed in workplace issues from the membership to be consolidated into claims. For the smaller collectives the claims are still developed at the executive level, but it is more likely (all but one union interviewed) that the membership as a whole is asked for input, and from that input the claims are developed.

#### *4.1.2 Membership Consultation*

As discussed above the larger collective agreement claims are developed at the executive level, often with the use of sub-committees and sample groups. For these interviewees the membership consultation is basically a way of *informing* the membership what the bargaining team will be seeking, and if endorsement by the membership is a constitutional requirement it happens at this stage also. Two of the participants also use the endorsement phase to prioritise the claims, which will be discussed further in section 4.2.4. The membership consultation at this stage is usually meetings-based for the larger agreements and is the first time the membership is engaged in the bargaining process, so the bargaining team is also introduced and endorsed if required.

The agreements covering the smaller groups engage the membership in a much more consultative way during development of the claims, and are often more akin to on-going conversations than a single instance at a meeting. The on-going conversation between the leadership and the membership is seemingly all conducted through electronic communication, namely emails. This is because managing direct communication in the smaller groups is not only easier, but also because the input from members is more necessary

as the sub-committees and sample groups do not exist, and it is also likely that the bargaining will be done through an agent of the parent union, not a team made up of members or delegates.

It is also at this stage that ‘managing expectations’ occurs. Managing expectations is a tool used by the leadership and bargaining team to bring unrealistic expectations of outcomes held by the membership back to a more realistic and attainable level. The need for this was best described by one interviewee as:

We would sooner over-deliver to their expectations than under-deliver. Because in our experience if you try and use members expectations as a tool you will invariably under-deliver, and even if you get a good settlement out of it you will end up with a significant proportion of your membership who will believe you have failed.

The need to manage expectations is often seen as the justification for not seeking direct input from members in the claims development, as one interviewee found “we have had one round which was a complete shopping list, what do you want, and it was disastrous.” The purpose of this is to avoid the problems of the membership voting down a proposed agreement at ratification over unrealistic expectations of the bargaining team’s position, power, or possibly the company’s ability to meet the expectations.

Some interviewees have indicated their unions have moved to benchmarking pay claims against other organisations or comparable occupations, in order to avoid any conversation with members over money, which is often the basis for intraorganisational conflict between the bargaining team and the membership. Two of the union negotiators with collectives covering the larger groups of members have also indicated that their union has moved from large member meetings to smaller workgroups for claims endorsement, so that it is easier for members to have conversations regarding concerns over the claims being put forward. This also (either purposefully or consequently) reduces the likelihood of a number of members voicing the same concern together, and building momentum among the other members.

#### *4.1.3 Number of Claims*

The number of claims that a bargaining team seeks to achieve varies from agreement to agreement, and may fluctuate from a couple of changes or developments to existing clauses, to a whole new agreement as one interviewed negotiator had done. Of the discussion on what they communicated with the membership, four of the participants stated that they focussed

their membership consultation on a few key claims, while the other claims were mentioned but did not receive equal discussion. The reason for this was to ensure there was sufficient discussion on some of the more contentious issues so that the membership was well *informed*, and also because some of the claims had little impact for the membership and were more of rewording clauses for better clarification of their intent. Other issues may have been discussed in previous bargaining rounds, and had been put back on the table because they were dropped but were still thought to be important. There was no clear pattern as to why the numbers of claims were tabled; it was purely dependant on the situation that the individual bargaining round was occurring in.

#### *4.1.4 Prioritisation*

All but the two who do not consult the membership during claims development prioritise their claims based on input from the membership, with those that are “deeply widely felt” taking top priority, as they affect the largest proportion of the membership. The prioritisation for the larger agreements is done by survey, sometimes at the claims endorsement meetings, and others by electronic survey. The bargaining team will ask the membership to rank the importance of the issues, and the results of that ranking will inform the prioritisation of the claims. However the leadership may also choose to include other claims that may not be felt widely by the membership, but may pertain to a particular group that has been disadvantaged as they do not have the membership numbers to make their issue a priority for the wider membership.

For the members of the smaller collective agreements the prioritisation is more based on the conversations on the issues from the development of the claims, as the issues which were raised by the largest number of members are generally those that have the most importance to the members. The prioritisation in this situation is therefore more done intuitively by the bargaining team than for the larger agreements.

It was identified by five of the union negotiators, including both union negotiators that do not consult with the membership during claims development, that “it is probably fair to say pretty much it is always the money that is the most important,” and in order to conclude bargaining successfully “the money is the key thing that has got to be right, but sometimes some of the other things are really important too.” The issue of money is interesting because the participants who mentioned this were all reluctant to specify a figure that they were seeking at bargaining to their membership, either as a dollar amount or a percentage.

## 4.2 Selecting the Bargaining Team

The selection of the bargaining team falls into two categories, membership election and executive selection. There was no specific reason given why one process was chosen over the other, rather they were equal choices, and it was either one or the other, seemingly based on either the union constitution or history. The lead advocate regardless of the selection process was always a permanent employee of the union such as an Industrial Adviser or the General Secretary except in one instance, which was also a greenfield collective.

### 4.2.1 *Election or Selection*

The process of membership election requires that those wishing to be part of the bargaining team nominate themselves for election, and then the membership (or a particular group within the membership) votes for whom they want to represent them. There are different processes of how exactly this is done, one of which was that the union executive which is made up of elected officials also becomes the bargaining team, while another held branch meetings to vote for their specific bargaining representative. Another union negotiator indicated only using a voting procedure if there were too many candidates for the bargaining team, while another only used a membership vote if there was a spare seat after the executive had made their selection.

The executive selection was the less fully democratic way of selecting the bargaining team, in which the national executive (or in some cases individuals) chose those that would sit at the bargaining table. This was only seen as less democratic when compared to the membership election. The executive committee in these unions were still selected democratically, and therefore the selection of the bargaining team was done through representational democracy. In most cases this was a group decision from the elected officials, however in one union the President selected the team, which just required endorsement from the executive.

Two of the union negotiators who used membership election did use the executive to identify possible candidates, but the final decision was that of the membership. The bargaining teams representing the larger memberships tended to be selected by the executive, while the smaller memberships were often given voting rights over the bargaining representatives. However the bargaining representatives covering the smallest memberships were again selected by the executive, as there were generally only two or three representatives at the bargaining table.

#### 4.2.2 *Representation*

One of the major factors in gaining representation and credibility of the bargaining team was regional representation. Every participant discussed this, and most union negotiators required some level of diversity when bargaining for agreements that covered more than one site. In the unions where the executive chose the bargaining team there were seats at the bargaining table representing specific geographic regions. For those that the membership voted for it was discussed as important, but there were no explicit rules as such.

The second most important factor in gaining representation was role representation (the representation of different occupations, or classifications within those occupations). Role representation was discussed by the majority of interviewees, with the representatives that the executive selected being considered for coverage of a variety of positions that come under the collective agreement. Also three of the interviewees said that they actively sought out people if there was a 'gap'. One participant indicated that their union executive also developed reference groups for particular jobs if there were a considerable number of claims particular to that group. Two of the participants said that it was not important in their particular circumstance, one of which only represented a single job category, and the other said that because the collective agreement maintained equality across all professions (including pay scales) that it had never been an issue.

Other important factors for representation were gender and race representation. In three unions specific members of the bargaining team were responsible for those issues. Seniority was a factor for maintaining credibility when the proposed agreement went back to ratification.

#### 4.2.3 *Team Size*

The discussion on the size of the bargaining teams was all centred around the reduction of teams, generally over the past two or three bargaining rounds. The size of team for the agreements that covered the largest memberships all had teams of around six or eight members, which was noted to be a decrease from previous years. The rationale for this was the larger teams often became unwieldy, and were hard to manage both logistically and at the table. The agreements covering the smaller memberships had varying bargaining teams, some as small as two people. There was also discussion on the role of observers (non-speaking members), while some bargaining teams used them to ensure greater representation and better communication with the membership, one bargaining team had recently removed the role of

observers citing communication problems, as the observer started rumours about bargaining without the full understanding of the negotiation process.

### 4.3 Communication During Negotiations

As discussed previously the purpose of informing the membership was to impart the knowledge of both the bargaining process and the substance of negotiations held within the bargaining team onto the membership. This is done so that the membership can make what has been referred to as an *informed* vote. The meaning behind the *informed* vote is that the bargaining team is able to lower and bring into line inflated or unrealistic expectations. It also serves to condition the membership toward the ratification. This was not so much realised at this stage, as the ratification meeting was used to this effect.

For communication during negotiation under meetings-based ratification there was little evidence of this, with communication generally being one-way, centrally controlled information, which is at a level that is just sufficient to inform the membership that negotiations are on-going. If the leadership determines that they need a show of force (or to re-affirm their position on claims), the general channel of communication is through meetings, often utilizing the statutory paid union meetings provided for under the Employment Relations Act. The majority of interviewees see membership discussions on the topic of negotiations as detrimental to reaching an agreement, as the bargaining team opts to keep any factual material about bargaining under wraps until the ratification phase of the process. The major categories of communication during negotiations will be discussed below.

#### 4.3.1 *The Level of Communication*

Communication during negotiations were often regarded as minimalist, with leadership particularly in larger unions often being “criticised for not communicating enough,” which has been explained by a couple of participants as being because of the complexity of negotiations. However this has also been described as being due to the perceived constraints of Good Faith on communication. The interviewees who had given a rationale for reduced communication had discussed that the Duty of Good Faith restricts the communication between a bargaining team and its constituents. This is arguably an incorrect interpretation of the Good Faith restrictions on communication, as under the Employment Relations Act 2000, s 4(3) there is no statutory restriction on communicating statements of fact or opinion. The issue of intra-organisational communication and breaching good faith only relates to misleading or deceiving the other party, or misrepresenting their own party. This

misunderstanding may just be an excuse that is used to reduce the amount of communication needed during bargaining, as it has been noted that some bargaining teams “do not necessarily report back every blow-by-blow... because a lot of those things are too complex,” and “I don’t know that a lack of communication is actually a huge issue as long as members know why there is no communication.”

It has also been noted “it is not necessarily homogenous what people want to know,” indicating to the differing needs of individuals within the union. There is a clear consensus among the interviewees that there is a need for members to understand the negotiation process, and it is clear that the membership needs to know what the bargaining team has achieved, as illustrated by one interviewee who negotiated a “fantastic” deal in a “very short space of time,” only to have it rejected at ratification because the membership thought “you’ve settled already? You must have folded too soon.” It is therefore clearly necessary to allow members to “read a chapter at a time in a book,” or bring the membership along the ‘journey’ of negotiations, because “they don’t want a short story.” The availability of information and timing of the negotiations are necessary for constituents to understand the process and make an *informed* vote.

#### 4.3.2 *Communication Timing*

As highlighted in the previous section, the timing of negotiations and information is clearly important to the membership. It was clearly portrayed by all of the participants representing large unions that there were problems associated with conducting negotiations over a short (often stated as 3-month) timeframe. The problems were due to the bargaining team’s ability to get the information out to the membership, and to get them to understand it, as illustrated by one interviewee saying “one of the things we learned was bargaining, it doesn’t hurt to have your bargaining over a longer timeframe because it gives people time to get the run-in.”

The second most identified problem with timing was that “you don’t want the wrong reaction at the wrong time... it is a strategic decision.” The timing of information releases to the membership is therefore also important, as bargaining teams have to manage the reactions of their membership to best suit their bargaining strategy.

### 4.3.3 *Central Communication*

There is a unanimously held view amongst the interviewees that there needs to be a centrally controlled message that goes from the bargaining team to the membership. The reason for the central control is to ensure that there is a consistent message that is received by every member, in order to avoid undue internal conflict as a result of poor or contradictory communication.

There is a difference of opinions regarding the use of the delegate structure for communications, with the representatives of the larger unions being reluctant to allow delegates or organisers to discuss the substance of bargaining with members, placing reliance on communication channels such as email newsletters, website bulletins, and scripted FAQ sheets for national call centres. The representatives of the smaller unions are more open to using the local delegates and organisers to answer queries on bargaining and are inclined to allow more open communication, as long as the message is run past the national office.

### 4.3.4 *Open Communication*

All interviewees (that discussed members' views) have mentioned that there is an element of their membership which wants an open dialogue between the bargaining team and themselves. However it was also clear that there are a number of barriers to this, and that the representatives of the larger unions are reluctant to engage in open communication with their membership during negotiations. This is illustrated by one participant stating, "It is just really dangerous to be too definite." This danger is based on the concept that allowing the free and open discussion before a potential agreement has been reached "derails opinions," and may result in misrepresentation due to poor communication, or because the whole agreement is not finalised.

There is also the idea that because the membership has given the bargaining team the mandate to negotiate on their behalf, the membership (in the words of the leadership) is of the opinion that "you are the [experts], you do your job." This lends itself to the negotiating team being given almost autonomous control over how they bargain, which aligns with centrally controlled and closed communication during negotiations. There is also a rationalisation for the holding back of information from the membership (again from a representative of a large union), as mentioned previously it "can end up inciting a riot when you don't need [sic]."

The representatives of smaller unions however have noted that they are more inclined toward open communication with the membership, with one such participant stating that they

want to be seen as “open and transparent,” to the point where they are using social media to discuss with members in real-time how negotiations are progressing, including discussion on the substance of negotiation and the behaviours that are at the table. This participant has indicated that this type of engagement was well received by the membership, as it allowed them to better understand the bargaining process.

#### *4.3.5 Communication Channels*

There are a wide variety of communication channels in use by union bargaining teams to engage with their membership, such as meetings, informal worksite discussions, mail (both postal and email), telephone, video and tele-conferencing, text messaging, surveys (electronic and paper), noticeboards, flyers, union websites, and social media. No single union engaged in all of these methods, rather they selected the methods which best suited their membership and also the dynamics of the specific negotiation.

There are a number of contexts and intervening conditions that impact the communication channel selection, and also the effectiveness of the chosen channel. The most influential of these are the size of the group being communicated with, their physical location, the demographics of the membership (language proficiency, computer literacy and access, age, mobility, shift patterns), the structure of the union, and the objective of the communication (informing or requesting feedback). Other influences that were indicated were the costs associated with some forms such as electronic communication, and the benefits of face-to-face communication through non-verbal cues and things such as tone of voice, inflection, speed, and volume. Non-verbal communication is a powerful part of effective communication, as is said to convey over 70 percent of the meaning of a message (Stansfield, 2002).

It was also discussed that the communication channels utilised are often “poles apart” for unions that possess great variances in the membership size of their collective agreements; for example for one union’s largest collective which covered well over 10,000 members, communication is heavily reliant on meetings and face-to-face interaction, while their smallest agreement is entirely electronic, and covers only 30-40 members.

The larger unions all maintained significant delegate structures, however they were not necessarily utilised for communication during negotiations. The delegate structure will be discussed further in section 4.3.8.

#### 4.3.6 *One-Way Communication*

There was a visible distinction in the reciprocity of communication between the unions that engaged in open dialogue with their membership, and those that remained quite closed. The participants that were reluctant to be open with their membership all focussed the vast majority of their communication during negotiations in one direction, from the bargaining team out to the membership. The only time that these union representatives discussed the possibility of encouraging membership feedback was in reference to the need to have a show of force to back up the position of the bargaining team, or if the proposals initially sought had given way to significantly different claims.

However there was a significant difference between the bargaining teams that communicated primarily electronically and those that used meetings. The interviewees that engaged their membership primarily through electronic means encouraged direct feedback from the membership. These interviewees also usually represented the members covered by smaller agreements. Whereas those that relied more on meetings and face-to-face communication used the other channels for one-way communication.

#### 4.3.7 *Two-Way Communication*

The representatives of the larger unions often utilised union councils to gain feedback on changes to proposals, as it was seen as being much faster and simpler than going out to the membership. In situations where feedback was required such as when significant changes were proposed or when negotiations were approaching an impasse, the normal go-to was to have discussion held by organisers and delegates at the local level, then being fed back to the negotiating team through the delegate structure. It was noted by one interviewee that two-way communication in the unions that utilised meetings and face-to-face communication that the ability for the bargaining team to gain two-way communication was reliant on the level of organisation, and the structure of the union.

For those that relied on electronic communication the majority of their engagement with the membership encouraged feedback, therefore there was already a focus on two-way communication, and this was enhanced through the use of social media and other channels such as video and teleconferencing. It was also noted that email was used in a more conversational style, rather than the newsletter style that was used to communicate with the larger memberships.

#### 4.3.8 *The Delegate Structure*

The delegate structures within unions generally resembled that of a traditional bureaucratic hierarchy that is seen in many organisations. The larger the organisation, the more tiers that exist between the bottom and the top of the organisation, or the members and the union leadership (secretary, president, or lead negotiator). The delegate structure referred to here includes regional representatives, organisers, and workplace delegates.

As mentioned previously the use of the delegate structure differed within the larger unions, based on the amount of communication between the bargaining team and the membership. In the two larger unions that held the most control over the communication the delegate structure was simply bypassed, with any communication coming direct from the bargaining team. Other bargaining teams that were more encouraging of open communication allowed delegates and organisers to run their own meetings and create their own bargaining updates and hand-outs. The delegates were also occasionally used as a reference for testing alternative claims, rather than going out to the full membership.

The union representatives who held collective agreements with a small, geographically dispersed membership all said they did not have a delegate structure, as it would be impractical as there were only one or two members in each location, and the communication they used negated the need for it.

#### 4.3.9 *Communication Problems*

The main problem with communication that was discussed by the interviewees was ensuring that the members had the right amount of correct information at the right time, so that when it came to the ratification the membership was making an *informed* vote as previously mentioned. To combat this problem some unions' representatives reduced the amount of, or even stopped, communication during negotiations, centralised control over communications, and changed the communication channels available to the membership so that it became more manageable.

The communications were often focussed toward the ratification phase of negotiations, with a couple of the participants stating that they were reluctant to engage the membership at the claims development stage. The largest issue with this way of communicating is that the members are not engaged in the process, and subsequently are likely to not understand the negotiation process until the bargaining team explains it at the ratification meeting. The

ratification meeting therefore serves the purpose of *informing* and educating the membership of not only the proposed agreement, but also the process of bargaining.

It should also be reiterated here that a union's membership is not homogenous, and individuals were seen to have different needs in terms of the information they require to make an *informed* decision. A balance needs to be found each bargaining round, and this comes from the leadership getting to know their membership. The bargaining team finds itself in trouble if they bring what they believe to be a good deal back to ratification only to have the membership misunderstand the proposed agreement, or not understand the realities of what is achievable and reject it.

#### 4.4 Ratification Procedures

The ratification procedures for meetings based ratification was seen by the representatives of the larger unions as the time to re-engage the membership. The meetings were often the first time that the members were introduced to the proposed settlement, which they were also expected to vote on in an *informed* manner after a two-hour presentation of the bargaining team's assessment of acceptability of the proposed agreement. The structure of the meetings varied from union-to-union, and also between bargaining rounds. All of the union leaders, organisers, and delegates conducted the meetings with a specific recommendation to the membership, however on some occasions a conscious neutral stance was used to gain a true indication from the membership as to a proposal's acceptability. The importance of having a central message when presenting to the membership was seen as gravely important by all participants.

##### 4.4.1 *Ratification Meetings*

The organisation of the ratification meetings for the larger collectives is quite strategic, in that the size of the meeting and also the person presenting the proposed settlement is selected in order to better facilitate the outcome sought by the leadership. All of the discussion on the size of the meetings indicates that if the settlement is regarded as a good one by the bargaining team, then the meetings will be small, often site-specific (for large national agreements), and run by the local delegates or organisers to generate the most discussion so that the membership can vote having a full understanding of the proposal, and any issues or misunderstandings can be dealt with. The smaller meetings have also been used when the bargaining team is unsure of the acceptance of a proposed agreement, and in one instance that was discussed which had a particularly complex bargaining round two sets of meetings were

called for ratification. The first was just used to inform and generate discussion from the membership before the second meeting took place where the membership cast their votes.

For meetings where the leadership is recommending that the settlement be rejected, the membership is called into larger regional meetings (for national agreements) sometimes of 2000+ members, which are run by the union leadership and bargaining team. The larger meetings are used in order to gain momentum and give the membership a sense of collective energy, particularly when there are members that are “quite angry and upset” which can be utilised by the leadership to engage other members who were undecided or unengaged.

The timing of the meetings also varies, as some of the larger unions’ representatives prefer to introduce the proposal and conduct the ballot in the same meeting (often using a statutory 2-hour paid union meeting). Others gave their membership a copy of the proposed agreement, discussion documents, and even FAQ sheets to assist with their understanding up to two weeks before they cast their vote at the ratification meeting. The meetings for the largest unions numbered over 200, with one union having their leadership travelling to the majority of those to ensure a consistent message in order to better secure the right outcome. However the cost of the numerous meetings is significant.

The turnout of meetings is also important, with some of the larger unions that also have high industry density (proportion of workers in industry covered by the union) achieving turnout figures of between 80 and 90 percent of their membership, while other interviewees had discussed turnout figures of 10-20 percent or less. One interviewee who discussed their turnout figures over a number of years noted a change from less than 15 percent to more than 70 percent within 10 years, which they stated was due to more engagement with the membership at the claims development stage and a more consultative claims development process. The majority of interviewees (12 of 13) held turnout figures above 50 percent (one union was excluded from this as their collective agreement was their first, and at the time of the interview they had not yet conducted their ratification). The location and timing of the meetings were the most significant reason discussed for members not making it to meetings, with on-site meetings and even within-workplace meetings for larger sites being used to increase participation. The meetings were also held multiple times during a day (between 2-5 times), especially for the industries based around shift-work. The turnout was also affected by the negotiations, with the more contested negotiations receiving higher turnout at ratification.

#### 4.4.2 *Informing the Membership*

Arguably the biggest issue with the ratification of a proposed collective agreement is ensuring that the vote that is cast is an *informed* vote, regardless of whether it is for or against the agreement or even aligned with the recommendations of the bargaining team. An *informed* vote (as seen by the union leadership) is one where the voter understands the effects of the proposed settlement, how it was achieved, and the implications of non-settlement. As mentioned previously the *informing* of the membership takes the form of the leadership imparting their knowledge of both the bargaining process and the substance of negotiations onto the membership, in order to condition them for the vote and to mitigate inflated or unrealistic expectations, and to convey the bargaining team's assessment of acceptability of the proposed agreement. It was discussed by one participant that "discussion unpacking" was key to the membership gaining a full understanding of the implications of both acceptance or rejection of the proposed agreement, and that this was best done by informal discussions where the membership was provoked to respond on certain topics.

The union negotiators who gave their membership the proposed agreement in advance of the meeting also indicated that while this was supposed to reduce the time spent discussing the agreement in the meeting, there was always a need for clarification of some aspects of the agreement during this time. It was made clear that the dialogue between the leadership and membership was important, but also that the discussions within the membership were important in gaining a consensus.

#### 4.4.3 *Making Recommendations*

Every participant was of the inclination that there generally was a need for the bargaining teams to take a position on the agreement, whether that be recommending acceptance or rejection at ratification. The exceptions to this were that some bargaining teams (3 of 14) also actively took a neutral stance if it was a particularly borderline proposal, and they were unsure of whether it would be acceptable to the membership. One of the interviewees who had the option to remain neutral had qualified this by saying that they had only actually done this once in the past. Another interviewee also said that in their previous union (their current union was a recent amalgamation) their policy was to always remain neutral. However while the recommendations were warranted and even requested by some groups, one interviewee noted that their membership does "not want to be told how to vote." This was confirmed by

two other interviewees that the “members very much make their own mind up,” and are “not afraid to let [the bargaining team] know what they think.”

The recommendation of a settlement was “always going to be a push,” as invariably the proposed settlement is never exactly what the bargaining team set out to get (in the members’ eyes). However the amount of pushing required at this phase was mitigated by the process of managing expectations (discussed in section 4.2.2), and the level of communication during negotiations.

#### *4.4.4 Communication Channels*

The communication during the ratification phase of negotiations for those that vote at meetings is heavily reliant on communication at the meetings themselves. Four participants have indicated that they make the proposed agreement available prior to the meetings via email, hard-copy, or on their website. Some of those also make available an advocates’ report on how the negotiations progressed, and one participant also mentioned that they create an FAQ page to assist with members understanding.

The communication channels used are influenced by what the proposed settlement is, and how close it is to the initial proposal. If the proposal is thought to be close to what the bargaining team set out to achieve, the communication is thought to be “much simpler”. If it is drastically different then it may be necessary for the leadership to “weigh-up if you are going to have a vote or are you going to come back and have some conversations” so that membership be engaged in “face-to-face meetings so people can be thoroughly briefed and have discussions there.”

The communication at ratification is also dependent on the level of communication that has occurred throughout the process, as two of the interviewees have found that a lack of communication can be devastating due to the negotiating team having arrived at “a hard won agreement with an employer, only to have it ripped out from under them by their membership.” This places the negotiating team in a particularly precarious position, especially if the employer will not, or has no room to, give further concessions.

#### *4.4.5 Communication Content*

The content of the meetings is always decided on by the bargaining team, with either the bargaining team themselves leading the meetings or representatives using notes developed by the bargaining team. There was a difference in the tools used to assist with the conveying of

the information, with hand-outs being seemingly optional, and tools like PowerPoint presentations and videos being used dependant on the size of the meeting. If a participant was using large regional meetings as discussed in 4.4.1, then the presentation was usually done verbally, without PowerPoint as it was seen to be distracting. However for the local meetings PowerPoint was seen as an aid to those running the meeting, as they were often less experienced public speakers.

The majority of participants covered the whole proposal at their ratification meetings with discussion on how it was achieved and also how it will affect their working lives, although one interviewee mentioned that in order to keep their membership engaged throughout the meeting (which can become tedious and members can “drop off”) only the more important issues are consistently discussed, while “the lower prioritised claims may not get spoken to.”

#### *4.4.6 Constituents' Discussions*

The discussion of the terms of settlement by the membership was generally seen as being positive, as it assists with the membership's understanding of the proposal. However there were two exceptions to this, with both showing concern about “members connecting through social media and through the email system who will tell someone blindly” that the proposed agreement is unacceptable which can travel virally throughout the membership. The leadership's response to these uninformed discussions is to stifle them, but it seems that these discussions stem from a need for more information by the membership.

The discussions within meetings that come from the floor have been noted to allow members to raise grievances they have with the leadership or the proposed settlement, however contrary to the problem indicated above this is seen as a positive, as it is in a forum where the leadership is able to clearly articulate their position.

#### *4.4.7 Problems*

All of the participants have indicated “the most important thing about the ratification ballot is not whether it is yes or no, but one option is overwhelmingly what people choose.” The problem with close ratification ballots, even if it is accepted, is that a large minority is unhappy with the agreement, which may flow on into the workplace, as has occurred in the past with unsanctioned or wildcat strikes (however this would be an extreme consequence). As strikes (and any industrial campaigns) impose a cost on both sides, it is not a matter of who wins; it is a matter of who loses the most. This requires solidarity within the

organisation, and as the ratification vote may be the beginning of a campaign, “if we don’t have 80 percent of members voting in favour of industrial action, we are not going to win. It has to be a really strong rejection.”

Due to the nature of collective bargaining there will “always be an element of people who are never going to be satisfied,” as a union is made up of a collection of individuals who place different values on certain claims. However this problem is mitigated by ensuring that the claims prioritised are those more highly valued by the majority, which is generally established through the claims development process.

One interviewee representing a union that has shifted to electronic ratification stated that there was potentially another problem that could occur at ratification meetings, which was “one confident person could swing the vote.” This was the only mention of this, and while other union leaders did discuss the notion of members “grandstanding” at meetings, they saw it as a positive as it let those members air their grievances where the leadership could rebut or correct their ideas in a timely manner.

#### 4.5 Meetings-Based Ratification Summary

Under meetings-based ratification the bargaining team was selected by either the executive committee or the membership, however the lead negotiator was always a permanent employee of the union. Regional and role representation were the most important factors when considering the make-up of the team, with team sizes ranging from two to eight members, increasing as the membership numbers increased.

Claims development for the larger unions was generally conducted by the executive committee, with the smaller memberships being more likely to be involved in the process. The most important factor in claims development was to manage the expectations of the membership, in a way that unified the membership, but also reduced those expectations to achievable and realistic levels. The prioritisation of the claims was a tool used to ensure homogeneity across the membership, which was also seen as a democratic check on the issues being put forward in the proposal. The representatives of the larger memberships were generally reluctant to put a call for claims out to the membership, rather opting to develop the claims internally.

The communication during negotiations was commonly one-way, centrally controlled information used to simply inform the membership that negotiations were on-going. There was a significant reluctance to allow communication on the substance of negotiation outside

of the bargaining team. The interviewees representing the smaller memberships were more inclined to engage with the wider membership during negotiations, which was usually done via electronic means. The delegate structures within the unions were rarely used to disseminate information to the membership, with interviewees citing the issues of a message being distorted as it travels through multiple intermediaries. Unless the bargaining had stagnated or industrial action was deemed necessary to progress, the membership was generally not engaged during negotiations. The communication necessary for the membership to be *informed* in the way that encourages them to vote in line with the bargaining team's recommendation was typically conducted during the ratification meeting.

Provided the negotiations had reached a stage where there was a settlement ready to be proposed by the bargaining team, the ratification meeting was the phase where the membership was brought back into the communication loop. The negotiators representing the larger memberships indicated that the meetings were developed strategically, with larger meetings being used to generate consensus, and smaller meetings to encourage two-way dialogue. A union representative always led the meetings, and the interviewed representatives indicated that a recommendation was part of the presentation, however on occasion a neutral stance may be used to gain feedback as to whether a proposal would be acceptable or not. The ratification meeting was most likely the first time the substance of negotiations was discussed with the membership. Therefore it was highly important that the bargaining team's message is conveyed to the membership in a way that imparts their knowledge, expertise, and opinions on the proposed settlement to the membership.

## 5.0 Electronic Ratification: The Negotiation Process

This chapter is structured in the same way as the previous chapter, but contains the open and axial coding discussion on electronic ratification. The sections contained within are again the Claims Development, Selection of the Bargaining Team, Communication During Negotiation, and The Ratification Procedure. As with the previous chapter the major phenomena identified during the axial coding will be discussed in detail under their respective stage of the negotiation process. For direct comparison these sections can be read with their corresponding sections in chapter four.

### 5.1 Claims Development

As mentioned previously in section 4.2 the most significant differences in the claims development phase between meetings-based ratification and electronic ratification were found in the engagement with the membership, both in the membership consultation and the number of claims. These differences will be discussed below. There were no differences evident on the prioritisation of the claims.

#### 5.1.1 *Executive Strategy*

There were no identified changes to the amount of control that the union executives and bargaining teams held over the claims development process, and the only three interviewees who mentioned the central control over the process stated that their level of control would not change. There were however indirect changes to the way the leadership developed claims. Through the membership consultation discussion by representatives of two of the unions who held tighter control over the development of the claims indicated that they would be more open to claim submissions directly from the membership. This was in contrast to their process under meetings-based ratification where claims were developed by the organisers, delegates, executive committee, and bargaining team. This would only be at the initial stages of claims development, where a call for claims would go out to the membership.

#### 5.1.2 *Membership Consultation*

As mentioned above, two of the union representatives who hold tighter control over the claims development process discussed a more open claims development process at the outset of claims development, however at the claims endorsement meetings they would be more reluctant to have any new claims from the membership. This was also mentioned by one of the interviewees who was already more engaged with their membership during claims

development by encouraging claims from the membership. This advocate said “what we would see... is potentially more issues being proposed.” This clearly has an impact on the number of claims, as discussed below.

### 5.1.3 *Number of Claims*

In order to ensure that the membership is aware of the implications of the proposed agreement under electronic ratification and what has occurred throughout negotiations, one union representative indicated that they would significantly reduce the amount of claims they put forward. The reduction in the amount of claims would allow for more concise communication during negotiations, which in turn would allow the membership to become more focussed on the entirety of the proposed changes to their collective agreement. The reason for this would be to ensure that the communication used to condition the membership for ratification would be more direct and pointed, and therefore more likely to be fully received and understood. It would also act to discourage factionalization of the membership, as the less options that are put forward the more the need for heterogeneity of the members issues for claims endorsement, and therefore the less likely the individual members are to have specific claims that they base their entire ratification vote on.

## 5.2 Selecting the Bargaining Team

The discussion on how the bargaining team would be selected under electronic ratification did not indicate much change from the meetings-based process, as the interviewees felt that the make-up of the bargaining teams under meetings-based ratification were sufficiently representative. However there were two changes that were identified by two interviewees. Both participants indicated that there would be a need for more consideration of the communication abilities of the bargaining team, with the possibility of a dedicated communication champion on the team. The other change was that there could possibly be a need to increase the bargaining team size to ensure greater representation and credibility when communicating back to the membership. Both interviewees were discussing agreements that covered large memberships.

## 5.3 Communication During Negotiations

It was widely expressed that for electronic ratification to still result in votes that were *informed* and therefore aligned with the suggestions of the bargaining team, the

communication during negotiations would have to change, and there was a need for more volume of communication as well as better two-way communication.

### 5.3.1 *The Level of Communication*

The largest difference in the level of communication between the negotiating team and the membership is the need for an increase in information availability. Again it was mentioned that due to (a misconception about) Good Faith, making more information available would be problematic.

All but one participant said they would need to make more information available, so that members who require more information in order to make their decision when it comes to ratification can make an *informed* decision. The type of information made available has also been noted to have to include “a lot more comment about what it all means,” which shows the need for explanations in lay terms in order to mitigate the previously identified problem of the complexity of collective agreements. It was also mentioned by one interviewee that the amount of claims put forward by the bargaining team would be reduced, in order to communicate more effectively on the “key claims,” so that the membership can be stepped through negotiations more efficiently in order to create understanding of the process and substance of the proposed agreement.

### 5.3.2 *Communication Timing*

The discussion on timing of communication during negotiations did not alter significantly from meetings-based ratification to electronic ratification, however it was identified (albeit by a minority of interviewees) that the bargaining updates would need to be more consistent and reliable, as the final ratification meeting was often a chance to clarify any ambiguities. It was also noted that for some unions, communication that relies on a certain standard of English reading ability may also be problematic, as the ratification meetings have played an important part in allowing those with “English as a second language... an opportunity to talk to people about [the proposed settlement].”

### 5.3.3 *Central Communication*

For Electronic ratification all participants still indicated a need for centrally controlled communication in order to maintain a consistent message. The only difference that was alluded to in terms of control was that the (majority of) representatives of larger unions would potentially make use of their delegate structure more, as illustrated by one interviewee

who said “to get the message out there we would have to use our [delegate structure] more”. This would be in order to gain a two-way dialogue on the substance of negotiations for those members and negotiators that required it. One of the representatives of the larger unions also discussed the implementation of a substantial national call centre (which already exists in a similar union) in order to control the message but also to allow a more open dialogue between the bargaining team and the membership, not just for the membership to ask questions, but also in order to glean valuable feedback from the membership.

#### *5.3.4 Open Communication*

As with the previous discussion on Open Communication, there was a firmly held belief among the representatives of the larger unions that it is difficult to allow open dialogue between the negotiating team and the membership, however one representative of a larger union that does use electronic ratification already has stated, “we want the process to be as open as possible.” This openness was also seen by one of the representatives of a smaller union that utilises social media as discussed previously, and it was also indicated that there was at least an element of the membership of all unions that wanted more forthright discussion on the substance of negotiations. It is possible that the use of social media would be a channel that could be utilised by other unions to allow for this, however it may not be feasible for all unions, as discussed below.

#### *5.3.5 Communication Channels*

There was a consensus amongst all participants that the more channels of communication used to engage with their membership, the better. The interviewees that discussed the use of their noticeboards and hard-copy leaflets at worksites said they would continue to do so, and no interviewees stated that they would consider removing the use of the noticeboard or hard-copy newsletters. However it was understood by all but one union representative that “definitely it would change the whole dynamics of how we are communicating, from the beginning to the end.” The one union representative that disagreed that their current communication channels would vary believed that the other means (such as social media) did not currently offer the confidentiality necessary for the communication to be of use. It should also be noted that this union relied heavily on centrally controlled one-way communication from the outset of bargaining including claims development, generally bringing the membership in only at the ratification meeting.

It was noted by the majority of participants that there would likely be an increase in the use of union websites for the publication of bargaining related information, however concerns about what information was public (able to be viewed by the employer) were raised by two of the interviewees. Four of the participants discussed the use of social media, which was related to the disposition of the membership, with two of the unions concluding that they would need to know their membership better before they could say whether social media was viable. Three of the participants also mentioned the use of smartphones, with one interviewee having already re-designed their bargaining updates and newsletters for smartphones (document size and adding an interactive menu), and another interviewee mentioned the potential creation of an application (app) for union communication, which could also serve to ensure more secure communication.

The ownership of the communication channels was also discussed by the representatives of the three largest unions, who relied on employer-owned email servers. One of the interviewees had run into issues with this, resulting in all union communication being blocked for a period of time.

The most discussed rationale for those bargaining teams who engaged with their members (or a certain group of members) entirely through electronic means was geographic location. The members that were geographically dispersed and often the only member at their location were generally seen as “quite happy to be dealt with that way,” through email, video and teleconferencing. For those interviewees who currently engage members face-to-face, the idea of changing to entirely electronic communication was clearly portrayed as destructive to the *collectivity* of collective bargaining, and “breaks down the solidarity that you get in a meeting.” This was also noted by one of the participants who engages their membership electronically, who indicated that they would simply not be able to take industrial action.

It was also noted by the representatives of four of the larger unions (and one of medium size) that there would be a need for more face-to-face communication during negotiations, and the delegate structure and union councils could be utilised to this end. This is a significant finding, as it is in direct contrast to their communication procedures under meetings-based ratification.

### 5.3.6 *One-Way Communication*

The discussion on one-way communication in an electronic ratification process was based on it being a problem, as the union representatives that engaged their membership in

ratification through meetings and face-to-face communication felt that there would be a significant loss in valuable membership feedback. This is in contrast to the participants who engaged their membership throughout bargaining primarily electronically, who did not feel that a change would be necessary as they were already gaining feedback from their membership.

### *5.3.7 Two-Way Communication*

With electronic ratification the interviewees communicating with the larger memberships were in agreement that there would need to be an increase in the use of their delegate structure, to shift the communication from one-way to two-way. It was also noted that due to size, the communication would be focussed more at a local level and then fed through the delegate structure, as the logistics of managing a discussion of 10,000+ members would be near impossible. Two of the participants that relied on meetings and face-to-face communication discussed that the organisers would also need to be on-site more often, to encourage more free discussion amongst the members.

Four of the union representatives that are currently not using social media for bargaining communication suggested that this could also be an area for expansion if they went to electronic ratification, however two of the four were concerned with the security risks associated with the privacy of such channels.

### *5.3.8 The Delegate Structure*

If electronic ratification was to be used, the representatives of all of the larger unions indicated that their delegate structure would need to be utilised more, in order to maintain a connection throughout negotiations. However one of the representatives of the two unions discussed previously (in section 4.3.8) that retain tight control over the communication indicated that due to their delegates and organisers not being part of the process with meetings-based ratification, to use them for communication under electronic-ratification would be problematic as they would not have the experience or confidence to discuss the process or the content of bargaining.

For the smaller collective agreements with a geographically dispersed membership, their process has been built on direct electronic communication between the bargaining team and the membership, essentially making the delegate structure redundant.

### 5.3.9 Communication Problems

The main concern that emerged from the representatives of the larger unions was how to ensure that the members had received and understood all the information they required to make an *informed* vote. This depended on the members understanding both the substance of the proposed agreement, and also the process of negotiation and how/what the bargaining team had achieved in negotiations. It was widely understood by all participants that without a ratification meeting, there is a larger reliance on communication during negotiations, and for those agreements that are ratified currently by meeting an increase in the amount of communication during negotiation would be required if they shifted to electronic ratification. Two interviewees also said that the subject of communication would also need to change to include a lot more on the process, and what the bargaining team was doing to gain the proposed agreement.

The other big issue was how to get a sense of *collectivity* that is essential in collective bargaining, especially if the leadership is recommending a rejection of the proposal in order to begin some level of industrial action. There was discussion by representatives of three of the larger unions that there would have to be some form of meetings if an industrial campaign was to be sought by the leadership, and that the membership would need to be engaged in the process long before the ratification phase.

The other issues that were raised were regarding the membership's access to electronic communication means, how the membership interacts with the communication channels (do they fully read and understand email newsletters etc.), and the security of the communication channels.

## 5.4 Ratification Procedures

As discussed previously, the most important factor when it came to the membership casting their votes was that they were casting *informed* votes. The meaning of an *informed* vote under electronic ratification is no different to that under meetings-based ratification. It means that the bargaining team has had the opportunity to impart their knowledge of both the bargaining process and the substance of the proposed agreement onto the membership, and condition them for voting with full understanding of the bargaining team's expert opinion of the proposed agreement.

#### 5.4.1 Meetings

All of the participants that currently use electronic ratification (bar one) do so because it is impractical to bring their membership together in meetings due to geographical location. Two of those interviewees do still hold meetings for their membership in central locations so that they do still have the option of discussing the proposal face-to-face with someone. The union representative which is the exception to this is a large single-site union, which uses electronic ratification for ratification when the bargaining team is recommending a settlement, however they have said that if the purpose of the ratification meeting was to reject the proposal and industrial action was on the horizon, then there would be a call for full membership meetings. This has been corroborated by two other interviewees who felt that for any industrial campaign to be actionable, there was a need for bringing members together *en masse*.

For the larger collectives the holding of large meetings before the electronic ballot was held was identified as possibly still being the best option, as it was seen as an effective means to engage and inform large numbers of people. Two of the representatives of the larger unions when discussing their biggest collectives stated that they may insist that their membership attend a meeting before given the right to vote electronically, however it was discussed that if all members were required to go to a meeting in order to vote, then it would be more reasonable to hold the vote while they are at the meeting.

#### 5.4.2 Informing the Membership

As with meetings-based ratification, the most important thing is that the votes cast by the membership are *informed* votes. It was clear that all interviewees felt that it was essential to give the membership a period of time (1-2 weeks) to go through the proposal and clarify anything they were unsure about. However this may be more of a problem than at first glance, as members may not know that they have misunderstood the language of a clause, as one interviewee has discussed the language of collective agreements may be quite ambiguous to the lay-person, especially if English is not their native dialect. This is where the face-to-face communication is key to members' understanding, but without the benefit of meetings, this is lost.

#### 5.4.3 Making Recommendations

As with meetings-based ratification, the recommendation of the bargaining team to the membership was seen as equally important under electronic ratification. The recommendation

of the bargaining team in meetings-based ratification is conveyed face-to-face, often by a member of the bargaining team, an organiser, or by a delegate. As discussed previously 70 percent of communication is non-verbal (Stansfield, 2002), and in order to portray the effort that the bargaining team has put into negotiations, this face-to-face communication is highly valued. If, under electronic ratification, meetings were not held and communication was largely written, it was discussed that it would become very difficult to convincingly portray the difficulties that the bargaining team had undergone to produce the proposed settlement. This is where the need for on-going communication through the negotiation process becomes vital for electronic ratification, in order to alleviate the potential disconnect between the leadership and their constituency that the membership may feel.

#### *5.4.4 Communication Channels*

If meeting attendance were not a prerequisite for voting, there would be a larger reliance on non face-to-face communication to educate the membership on the proposed collective agreement. There were no direct replacements for face-to-face communication identified, but there were a number of other methods that could be utilised or further emphasised. For the larger collective agreements the idea of a video was discussed, which could be made compulsory before members were able to vote. The idea of having something that members had to do (either attend a meeting, watch a video, or possibly complete a questionnaire) before they were able to vote was positively endorsed by the interviewees. This was to ensure that the members had some level of understanding of the agreement before their vote was cast.

Email was the preferred method of communication for the smaller agreements that are ratified electronically, as due to the smaller memberships the bargaining teams were happy to be contacted directly and respond themselves, although they did feel that they “could not do that to the big collective agreements.” There was much discussion by all participants on the problems of email communication, however this was still by far felt to be the most effective means of communicating with the membership in a timely and inexpensive manner. The problems of email communication will be discussed in section 5.4.7.

Other methods that were discussed (and currently being used) were video and teleconferencing, discussions on social media, and union websites with further discussion documents and FAQ pages which would enable members to individually interact and receive the amount of information they required without overloading others. It was also discussed by

two of the interviewees that making the workplace representatives and organisers available on-site at advertised times would give those members that required the face-to-face interaction the opportunity to discuss the proposal.

All of the interviewees discussed the use of a “tracked changes document” to show how their outgoing collective agreement compares to the proposed one, and 10 of the 13 participants that were negotiating for renewal already used this method, while the other three and the interviewee who had just negotiated their first agreement indicated that they would use this if electronic ratification were to be implemented. Some already used the tracked changes document for smaller collectives.

#### 5.4.5 *Communication Content*

It was seen as important to ensure that the amount of communication is sufficient to allow for an *informed* vote, however the information still needs to be concise enough so that the reader does not lose interest. This is especially important if the ratification procedure does not include compulsory meetings, as was discussed by a representative of one of the unions currently using electronic ratification. The content of communication was much the same as with meetings-based ratification, with the most important claims being discussed rather than a clause-by-clause discussion, and it was still thought very important to give a history of the negotiations.

#### 5.4.6 *Constituents' Discussions*

As with meetings-based ratification, discussions on the proposed settlement within the membership were seen generally as a way to increase their understanding. It was known to the leadership that members had a great influence on other constituents, and votes could be swung through these informal discussions. It was because of this that one interviewee said that they would “have to have much stricter monitoring of email” and other communication channels to ensure that the information circling the membership was not *misinformation*. If meetings were not the final point of communication before votes were cast there was potentially another point of influence, and that was people outside the workplace or union, as members “may discuss it at home and their decision may be swayed again.”

There was also the problem of people not understanding the language used in the agreement, which is especially important for those who struggle reading or with the English language if the meetings were not the final point of discussion, as these people would have to

take on trust the word of others, and may struggle to form their own opinion because of this. These people are heavily reliant on workplace discussions, which without meetings could be the only way that they gain an understanding of the proposal.

#### 5.4.7 *Problems*

There were problems associated with email communication and the lack of non-verbal communication. One participant reported that members were unhappy because the answers they received to their questions were either off-topic because of ambiguous language, or seemed to be curt because of the way they read. The other problems that are associated with email communication include the access that people have either at home or at work, and also the ownership of the email server as a number of the unions use the employer's email system, therefore there is a risk to privacy.

Another issue exists with the way that people filter their email inboxes, as one interviewee noted "if there is nothing interesting in the subject line it is trash trash trash!" It was also important for the language used to engage the reader but also be concise, as "members will read the first couple of paragraphs, get bored, and have a view formed by a colleague" who has potentially also only read the first two paragraphs.

Along with the other problems highlighted earlier (English proficiency, language, others' influence) there were a number of issues regarding the security of the electronic ballot and authenticating members. There was also discussion on a loss of community, comradeship, and collectivity, and also the potential disconnect between the leadership and the membership that could occur through a reduction in face-to-face communication.

### 5.5 Electronic Ratification Summary

The discussion of the selection of the bargaining team under electronic ratification revealed no significant changes from the process under meetings-based ratification. The only difference in the make-up of the bargaining team was that there may be a need for a dedicated communications champion, as was discussed in two interviews. There was also mention of the possible need to increase the size of the bargaining team to ensure more representation, however the majority of interviewees indicated the contrary as they felt their teams under meetings-based ratification were sufficiently representative of the membership.

The most significant departures discussed from meetings-based ratification for the claims development phase were changes to the membership consultation process and the number of

claims proposed. The representatives of the bargaining teams who held tighter control over the claims development process indicated that there would be a need for a reduction in that control. This would be in order to increase the engagement of the membership, and consequently allow for more ownership of the claims developed as perceived by the membership. The number of claims would possibly also be reduced, as a lesser number of claims was seen to increase the homogeneity of the claims sought, and therefore increase the unity of the membership.

It was widely understood that there would be a need for a significant increase in the communication during negotiations under electronic ratification. In the larger unions the delegate structure could be utilised to facilitate two-way communication, as well as social media and other electronic communication channels. The increase of communication was viewed as necessary to replace the communication potentially lost at the ratification phase of meetings-based negotiation. Communication between constituents was seen as a positive, provided that the bargaining team could guide the communication. This could be achieved through monitored electronic communication such as on social media, and in workplace-representative run meetings.

There were issues identified at the ratification phase of the bargaining process of maintaining *informed* votes. These issues could potentially be mitigated by ensuring the bargaining team's message was conveyed before the members were individually given the right to vote, either by means of a compulsory test of understanding or video presentation. All interviewees indicated the need for members to have some level of discussion on the substance of the proposed settlement, whether that be at formal meetings or more informal workplace conversations.

Overall, the interviewees' discussions on the change from meetings-based ratification to electronic ratification indicated the need for a shift in the majority of communication from the ratification phase of the negotiation process to communications during negotiations. The communication would likely need to be more open, and channelled through mediums that facilitate feedback and two-way dialogue. Also identified was the need for a check on the individual member's understanding of the proposed settlement. The development of the claims could also be adjusted in order to create more member ownership through engagement, and also reduced numbers of claims were thought to increase homogeneity. All of these tactics and changes were seen to increase the engagement of the membership into the negotiation process.

## 6.0 Discussion and Conclusions

The conclusions of this study will form the final stage of the Grounded Theory coding process, Selective coding. This is the stage where the findings are analysed at a much more abstract level, in order to identify overarching themes.

The findings from the open and axial coding processes conducted in the previous two chapters have drawn a lot of attention to modern communication channels, and particularly the Internet. It has also been discussed that under electronic ratification there is a need for intraorganisational communication strategies and tactics that increase membership engagement in the negotiation process in order to maintain the level of *informed* voters.

This concluding chapter has been organised into the following sections; unions and the internet, membership engagement, conclusions for the practitioner, and conclusions for the literature. In all, the focus remains on the impact of a move to electronic ratification on the negotiations process, and most particularly on the internal negotiations between union advocates and their constituent members.

### 6.1 Unions and the Internet

The impact that ICT has had on unions' ability to communicate with their members is massive, with all unions engaged in the sample for this study realising the benefits of email communication and website communication at some level (from email newsletters to direct engagement with the membership). The impact of ICT on engaging workers outside of union workplaces was not explored in this study, however the significant boon of ICT in enabling very remote workplaces and those with very small numbers of members to engage with union leadership was discussed.

The first consequence of "Cyber Democracy" discussed by Diamond and Freeman (2002, p. 583) of increased turnout was discussed in the interviews for this study, however there was no clear direction given by the participants as to whether the use of ICT directly impacted on turnout or the acceptance of contracts. It should also be noted that this study did not look directly at the use of ICT generally to increase turnout, rather the focus was on the differing ratification procedures. All of the unions interviewed did discuss the potential of ICT to assist with the dissemination of information to the membership in order to ensure an *informed* vote. The potential increase in the reach of dissenter groups was confirmed in the interviews, with

two of the unions mentioning the viral way that members can spread rumours (discussed in section 4.4.6).

The use of email communication to close the gap between negotiators and the membership has been discussed by Diamond and Freeman (2002) as adding to the cohesiveness and unity within the union. However this was found to be very limited in the interviews conducted for this study when compared to the examples in the literature which cite daily bargaining updates (Diamond & Freeman, 2002). The vast majority of New Zealand unions interviewed conducted at most weekly updates. The union that was an exception to this used real-time updates via social media to a members-only web page. Two other unions also discussed the use of one-off updates for significant developments in bargaining, but these were rare.

In sum, union advocates interviewed for this study are conscious of the practical and strategic opportunities offered by ICT, although the full potential of ICT has yet to be employed by most New Zealand unions.

## 6.2 Union Member Engagement: A Shift in Strategy

In order to ensure that the membership's expectations can be effectively guided by the leadership under electronic ratification, there was a need identified for the members to become more engaged in union activities. In particular the communication during negotiations was identified as a strategic opportunity for the union leadership to manipulate the situation so that any discrepancies in both the expectations of the negotiation process or the final proposal can be revised, rationalised, or obscured.

The literature on the Organising model of recruitment identifies the opportunities for increasing member engagement. This literature also evidences significant opportunities for unions' use of electronic communication, including for contract negotiation campaigns. All three of the Organising styles discussed by Fletcher and Hurd (1998) are built on increasing member engagement with union activities, with a focus on communication. Membership engagement, again, has been indicated by the interviewees of the present study to be integral to members casting *informed* ratification votes, based on the recommendations and information provided by the bargaining team. The transformation from a Servicing to an Organising model of operation was however seen to be costly, and requires a significant shift in organisational structure, which is widely regarded as a difficult change to implement.

The discussion of Bronfenbrenner and Juravich's (1998) work resulted in a list of Organising strategies that had been linked to successful NLRB election campaigns (discussed

in section 2.4). These strategies are easily generalizable to other campaigns, including contract negotiation. They again focussed on the engagement of the membership, and to some level were already being used by the interviewees of the present study. The original concepts incorporated in the following sections are based on the work of Bronfenbrenner and Juravich (1998), but have been adapted to fit the subject of this study.

The premise for the use of these strategies can be seen as the leadership *manipulating the situation*, as was discussed by Walton & McKersie (1965) as a basic intraorganisational bargaining strategy. These strategies and tactics should not be read as the leadership handing over control of the union to the membership, rather as tools to engage the membership in union activities for the purpose of guiding them towards ratification.

### 6.2.1 *Aggressive and Comprehensive Grassroots Campaigns*

Bronfenbrenner and Juravich (1998) described this strategy as being focussed on developing a campaign that is both strategic and unifying, and that encourages direct communication with, and between, the membership. The strategy of the campaign should be built from the ground up, that is from the demands and concerns identified by the union members rather than dictated from the leadership. This is in contrast to a bargaining strategy developed by the leadership and communicated to the membership via indirect communication channels, such as leaflets, posters, and mass emails. The rationale behind the direct communication is to engage the membership in the campaign from the beginning, which assists with imparting a sense of ownership onto the membership.

This style of campaign was partly discussed in the interviews for this study by some of the smaller unions, who engaged the membership in the claims development process. The representatives for the larger unions indicated that under electronic ratification the mass-communication channels such as leaflets and email would still be used, but there would be an emphasis on facilitating more direct communication. Interestingly the union that utilised social media to engage the membership in the bargaining process did so to enable direct communication with the negotiating team and between members, which illustrates the potential for this form of communication.

While the dangers of not unifying the membership into a cohesive unit for either ratification procedure were discussed in the interviews, little was explicitly mentioned as to how this was achieved. The interviewees often saw the unification of the membership as the product of the prioritisation of claims, a strategic imperative recognised by Walton and

McKersie (1965) as a key part of avoiding incompatible expectations. However this was also noted to inherently alienate a proportion of members if their issues are incongruent with the majority, or if they are such an insignificant minority that those members' claims do not meet the threshold to be kept in the initial proposal. To mitigate this some of the interviewees noted that in the latter case a number of those issues are included by the leadership round-to-round, so if they do not make the cut one bargaining round they most likely will be included the next round. In response to the former problem of incompatible claims, the consensus among the unions was that this rarely (if ever) becomes a real issue, and if it does it is because of a problem in communication rather than a legitimate conflict of interests, which can be easily overcome by better communication.

### *6.2.2 Rank-and-File Participation and Responsibility*

The participation of the rank-and-file of the union in campaigns was also important in the NLRB elections as discussed by Bronfenbrenner and Juravich (1998). The participation was through representative committees of members tasked to ensure that the issues were continually part of workplace discussions, and who also functioned as a medium of two-way communication between the leadership and the shop floor. The representative committees were also seen as the best source of generating member ownership of the union and the campaign, by encouraging inclusion and discussion, and also as an illustration of the democracy within the union. Holding union T-shirt or badge days, rallies, and public forums were a few examples of instruments that can assist with the solidarity building through encouraging member participation. These can also work to engage the local community in the campaign, which has had significant impacts on countless disputes throughout the world.

Through the interviews conducted for the current study, the encouragement of membership participation and responsibility for union activities discussed by Bronfenbrenner and Juravich (1998) was largely missing under meetings-based ratification. Because communication in the larger unions was generally restricted around bargaining, the ability for the leadership to encourage rank-and-file ownership of issues was also restricted. The exception to this is when bargaining starts to slow or becomes stagnated, and an industrial campaign is deemed appropriate. This is when the leadership turns to the members and works on generating buy-in, however it is still coordinated by the union leadership.

The use of committees of members to generate member ownership and as a proxy for communication between the members and leaders may be seen at a national level in New

Zealand, but it is important to note that Bronfenbrenner and Juravich (1998) were discussing NLRB elections which are site specific. Site based member committees were not found to be utilised in bargaining in this study, only in industrial action. This is not to suggest that the delegate structure was not existent, rather that it was used sparingly, as a communication channel to disseminate information from the leadership and even more rarely as a way of gathering information from the members. Again the use of T-shirt and badge days, holding rallies, and public forums were really only mentioned in discussion of building for industrial action, rather than part of normal union activities.

Under electronic ratification however this could pose significant benefits in terms of engaging the membership. This engagement could cover both the bargaining process and the substantive issues being negotiated, which was discussed as the key to the membership making *informed* votes. There was consensus among the interviewees that more communication from the bargaining team both to and from the membership would be necessary for managing membership expectations and tolerances, and creating membership buy-in and ownership of both the issues and the bargaining campaign would assist that.

### 6.2.3 Long-Range Campaign

Bronfenbrenner and Juravich's (1998) discussion on building a long-range campaign referred to developing a strategic plan that included not just winning the NLRB election, but also the plans for the first collective agreement. This was seen as being important to the members because it indicated the commitment of the union to the issues of the members and to bargaining. It included involving the membership early in the selection of the bargaining team and developing the issues and claims, both to energise the membership, and at the same time, to keep demands within manageable and compatible limits. While this may not transfer directly to the New Zealand context or contract renewal bargaining, the concept of strategic plan for union activities is relevant. Strategic planning has long been a significant part of business, both for practitioners and for academics alike. The adoption of strategic planning into unions was seen as just as relevant as for their employer counterparts (Bronfenbrenner & Juravich, 1998).

All of the unions interviewed indicated that under both electronic and meetings-based ratification there was a need for a strategic approach to each bargaining round. However this was not discussed as extending to every activity of the union. While the larger unions indicated longer-term strategies, these were seen as higher-level or leadership strategies

rather than strategies that permeate every aspect of the union's business. In particular both electronic and meetings-based ratification communication strategies seemed to be reactive and *ad-hoc*, with the leadership generally releasing information as it deemed necessary, rather than automatically for the membership to use as they required.

It was widely expressed that if electronic ratification were to be used there would be a need to engage the membership in negotiations earlier than with meetings-based ratification. It was also widely discussed that under electronic ratification the membership's involvement in the development of the claims would also lead to better engagement in the negotiation process, and consequently better appreciation for the rigours of the process and more tolerance in terms of expectations. The first step to achieve this was seen to be engagement of the membership earlier in the bargaining process and discussion of a cohesive union strategy. As well as this, a specific bargaining strategy that encompassed every part of union activity would allow for members to associate with their union both during negotiations and between rounds. When combined with the other tools such as grassroots campaigns and encouraging rank-and-file participation, this would lead toward the members taking ownership of union activities. In turn, through the members' eyes the 'union' would be seen as the membership, rather than an organisation that provides services such as bargaining and representation in exchange for a fee (union dues).

Through the comparison of the data from the axial coding of the interviews with the literature on unions' use of ICT, and union organising, a number of findings have been made. First, the Customised Services that Diamond and Freeman (2002) discussed were identified in the interviews, albeit to a limited standard. The Cyber-Democracy discussed by Diamond and Freeman was also found as the interviewees discussed the benefits to the dissemination of information provided by ICT. The Cyber-Dispute was also identified in a limited way, as was the New Internationalism hypothesis from Diamond and Freeman's paper. However none of these hypotheses were fully realised, which indicates that there is room for development. The majority of these hypotheses, if realised, would increase the engagement of union members with the union itself, and aid in the transfer of information and influence, which was seen as vitally important for contract ratification.

The literature on the shift from the servicing model to the organising model for recruitment also provides significant opportunities for electronic ratification. All three of the organising styles discussed by Fletcher and Hurd (1998) are built on increasing member engagement with union campaign activities, with a focus on communication. This, again, has

been indicated by the interviewees of the present study to be integral to members casting *informed* votes, based on the recommendations and information provided by the bargaining team. The transformation from a servicing to an organising model of operation was however seen to be costly, and requires a significant shift in organisational structure, which is widely regarded as a difficult change to implement.

### 6.3 Conclusions for the Practitioner

The comparison between the negotiation processes under meetings-based and electronic ratification identified that the main objective of communication was so that the membership would cast *informed* votes. An individual's vote was seen as *informed* if it was cast with full understanding of the bargaining team's expert analysis of the negotiations that have occurred, the substantive outcomes of negotiations, and the consequences of acceptance and rejection of the proposed agreement. The electronic ratification process poses significant threats to the ability for union negotiators to impart their knowledge and understanding of negotiations onto the membership. This is because electronic ratification removes the need for meeting attendance (in the eyes of the membership), which has traditionally been the point at which the bargaining team *informs* the membership.

The process of *informing* the membership follows the intraorganisational bargaining tactics identified by Walton and McKersie (1965). The tactics were:

1. Avoiding incompatible expectations,
2. Persuading expectation revisions,
3. Manipulating the situation,
4. Rationalising discrepancies,
5. Obscuring discrepancies, and
6. Tacit bargaining.

These tactics, while not explicitly expressed in the interviews, were the key to maintaining an *informed* membership, that will vote in line with the evaluations and recommendations of the bargaining team. Under meetings-based ratification the first of these can be at least partially managed at the beginning of bargaining (claims development), but the actual ratification meeting provides the major, and sometimes only, opportunity for the implementation of the rest of the strategies, and indeed for managing any remaining unachievable expectations among the membership.

As electronic ratification can potentially render ratification meetings obsolete, the communication and the intraorganisational bargaining tactics ordinarily performed at this stage of the negotiation process need to be distributed into other phases of the negotiation process. The findings of this study indicate that this would significantly modify both the communication during negotiations and the claims development stages of the negotiation process. In order to ensure that the membership was *informed* when voting, the leadership-managed communication during negotiations would have to increase significantly, and would shift from one-way top-down messages, to a much more open two-way dialogue. For the larger unions this would best be achieved through the use of the delegate structure, with workplace representatives holding informal discussions and being used as a medium to both disseminate information and influence, and gain feedback from the membership. The use of ICT and especially the Internet would also enable timely communications, which could be more readily monitored by the bargaining team to ensure that they were assisting with members' appropriate understanding.

The claims development stage of the negotiation process under meetings-based ratification undertook either a membership consultative procedure, or a representative democracy procedure. The membership consultative procedure engaged the membership directly in the claims development phase. This was done by placing a call for claim submissions out to the entire membership, with submissions then being collated and voted for by the membership in order to prioritise them. In contrast, the claims from the representative democracy procedure were developed by a committee of representatives, as consultation with the wider membership was seen as problematic. This was because it either acted to inflate expectations, or divide the membership through association with incompatible or unachievable claims. This process was used to clearly avoid incompatible expectations from the outset, by not allowing expectations to be voiced in any official capacity.

Under electronic ratification the interviewees indicated that there would be a convergence of the two claims development procedures. Those interviewees with the membership consultative process would reduce the number of claims put forward in order to increase homogeneity and therefore unity within the membership. This would work to reduce incompatible expectations, which was identified as an issue among fringe groups.

The interviewees who used the representative democracy procedure indicated that they would need to engage the membership more at this phase of negotiation. This was also seen to reduce incompatible and unrealistic expectations, which were simply stifled under

meetings-based ratification. For electronic ratification however, the stifling of these incompatible or unrealistic expectations was seen as insufficient. The engagement of the membership therefore works to manage the expectations of the membership, by opening a dialogue between the leadership and membership so that the leadership can persuade members with incompatible and unrealistic expectations to revise their expectations ahead of or during the course of negotiations. The engagement of the membership at the claims development phase would also create more member buy-in and ownership of the claims. This was associated with the Organising strategy, which focuses on membership engagement. The inclusion of the membership at the claims development phase was important to members' engagement throughout negotiations, and therefore participation in the communication processes.

In order for the membership to cast *informed* votes at ratification, the members would need to become more engaged in the negotiation process from the claims development and throughout negotiations. The purpose of this engagement is to give the leadership the opportunity to manage the members' understanding of both the bargaining process and the substantive issues in negotiation. This is necessitated due to the loss of the ratification meeting, which provided the opportunities for rationalising and obscuring discrepancies, and dampening down unrealistic or incompatible expectations that remain. Under electronic ratification these intraorganisational bargaining tactics form the substance of communication during negotiations. The union leadership still controls the communication during negotiations, but focusses on engaging members in a way that guides their understanding of the bargaining process and the substantive outcomes of negotiation. This is so that any discrepancies in the expectations of the members are managed in a way that fits with the recommendations and assessments of the bargaining team.

Finally, there were other tools identified by the interviewees that could be used in an electronic ratification regime to act as final 'checks' on members' understanding of the negotiations before they were able to cast their vote. These included a short online test, or a compulsory video before the ballot is presented to the member. These checks can work as a last line of *informing* the membership, and bringing the members' views on the negotiations into line with those of the leadership.

Over all, in order for the union negotiators to ensure that their message was effectively passed to the membership before the members cast their votes, significant changes would be required to the majority of unions. Even for the unions that were already operating close to

these recommended processes, further developments on member engagement and the full utilisation of the Internet could be implemented to ensure the intraorganisational bargaining tactics maintained a membership that was *informed*. Those unions that already used electronic ratification procedures may also benefit from applying a more strategic approach to their communications throughout the negotiation process, as none of those interviewed utilised all the strategies discussed in this thesis. Electronic ratification is not simply a different voting procedure. It has widespread implications for the whole collective bargaining arena, and if not fully understood, could result in protracted bargaining, or even disengagement with the union or unionism altogether.

#### 6.4 Conclusions for the Literature

From the outset of this research, the author noted a significant gap in the literature on the intraorganisational communication processes of negotiation, and particularly collective bargaining. This is an important part of negotiations, which could benefit from further literature and research.

The limitations of this research also act to form the basis for future research. The first limitation of this study is that the data were gathered through interviews with a number of participants hypothesising the effects of electronic ratification on the bargaining process. This was due to the availability of interviewees, and the early developmental nature of the phenomenon of electronic ratification. The second limitation is the data sources used. This study would have benefitted from a wider range of data sources, and possible testing of the communication channels and the ability to *inform* members for electronic ratification. The understanding of union members' propensity for engagement in collective bargaining is also a limitation of this study, as this is also unknown.

As this study was exploratory, it poses a number of areas for further research. Further expansion of this research to include unions from other nations would add valuable insight into the applicability across national borders. Future research could include a case study documenting how a union manages to successfully shift from meetings-based ratification to electronic ratification. The present study would also benefit from surveys of union members understanding of the implications of electronic ratification, and their propensity for engagement into union activities. The ability for union leaders to inform their membership through electronic means could also be an area for future research and testing. This researcher posits that the literature on the servicing and organising recruitment strategies can

readily be expanded into overarching engagement strategies, as the recommendations for organising permeate every aspect of union activity.

## 7.0 References

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