

**THE NATURE, PROCESS AND OUTCOME OF INDUSTRIAL
STRIKES IN NAIROBI**

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DECLARATION

I, Maureen Akinyi K'opiyo, hereby declare that this project paper is my original work and has not been presented in any other university for the award of a degree.

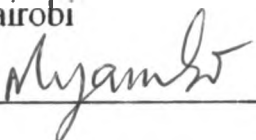
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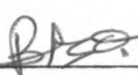
This Project paper has been submitted with our approval as University supervisors.

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DEDICATION

To my father Mr. William K'opiyo and mother Mrs. Nereah Atieno who initiated this prolific journey of edification in my life and supporting me all the way.

ACKNOWLEDGMENTS

My gratitude first goes to my immediate family who funded my scholarship and provided the tireless support I needed. Thank you.

I acknowledge Prof. Mauri Yambo and Mr. Beneah Mutsotso who diligently gave me critical evaluation and direction as my supervisors and without whom this work would not have been accomplished.

This project is an outcome of all manners of input by various individuals and institutions. It may not be possible to mention each and every one of them by name, therefore, I express my gratitude to all who made invaluable contribution to this project.

Exceptional thanks goes to everyone who patiently offered help and voluntarily participated in this research.

Special tribute goes to the Almighty God, the source of all knowledge and my Ebenezer, for this far He has brought me.

ABSTRACT

Industrial harmony is very important in the development of a country. Work stoppage is costly both to the employers and the employees. Man days lost translates to loss of profits and striking workers can find themselves out of employment. Even with legislations regulating industrial relations, strike incidences are a common phenomenon in our society. An average of 45 strike cases are reported annually (FKE Annual Report, 2003).

This study sought to answer the following questions: What role can the industrial partners play to ensure smooth industrial relations? What factors have contributed to the recent outburst of strikes in the industries? What preventive measures have been taken both at the organisational and national level to minimize strikes? How effective are the existing legislations in the prevention of industrial strikes?

Ten establishments were randomly selected for the study; five had experienced strike in the preceding period of five years while the remaining five had enjoyed industrial harmony in the said period. A sample of thirty people were interviewed for the study including 10 workers, 10 shop stewards and 10 line managers.

Findings from the study revealed that strike as a tool of power balancing is valued by workers and can be used at any time to fight for their rights. The causes of strike as identified in this study included political, social and economical factors. Although 53.3% of the respondents from establishments

that had experienced strike observed that the strikes did not achieve the intended purpose, the strike caused the management to take some action.

Some 90% of shop stewards and 70% of workers felt that strike was necessary while 80% of the line managers saw strike as unnecessary. However, being a tool of power balancing it should only be used as the last resort when all other avenues have failed.

Communication, negotiation and lack of workers' organization were identified as the factors that contributed to industrial peace in the establishments that enjoyed industrial peace.

Collective bargaining agreement has continued to be the mechanism guiding industrial relations at the organizational level. This study also found that although collective bargaining agreements exist, the workers and the management usually interpret them differently. It is these misinterpretations that usually result in workers withholding their labour.

On militancy, the study established that it is not the union officials who coerce workers to participate in strike rather it was the workers who pushed the union officials to call for strike.

One thing is clear, strike incidences will not disappear all of a sudden, but they can be contained using negotiations and implementation of tough but flexible legislations.

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CHAPTER ONE: INTRODUCTION

1.1 Background

A harmonious relation between the work force and management is necessary for the attainment of organisational goals. However to achieve such relations social dialogue has to be maintained so that any misunderstandings arising can be solved amicably to avoid industrial unrest and work stoppage

Industrial unrest is as old as labour and can be traced back to the end of the 18th century with the emergence of factory systems. At that time it took the form of Luddite movement, whereby, workers organized themselves in secrecy and successfully destroyed machinery and sometimes wrecked factories because the management would not listen to their grievances (Flanders, 1968:140). To date workers have continued to organize themselves and fight as a block when it comes to voicing their grievances or taking industrial action where the management is reluctant to respond. This process according to Cooper (1980:6) regulates the employer- employee relationship, which is essentially one of conflict.

The unitary school of thought led by Fredrick Taylor, however, sees the relationship between the employer and the employee as a partnership where both parties share a common purpose and are committed to the same objectives. This they argue leaves no room for conflict or confrontation (Green 1994). The Unitarian view is too idealistic and utopia as it ignores the fact that people have different needs, which may be in conflict with those of the organization.

The pluralist school of thought (includes scholars like Elton Mayo, Maslow and Robert Merton) on the other hand recognizes the possibility of conflict , which may arise from diverse interests. A system of redressing such conflict is therefore required and Barret et al (1982:366) and Cooper (1980:6) add that workers should be guaranteed the right to strike if their grievances cannot be settled satisfactorily by the systems available.

The Trade Dispute Act (Cap 234 of the laws of Kenya) gives the workers this right to strike but only after all other avenues have been exhausted. The procedure provided for dispute resolution is so elaborate that workers prefers to resort to strike, which has proved to be effective when dealing with stubborn employers. This is evident by the number of wildcat strikes that have continued to persist. However, Aluchio (1998:20) argues that there has been a sharp reduction in the number of strikes in Kenya since the passage of the Trade Dispute Act in 1965. From 1966 to 1989 there was an average of 88 strikes per year. Coughlin and Ikiara (1991:182) also argue that the policy measures taken against union officials who risk arrest for calling “unofficial strikes” and the workers’ fear of being sacked has reduced the number of strikes.

Workers are more likely to strike over issues of immediate and pressing needs such as the dismissal of a fellow worker or a change in work standards. These are issues which workers want resolved at once, without waiting to go through a lengthy conciliation and court procedures. The beginning of the year 2002 saw the outbreak of mass “wildcat strikes” in many industries countrywide. This was attributed to the political euphoria surrounding the coming to power of a new government.

1.2 Problem Statement.

The recent upsurge of industrial strikes in Kenya was well reported in the media. The Trade Disputes Act (Cap 234 of the laws of Kenya) provides for an elaborate dispute settlement mechanism ensuring that strike is the last option in case of industrial dispute. However, even with the existence of legislations on the settlement of trade disputes, strike has continued to be a common social phenomenon. This shows that there is a flaw in the legislation in terms of its implementation or interpretation.

Where an industrial relations system has a well-structured dispute settlement procedure, and where employees negotiate adequately with employers, one should expect that strike will not be the first option when a dispute arises. However, Aluchio (1998:37) argues that most of the strikes take place over disputes of right where there is a breach of the Collective Bargaining Agreement (CBA) as opposed to disputes of interest where workers are demanding new terms and conditions not covered in the CBA. Industrial court records support this argument: out of the 532 strikes that took place between 1990 and 1993, 189 were as a result of dispute of right and 124 out of dispute of interest (Aluchio, 1998:37). This indicates either lack of commitment by the employer to honour the CBA or misrepresentation of the CBA by either party. If CBAs, being the major mechanism in dispute resolution, are not honoured, then what other mechanisms are in place to ensure redress?

The adoption of the African Growth Opportunity Act 2000 (AGOA) in Kenya exempted factories in the Export Processing Zones (EPZ) from labour laws and labour inspection and it was until workers went on protest early this year that this was changed (Daily Nation, February 21, 2003). This partial application of the labour laws opened a leeway for employee exploitation and this saw the increase of ‘wildcat’ strikes. The government argued that it is a way of wooing foreign investors but critics saw this as “sacrificing workers at the altar of incentives for investments” (Daily Nation, May 29, 2003). The government’s attitude towards workers’ welfare is worrying as it is supposed to protect them from exploitation.

Strike is very expensive to both the employers and the employees. Man - days lost as a result of strike translates into business losses and where employees turn violent, there is usually massive destruction of property. The process of bringing business back to normal is difficult as in the case of EPZ “wild cat” strikes, which saw the diversion of capital by investors to other countries (Daily Nation, February 21, 2003).

Cooper (1980:12) argues that workers who participate in strikes are likely to be victimized as the employer has a right to dismiss them, whether the strike be legal or illegal, on grounds that they have committed a breach of contract by refusing to carry out their contractual duties. Re-employment of such workers in most cases would mean that they return to work on the same terms and conditions and they risk losing their benefits if they enter into a new contract. It is therefore important to understand the role of each stakeholder in ensuring the maintenance of industrial peace.

1.3 Objectives

The overall objective of the research is to understand the nature, process and outcome of the recent industrial strikes in Nairobi. However, the specific objectives are:

1. To identify factors that contribute to the outbreak of strikes in industries
2. To identify the preventive measures taken at the organisational and national level to ensure minimal cases of strikes.
3. To examine the effectiveness of existing legislations in the prevention of strikes
4. To assess the role of the industrial partners in ensuring smooth industrial relations.

1.4 Scope and limitations of the study

The research was conducted in Nairobi's industrial area. Ten establishments in the manufacturing industries were sampled for the study, out of which, five had experienced strike incidences and the other five had enjoyed industrial peace in the past five years.

The study did not cover a wider scope considering the fact that strikes are a national problem affecting all sectors of the economy. Generalizations of the study can only be made for manufacturing establishments in Nairobi.

CHAPTER TWO: LITERATURE REVIEW

A widely held view is that the existence of conflict is an inherent characteristic of organizations (see for example, Robert and Thomas, 1968:5-6; Barret et al 1982:35; Green, 1994:5-7). This conflict derives from divergent objectives of the organization and those of the individuals within it. The industrial relations system attempts to institutionalize the process of resolving this conflict. When the system is unable to resolve the matter, the resulting cessation of work may take the form of strike when the workers withhold their labour or lockout when the employers close their establishment. However, the latter scenario is not common.

2.1 The Tripartite Industrial Relationship.

Work stoppage affects all the players in the industrial relations. To ensure that this does not occur, tripartite partners (workers' representatives, employers' representatives and the government) have a responsibility in enhancing good industrial relations. It was in light of this that the Industrial Relations Charter was adopted in Kenya in 1962 and revised in 1980 to cope with the changing developments in industrial relations. (Aluchio, 1998:71)

The Industrial Relations Charter is an instrument that sets the procedures and responsibilities of the industrial partners and upholds the principle of tripartism in ensuring harmonious industrial relations.

The Charter was launched after the parties recognized the importance of consultation and co-operation “to the efficiency and productivity of undertaking and that progress can only be made on foundation of good terms and conditions of employment” (Industrial Relations Charter, 1980:1)

Cockar (1981:5) argues that the charter laid solid foundations for an industrial relations system by spelling out the agreed responsibilities of the management and unions and their respective obligations in the field of industrial relations.

The parties agreed on democratic principles when it comes to settlement of disputes and grievances by mutual negotiation, conciliation and voluntary arbitration. The government would only assist the workers and the employers where dispute of serious consequences occur or threaten to occur. The workers’ representatives and their employers on their part would enter into negotiations to ensure avoidance of industrial action. On strikes and lockout, the parties agreed that the provisions of the recognition agreement and of the Trade Disputes Act would be strictly adhered to. It was hoped that trade unions would succeed in establishing a code of conduct among their members, which would ensure strict adherence to agreed methods of dealing with disputes (Cockar, 1981:7).

The charter is the basis for handling disputes and starting point of social dialogue in Industrial relations. However, even with the agreements made by the tripartite partners, industrial action continues to take place because this being a gentleman’s agreement, neither of the parties is bound by the agreement.

The charter works on the assumption that the trade unions would succeed in establishing a code of conduct among their members that would ensure strict adherence to agreed methods of dealing with dispute. It also assumes that employers would implement awards agreed upon negotiation. However, this is never the case as there is no machinery that would coerce the parties to adhere to the agreement. The charter should also be amended to match with the present time challenges facing the industrial relations.

The charter is reinforced by the Trade Disputes Act, which encourages settlement of trade disputes at the organizational level and referral of the dispute to the industrial court after other avenues have been exhausted.

2.2 The Trade Dispute Act (Cap 234)

The Trade Dispute Act as earlier stated was enacted in 1965 and was last reviewed in 1991. The act attempts to help in the settlement of industrial dispute and creating a suitable environment for industrial relations. It encourages employers' and workers' representatives to first try to settle the dispute at their level through a machinery freely and voluntarily laid down by themselves; and if that fails, to take their problem to the government, which in turn tries to effect a settlement.

Cockar (1981:17) notes that the act reinforces the government's desire, to which workers and employers subscribe, that rather than have a test of strength between workers and employers bringing about confrontation between them, with undesirable consequences to both sides, they should take their problems to a forum in which they will have confidence and which is expected to be objective in its deliberation and to hand out impartial awards.

The act provides for the establishment of the industrial court, which is the final arbitrator in industrial disputes. Before any dispute is referred to the court, the trade dispute machinery outlined in the procedural agreement must be exhausted. Cockar (1981:19) points out that the court continues to stress the importance of requiring the parties to stick to the provisions of all freely and voluntarily negotiated collective agreements. This means that the court can only handle cases that have been referred to it by trade unions on behalf of their members (Aluchio, 1998:65). Since non – union members have no legal avenue for redressing their grievances, strike is the only option.

Cases can only be referred to the court by the Minister for Labour after ensuring that all other channels have been exhausted. However, the aggrieved party has the right to appeal to the industrial court against the minister's refusal to accept the trade dispute (Cockar, 1981:36, 51). The minister can recommend conciliation or investigation of a trade dispute before referring the matter to the court, but the nature of the dispute determines whether the minister can refer it directly to the industrial court.

Even after giving awards, the industrial court cannot execute the awards. Aluchio (1998:65) argues that this has encouraged strikes, as it is the only way of forcing the employer to carry out the demands of the awards. Cockar (1981:46-47) adds that the coercive action of the strike brings about implementation of an industrial court award. There is need for granting the industrial court the power of executing its awards to ensure speedy settlement of disputes.

Strike is not completely banned through the provisions of the act; it is only treated as a last resort when everything else fails. For a strike to be termed legal, all the procedures must be followed, and it is only the Minister for Labour who can declare striking legal. Most strikes that have so far taken place in Kenya have been termed illegal and this can be attributed to the fact that most of the union officials are ignorant of the procedures. However, since the procedure is too lengthy and time-consuming, workers may also strike in order to get a quick response.

Although the act has almost been effective in creating industrial harmony, Aluchio (1998:110) concludes that its subsequent rules and procedure regulations have tended to minimize the freedom of workers to resort to the strike as a last weapon in the fight against “hard headed” employers.

2.3 Reasons for Striking

According to Green (1994: 232), Cooper (1980:5) and Robertson and Thomas (1968:153) there is no single reason for striking and the actual reason depends on both the circumstances and the perspective taken. Robertson and Thomas (1968:157) continue to argue that the incident triggering off the strike may be only that which brings an already explosive situation to its “flash points”. One of the fundamental rights claimed by organized workers and their unions is that, in the event of total disagreement on a matter employees can withdraw their labour (Green, 1994:232). This right is not always guaranteed or even given legal immunity as laid down procedures must be followed for a deadlock to be declared.

Green (1994:233) observes that in an environment where good industrial relations policies, practices and procedures exist, some very difficult negotiations can take place and no strike ensues. Conversely, where poor or no industrial relations policy practices and procedures exist, a relatively trivial issue will precipitate strike action. Kuhn (1961:89) adds that such an environment requires that the parties in dispute compromise and meet at a reasonable and agreeable settlement. Fossum (1989:263) agrees that this might not always be achieved but there must be a laid down procedure for handling dispute in order to avoid strike at the first instance. Fossum (1989:263) and Aluchio (1998:54) observe that when the procedures used are elaborate and lengthy, the workers may opt to strike where immediate answer or intervention is required.

Although Green (1994:230) argues that the underlying causes of strike may not be articulated or even known since the action is a means of demonstrating some deep dissatisfaction with the current state of affairs, Aluchio (1998:68) identifies some of the known causes of strike in Kenya as; inordinate delay in settling disputes, “unfair” dismissal and suspension of workmates, low wages and poor conditions of employment.

2.4 Characteristics of Strikes.

According to Barret et al (1982:343) and Green (1994:234) the number of strikes tend to increase during periods of expansion when labour tends to be in short supply and the trade unions possess more power to demand greater improvements in the terms and conditions of employment of their members.

The severity of strikes tend to increase during periods of economic decline, when growth is low and less money is available to meet demands of the employees. This period is often associated with redundancies, which in most cases stir up industrial action.

According to Flanders (1968:55), the political environment also plays a role in determining the occurrence of strike. He gives the example of Britain during the era of Margaret Thatcher of Conservative Party which was anti-workers. Legislations were enacted to curtail the activities of trade unions and harsh legal penalties awarded to union officials who called for strikes. This saw the reduction in strike incidences in Britain as union officials avoided arrest. When the Labour Party took over power, the legislations were changed in favour of the workers but this did not mean that strikes ended in fact workers strike at the slightest provocation by their employers (Watton, 2003).

The enactment of the Trade Dispute Act in Kenya in 1965 saw a sharp reduction in the number of strikes. However, recent data suggests that the number of strikes is on the increase. Aluchio (1998:147) observes that with the introduction of multipartism in Kenya, trade unions have become so vocal and as a result we have witnessed unprecedented wildcat strikes.

In Indonesia, the authoritative labour controls in 1990 saw an increase in industrial strike incidences from 74 in 1990 to 751 by the end of 1994 (Watton, 2003). Watton is quick to add that this was further elevated by social tension and economic factors.

He continues to say that political environment in isolation can not explain the strike phenomena as suggested by Flanders (1968:55) and Aluchio (1998:147)

Table 1 Stoppage of work caused by Industrial dispute 1993-2000

Year	No. of Strikes	No. of Workers Involved	Man day lost
1993	69	20,349	68,039
1994	53	18,594	40,359
1995	42	9,405	35,534
1996	44	16,084	64,949
1997	97	270,660	317,326
1998	105	214,867	2,993,780
1999	38	9,094	27,844
2000	41	17,794	51,167

Source: Republic of Kenya , 2001:313

From the above data, a conclusion can be made that; the rise in the number of strike in the years 1997 and 1998 is as a result of the political environment of the country. The year 1997 being an election year was marked with political euphoria, which may have spilled over to 1998. The stabilization of the political environment also saw stability in industrial relations, which translated to reduction in the number of strike in the years 1999-2000. However this is just but an assumption and further investigation is needed as other factors might have contributed to this.

2.5 Preventive Measures

The industrial players popularly view strikes as counter productive. Those not directly involved might be inconvenienced, and often a winner is not apparent. Organizations lose profits on lost sales, and workers lose wages that take years to make up “even if the strike secured a wage rate higher than offered before the walkout” (Fossum, 1989:333). Furthermore, any organization that acquires a reputation of being strike-prone is looked at with suspicion. Such views have led to certain preventive measures being put in place both at the organizational and national levels to tackle any dispute that might spur strike. It is worth noting that strike can be productive because it enhances industrial relations by identifying areas that need to be addressed in future in order to avoid such confrontation.

At the organizational level, employers and employees enter in to collective bargaining, which is defined by Graham and Bennett (1998:187) as the system whereby an employee’s term of employment are settled, not by individual negotiation but by agreements reached between the employers

and the workers representatives. They agree on the procedure of resolving any dispute that might arise.

The dispute resolution procedures indicate the stages that are followed and the time limit given in each stage. Green (199:234), Robertson and Thomas (1968:166) add that a procedural agreement should provide for the speedy resolution of disputes as a lengthy one only leads to impatience and frustration of workers who might resort to strike.

As a preventive measure against industrial action clauses that prohibit such actions for the duration of the agreement are included. This case is common in America's vehicle components manufacturing companies (Aluchio, 1998:110). Strike is the ultimate weapon against the employer, and therefore, any union signing such an agreement is signing away its members' right to strike. Cooper (1980:25) and Aluchio (1998:111) argues that this leaves workers vulnerable and at the mercy of the employer. The employer on the other hand will enjoy the industrial peace, which is important in maintaining efficiency and long-term security. The authors assume that the agreement is not flexible enough to deal with any matter arising during the duration of the agreement. In most cases, an inbuilt mechanism is put in place to deal with any anticipated conflict.

In another case, the trade union and the employer enter into a strike-free deal and when a deadlock-declared, pendulum arbitration is the last resort. (Aluchio, 1998:111; Graham and Bennett, 1998:187; Green, 1994:239 and Robertson and Thomas, 1968:168)

This has been criticized by Robertson and Thomas (1968:168) “as killing” the spirit of voluntarism in industrial relations. They further observe that this has led to deterioration in the use of normal voluntary conciliation procedures. However, this need not be the case as such agreements are beneficial to both parties. When there is no work stoppage, the profits accrued are shared with the workers in terms of salary increments and other fringe benefits.

The fact that collective bargaining agreements (CBA) are not legally binding in many countries Kenya included, means that any party can breach the agreement at pleasure. This also means that, the parties can only hope that the other will keep its end of the bargain. When the parties enter into an agreement it is assumed that they have good intentions but this is not always the case. Some employers will agree just to ensure that there is no work stoppage as they ‘buy time’ for alternatives.

Green (1994:241) stresses that countless potential strike situations have been averted by the use of the procedures in a CBA. However, Aluchio (1998) argues that the CBA plays an insignificant role in containing strikes in Kenya as most of the strikes take place over dispute of right where there is a breach of the agreement as opposed to dispute of interest where workers are demanding new terms and conditions not covered in the CBA.

At the national level different countries have put in place legislations that regulate industrial relations. In Kenya for instance the Trade Disputes Act (Cap 234) outlines the procedures to be followed by the employers and the employees before arbitration can be sought at the industrial court.

In Britain, before any industrial action is taken the law makes it compulsory for secret balloting be carried out and if 70% of the union members vote for the action, then the union officials can organize the members for strike (Flanders, 1968).

Aluchio (1998:150) observes that some workers participate in strikes out of fear that militant officials and members would attack them if they were seen not to be toeing the line as was the case in the 1998 bankers strike in Kenya. He recommends that the Trade Dispute Act should be reviewed so as to incorporate the following:

“...that before any strike place, there should be voting by secret ballot by members at all branch levels of the union(s) to determine whether the majority of unionizable workers support the intended strike”.

He adds that this would minimize if not altogether eliminate the current haphazard way some union officials involve their members in uncalled for strikes, thereby playing them in unnecessary economic consequences. Union leaders have been entrusted with the right to make decisions on behalf of the members. Balloting will mean undermining the legitimate authority of the leaders and their ability to make right decisions. Some legitimate strikes may fail to take off due to voters' apathy.

To avoid strikes that are caused by wage disputes the Kenyan government has continued to set statutory minimum wage to safeguard the interests of unskilled workers in formal sector employment.

This, the government argues, will ensure that the workers welfare and standard of living is safeguarded and that all the workers are able to meet their basic needs (National Development Plan 1991 – 1997). This is, however, seen by critics as favoring the employers who even when the profits are high, will not increase the workers wages thus exploiting them. They continue to say that this gives the employers a legal basis of manipulating and exploiting the workers.

This, Aluchio (1998:69) argues, compels workers to use other avenues of acquiring what is “rightfully theirs” instead of seeking legal redress. This is made worse by the fact that the minimum wage cuts across all sectors and can does not measure up with the raising standards of living. Cockar (1981:68-69) argues that each case should be considered on merit based on the ability of the employer to meet the workers’ demand. The government has good intentions but could this be a stumbling block to the workers when it comes to demanding their actual wage as suggested by critics or is it indeed protecting the workers as purported by the government?

2.6 Theoretical Framework.

According to Giddens (1989:123) a theory is an attempt to identify general properties which explain regularly observed events. The theories that were used to explain the strike phenomena are the conflict theory and the structural- functional theory.

2.6.1 Conflict Theory

The proponent of this theory was Karl Marx and other scholars such as Lewis Coser and Ralf Dahrendorf have built on Marx views.

Conflict theory attempts to explain society on the basis of consensus as disagreement. The argument is that, society is a system of wealth, class, power and other inequalities and struggles are to generate conflict and change on a continuous basis (Coser and Rosenberg, 1964:194). Conflict theorists assume that the society operates under conditions of perpetual scarcity. There is an endless struggle between those without advantages, who wish to secure them, those with privileges who wish either to get more or to prevent others from taking what is available.

Karl Marx is commonly known for his theme of class struggle and consequently class conflict. He saw the society splitting up into two great hostile camps: the bourgeoisie and the proletariat who have opposing interests (Marx, 1964:27). The bourgeoisie or the capitalist is seen to have advantage over the proletariat, who is the worker, because he owns the means of production.

Marx asserts that nature does not produce on the one side owners of means of production, and on the other hand men possessing nothing but their own labour-power (Marx, 1887:169). This is as a result of the many economic revolutions that have created a super structure that favours the property owners. It is the ideas and the values of the bourgeoisie that rule the society thus enforcing the oppression of the proletariat, who is forced to sell labour at a cheap price and has no control over the direction of his work.

In his book, *Capital*, Marx argues that the first subjection of labour to capital was only a formal result of the fact that the labourer, instead of working for himself, works for and is consequently under the capitalist (Marx, 1887:331). The labour-power is a commodity that is sold in the market to the capitalist, meaning that the labourer works under his control and the product is the property of the capitalist rather than the labourer who is the immediate producer (ibid). Marx warns the owner of the labour-power not to sell it at once because he will be converting himself from a free man into a slave, from an owner of commodity into a commodity (Marx and Engels, 1939:21). The capitalist accumulates capital by investing surplus value and this worsens the gap between the two classes further.

Polarization of the two classes will lead to the proletariat's realization of class-consciousness that will see the overthrow of the bourgeoisie and the ushering of a communist society. For this to happen, the old form of the society must be abolished to pave way for the creation of a new social structure (Marx and Engels, 1939). This means that the norms and the values of the society must be reorganized in order to give way for a completely new society. Dahrendorf notes that this process is cyclical and that it is the self-correcting mechanism in the society. He concludes that, "societies are not held not by consensus but by constraints, not by universal agreement but by the coercion of some by others" (Dahrendorf, 1957:68).

Labour power is often sold under special disadvantage for the reason that the sellers are poor. Hence workers organize themselves in trade unions so as to be less vulnerable and also to increase their bargaining power.

This has translated into perennial struggle between workers on one hand and employers on the other over the distribution of profits, wages and products. It is this struggle that sometimes results in strike when no compromise is reached.

However, with the recognition that conflict is inevitable in industrial relations, mechanisms have been put in place to redress the differences but when all fails forceful action is sometimes used.

2.6.2 Structural - Functionalism Theory.

The scholars associated with this theory are Talcott Parsons, Robert Merton and Emile Durkheim who is said to have founded the base of the theory.

Structure refers to a set of relatively stable and pattern relationships of social units while function means consequences of any social activity, which make for the adoption or adjustment of a given structure or component parts. (Coser and Rosenberg, 1965:615)

Structural functionalists attempt to understand society as a biological organism. The society is seen to have a social system which has a structure similar to that of a biological organism.

As a social system the society has many parts that are inter-dependent, which play different roles but together the roles co-ordinate to enhance cohesion and enables the system to function. Function interdependence is used to describe the kind of relationship that exists between the parts of the system (Merton, 1968:73).

System parts fulfill basic positive functions in order to maintain the system and Merton refers to this as functional unity (Merton, 1968:79).

Equilibrium maintenance is the phenomenon that governs the systems continued existence. For the system to survive certain tasks must be performed; should the tasks go unperformed, the system fails to maintain itself. Merton stresses that these needs are indispensable and must be met or else the system perishes (Merton, 1968:79).

Functionalists assume that there is social consensus where members of the society share core values and beliefs. It is this consensus that provides the foundation for social integration and stability. A state of equilibrium is desirable and necessary in industrial relations and this can only be achieved by ensuring that the industrial partners are working together with no friction. Mechanisms of ensuring the maintenance of equilibrium must therefore be in place if the social system is to survive or else it will disintegrate.

Merton argues that functional alternatives or equivalents can be used to ensure that the system is capable to absorb and adapt change. He explains that, a sub-system should be able to fulfill tasks performed by the other sub-systems so that, in case a sub-system fails to perform, the others can fulfill the task thus ensuring the continuity of the system.

The two theories explain two sides of the same coin as both conflict and social integration are characteristics of the society. They play more of a complementary role, as the strength of one theory tends to be the weakness of the other.

Where functionalists depict society in relatively static terms, conflict theorists emphasize the process of change that continually transforms social life.

Where functionalists the order and stability found in the society, conflict theorists emphasize disorder and instability. Where functionalists see the common interests shared by the members of the society, conflict theorists focus upon the interests that divide. And where functionalists view consensus as the basis of social unity, conflict theorists insist that social unity is an illusion resting on coercion.

In this study, structural functionalism theory was used to give insight on aspects of consensus, integration and stability while conflict theory addressed change generated by conflicting social needs.

The literature clearly indicates that, for a long time, the tripartite partners have striven to ensure that industrial peace is achieved. However, their efforts have bore little fruit as work stoppages caused by strike persist.

The partners have entered into collective agreement and legislations have been enacted but these have not contained strike incidences.

It has been suggested that strike should not be outlawed because it is a very effective tool for workers. It is worth noting that in some cases the laid down procedures of dispute resolution are not followed by either party. There is need for strengthening the voluntary machinery of dispute resolution. This means that the tripartite partners need to look at the existing industrial relations over whole and change their strategies of dealing with trade dispute to match with the changing times.

2.7 Hypotheses.

From the above literature review, the following propositions were derived: -

Hypothesis 1 Collective bargaining is effective in containing strike incidences.

Hypothesis 2 The level of militancy among union officials has a significant impact on the incidence of strikes experienced by members.

Operational Definitions

Strike was used to mean any work stoppage caused by workers.

Collective bargaining agreement was used to mean a written agreement between workers and employers which lays down the dispute resolution procedure.

Level of militancy was used to mean the extent to which coercion is used by the union officials as a tactic to coerce the members into strike action.

Table 2: Variables and their Indicators

Hypothesis	Type of variable	Variable /Identity Name	Variable indicator/ measurement
Hypothesis One	Dependent	Strike	Number of work stoppages within the past five years
	Independent	Collective bargaining	Existence of a collective bargaining agreement
Hypothesis Two	Dependent	Strike	Number of work stoppages within the past five years
	Independent	Level of militancy	The frequency of force or threats by the union officials to ensure that the members participate in strike

CHAPTER THREE: METHODS

This section will cover site selection, sampling procedures and methods of data collection and analysis.

3.1 Site Description.

The study was carried out in Nairobi, which is the capital city of Kenya. The population of Nairobi is estimated to be 2,143,254 with 649,426 households and a land area of 696 square kilometers (Republic of Kenya, 2001: 113). Nairobi's working population is 420,633 out of which 76,274 work in manufacturing industries that are prone to strikes.

Nairobi was selected because of its heterogeneous population and also because industries are located there. The fact that most recent strikes took place in Nairobi also made it an ideal research site.

The unit of analysis according to Baker (1994:13) is the social entity whose social characteristics are the focus of study. In this research, the unit of analysis was the industrial establishment and the units of observation were the employers and the employees in these establishments.

3.2 Sampling Design

The population of study was the industrial workers and employers located in Nairobi's industrial area. Sampling was carried out in stages as follows:

Stage 1

Purposive sampling was used to select establishments with the highest number of strike incidences within Nairobi, in the past five years from a list obtained from the Ministry of Labour offices. This formed the sampling frame. The researcher wrote down the names of the establishments on small pieces of papers and then randomly picked five sheets, which had the names of the five establishments that became the focus of the study. The owners of the establishment were approached and asked whether they were willing to participate in the study. The researcher replaced the establishments whose owners were not willing to participate by randomly selecting new ones from the sampling frame using the same method. From each of the five establishments, a shop steward, a worker and a line manager or supervisor were selected for the study.

Stage 2

For the control group, random sampling as in the above case was used to select five establishments that had not experienced strike incidences in the same period. From each of the five establishments, a worker, a shop steward and a line manager or supervisor were selected for the study. This ensured that the data collected was representative and biasness avoided.

The worker who is usually the complainant could not have been ignored in this study. The line manager or the supervisor is always the first person in the management to receive the complaints and tries to resolve them at that level. His input was important because he had the first hand information that was crucial for the study. The shop steward who takes up the complaint on

behalf of the worker shed light on the union's involvement in dispute resolution.

In addition to these, other key informants from Central Organizations of Trade Unions (COTU), Federation of Kenyan Employers (F.K.E) and government officials from the Ministry of Labour were interviewed.

3.3 Methods of Data Collection.

The researcher relied both on primary and secondary data. Primary data were obtained using structured interview schedules for the key informants as well as for the union members and line managers or supervisors. Both open-ended and closed-ended questions were asked so as to create room for the respondents to express themselves freely. Review of secondary data was done to supplement primary data. Published and unpublished reports from the Ministry of Labour, Central Bureau of Statistics, International Labour Organisation and other relevant organizations were reviewed.

3.4 Experiences and Problems Encountered in the Field.

The researcher was in the field between the 14th July and 3rd September 2004. The fieldwork was not without challenges. Right from the start, the researcher encountered hostility in some of the sampled establishments that had experienced strike. The management of those establishments was not comfortable with the researcher's presence arguing that it would incite the workers to strike. Furthermore, they viewed the topic of the research as sensitive and the information required as confidential. The researcher had to go back to the sampling frame and randomly select other establishments that

met the research requirements so as to ensure that the required sample size was attained.

Another was the postponement of appointments. Since the researcher was using structured interview schedules, appointments were to be booked before hand. Some of the line managers would give the researcher a date, but on the agreed date they would cancel because of heavy workload, tight deadlines, and meetings. This meant the meeting had to be rescheduled for a later date, some after two weeks. Despite all this, the respondents were very cooperative.

The researcher did not use any research assistants as the appointments booked did not fall on the same day and also because the workload was not much. However, the services of a computer programmer (SPSS) were used in data analysis.

CHAPTER FOUR: DATA PRESENTATION AND DISCUSSIONS

4.1 Data Analysis Techniques.

4.1.1 Descriptive Statistics.

Descriptive statistics highlight features of a set of observation and do not support or falsify a relationship between two variables but simply help in description of variables according to their numerical properties (Baker, 1994). The procedure was used to help the researcher understand the data collected from the fielding in order to interpret the data using percentages, frequency distribution tables and pie charts.

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4.1.2 Inferential Statistics

Inferential statistics are used to make generalization from the given sample to a large population from which the sample is drawn. The data was keyed to the computer using Statistical Package for Social Science (SPSS) for analysis. Measures of tendencies and measures of associations were used to establish whether or not relationships between the variables of interest exist and capturing the patterns of the relationships.

4.2 Background Data on the Respondents and Establishments

The main purpose of this section is to present the results of the data analysis in a systematic way. The sample size was 30 people made up of 10 workers, 10 shop stewards and 10 line managers. Ten establishments participated in the research out of which 5 had experienced strike incidences in the past 5 years and the remaining 5 had enjoyed industrial peace within the same period.

All the establishments sampled fell in the sub sector of manufacturing industry. Table 1 below shows the distribution of the establishments by type of ownership.

Table 1: Classification of the Establishments

	Locally owned	Foreign owned
Locally based	6	4
Multi national	2	2

Source: Field data

4

Table 1 shows that 6 of the establishments were locally owned and out of them, 2 had branches operating outside the country. Four establishments were owned by foreigners and 2 of them operated in other countries.

Table 2 shows the distribution of the respondents in terms of their sex.

Table 2: Distribution of the respondents by Sex

Sex	Frequency	Percentage
Male	19	63.3
Female	11	36.7
Total	30	100.0

Source: Field data

Some 63.3% of the respondents were male while 36.7% were female. All the shop stewards were male, while most of the females interviewed were line managers. Out of the 10 workers interviewed, only 4 were female. From the research findings one can conclude that there was minimal female participation in the trade union movement, especially when it came to leadership positions.

Table 3 below, showing the distribution of the respondents in terms of their marital status, indicates that 7 (23.3%) of the respondents were single while 23 (76.7%) were married.

Table 3: Distribution of the respondents by Marital Status

Marital status	Line managers	Shop stewards	Workers	Total
Single	3	1	3	7
Married	7	9	7	23
Total	10	10	10	30

Source: Field data

Table 4 shows the distribution of the respondents in terms of the number of years completed in education.

Table 4: Distribution of the respondents by Number of years completed in Education

No of years of education completed	Line managers	Shop stewards	Workers	Total
< 10 yrs	0	0	1	1
10 – 15 yrs	0	1	8	9
> 15 yrs	10	9	1	20
Total	10	10	10	30

Source: Field data

Table 4 shows that 10 (33.3%) of the respondents spent less than 15 years in education. A majority of them were in the category of workers. One out of the 10 shop stewards interviewed spent less than 15 years in education. This can be taken to mean that the workers' representatives in negotiations are better off in terms of education and understanding of the industrial relations processes since there is no educational gap between the shop stewards and the line managers. However, two of the line managers have had specialized education in the field of human resources management and are thus more advantaged when it comes to negotiation skills considering the fact that the shop stewards are not conversant with that field. In summary, only one responded did not proceed to secondary education, 6 completed secondary education while 23 were college and university graduates.

4.3 Causes of Strikes

As earlier alluded, 5 establishments sampled had experienced strike incidents in the past 5 years. Out of these, 3 establishments had experienced strike incidents more than once in the said period. Respondents from the establishments that had experienced strike identified the causes of the strikes as indicated below:

Table 5: Respondents' perception of the causes of strike

Causes of strike	Workers (Column %)	Shop stewards (Column %)	Line managers (Column %)	Total (Column %)
Economical	3 (60)	2 (40)	3 (60)	8 (53.7)
Social	0 (0)	2 (40)	1 (20)	3 (20)
Political	1 (20)	1 (20)	1 (20)	3 (20)
Others	1 (20)	0 (0)	0 (0)	1 (6.7)
Total	5 (100)	5 (100)	5 (100)	15 (100)

Source: Field data

Table 5 shows that 60% of the workers stated that the major cause of strike was economical factors. The same percentage of the line managers also supported this argument, while only 40% of the shop stewards cited economical factors as the force behind strike incidences. In such cases the workers and the shop stewards affected argued that it was only right for the management to improve their terms of employment especially when the establishment makes more profits and when the cost of living raises. They viewed a strike arising from the demand as their given right. The management on their part argued that the workers and shop stewards should be able to abide by the aged terms of the collective bargaining or initiate negotiations if their demands are genuine.

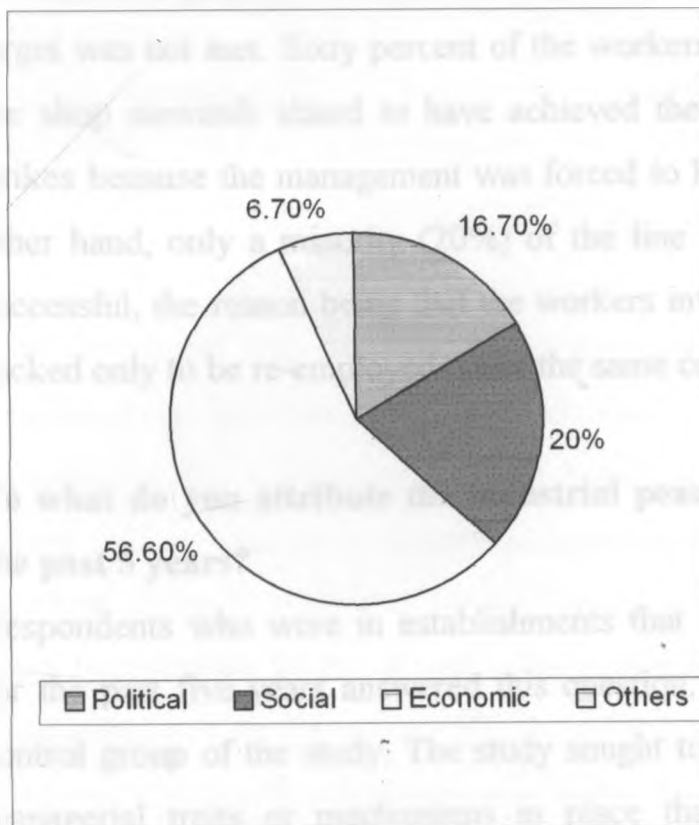
The table also shows that although political and social factors also play a part in causing strike, more often than not, they are not significant. Some 20% of the workers also argued that they resort to strike because of the poor conditions of work. Even where the collective bargaining agreement provides for better working conditions, most of the employers do not take

this seriously putting the lives of the workers in danger. A strike is necessary in this to coerce the management to implement such terms.

Some 16.7% of the respondents stated that solidarity strikes were also common where the workers protested the dismissal of their colleagues or where they were demanding the sacking of those in management.

The pie chart below gives a summary of the percentage distribution of the perceived causes of strikes as stated by the workers, shop stewards and the line managers

Figure 1: Percentage Distribution of the perceived causes of strikes



Source: Field data

Did the strike achieve the intended purpose?

Table 6: Perception on the success of the strikes

Did the strike succeed?	Workers (Column %)	Shop stewards (Column %)	Line managers (Column %)	Total (Column %)
Yes	3 (60)	3 (60)	1 (20)	7 (46.7)
No	2 (40)	2 (40)	4 (80)	8 (53.3)
Total	5 (100)	5 (100)	5 (100)	15 (100)

Source: Field data

Table 6 shows that 46.7% (7) of those who experienced strike reported that the intended purpose of strike was achieved while 53.3% (8) admitted that target was not met. Sixty percent of the workers and the same percentage of the shop stewards stated to have achieved their intended goal through the strikes because the management was forced to look into their plight. On the other hand, only a minority (20%) of the line managers saw the strikes as successful, the reason being that the workers involved were either laid off or sacked only to be re-employed under the same conditions.

To what do you attribute the industrial peace that you have enjoyed in the past 5 years?

Respondents who were in establishments that had enjoyed industrial peace for the past five years answered this question. These respondents were the control group of the study. The study sought to find out whether there were managerial traits or mechanisms in place that ensured smooth industrial

relations, and compare with what was in the establishments that had experienced strike incidences.

Table 7 below shows their response when asked to explain the factors that contributed to the industrial peace.

Table 7: Factors that contributed to industrial peace

Factors	Workers (Column %)	Shop stewards (Column %)	Line managers (Column %)	Total (Column %)
Communication and Negotiations	3 (60)	3 (60)	5 (100)	11 (73.3)
Lack of organization	2 (40)	2 (40)	0 (0)	4 (26.7)
Total	5 (100)	5 (100)	5 (100)	15 (100)

Source: Field data

Establishments that enjoyed industrial peace boasted of good industrial relationship between the workers and the management. In these establishments, both top-down and bottom-up channels of communication exist and in case of a dispute negotiation is initiated immediately. Sixty percent of the workers and 60% of the shop stewards cited communication and negotiations as the major contributors to the industrial peace. In the negotiations, both the union officials and the management strive to achieve a win-win situation thus leaving no room for strike.

Although 100% of the line managers singled out communication and negotiations as the contributor of industrial peace, workers' apathy and lack of active union officials and their inability to organise workers for strike were not ruled out by the workers and shop stewards. Forty percent of the workers and the same percentage of the shop stewards argued that at some point the workers had thought of striking but lack of organization, fear of victimization and status quo left them resigning to fate.

4.4 Collective bargaining agreement (CBA)

In all the 10 establishments sampled, there existed a collective bargaining agreement that guided the dispute resolution process. Each CBA lasted for a period of 2 years after which revisions were made. Since there are no other mechanisms of dispute resolution, in case of a deadlock the dispute is referred for arbitration.

Do both parties follow the terms of the agreement?

Since CBA was the only mechanism of dispute resolution in all the establishments, the study sought to find out why it was effective in containing strikes in some establishments while in others it was ineffective. Establishments that experienced strike were the observational group while those establishments that enjoyed industrial peace were the control group. Table 8 below shows the response of the observational group on whether both parties follow the terms of the agreement, while Table 9 gives the response of the control group.

Table 8: Response of the observational group on whether or not the terms of the agreement are followed by both parties.

Response	Workers (Column %)	Shop stewards (Column %)	Line managers (Column %)	Total (Column %)
Yes	2 (40)	4 (80)	5 (100)	11 (73.3)
No	3 (60)	1 (20)	0 (0)	4 (26.7)
Total	5 (100)	5 (100)	5 (100)	15 (100)

Source: Field data

Table 9: Response of the control group on whether or not the terms of the agreement are followed by both parties.

Response	Workers (Column %)	Shop stewards (Column %)	Line managers (Column %)	Total (Column %)
Yes	4 (80)	5 (100)	5 (100)	14 (93.3)
No	1 (20)	0 (0)	0 (0)	1 (6.7)
Total	5 (100)	5 (100)	5 (100)	15 (100)

Source: Field data

Some 73.3% of the respondents from the observational group stated that both parties were following the agreement. Table 8 also shows that the majority of the shop stewards (80%) and all line managers (100%) held the view that the terms of the agreement were followed. A minority (20%) of the workers supported this view, while 80% of the workers strongly felt that there was a breach of agreement.

In comparison to the response of the control group, 93.3% of the respondents observed that the agreements were implemented and followed by both parties. In contrast with the response of the workers in the observational group, 80% of the workers in the control group (table 9) reported that both parties were following the terms of the agreement.

4.5 Response on Voting before taking industrial action

Table 10 and Table 11 show the response of the respondents when asked if voting by workers should determine industrial action. Table 10⁴ gives the response of the observational group while table 11 shows those of the control group.

Table 10: Response of the observational group on voting as a determinant of industrial action

Response	Workers (Column %)	Shop stewards (Column %)	Line managers (Column %)	Total (Column %)
Yes	2 (40)	2 (40)	4 (80)	8 (53.3)
No	3 (60)	3 (60)	1 (20)	7 (46.7)
Total	5 (100)	5 (100)	5 (100)	15 (100)

Source: Field data

Table 11: Response of the control group on voting as a determinant of industrial action

Response	Workers (Column %)	Shop stewards (Column %)	Line managers (Column %)	Total (Column %)
Yes	2 (40)	2 (40)	3 (60)	7 (46.7)
No	3 (60)	3 (60)	2 (40)	8 (53.3)
Total	5 (100)	5 (100)	5 (100)	15 (100)

Source: Field data

Tables 10 and 11 show that line managers valued voting while shop stewards and workers saw voting as unnecessary in determining industrial action. In the observational group, 80% of the line managers were for voting while only 40% of the shop stewards and the same percentage of workers supported voting. In the control group, 40% of the shop stewards, 40 % of workers and 60% of the line managers felt that workers should vote to determine the occurrence of industrial action.

The broad similarity of responses between the workers and shop stewards in observational and control group emphasizes the fact that voting is not viewed as a factor when it comes to industrial action and this explains the common occurrences of wildcat strikes

Those who were in support of voting argued that it would avert strikes that are usually caused by few people but leads to the victimization of all workers. This will also determine the commitment of the workers on the

industrial action thus gauging the success or failure of the strike before any other action is taken.

Those who were against voting did not see its impact on the success or the failure of the strike. They saw the decision of calling for a strike as the prerogative of the union officials.

The proposed revised industrial relations legislation recommends that voting by workers should take place to determine the course of industrial action. Strike should only take place when 51% of the workers have voted for it and that where intimidation or force has not been used (F.K.E, 2003).

Discussions with the key informants from the Ministry of Labour, F.K.E and C.O.T.U concluded that voting cannot be used as a mechanism for regulating strike as it might be interfered with through intimidation and victimization. They argued that since strike is a tool in power balancing, legislation should identify issues that are strikable and make known the consequences of participating in illegal strikes. However, voting should not be ignored as it can play apart in ensuring only genuine deadlock will lead to strike.

Are strikes necessary?

Table 12 below shows the respondents answers when asked whether strike was necessary in industrial relations.

Table 12: Response on whether strikes are necessary

Response	Workers (Column %)	Shop stewards (Column %)	Line managers (Column %)	Total (Column %)
Yes	7 (70)	9 (90)	2 (20)	18 (60)
No	3 (30)	1 (10)	8 (80)	12 (40)
Total	10 (100)	10 (100)	10 (100)	30 (100)

Source: Field data

Sixty percent of the respondents agreed that strikes are necessary while 40% perceived strikes as unnecessary. The table above shows that it is the shop stewards (90%) who felt that strike is necessary, while the management (80%) was of the view strike should be avoided. Only 30% of the workers felt that strikes were unnecessary. Several reasons were given when asked to explain their stand on this issue.

The table below shows their response when asked to explain their stand on the necessity of strike.

Table 13: Respondents perception on necessity of strike

Reason	Workers (Column %)	Shop stewards (Column %)	Line managers (Column %)	Total (Column %)
Last resort	2 (20)	3 (30)	5 (50)	10 (33.3)
Workers' right	4 (40)	3 (30)	0 (0)	7 (23.3)
Waste of time	1 (10)	2 (20)	3 (30)	6 (20)
Cause management to act	3 (30)	2 (20)	0 (0)	5 (16.7)
Decline to answer	0 (0)	0 (0)	2 (20)	2 (6.7)
Total	10 (100)	10 (100)	10 (100)	30 (100)

Source: Field data

Table 13 shows that 50% of the line managers perceived strike as the last resort in a trade dispute while only 20% of the workers and 30% of the shop stewards supported this argument. 40% of the workers and 30% of the shop stewards argued that strike is a right for all the workers because it is the only tool of power that the workers can use against the employers in the balancing of economic power. It is interesting to note that that the line managers did not see strike as the workers' right.

Thirty percent of the line managers, 20% of the shop stewards and 10% of the workers felt that strike should be abolished, as it is a waste of time for both the workers and the employers. They argued that there are better means

of championing for workers rights other than striking. Another 30% of the workers and 20% of the shop stewards felt that strike is the only thing that will cause the management to respond to the plight and demands of the workers.

4.6 Hypothesis Testing

This section seeks to find out whether the hypotheses of the study are accepted or rejected based on the findings of the research. Measures of association were used to establish whether relationships exist among the variables of the study.

Hypothesis 1 stated that collective bargaining is effective in containing strike incidences.

By testing this hypothesis the researcher seeks to find out whether there is a relationship between collective bargaining agreements and the strike incidences.

All the establishments sampled for the study had collective bargaining agreements. Eight of these establishments had the CBAs covering the entire period of study. In spite of having CBAs, only 5 establishments had not experienced strike incidents, while three had experienced them more than once in the said period. The reasons given for the strike incidences in the observational group of establishments were that the CBAs were not being followed to the letter and that the CBAs did not facilitate immediate response to issues that arose or which were not covered in the agreement.

In the control group, emphasis was more on negotiation and the CBAs provided an elaborate procedure for handling issues that might arise and are not covered in the agreement. In addition to this, there was an open-door policy when it came to communication. This ensured that any misunderstandings were handled at the entry point.

Table 14 shows a cross tabulation of strike and the effectiveness collective bargaining agreement in strikes.

Table 14: Strike and CBA

		Collective bargaining effective in containing strike incidences		Total
		Yes	No	
Experienced strike in the past 5 yrs?	Yes	6	9	15
	No	8	7	15
Total		14	16	30

Source: Field Data

Table 14 shows that 14 respondents viewed CBAs as effective in containing strikes. Out of these respondents, 8 were from establishments that had not experienced strike while 6 were from the establishments that had not experienced strike incidences. Some 9 respondents from the establishments that had experienced strike incidences perceived CBAs as incapable of containing strike incidences.

Table 15 below shows the results of the chi-square tests after the data was computed and tests of the relationship between the occurrence of strike and the existence of CBAs in the establishments done.

Table 15: Chi- square Tests

Chi square tests	Value	df	Asymp. Sig. (2-sided)
Pearson Chi-square	.833	1	.361
Continuity Correction	.208	1	.648
Likelihood ratio	.846	1	.358
Linear-by-linear association	.806	1	.369
No. of valid cases	30		

Source: Field Data

The level of significant less than 0.0005 will mean that there is a relationship between the occurrence of strike and the existence of CBAs. Table 15 indicates that all the tests done have a level of significance more than 0.0005. This means that there is no relationship between the occurrence of strike and CBA. These findings suggest that CBAs are not necessarily effective in containing strikes. We thus reject hypothesis 1.

Hypothesis 2 stated that the level of militancy among union officials has a significant impact on the incidence of strikes experienced. The two variables could not be computed and be subjected for testing because the variable “level of militancy among the union officials” was missing. This was because none of the respondents from any of the establishments reported the

use of force by the union officials to coerce them to participate in strike. In fact, more than two-thirds reported that the opposite was true.

Where force was reported, it was the union members who pressurized the union officials to call for a strike. The use of force by the workers was only reported in two (2) establishments. The workers attributed this to the reluctance of the union officials to call for strike on issues the workers termed as “urgent”. The end result of the strikes was the sacking of the workers who participated in the strike. The unions representing the workers did not come to the defence of the workers because the unions termed the strikes illegal. *

The fact that the workers can pressurize officials to call for strike undermines the role of trade unions in negotiating on behalf of the workers as workers may force the union officials to withdraw from negotiation prematurely. This is a major setback in industrial relations as workers may decide to strike any time they feel short chained.

The findings contradict Aluchio’s (1998:150) sentiments that some workers participate in strikes out of the fear of militant officials. There was no relationship between the variables as found by the study, therefore we reject hypothesis 2.

CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS

The purpose of this section is to recapitulate the major findings, draw salient conclusions and make policy recommendations to policy makers and researchers based on the findings. The aim of the study was to assess the role of the tripartite partners in ensuring industrial peace.

5.1 Summary and Conclusion

The findings of this study underscore the importance of participation by the tripartite partners if industrial peace is to be achieved. The government has a responsibility to put in place legislation that will guide the dispute resolution procedure since dispute is bound to occur. The employers and the employees have a duty to draw a dispute resolution procedure and follow it without fail.

Collective bargaining agreement was the only mechanism for dispute resolution in all the establishments sampled. Although 83.3% of all the respondents reported that the terms of the agreements were followed, strike incidences still persisted. This was attributed to the fact that the interpretations of the agreements by the two parties differed. This means that it is not enough just to have CBA; there is need for interpreting it to both parties so that it is not misunderstood. There is also need to ensure that the agreed terms are implemented in order to avoid confrontation.

This study found that slightly more than half of the strike incidences (56.6%) were as a result of workers demanding for salary/wage increments. Workers argued that it was their right to demand for more pay any time the profits of the establishment went up or when the cost of living rose.

Although workers participated in strike with the aim of coercing the management to meet their demands, only 46.7% reported to have successfully achieved this. It was reported that more often than not workers who participate in strike are victimized and in some cases they are sacked only to be employed later under the same terms and conditions. This was reported as one of the factors that have caused workers to shy away from strike incidences leaving them vulnerable to exploitation.

The study established that even where there was industrial peace, there was potential for strike in some establishments but lack of workers' organization and inactive union officials sustained the 'peace'. Good channels of communication and negotiation were also cited as factors that contributed to industrial peace.

Voting by workers to determine the implementation of industrial action was welcomed by the management but shop stewards and workers were not very keen on the idea. However, some 53.3% of all the respondents felt that this would ensure only genuine strikes take place. In the proposed labour legislation a strike can take place if more than 51% of the workers vote for it.

The findings of this study demonstrate that strike is an effective tool in the power balance and should be preserved for the workers. Sixty percent of the respondents regarded strikes as necessary. It was strongly felt that although strike is permitted it should only be implemented as the last resort when all other efforts have failed.

The study also found out that the level of militancy among union officials did not determine the outbreak of strike. Rather, it was the level of militancy among union members that had a bearing on strike.

In conclusion, strike is the most effective tool for bargaining that the workers have when it comes to selling their labour. Although strike is popularly viewed as counter - productive, the fact that it is possible to enhance industrial relations by helping to identify areas that need to be addressed in future in order to avoid it.

For industrial harmony to be achieved, the parties involved should be open to negotiation and compromise. They should also realize that it is not always possible to reach a win-win agreement and some times a win-lose is necessary to avert strike or lock out. CBAs can be effective in containing strike only if the terms are implemented and followed to the letter.

Although voting before implementing a strike is applauded mainly by the management and those who are currently reviewing the labour laws, it is important to ensure transparency, as rigging cannot be ruled out. Voter intimidation and corruption might soil the logic behind this concept.

5.2 Recommendations

Policy Recommendations -

As earlier stated, the CBAs can be effective in containing strike if properly implemented. Therefore they should be encouraged. Labour inspections should be done more frequently by the Ministry of Labour to monitor the

implementation of the CBAs. The Ministry should also create awareness among the workers and shop stewards on the proper channels to be followed in case of a deadlock.

The policies guiding industrial relations, which are currently under review, should be able to identify matters that can lead to strike. The process of redress should also be clear and direct as the current one is cumbersome and has led to workers participating in wildcat strikes. Consequences of participating in illegal strikes should also be made known in order to discourage workers from participating in them.

Recommendations for further research

This study was conducted in establishments where the workers are represented by trade unions, and where collective bargaining agreements were in place. There is need to carry out studies in establishments that do not have collective bargaining agreements and identify the mechanisms for resolving disputes in them.

The study was also carried exclusively in manufacturing establishments thus there is need for conducting studies in other industries in Nairobi and elsewhere.

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Appendix 1

Interview schedule for employees, shop stewards and supervisors or line managers

Name of establishment _____

Position of respondent in establishment _____

Sex Male Female

Age _____

Marital Status Single Married

Number of years of education completed

None Less than five years Five to ten years

Ten to fifteen years More than fifteen years

7. Number of years in the establishment _____

8. Has your establishment experienced strike incidence in the past 5 years?

Yes No

i. If Yes;

a. How many times?

e. In your opinion was there any other way of solving the dispute besides strike?

Yes No

Explain _____

ii. If No,

What would you attribute to the lack of strike in your establishment for the past 5 years?

Explain _____

9. How would you rate the relationship between the management and the workers?

Very good Good Fair Poor Very poor
 No idea

10. Has the management entered into a collective bargaining agreement with the union in the past 5 years?

Yes No

i. If Yes,

What period was covered by collective bargaining agreement?

Year	1999	2000	2001	2002	2003
Covered					
Not covered					

In your opinion, are the terms of the agreement followed by both parties?

Yes

No

Do you consider the collective bargaining agreement flexible to accommodate issues that might arise before its expiry?

Yes

No

If No,

What mechanisms in your establishment provide for dispute resolution?

11. In your opinion, are the mechanisms above effective?

Yes

No

Explain _____

12. In your opinion, should voting by workers determine whether or not industrial action be taken?

Yes

No

13. In your opinion are strikes necessary?

Yes

No

Explain _____

Appendix 2

Interview Guide for key informants (COTU, FKE and Government Officials)

What is your interpretation of industrial relations?

What role does your organization play as an industrial partner in ensuring good relations?

In your opinion, what roles should be played by the other industrial partner to ensure industrial harmony?

What do you think has been the cause of strikes in the past five years?

In your opinion, do you think collective bargaining agreements have been effective in reducing the number of strikes? Explain.

6. In your opinion does the level of militancy among the union officials and union members has any significance in strike incidences? Explain.

7. Do you think that, if voting is introduced before industrial action is taken, the number of strikes will reduce? Explain.

8. What measures do you think should be taken at the organizational and national levels to curb the high incidences of strike that have been experienced in the past five years?