THE RESPONSE OF TRADE UNIONS TO CHALLENGES POSED BY CONDITIONS OF WORK AT THE EXPORT PROCESSING ZONES (EPZ) IN KENYA
DECLARATION

I declare that this project is my original work and has never been presented for academic purposes in any other university.

Candidate: Mutung’a Josephine Mueni

Signed __________________________ Date 21/11/06

Supervisor

Prof. K’obonyo
Department of Business Administration
School of Business
University of Nairobi

Signed __________________________ Date 01/11/2006
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DEDICATION:

Dedicated to my daughters Doreen, Natalie and Nicole whose love, support and patience contributed to my success in finalising this work.
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ABSTRACT

The study sought to establish the prevailing conditions of work and how trade unions have responded to challenges posed by these conditions of work at EPZ in Kenya. The study was conducted through a survey by administering a questionnaire. The questionnaire contained both open ended and closed ended questions. The data was collected through personal interviews and the respondents interviewed were either workers or trade union officials.

Once the data was collected it was analyzed using data analysis tools such as percentages and appropriate measures of central tendency. The data has been presented in this document using tables and graphs.

The findings of the study are that the working conditions at EPZ in Kenya are poor. The salaries/wages are low, employees are generally expected to work overtime without commensurate pay and not all employees have access to protective clothing even when the work they perform exposes them to hazards among others. Though these poor conditions are areas, which make the presence of trade unions necessary, the unions have not done much to secure better working conditions for members. Though the trade union officials do not accept the verdict of members that unions have done little to improve conditions of work, the union officials blame a number of factors for the dismal performance. This includes lack of resources, lack of support by COTU and the Government and lack of an enabling legislation. Despite the fact that the unions know what challenges face them, there is not evidence that the trade unions are tackling these challenges.

The study concludes that trade unions at EPZ in Kenya have difficulties with tackling basic trade union obligations.
CHAPTER I: INTRODUCTION

Background

1.1.1 Why there is need to be unionised

"All of the rights and benefits workers take for granted today – an eight hour day, overtime pay, a safe work place, collective bargaining, health insurance, sick pay and pensions – were won through the efforts of trade unions and the sacrifice of their members. Non-Union Workers also take for granted these benefits, which were fought for and won by their union brothers and sisters. And the bitter irony, many young workers who fail to understand unions are responsible for these work rights and benefits, are sons and daughters of union members, or grew up in communities where standards of living were high because of unions". (file://A:/Why we need unions today.htm)

The concept of trade unions began at the time of industrial revolution. More and more people left farming as an occupation and began to work for employers often in appalling conditions and for very low wages. The labour movement arose as an outgrowth of the disparity between the power of employers and the powerless individual employees. Many also consider it an issue of fairness that workers be allowed to pool their resources in a special legal entity similar to the pooling of capital resources in the form of corporations. Today a government that imposes a ban on joining a union is generally considered as abusing human rights. (De Silva, 1998).

Work site is a place where workers learn about the importance of power. Workers actually learn that they have few rights to participate in decisions about events of great consequence to their lives. As power is presently distributed,
workplaces are factories of authoritarianism and are perceived as polluting democracy (Benard 2004). Of course this is not to suggest that all workers are unhappy, or that the workplaces are hellish. Rather, the workplace is a unique location where we have come to accept that we are not entitled to rights and privileges we normally enjoy as citizens. Take for example, a fundamental assumption in many legal jurisdictions— the presumption of innocence until one is proved guilty. In the workplace, this assumption is turned on its head. The rule in the workplace is that management dictates, workers obey. If a worker is accused of transgression by management, there is no presumption of innocence. Even in organised workplaces the rule remains work first, grieve later (Carty, 2003). Organised workers protected by collective agreement with contractual grievance procedures can at least grieve an unjust practice (or more specifically, one that violates the rights won through collective bargaining). Unorganised (non-unionised) workers on the other hand, have the option of appealing to their superiors’ benevolence or joining the unemployment line.

Benard, 2004 says that another glaring power imbalance in the workplace concerns the freedom of speech. Often celebrated as the most cherished right of free citizens, most workers know that the freedom of speech does not extend to the workplace or at least not to workers. It is literally true that free speech exist for bosses, but not workers. The legal right of workers in a number of jurisdictions is extremely limited and therefore the need for trade unions.

1.1.2 Labour Issues at Export Processing Zones

The EPZ can be defined as industrial zones with special incentives to attract foreign investment, in which imported materials undergo some degree of processing before being re-exported (ILO Report 1998). A common characteristic of EPZ is the provision of special incentives to attract investment (mainly foreign) for export production. These incentives range from tax holidays, duty free exports and imports, free repatriation of profits, the provision
of infrastructure and in some countries exemption from labour laws. However, there are differences in the way countries set up and operate their EPZ. Some operate as fenced zones, others as single factories that have been awarded EPZ status and others as part of Industrial Parks or special zones (Jauch & Keet 1996).

Further, certain governments have passed EPZ legislation that suspends this.

The establishment of EPZ offers challenges and opportunities to EPZ host countries. The opportunities include availability of more jobs. However, a closer examination reveals that jobs created through EPZ are often poor quality and not cost effective. For example the Kenyan government by 1994 had spent Sh. 40 billion on establishing EPZ but only 2000 new jobs were created. It has been argued that many more jobs could have been created if the money had been spent in job creation in small scale manufacturing sector or other job creation programmes in the broader economy (Nel 1994).

The question of labour relations continues to be one of the most controversial aspects of EPZ in the world and Kenya is no exception. An ILO report (1999) noted that collective bargaining and sound tripartite relations are extremely rare in EPZ. Instead high turnover, absenteeism, stress, fatigue, low productivity are still characteristics of most EPZ. Jauch (2002) argues that EPZ companies try to compete in globalizing market based on cheap prices. They try to improve their performance by intensifying work, thus putting pressure on workers to reach higher production targets. Due to the generally low wage levels, workers are amenable to working extra hours -just to make ends meet. For example though the working hours in Kenya under the law is 45 hours per week or 8 hours a day, some workers at the EPZ are forced to work between 10-14 hours a day to meet targets often without recognition of overtime (McCourt 2003).

Another problem, which is evident in EPZ, is lack of protective clothing. Somo (2002) argues that in Madagascar almost nowhere does management provide protective gear like dust mask and for fabric cutters - gloves, nor is there
protective clothing for workers exposed to high risk conditions, for example, those who work in the washing department. Similarly, in Kenya, during the 2003 widespread strikes by EPZ workers, one of their grievances was lack of protective clothing.

Further, certain Governments have passed EPZ legislation that suspends the application of some national labour laws in the zones. Even in countries where such legislation does not exist, the governments do not enforce the national law within the zones. In some countries, EPZ workers may be prohibited from joining trade unions or engaging in any kind of trade union activities. For example in 1992, Mr. Sarlaj Aziz the Federal Finance Minister of Pakistan in a speech to Japanese businessmen suspended the application of national labour laws at the zones in Pakistan. Additionally an ICFTU report (1995) says that in Walvis Namibia, the Windhoek government “sensitive” to the investor concerns banned the right to strike in the Export Processing zones.

The attitude of Government towards workers rights at EPZ is also a challenge.

The Daily Nation (21st February, 2003) in an article entitled “Investor Dollars – V-Workers” reported:

"Recent strikes at the Industrial Processing Zones by employees have raised questions about government’s stand on labour interest against the need to attract foreign investment. The workers revolt in the EPZ transfixed the nation and raised pertinent issues; should investor privilege compromise workers rights? Insiders say that, what annoyed workers most were the statements made by various Ministers – Labour, Trade and Industry that appeared to absolve the employers, and in so doing, were stonewalling. They gave no indication that the 21,000 employees at the Sh.20 billion free trade zones may have solid grievances. Does the government attempt to attract foreign investment affect the way workers are treated at the zones?"
The Government attitude or approach will largely affect trade unions activities. McCourt (2003) says that workers at EPZ are also penalised in factories where they work. They are punished for being late, for not meeting targets, for refusing to do overtime and for talking to union officials. In some factories the penalty system cost them money. Kenya Human Rights Commission (2004) observes that in Kenya, factory managers overwork and unlawfully dismiss workers and withhold workers benefits for such reasons such as lateness or talking to colleagues at work. When workers are forced to stay in the factory after hours to meet their targets, they lose income equivalent to hourly overtime. Coupled with the above workers at EPZ have no job security. Ultimately the penalties culminate in dismissals.

1.1.3 Challenges facing trade unions at EPZ

There are many challenges that face trade unions in their day to day operations. The origin of industrial relations system in Kenya as well as many other countries was intertwined with the struggle for independence. Having participated in the struggle for independence, Trade Unions are considered as organizations that have the capacity to organize people, a capacity many governments would wish to control and keep checked. In Collymore –V- AG Trinidad and Tabago (1970) Weekly Law Reports "the government and employers look down upon trade unions and preconceive them as chaotic and irresponsible organizations whose major aim is to disrupt peace, order and good governance". This perception attracts government and employers' interest in affairs and activities of trade unions. This may tempt the government and employers to control trade union activities.

In Kenya and elsewhere in the world, some of the gains made earlier by trade unions in fighting for workers rights have been lost with the internationalisation of
business. Increasing economic integration and liberation, especially in the areas of trade and investment have inevitably put to fore the issues of labour rights. Recession coupled with financial crisis all over the world have pushed Transnational corporation to adapt cost saving measures in their activities, as well as intensifying their competition for markets around the world and naturally, labour has been on the receiving end of corporate strategies to weather global crisis (Tujan, 1997).

Tujan further argues that downsizing or right sizing schemes to create learner, competitive organisation have resulted in the prevalence of the market-oriented hiring schemes on what is commonly known as labour flexibilization as capitalists take the full advantage of the “labour market.” What this means in reality is taking advantage of the large scale army of unemployed to institute individual contracts, flexible hiring, job sharing, casual hiring and the like.

Michael A, (1999) contends that without job security and with high unemployment, the result of course is that labour is cheaper and workers are hired and fired at will. Along with this, unions are undermined, not to mention the phenomenon of more and more cases of gross violation of labour rights and outright union busting.

Trade unions are some of the important social movement underpinning democracy at the workplace. Workers rights to freedom of association and thus collective action lies at the core of all human rights because it creates means by which all other rights are asserted and defended. For a long time, trade unions have fought for the right to decent pay and good conditions of work for men and women at their place of work and for improved social welfare. Generations who have struggled for basic rights at the work place have created International Confederation of Free Trade Unions (ICFTU) that covers 136 countries in all five continents (Jordan B 2004). The distribution and linkages between unions is therefore global. However, the workplace is rapidly changing. The integrated
global financial markets, increased capital mobility, global production and
distribution structures are weakening the bargaining power of trade unions
everywhere. This trend has deepened with the increasing privatization and the
global firm has a potential negative impact on jobs and income (Tujan 1997).
However, relocation from developed to developing countries, one of the
manifestations of globalisation does not necessary lead to drop in wages,
although it is true that jobs in some sectors and places will be lost through
restructuring.

The main actors of labour market regulations (labour, employers and the state)
are differently situated in the process of globalisation. Economic globalisation
has given firms and powerful employers new power and resources. If they are
not pleased with the way that labour processes and labour markets are regulated
in a given area or country they can threaten to move factories elsewhere or
suggest that investment will be made in areas of more business friendly labour
regulations. Many governments have followed deregulatory demands of
employers and particularly of foreign investors. This has only helped to weaken
trade unions (Nieminen A, 1997).

Kenya has not been left out and has been affected by globalisation. Kenya
liberalized her economy in 1994 and implemented structural adjustment
programme prescribed by the World Bank and International Monetary Fund
(IMF). Consequently, through the Finance Act number 4 of 1994 an amendment
was introduced to the Employment Act. The amendment was on Regulation of
Wages and Conditions of Employment Act to circumvent the requirement of
union involvement in declaring workers redundant and related safeguards and
procedures. This introduced the concept of retrenchment. In retrenchment, the
law gives unions no role to play and the benefits payable are left to the whims of
the employer. One of Trade Unions objectives is to fight for job security and
workers benefits. Legislation such as amendment number 4 of 1994 that was
introduced when Kenya liberalized her economy adversely affects the role and
effectiveness of trade unions. Kenya Human Right Commission (2004) argues that this particular amendment has made the worker more vulnerable to the whims of employer and generally increased job insecurity. These changes were brought about by government desire to give investors incentives, attract foreign investment and be able to compete globally for investment.

Further, decades of economic degradation witnessed in Kenya since independence in 1963, have depressed labour conditions, and not just at the EPZ but also virtually in all sectors of the country’s economy causing the decline witnessed in most productive economic sectors (United Nations, 2004). Additionally, the labour market in Kenya has remained weak, with efforts being focused on strengthening the incentives given to investors. The Kenya government has since independence given guidelines on minimum wages payable for various sectors in what are seen as the lower cadre or disadvantaged groups of workers. Kenya Human Right Commission (2004) argues that the stipulation of minimum wage as the guideline means workers have few alternatives to demand higher wages or living wages from their employer. They are caught in a “take or leave it” kind of situation which is complicated by the high levels of unemployment and consequent lack of choice. The minimum wages fixed by the government are not necessarily living wages and the same do not necessarily reflect performance of the individual employee. However, many employers are comfortable paying the same. Due to the poor performing economy the poverty levels are high and in reality the workers are made to persevere and submit to increasing poor working conditions, knowing very well from constant reminders by employers that there are many out there who are willing to take up their positions. The fear of loss of employment in these harsh economic conditions has led to a culture of silence among workers.

The other problem with EPZ is the government policies that focus more on the investors. The government has pursued these policies in an attempt to improve the Kenyan economy as well as provide employment to the unemployed masses.
Workers at the EPZ have complained that the government focuses too much on the investors and not enough on the workers. On the other hand the investors contend that Kenya’s high cost of electricity, expensive freight and dilapidated infrastructure are to blame for the increased production cost, which have in turn lead to depressed wages (Daily Nation 21/2/03). And though the EPZ were established to benefit the country through technology transfers this has not necessarily been the case. Successful technology transfer would mean increased competition from indigenous firms, and therefore not in the interest of EPZ firms. Consequently, unskilled workers may work at the EPZ and leave at the end of their contracts without having acquired any reasonable skills worth talking about. The Kenyan government on the other hand has not enforced this requirement.

Trade unions at the EPZ in Kenya operate under a number of statutes among them the Trade Unions Act, Trade Disputes Act, the Employment Act, the EPZ Act, Workers Compensation Act among other. The current legal framework that regulates the activities of trade unions allows government to interfere with activities of trade unions. This means that the government can and has interfered with trade union activities but still remain within the law.

For example the Trade Unions Act Cap.233 requires all trade Unions to be registered and subsequently empowers the Registrar of Trade Unions to cancel or suspend registration of a trade union or place it on probation (section 11). These powers have no checks in the strict sense and if they are exercised whimsically they can amount to violation of section 80 of the Constitution. The government is under an obligation to provide a conducive operating environment to ensure that workers and employers can freely exercise this right to form, join and belong to trade unions (file://freedom of association). The Kenya constitution does not make the right to associate subject to the approval of any officer or institution, yet the Trade Unions Act, subjects the right to the approval of the registrar of trade unions. Its important to note that the provisions of any law
that contravenes the Constitution are null and void to the extent of the
contradiction, yet the Registrar of trade unions has exercised these powers
bestowed on the office by the Trade Unions Act.

Under the law, once an employer recognizes a Trade Union, it becomes a bona
fide representative of the workers. Recognition is effected by way of a
recognition agreement under the Trade Disputes Act. The recognition agreement
should be in writing in order to delineate the, the Trade Union relies on the
employer to deduct and remit union dues. Unless the employer agrees to deduct
union dues the union activities may be prejudiced. The Trade Union cannot
operate without financial support from members and the willingness of the
employer to deduct and remit union dues may make the difference between the
success of a trade union or otherwise.

The unionisation rate among EPZ women workers is low and traditional ways of
recruitment have proven to be in effective. Union leadership is dominated by
men who do not necessarily give attention to issues which, are important to
women. Male leaders tend to consider women issues in employment, such as
equal wages, maternity leave and child care secondary. As a result workers in
some EPZ have developed alternative forms of organization, which often have
virtually no connection with trade unions. With women making 70% of the labour
force in EPZ, this posse a major challenge to the labour movement, which has to
develop effective strategies to attract EPZ women workers but also serve their
interest (Rosa 1985).

The marginalization of labour is also reflected in the composition of EPZ in some
countries. Trade Unions are totally excluded and heavy dominance of business
interest signals the marginalization of labour in the process of establishing and
running EPZ. Cheap labour is seen as a major incentive.
1.3 (a) Statement of the Problem

Labour issues at the EPZ in Kenya have certain peculiarities that have distinguished them from those that characterise the other sectors of the Kenyan economy. Kenya Human Right Report (2002) states that the application of the Factories Act, Cap 514 was excluded from the EPZ by a Ministerial decree until 2003 when the decree was reversed. In addition, labour relations matters have been largely overlooked at Kenya's EPZ. In fact workers, were not allowed to join trade unions until 2003 though no law existed to expressly prohibit activities of trade unions.

Jauch (2002) contends that monitoring and enforcing national legislation regarding work conditions in EPZ is difficult. In cases where EPZ are located in exclusive and fenced areas, the physical demarcation, coupled with security guards and entry permit requirements are major obstacles for trade unions in their efforts to reach and organise workers. In Kenya, Regulation 15 of the EPZ Authority Act requires employers to furnish the Export Processing Zones Authority with the list of employees and changes arising periodically. The employees are also to be provided with identification cards bearing a photograph to enable them enter and leave the zones. Any other person is required to be given temporary entry and exit passes at the discretion of the developer or EPZ operator. This principle locks out the zones to outsiders such as trade unions, factory and labour inspectors.

In addition, the extreme competition for foreign investment between EPZ host countries, their willingness in the process to compromise workers rights and conditions of work pose a threat to established achievements and continuing operation of trade unions.
An ICTFU Report (2003) observes that in all countries, national laws and regulations relating to safety and health at the work place apply to all establishments regardless of where they are located. However, in the recent past, there has been a worrisome spate of accidents, two of the most spectacular, which occurred in China and Thailand. A number of export firms in EPZ worldwide including a few large factories, have been found to have poor lighting and ventilation as well as inadequate first aid facilities. Lack of adequate sanitation facilities is another problem. These facilities tend to remain the same despite the growing workforce.

Despite all these anomalies, no research has been done on the response of trade unions to challenges posed by conditions of work at EPZ. It is important to conduct a study to find out how Trade Unions have responded to challenges posed by the unique conditions prevailing at the EPZ in Kenya. Extensive research done in the relevant literature did not reveal any other similar study.

(b) Research Question

1. What are the conditions of work at EPZ in Kenya?
2. What are the responses of Trade Unions to the challenges posed by conditions of work at EPZ in Kenya?

(c) Research Objectives

The objectives of the study are:-

1. To establish the prevailing conditions of work and the challenges these conditions pose to trade unions at EPZ in Kenya;
2. To establish Trade Unions’ response to challenges posed by conditions of work at EPZ in Kenya.
(d) Importance of Study

(i) The study will be important for the government, which is the policy maker in identifying areas that may require policy change and legislation.

(ii) It will also be important to both the employees and the Trade Unions in establishing areas that need improvement to serve the interests of the workers better.

(iii) It will also be important for people who may want to undertake further research in the area.
CHAPTER 2: LITERATURE REVIEW

The activities of Trade Unions in Kenya are affected by many factors both internal and external. These factors include national and international laws and policies of countries of origin where the corporations operating in the EPZ come from. The Trade Unions have to adapt to the rapid changing global environment and well as articulate members' interest, in the face of challenges posed by national, international law and global human resources policies. The trade unions also have to manage challenges posed by the effects of globalization and liberalization of the economies.

2.1.1 The Role Played by Trade Unions

(ILO report 1998) states that Trade Unions, which for much of the time were involved in struggle for independence in a number of countries face significant interference's from governments and even in some cases outright control. Trade Unions played a key role in many countries in the move towards democratisation. Although some governments have made new efforts to assert control over the trade union movement in their countries, trade unions remain the most organised and democratic bodies in Africa. At the sixteenth world congress of ICFTU, the Secretary General in discussing the role of trade unions in Africa said that, an examination of national economics on this troubled continent would conclude that involvement of trade unions and respect for their rights is essential for any economic and social development. In-fact Africa presents an example of trade unionism at its very best. A good example is the role played by South African Trade Union movement in the struggle against apartheid. It was the unions and their members who played a key role in bringing down the apartheid regime.

However, with globalisation and liberalised economies, the role of trade unions is changing. The (ILO Report 2002) says that in today's world of individual employment contracts, performance related pay schemes, human resource and
total quality management and all other ingredients of the so called “new workplace”, it is argued, trade unions no longer serve useful purpose. But Armstrong M & Murlis H (1991) do not agree with this. They argue that trade unions exist because an individual worker has very little power to influence decisions that are made about his or her job. The greatest advantage in joining a trade union is because, by doing so, an individual possesses more chances of having a voice and influence in their place of work. By joining forces with other workers, an individual’s opinions and beliefs regarding their job will also be voiced by other union members, thus creating a stronger stance against management, if needed.

Begg D (1987) says that, the main purpose of a trade union is to improve and protect members’ pay and conditions of employment. He further says that this is achieved through negotiations and representation. Negotiation is where union representatives discuss with management issues affecting people working in an organisation. The union finds out the members views and relays those views to management. Pay, working hours, holidays and changes to working practices are the sort of issues that are negotiated.

Layard R, (1993) says that people who work in organisations where unions are recognised are better paid and are less likely to be made redundant than people who work in organisations where unions are not recognised. Additionally, if an employee feels that they are being unfairly treated he or she can ask the union representative to help sort out the difficulty with the manager or employer. Apart from negotiating and representation, many other benefits can be gained by joining a trade union. One of these benefits is the fact that unions can offer their members legal representation in the event of a contentious dispute. Members also take full advantage of the wealth of information which can be obtained from Unions, of which can prove invaluable (Morris M, 1996).
2.1.2 Challenges facing trade unions at EPZ

Globalisation

Globalisation is the creation of shareholder value worldwide though differentiation and competitive advantage. R. Wayne Mondy, Noe & Premeaux, Brown (1993) says that global refers to something that pertains or embraces the whole group of items or that is comprehensive and total or involves the whole world. This is a good definition when starting to explore theoretically “globalization” that is those processes that integrate the world into one comprehensive system.

De Silva (2000) says globalization means that trade unions in one country cannot deal with their problem in isolation from problems workers face elsewhere. Further, local problems need to be understood within a global context. The source of trade union strength today relies not only on being well organized at local level, it also relies on building links and solidarity with counterpart trade unions in other countries. Workers and trade unions need to share information and ideas. In this way, effective strategies can be formulated to build strategies at both local and international levels.

In the context of globalisation, the focus of Human Resource Management is rapidly changing. This is because managers have to become International Human Resources Managers who have to look beyond their continents. International human resource management is quickly becoming a management challenge of intercontinental proportions. Not only does one need to have knowledge on Human Resource Management but also need a world of knowledge beyond that literally.

Taylor (1996) argues that few Trade Unions have managed so far to come to terms with the new world of globalisation but if they have to survive and grow, they have to change. But this should not mean trade unions have to abandon their core values that seek to protect and improve employee’s rights. On the
contrary, the need for Trans-national industrial relations requires Trade Unions to reassert their primary objectives in modern languages resonate in flexible labour markets and work places. But in order to ensure Freedom of Association and the Right to Collective Bargaining trade unions need to remain defiantly independent from control of state and employers.

**Trans National Corporations**

(Sue Dwind 1997) says that while commodities are traded among national corporations, actually more that two thirds of this trade is conducted by Trans-National Corporations (TNC). And a third of world trade is intra TNC where national considerations, labour rights and controls become inconsequential and in many cases national interests are actually violated through transfer of pricing and other profiteering.

As TNC’s spread their activities across more and more countries, global labour rights become increasingly important. In 1998 the ILO adopted the “Declaration of fundamental principles and rights at work.” The adoption marked the renewed commitment by member states to respect, promote and realise principles such as the Freedom of Association, the Right to Collective Bargaining, elimination of all forms of forced labour, abolition of child labour and elimination of discrimination in employment and occupation. International labour relations however remain weak instruments in the struggle for global labour rights and existence of Trade Unions has not helped as many countries do not enforce the principles even after they have ratified the conventions in question (Choice 1999).

TNC force government to look the other way when it comes to enforcing labour rights with the threat of pulling out. Tujan, (1997). argues TNC have greater room for manoeuvre since technological revolution has resulted in even cheaper cost of transportation and communication. This has paved way for the explosion of Trans-national corporations, and relocation of whole plant to the third world and the former Soviet Union block countries, which mean more profits from
cheaper operations and labour costs. This is essentially a question TNC business activities in the context of increasing globalisation.

(Gonzalez 1998) argues that liberalisation and deregulation have opened up more and more sections of national economies for TNC reprocessing plant and relocated industries. These zones allows TNC greater flexibility in production and sales besides taking advantage of severely depressed wages in third world economies that have been hobbled by neo-colonial crisis. Neo-liberal policies of globalisation and TNC activities have ensured cheaper labour costs and resulted in graver labour conditions of work and ineffective trade unions in third world countries. Workers have no job security, nor benefits under various schemes. These schemes not only ensure flexibility for business activities but also make sure workers who are paid way below the prescribed minimum wage cannot form trade unions nor enjoy benefits mandated by law or otherwise gained through collective bargaining.

Though TNCs have a strategy for spreading their activities to various countries, trade unions have no strategy and resources to deal with cross border labour issues. For the most part, cross border co-operation between trade unions has proved difficult and usually fragile. Too often workers have remained divided among themselves by economic self-interest, language, national culture and tradition. It has proved hard for them to reach any common accord of specific strategies. Because of this, TNC have played one group of workers in one country against workers elsewhere over wage and working conditions (Robert Taylor 1999). The TNC and globalisation have led to the emergence and growth of export processing zones (EPZ) in many countries.

**Growth of EPZ**

(Gonzalez, 1998) EPZ have become a major feature of labour market in developing countries. With globalisation the rate at which zones are being formed is accelerating. While EPZ have been an important source of employment creation, in particular for women, marketing conditions, labour relations and
human resource development are areas that require improvement. The legal restriction on trade union rights in a few EPZ operating countries, the lack of enforcement of labour legislation, the absence of workers representation and of effective structures of labour management relations and the shortage of human resource development programmes in a number of countries undermine the ability of the zones to upgrade the skills and improve working conditions.

An ILO report (1998) says, EPZ are undoubtedly huge employment generators particularly for women in developing countries. However, many are still hampered by the reputation for low wages, poor working conditions and underdeveloped labour relations systems. While the combination of direct manufacturing, investment, employment and technology transfer can provide an important boost up the development ladder, the evidence this far points to pervasive absence of meaningful images between EPZ and the domestic economies of most of the host countries.

At an ILO meeting in Geneva in 1999 delegates representing governments of 10 countries urged that the restriction on trade unions rights in some EPZ operating countries be ended. They observed that the absence of workers organisations, representation, effective structures for labour management relations and shortage of human resources development programmes in some countries, stall upgrading of skills, working conditions and productivity of workers. Delegates also called for compliance with international labour legislation and respect for national labour standards by governments, employers and workers organisation in EPZ.

Gonzele N (1998) says that wages, working conditions (including safety and health) and labour relations are the areas which have been most criticised about the situations of workers in EPZ. With exception of labour relations, where certain countries have adopted laws that have helped create some of the difficulties reported, for most parts, the problems in EPZ stem from undesirable practices on
the part of certain employers and failure of a number of governments to sanction those practices.

The EPZ's in Kenya are not different in terms of labour relations and working conditions. (Kerstyn McCourt 2003) says, as you enter Kenya's EPZ, you enter no man's land, a tax free zone where over 90% of the finished products are directly exported. Every day tens of thousands of Kenyan workers, over 70% of whom are women clock in and out. Even more queue up, on the off-chances of being given work. Under the EPZ Authority Act, the EPZ were established to attract foreign investment, create jobs and diversify exports. However, many argue that this goal has been pursued to the detriment of Kenyan workers, as investments have not been translated into real improvement for workers and communities. To the contrary there is coordinated evidence that basic labour rights are being abused and low wages and long hours are contributing to a continuous and increasing cycle of poverty.

(Kenya Human Rights Commission 2004) Reported that EPZ factories seek workforce that will produce optimal results and this explains the zones preference for young unattached, poor and illiterate women who will not only easily give in to work based exploitation but also accept low pay without undue fuss. Any attempt at unionisation of the workforce is resisted and blocked using all manner of tactics including but not limited to denial of the right to reasonable access to trade unions, harassment, intimidation and termination of services of workers who attempt to organise to unionise. The commission further argues that the government must not only change its "hands off" approach to the sector but also amend laws that give employers unfettered discretion in determining redundancy and allow wrongful dismissal to take place without commensurate compensation to the affected workers.

It is also worth mentioning that the Factories Act Cap 514 of the Laws of Kenya has for a long time been exempted from application in the EPZ via a Kenya
Gazette notice, which was reversed in May 2003. The import of the exemption was that inspectors inspecting factories and other places of work pursuant to the provisions of the Act were not allowed to inspect EPZ factories. The situation has been made worsened by the nature of EPZ operation, which restricts entry by outsiders. This allowed employers to violate labour laws with impunity including restricting activities of trade unions.

At one time Kenya witnessed an upsurge of strikes is 2002 – 2003. The industrial disputes at the time coincided with events in the political front that saw many Kenyans demanding and/or expecting change in various spheres of life, including a move from established repressive labour patterns and untenable conditions of work. Strikes engulfed the EPZ in Nairobi and Athi River. Faced with loss of investment as orders were cancelled and threats to relocate to more favourable environments, the government chose to overlook the workers grievances in favour of investors demands that costs be kept down. The minister for trade described the strikes as barbaric and acts of hooliganism and police were called in to disperse demonstrating workers. COTU also distanced itself from strikes because the unions in the EPZ had at the time not been legally recognised by factories. (IRIN Report 2004).

Kenya Human Rights Commission (2004) says that the effect of World Bank and IMF Structural Adjustment is obvious in Kenya. Liberalization and deregulation has resulted in the creation of big pool of cheap exploitable labour, consequently the Kenyan workers are caught up in “a take it or leave it” kind of situation. Additionally the workers are condemned to low skill repetitive jobs and without alternative employment they are forced to put up with the conditions at EPZ.
National Politics and legislative framework

Silva (1998) says that in India for example the presence of Trade Union leaders in Parliament had profound influence on post independence government's attitude towards trade unions. He argues that the presence of trade union leaders in the Indian Parliament shaped the Industrial relations system in that country because the leaders were educated, democratic and sought the support of the working population. Representation of trade unions in Parliament enabled unions to push for labour protection through legislation (in India).

In Kenya, the government determination of the economic direction of the country was a crucial factor in shaping the industrial relation system that emerged. A direct consequence of this was the emergence of the government as the largest employer. The government, like any other employer wished to influence the type of industrial relations Institutions that emerged, OED Onedo (1976).

A further challenge is that the Kenya economy is largely agriculture based and therefore the working class has been small. This had adverse effect on potential membership of unions and their capacity to bargain with employers on equal terms.

In addition to the above challenges, political interference and intimidation has been a feature of the Kenya industrial relation system. The activities of trade unions have occasionally attracted the attention of the political establishment. For example the Daily Nation of 28th September, 1990 reported the former President Moi, criticizing the then Kenya National Union of Teachers (KNUT) Secretary General, Mr. Ambrose Adongo. KNUT had issued a 21-day strike (as required under the law) notice to the employer for non-implementation of a teacher's scheme of service. The President announced point blank that he would not enforce the scheme of service unless Mr. Adongo and KNUT secretariat apologised to him personally. He ordered the arrest of Mr. Adongo. KNUT called off the strike and apologised to the President personally. Bearing in
mind that the President is the head of government and the Teachers Service Commission (TSC) (the teachers’ employer is a department of the Government), such a statement by the former President amounted to intimidation and interference, and blatant breach of the law.

At times there has been no clear difference between trade union leadership and the political leadership. Trade union officials have at times doubled as politicians and vis-versa and this has tended to be prejudicial to trade unionism. A case in point is one time secretary general of COTU, Mr. Mugalla who also doubled as a Member of Parliament. In such a scenario it would be futile to expect Mr. Mugalla to bargain with government, which he is an integral part of to enter into fair reaching collective bargaining agreement in favour of workers (file://A:/A:.htm).

Ghai and McAuslan (1970) argue that “theoretically, the legal status of the Central Organisation of Trade Unions (COTU) is that of an independently registered trade union federation but actions of the government have appeared at times to assume it is an adjunct to the administration. The trade unions activities in Kenya, have therefore not been clearly divorced from the politics of the day.

The other aspect that has affected Industrial Relation system in Kenya was the presence of an authoritarian government, which ensured that unions did not indulge in “political activities”. The Unions were controlled so as to prevent them from emerging as a force in opposition to the government. An example is when the University Academic Staff Union (UASU) sought registration in 1995. The registration was denied on the ground that one of its objectives was to address political issues affecting the University employees instead of pursuing employment related issues. The government had an inherent fear that the union once registered would be a force to reckon with and therefore suppressed it by denying it registration.
The core of industrial relations in market economies is the ability of management and unions to negotiate terms and conditions of employment relatively free of state control or intervention. In Kenya, this freedom has been relatively less with the State exercising control through the Minister responsible for Labour and the Industrial court (section 11 of the Trade Disputes Act). This influence by government in industrial relation has been prompted by the States involvement in business and the fact that the State is the single largest employer.

The law also allows the state to interfere with trade union activities. The law for example allows the Registrar of Trade Unions to deregister Trade Unions. Ghai YP and McAuslan (1970) argue that the practice of de-registration of trade unions is not novel in Kenya industrial landscape. It dates back to immediately after independence in 1965 just before the formation of Central Organization of Trade Unions (COTU) when the then President Kenyatta, ordered for the de-registration of Kenya Federation of Labour (KFL) and Kenya African Workers Congress (KAWC). In the 1980’s there was a proscription of the Civil Servants union. The state as an employer believed that civil servants should observe political neutrality and once given an opportunity to form a trade union, they may go overboard and involve themselves in politics.

The law also interferes with collective bargaining a critical function of trade unions. The legal principal governing agreements is that the parties agree among themselves on the terms of agreement. The role of courts or any quasi-judicial tribunals is to enforce the intention of the parties. However, a collective agreement under the Trade Disputes Act is not per se enforceable unless the following are fulfilled.

(a) It must be in writing;

(b) A copy must be tendered to the minister for labour within 14 days of execution. The minister upon receipt of such a copy examines it and furnishes the industrial court with a copy thereof. He is at liberty to furnish
the Industrial Court with comments in relation to the agreement that he deems necessary.

(c) The collective bargaining agreement must be registered with the industrial court. Registration of the agreement by the industrial court is not automatic. Upon receipt of the same, the Industrial Court may:-

(i) Register it;
(ii) Accept it for registration with such amendments and modification, as it may be desirable subject to the consent of the parties;
(iii) Refuse to register it and refer it back to the parties for further discussion.

The minister is endowed with sweeping powers in relation to the registration of the collective bargaining agreement. No criteria is set out to evaluate instances when the minister may object to the registration of collective bargaining agreement (Section 11 of the Trade Disputes Act).

The possibility of a collective bargaining agreement concluded at collective bargaining being amended or modified by the Industrial Court or its registration being objected to by the minister for labour acts as a disincentive to the parties in collective bargaining.

The employment relationship is basically on agreement between the parties. If the parties have negotiated during collective bargaining and have come to a compromise as to the nature and form of a collective agreement, there should be no interference and implementation should be automatic.

Further, in practice the right to strike is so severely restricted under the Kenyan law that it is almost non-existent. This renders the right to organize a mere paper right thereby reducing trade unions into passive, toothless welfare associations – (Section 24 of the Trade Disputes Act). The Minister for the time being
responsible for labour has been empowered by the Act to declare any strike illegal. Despite the clear criteria laid down by Section 28 of the Act, which sets out circumstances that can justify a declaration to the effect that a strike is illegal, Kenyan Ministers for labour, have used this power arbitrary to suppress trade unionism. A case in point is the 1989, statement of the then Minister for Labour Mr. Peter Okondo reacting to a strike staged by 200 unionized workers in Mombasa Municipal Council declared the strike illegal (The East African Standard of 5th January 1989.)

Additionally all employees intending to go on strike to enforce their rights have to give 21 days strike notice. The government through the Minister for Labour has made it almost the norm to declare every intended strike illegal after the notice is given. Strikes have been restricted in Kenya to a level where the right only exists on paper. In 1999, Minister for Labour declared a strike by Kenya Union and Commercial Food and Allied Workers (KUCFAW) illegal (Daily Nation, 4th March 1999). The Minister for Labour declared in 2003, strikes by University Lecturers and EPZ workers illegal. These are not isolated cases.

The amendment in the labour laws following the IMF and World Bank recommendation circumvented the requirement of Union involvement in the redundancy of workers and related safeguards and procedures. This amendment introduced the concept of retrenchment and gave employee’s exclusive, unequivocal and unfettered power to hire and fire workers.

**Human Resources Practices**

Trade union activities are affected by Human Resources Practices. The general trend worldwide has been a general shift from personnel management to human resources management. Human Resource management emerged from personnel management, which in Britain, developed from the activities of 'industrial welfare workers' in the last half of the nineteenth century.
the history of HRM however, a single common factor has been paramount - namely the needs of people at work (HT Graham & Roger Bennet 1998).

Personnel management is an important element of the broader subject of human resource management although in practice the two terms are frequently interchangeable used.

Personnel management is practical, utilitarian and instrumental, and mostly concerned with administration and implementation of policies. Human Resource management, conversely has strategic dimensions and involves total deployment of human resources within the firm (Roger & Graham). Due to this shift the role of industrial relations is subsequently affected.

With the shift from Personnel Management to Human Resource Management there are two concerns here:-

- In what way does HRM pose a challenge to industrial relations;
- How can the conflict be reconciled so that they can complement each other.

De Silva (1998) argues that industrial relations is essentially pluralistic in outlook, in that it covers not only the relations between employer and employee (the individual relations but also the relations between employer and unions and between them and the State (collective relations). Industrial relations theory, practice and institutions traditionally focus more on collective aspect of relations. This is evident from the central place occupied by labour law, freedom of association, collective bargaining, the right to strike, employee involvement practices which involve trade unions, trade unionism etc. HRM deals with management of human resources rather than with the management of collective relations. There is of course a certain measure of overlap. Individual grievance handling falls within the ambit of both disciplines, but dispute settlement of collective issues more properly falls within the scope of industrial relations. On
the other hand industrial relations has a large component of rules that govern employment relationship. These rules may be prescribed by the state through laws, by courts or tribunals, or through a bipartite process such as collective bargaining. HRM differs in this respect from industrial relations in the sense that it does not deal with such procedures and rules but with the best way to use human resource through for example proper selection and recruitment, induction, appraisal, training and development, motivation, leadership and intrinsic and extrinsic rewards (S.R. de Silva 2002).

A discernible trend in Human Resource Management is a greater individualism of the employer - employee relationship, implying less emphasis on collective and more emphasis on individual relations. In industrial relations the central monetary reward is wages and salaries, one of its central themes (given effect to by collective bargaining) being internal equity and distributive justice and often standardization across industry. HRM increasingly places emphasis on monetary rewards linked to performance and skills through development of performance and skill based on pay system, some of which seek to individualize monetary rewards, (Karen Legge).

The trend towards greater decentralization of collective bargaining has compelled viewing issues more from work place perspective. It has provided an opportunity for unions in countries with high rate of unionization to be involved in issues other than wages and related ones such as technology introduction, new work process and organization. It involves on one hand, the willingness of employers to deal with unions on such matters, and on the other the willingness of unions to cooperate on legitimate measures to achieve competitiveness, especially where employees themselves are willing to do so, and adapt to the realities of the workplace (Guest .E)

Another challenge emanates from employee loyalty and commitment, which are central objectives of HRM. The issue here is whether dual alliance is possible
i.e. commitment to the goals and values of the organization and contribute to its success on the one hand, and commitment to the trade unions on the other. Much of empirical evidence drawn from the USA indicates that in work place with cooperative industrial relations system dual loyalty is possible, but that is not possible where a cooperative climate is absent or minimal (H.L Angle and J.L. Penny 1986).

Traditional industrial relations and trade unionism can be challenged in other ways - that is other than anti-union activity. Downsizing the labour force as HRM initiative to achieve competitiveness and offering monetary incentives to employees to improve productivity could create tension, especially where the union has not been involved in the process. A similar result may occur when an employer, without seeking to dismantle existing industrial relations practices, establishes other mechanisms and practices such as direct communication and consultation systems, small group activities, employee share option schemes etc without involving the union.

(F. Foulkes 1980) notes almost all companies he studied, HRM polices came first. Often encouraged by values of a powerful Chief Executive Officer preceding any considered non-unionism. In many cases, remaining non-union organization has subsequently become a policy goal. On the basis of the companies he studied, this has a number of cost implications. Personnel policies must be sufficiently good and sufficiently integrated and reinforced by the management practice to avoid giving grounds for union organizing. He found that most of the companies paid above average rates. They provide mechanism for individual expression of grievances and monitored reaction to personnel policies though the communication system and use attitude surveys. All these practices are found in a company like IBM, which provides the best model of HRM and reduced the effectiveness of trade unions.
In Kenya Trade Unions are based on industry and are not organized on the basis of closed shop. This means that professional or sectors, which are not members of the trade unions, do derive benefits of collective bargaining. Oketch Owiti (1990) calls those persons who enjoy the benefits of collective bargaining but are not members 'joy riders'. They ride on the joys but do not join the union to fight them. Practically, this is unfair and could in one way or another discourages trade unionism. If a person can get benefits without being a member, joining, participating, contribution of union dues and supporting trade unions defeats its purpose. This gives a raw deal to persons who have subscribed their union dues and have tendered their support to their trade unions in one way or another.

**Conclusion**

In the literature review the researcher identified information gap, which the researcher will attempt to research on. It's noteworthy that though the Export Processing Zones have been operating in Kenya for a number of years now, the nature of their set up restricts access to outsiders. Therefore there has been no free flow of information from the zones to the outsiders or research done due to these restrictions. Therefore, there is no data or information that is readily available on conditions of work at the Kenya EPZ.

In addition to the above the provisions of the Factories Act Cap 514 had been suspended from operation at the EPZ until 2003. Therefore the Factory Inspectors had no access to the EPZ premises for inspection. Therefore, this limited the availability of information on conditions of work within the zones and it is an area worth researching on. Further, as stated earlier workers at the zones were not allowed to freely join trade unions like in many other countries. However, following widespread strikes in Athol River and Nairobi in 2003, workers at the Kenya EPZ were allowed to join trade unions. This therefore means whereas one could not talk about operations of trade unions three years ago, it is now possible to research on trade union operations and trade unions response to challenges posed by conditions of work. Data that was not available
earlier is available now. The above areas form the core of the researchers area of study.

3.1.1 Introduction

This chapter will deal with the approach to be used to meet the objectives of the study. It is divided into research design, population of the study, data collection techniques, sample size and sampling techniques and data analysis techniques.

3.1.2 Research Design

The study will be conducted through a survey through the administration of a questionnaire.

3.1.3 Population of the study

The population of the study will comprise firms operating within the EPZ in Nairobi and Athi River. These organizations are 24 out of which 10 have trade union representation (Source: Investment Promotion Services). The researcher will collect data from the ten (10) firms that have trade union representation.

3.1.4 Sample

The sample will be chosen through random sampling technique. Out of the 10 firms targeted for data collection, the researcher will interview five (5) respondents from each firm consisting of one trade union official and four workers. Thus the sample size will be 50 respondents. The workers will be chosen at random while the trade union official will be a representative of the union. Authority to interview the workers will be sought from the management of each firm.
CHAPTER 3: RESEARCH METHODOLOGY

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3.1.5 Data Collection

The researcher will use a questionnaire, which contains both open ended and close-ended questions to collect primary data. The questionnaire will be divided into four (4) sections. Section 1 will seek to capture biographical data; sections 2, 3, and 4 will capture data on conditions of work at the EPZ, challenges facing trade unions and how the unions have responded to the identified challenges. The data will be collected through interview where the researcher will interview trade union officials and workers using the questionnaire as a guide. Interview has been chosen as the technique of collecting the data because the level of education attained by most workers at EPZ is likely to be low and thus the workers may be unable to complete the questionnaire properly if they are not guided.

3.1.6 Data analysis

Before processing the data, the completed questionnaire will be edited for completeness and consistency. The data will be coded to enable the responses to be grouped into categories. The Researcher will use data analysis tools such as percentages and appropriate measures of central tendency. Data will be presented using tables, graphs and bar charts.
CHAPTER 4

4.1.1 Analysis and findings

A sample of 50 respondents was initially targeted for interview. However only 46 people were successfully interviewed. 24 of those interviewed representing 53% were located in Nairobi and 22 representing 47% were located in Athi River. The study established that the work experience varied from less than 1 year to 8 years. The complete distribution was as shown in figure 4.1.1 below:

- Less than 1 year - 10.8%
- Between 1 year & 3 years - 19.3%
- Between 4-6 years - 18.9%
- Over six years – 8 years - 51.1%
On status of employment the study revealed that 26% of those interviewed were permanent employees while 74% were engaged on contract/casual as shown in figure 4.1.2.
4.2.1 Conditions of Work at EPZ in Kenya

The study sought to establish conditions of work at the EPZ and challenges they present to Trade Unions representing the sector. It further sought to find out the specific ways in which the trade unions have responded to the said challenges.

The findings are presented below:

The researcher found that salaries/wages are generally paid monthly: The salaries range from Ksh. 4000 per month to about Ksh.10,000.00 per month. The details are as follows:

The salary distribution is given in table 4.2.1 below:

<table>
<thead>
<tr>
<th>Salary Range</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 4000</td>
<td>.2%</td>
</tr>
<tr>
<td>4001-6000</td>
<td>84.1%</td>
</tr>
<tr>
<td>6001-8000</td>
<td>13.6%</td>
</tr>
<tr>
<td>8001-10,000</td>
<td>2.2%</td>
</tr>
</tbody>
</table>

Table 4.2.1: Distribution of comments on salaries

- Very good 4.3%
- Good 14.9%
- Poor 93.5%
- Very poor 17.3%
The respondents felt that the wages/salaries at the EPZ are low and do not reflect their performance. 78.5% also felt that the employer arbitrarily determines the wages/salaries without following any kind of guidelines and that if any guidelines exist, the same have never been disclosed to the employees. As shown in table 4.2.2 below 4.3% felt the salaries are very good, 14.9% felt the salaries are good, 63.5% said the salaries were poor and 17.3% said the salaries are very poor.

Table 4.2.2: Distribution of comments on salaries

<table>
<thead>
<tr>
<th>Comment</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Very good</td>
<td>4.3</td>
</tr>
<tr>
<td>Good</td>
<td>14.9</td>
</tr>
<tr>
<td>Poor</td>
<td>63.5</td>
</tr>
<tr>
<td>Very poor</td>
<td>17.3</td>
</tr>
</tbody>
</table>
Working hours were found to be another contentious issue within the zones. 28.5% of respondents said they worked for 8 hours per day, 11.2% observed that they worked for at least 10 hours per day, 20.4% said they worked for 12 hours and 39.9% said they worked for at least 14 hours per day.

The overall observation by those interviewed is that they are overworked. Thus 91.8% of the respondents said they are overworked while 8.1% felt they are not overworked.

Table 4.2.4: Distribution of responses on whether the employees are overworked.

<table>
<thead>
<tr>
<th>Response</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>91.9</td>
</tr>
<tr>
<td>No</td>
<td>8.1</td>
</tr>
</tbody>
</table>
One would expect employees to be compensated if they work beyond the 8 hours stipulated under the law. However, the study established that this was not the case at the EPZ. Of those interviewed, 97.8% said that more often than not they were expected to work overtime and only 2.2% said they were not expected to work overtime.

Figure 4.2.5: Responses on whether the workers are expected to work overtime.

However, only 38.3% said they are not paid overtime when they work beyond the 8 hours, while 61.8% said they were paid overtime.
Table 4.2.6: Comments on overtime pay

<table>
<thead>
<tr>
<th>Comment</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No overtime pay</td>
<td>39.2</td>
</tr>
<tr>
<td>Paid overtime</td>
<td>61.8</td>
</tr>
</tbody>
</table>

Despite the fact that the workers put in extra hours and effort, 95.7% felt that the employer showed no appreciation and treated overtime like any other working hour while 3.7% stated that their employer appreciated as shown in table 4.2.6 below:-

Table 4.2.7: Responses on appreciation of overtime by Employer

<table>
<thead>
<tr>
<th>Comment</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>3.7</td>
</tr>
<tr>
<td>No</td>
<td>96.3</td>
</tr>
</tbody>
</table>

Many workers reported that the employers introduced piece rate working system. They observed that there was no consultation when the system was introduced. 92.3% of them indicated that they were unhappy with the piece rate system while 7.7% said they preferred piece rate system.

The Respondents resented the piece rate system because they said that the wages/salaries were lower and the system was used by the employer to set targets that were unrealistic and difficult to achieve during working hours. Also with the introduction of the piece rate, the employer hiked the targets. Consequently, failure to achieve the set targets resulted in serious consequences. Sometimes the workers were locked inside cold and poorly ventilated factories over night with disastrous impact on their health. This was done to force them achieve their targets. Such overnight work was not considered as overtime and therefore not paid for at higher rate. In some
industries workers who fail to meet the set targets were dismissed without pay and ended up losing their benefits.

There was concern among workers that the work environment posed both short and long term health and safety risks to them. The Respondents said that they worked in congested factories with poor ventilation which, encouraged the spread of airborne diseases. 99% observed that the working environment posed a health and safety risks while 1% felt there was no health and safety risks posed by the working environment as shown in table 4.2.8 below:

Table 4.2.8: Environment and Health Risks

<table>
<thead>
<tr>
<th>Response</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>99.0</td>
</tr>
<tr>
<td>No</td>
<td>1</td>
</tr>
</tbody>
</table>

In fact some of the workers reported that they knew some former EPZ employees who were suffering poor health as a result of the poor working conditions they had been subjected to. Some respondents said that they were forced to work standing for long hours and sometime in cold rooms without protective clothing.

The other contentious issue on health and safety is the provision of protective clothing. As shown in table 4.2.9 below, 58.7% of those interviewed said that they were not provided with protective clothing even when they were exposed to poisonous chemicals such as dyes, paints etc. 7.3% indicated that although the protective clothing are provided, that their distribution is irregular, discriminatory and unpredictable. 34% of them said that the gloves and masks are occasionally provided. They further complained that the issuance of protective clothing was done in discriminative manner that favoured friends and close associates of supervisors.
60% of the respondents noted that many preventable accidents associated with operation of the machines occurred. They further stated that many workers are injured in the course of their duties. Many respondents opined that first aid facilities were not effective and were poorly equipped. In addition to the risk prone environment, out of the workers interviewed said most employers provide no medical cover for employees. 91% said the employers do not provide medical cover and only 9% of those interviewed have access to medical cover as shown in table 4.2.10. When workers are injured they mainly meet their own medical expenses and where the employers chose to pay the medical expenses, the payment is through reimbursement which, the workers said takes too long before they are reimbursed.
The other problem is that employers at EPZ do not grant workers sick leave. If a worker is away from work on account of a sickness, he/she is presumed to be absent from work and therefore not entitled to any pay. The other thorny issue is gender imbalance. Most workers at the EPZ are women, yet the women are in many instances paid less than men even where they perform similar tasks. The other issue related to gender, is sexual harassment. This includes but not limited to verbal abuse, biased language, demand for sexual favours by supervisors. 64.2% of those who were interviewed disclosed that cases of sexual harassment are rampant at the EPZ. The result of failure to give into sexual advances include dismissals, forced long working hours, transfer to perform unpopular task
or one is denied promotion or salary increment. This in itself is a violation of the workers rights.

The other aspect touching on gender is demonstrated when it comes to maternity leave for female employees. Just like sick leave, it's assumed that an employee who is away on maternity leave is absent from duty and therefore not entitled to any pay. The respondents said they were aware of cases of female workers being sacked when they became pregnant.

### 4.3.1 Trade Unions' response to challenges posed by conditions of work

Since the widespread strikes at EPZ in 2003, the Government requested EPZ operators to allow workers to join Trade Unions. The workers had downed their tools complaining of poor work conditions which included long working hours, low salaries and wages, lack of protective clothing, sexual harassment among others. There are two unions that have their presence at the EPZ are:-

(a) The Kenya Electrical Trade and Allied Workers union.

(b) Tailors and Textile Workers Union.

The researcher attempted to establish how the unions have responded to challenges posed by conditions of work. As set out above the same poor conditions of work that the workers complained about in 2003 still prevail. When asked whether the presence of Trade Unions had resulted in positive change in conditions of work at EPZ, 80.4% of the respondents said no and 19.6% felt that the unions had brought some positive improvement to conditions of work. 70% of respondents were of the view that the unions had done nothing to improve their conditions of work as shown in table 4.3.1.
On the other hand the Trade Unions officials who were interviewed disagreed with this observation. The officials contented that the observation by the employees is incorrect. Many workers said that the unions were dormant and this is manifested by the fact that there was no framework in place to educate the workers on their rights or even a forum under which the unions articulate to the workers their future plans. From the foregoing its clear workers are unimpressed with the dismal performance of the unions.

The union officials interviewed, however, felt that they have, despite numerous challenges, played their role. For example they contend that after the unions were allowed to operate within the zones, they have in place recognition agreements. This, to the union officials is a major step because the employers unlike before have recognized the unions as de facto representatives of the workers as required by the law. It also means that the employers have complied
agreements. This, to the union officials is a major step because the employers unlike before have recognized the unions as de facto representatives of the workers as required by the law. It also means that the employers have complied with the Government’s request to allow workers to be unionized. On the issue of salaries, the union officials contend that before the unions started operating at the EPZ, workers used to earn the equivalent of US$2 per day and this was raised through negotiations between the employer and the unions to US$3 per day plus 15% house allowance. The Unions officials contend that though the employers used to see the unions as enemies, this is changing and the employer is increasingly seeing unions as an essential player in the process and allows the union officials into the factories.

However, whereas the workers agree that the salaries went up, the workers attribute the increase in salaries to the workers strikes of 2003. The workers contend that since the introduction of the unions, there has been only “cosmetic improvement” of the working conditions. They felt that the failure by the unions to push for any meaningful changes, has been because the union officials are compromised by the employers and government to toe the line. The union officials on the other hand claim that they are continuously and actively negotiating with employers to address all the poor conditions of work complained of by workers as mentioned earlier in this chapter. Despite the efforts made by the unions they face various challenges in an effort to address the workers grievances as follows:-

Lack of resources

The union officials blame the workers for the weak financial position of the unions and for failure by some workers to join the unions. According to unions officials, at the end of the month, when workers see that money has been deducted from their salaries as union fees, the workers complain that they do not belong to any union. This means that the unions do not have adequate resources to manage
their affairs and strengthen union activities. Union officials however point out that they are making efforts to recruit members and educate EPZ workers on the importance of being unionized.

The unions however face a challenge in that many employees within the zones are casual/temporary employees and are therefore not eligible to join the unions. Employees who are on contract have their terms determined and may not appreciate the need to be unionized. The unions content that they have raised the matter with the employers but the situation is yet to be addressed. The union officials contend that the reason given by the factories in delaying the implementation is that the factories are not sure of their long term operations in Kenya. According to the union officials, over 7,000 workers were retrenched and 14 factories closed down between 2002-2005 as a result of competition from China whose market surged after the lifting of global textile quotas. This translated into the Unions losing members as well as revenue. The union officials, said that though they expect further job losses, they have been unable to do anything because the challenge arises from factors outside Kenya. The union officials, however, blame the Kenya Government for this trend. The officials contend that government has failed to come up with new incentives to retain the factories that are closing down and relocating to other regions. It must, however, be borne in mind that this is a challenge that faces nearly all EPZ host countries. Governments face pressures exerted on investment terms and other conditions in EPZ as countries underbid each other to attract foreign companies. This has become more pronounced with capacity and preparedness of EPZ companies to undertake rapid relocations from such zones to other locations offering more attractive terms. The tactic of playing countries off against one another has become a deliberate business strategy of EPZ companies. Consequently, when the workers said that the unions have done little or nothing to ensure there is job security, they are right.
The other challenge that was identified as facing the union is the effect of low wages/salaries. The effect of the low salaries/wages means that very few workers wish to join unions and pay membership fee. Many workers are yet to appreciate the connection of being unionized and better employment terms like higher wages. The union officials said that they are making efforts to educate members but this is hampered by the long working hours set by the employers that leave employees with very little time for education while they are at their places of work. The workers have very little time to listen to the Unions, yet the limited resources do not allow the unions to publish educational materials. In addition to the above lack of resources make it difficult to call a strike for two reasons:

(a) The workers live hand to mouth and have no money to sustain them during a sustained strike;

(b) The union has limited resources and will not be able to hold for long if the strike is prolonged since they will not get the members subscription during the period of the strike.

Lack of support

The Union officials attribute their failure to perform to the lack of support from the Government and The Central Organization of Trade Unions (COTU). The union officials felt that Government sides with the investors for fear that the factories will relocate resulting in further job loses. A good example that was cited is when the Minister for Trade and Industry, accused certain activists of inciting workers to make exaggerated allegation about abuses in EPZ in an effort to secure funding from international donors.

The unions also felt that they do not get sufficient support from COTU though they are its affiliates. On the Central Organization of Trade Unions (COTU) the officials felt that COTU has not given unions at the EPZ the necessary support. A good example which was cited by the union officials was the failure of COTU to
support the EPZ strikes of 2003. The officials felt that the whereas the factories are represented by their umbrella body, the Kenya Federation of Employers (FKE), that enables the employers to talk with one voice, the unions have failed to unite to fight for members rights.

However, some officials admit having attended a workshop organized by COTU at the Tom Mboya Labour College on 19-22 July 2004 on how to improve union operations at EPZ but admit that the implementation of the workshop’s recommendations has not gone far within the EPZ. The officials admit that they have not been able to get either the Government or COTU to support them. Though the union officials allege that the unions have raised the matter with COTU, the same COTU has not responded.

The officials also said that very few cases of sexual harassment are actually reported. The union officials also said that very few cases of sexual harassment are actually reported.

The other challenge the unions face is the inadequate legal framework. This has according to the findings of the research affected the unions performance in two areas:

1. Reported cases of sexual harassment.
2. Operations of the unions.

The union officials felt that the unions as currently set up are inadequate in addressing reported cases of sexual harassment. The officials felt that there is much to be desired, as far as women’s participation is concerned right from the composition of the negotiating teams that are predominantly men. Women at the EPZ consider union officials to be an exclusive a man’s affair. This is also attributed to the fact that more women are expected to work and bear the family burden. This being the case, the intended goal and spirit of collective bargaining cannot be fully achieved, as it lacks fair representation of women. The officials were of the view that the biggest challenge on sexual harassment was lack of clear legal provision and clear policy by Trade Unions on how to handle reported incidents. The unions saw hope in the proposed Sexual Offences Bill, 2006.
This will enable unions to formulate clauses that may be incorporated in the Collective Bargaining Agreements. The Unions' officials on their part said that they have tried to encourage women to participate in trade unions activities and elect women representative but this had not yielded the desired results. The union officials also said that very few cases of sexual harassment are actually officially reported to the unions. Most victims of sexual harassment suffer in silence. From the research it would appear that trade unions have done little to help victims of sexual harassment.

The officials were in agreement that their operations were hampered by lack of enabling legislation. The officials were of the opinion that the current employment law had overtones of colonial heritage of master-servant relationship. The law also has inconsistencies and many loopholes that require to be harmonized with International Labour Organisation Conventions. The Kenyan weak labour laws encourage the employers or the operators of the EPZ to avoid applying internationally recognized standards and best practice. The officials also acknowledged that the law governing Trade Union operations require major amendments. For example, the law (i.e The Trade Disputes Act, Cap 234) should be amended to:-

(a) curb excessive ministerial powers in respect of strikes and forwarding matters to the industrial court.
(b) Making the registration of trade unions more open and improving exercise of the freedom of association.
(c) Quick processing of industrial disputes, among others.

Sadly, the unions have not done anything to lobby or influence the necessary legal amendments they desired to see. Some of the officials see hope with the enactment of the proposed new Constitution.
CHAPTER 5

5.1.1 Discussions, Conclusion and Recommendation

Every Union has to constantly to keep up to date its organizational capabilities and strategies to meet the changing needs and aspirations of workers and the rapid changes in the labour market. There is no single model of success but some of the following key elements identified by the ICFTU's affiliates (ICFTU report during its 16th world congress provide a useful guide):

- Increasing the number of union members in establishments where unions are already organized and are recognized by the employer;
- Recruiting members in other subsidiaries or other subcontractors of an already organized employer;
- Retaining the membership of trade union workers;
- Improving union information services to members and potential members so that workers know more about the union and what it can achieve for them;
- Focusing union research services on finding out what workers expect from their jobs and what the union can do to help them achieve their goals;
- Talking to employees to explain the advantages union representation has for improving employee relations and the success of their business so as to correct myths about unions that have contributed to increasing managerial hostility to collective bargaining;
- Lobbying for improvement in the law and its enforcement to protect union members from discrimination, secure legal standing for unions and promote union representation and bargaining rights.
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- Lobbying for improvement in the law and its enforcement to protect union members from discrimination, secure legal standing for unions and promote union representation and bargaining rights.
Looking at the above-proposed guidelines for Trade Union success the research established that Trade unions at the EPZ in Kenya are weak in every aspect. This explains their failure to make any substantial gains for the three (3) years they have been operating at the EPZ in Kenya.

Historically, the labour movement arose due to the disparity between the power of employers and the powerless individual employees. Unions allow members to negotiate collectively with the employer over wages/salaries, working hours and other terms and conditions of employment. Where this is not a legal right, workers may typically threaten to take industrial action to pressure employers to negotiate.

From the research it has been established that Trade Unions at the EPZ have been having great difficulty with the above basic union obligations. Wages losing ground to inflation, retrenchment programmes, relocation of companies and untenable working conditions have all been subjects of what appears to be futile negotiations. The Unions at EPZ have, however, not called for a strike. They probably fear that the workers will lose their jobs as happened elsewhere. In a number of cases in Kenya, unable to get employers give an inch, unions have led members to the streets with disappointing results. The debacle suffered by Public University lecturers, paramedics in public health institutions, air controllers and employees in the export processing zones drive the point home. The failure by Trade Unions in EPZ to articulate members issues is therefore not peculiar to the zones. The problem plagues most Trade Unions in Kenya. Laws that protect the operations of trade unions and that allow them the right to call a strike when all other avenues for dispute settlement have not borne fruit.

Besides poor management and political meddling, most unions do not have sufficient resources to sustain themselves during strikes. Employers often withhold dues and use outstanding arrears as a bargaining chip against the unions. Indeed once a union calls a strike employers promptly stop remitting
subscriptions to it. On the other hand, many unionisable workers earn little and thus hardly have enough to live on during a sustained strike. This contrasts sharply with the scenario in developed countries, where workers are supported by stipends paid by unions during strikes. And since most unions and their members live hand to mouth, this becomes a major weakness to sustainable industrial action.

The other apparent weakness of unions at EPZ is the lack of a clear leadership structure. The unions operating at the EPZ are affiliated to COTU. Most trade unions that are affiliated to COTU appear to be worse off than the independent ones. For example, the Kenya Union of Teachers that is not affiliated to COTU has been able to push and have the terms and conditions of service for teachers improved. Unions officials interviewed felt that COTU cannot effectively help individual members because it has no structure that would facilitate it to be in touch with workers needs at the grass root level. In addition to this, the government has ensured that COTU as an umbrella body of all trade unions cannot call a national strike, and strikes can only be called by respective trade unions and this makes their leaders vulnerable and easy to corrupt and manipulate. Because of the fact that COTU cannot call a national strike the same way congress of South Africa Trade Unions would makes it behave like a quasi-ministerial body. This came out very clearly in 2003 when COTU disassociated itself from the strike called by EPZ workers. The fact that COTU cannot call a national strike on behalf of other individual unions is great a disservice to the workers plight and the trade union movement. In general the trade unions in Kenya lack great leadership, vision and direction.

COTU as the umbrella union has failed to come up with national pronouncements that would guide its affiliates as happens elsewhere on the continent. For example in South Africa, the Unions Federation (COSATU), opposes EPZ on the basis that they are not viable industrial strategy for South Africa. Following this broad declaration the Southern Africa Clothing and Textile
workers union (SACTWU) followed suit and objected to EPZ both on economic and social grounds. It questions the viability of EPZ that relies on subsidies and points out that EPZ result in poor working conditions for workers. The Zimbabwe Congress of Trade Unions put forward powerful arguments by pointing out that cheap labour production is no-longer a viable option at a time when new technologies require more skilled workers (Jauch 2002).

The strength and credibility of a union is founded on its ability to recruit and retain a significant proportion of a national, industry, or company workforce and through representation and organization, success in obtaining good pay and conditions of work from the employers and a strong framework of social protection from government. But the structure of industry, the structure of work, and the aspirations and attitudes of workers are changing. Unions have to modernize to keep up with these developments. This means changing the way they prepare for collective bargaining, encourage participation in union activities, communicate with their members and improve services to the members. It means more inter-union co-operation to organize the un-organized and looking for new levels of influence to supplement the more traditional roles of collective bargaining and lobbying. One of the key target groups at the EPZ is women. Though women are the majority workers in EPZ, the research revealed that unions are not recruiting and involving them in union activities at the scale they should. Ending discrimination at work is an essential step in making the principle of equal opportunity a reality. Concerns such as equal pay for equal value, sexual harassment, provision of child care and maternity leave are increasingly being treated as mainstream trade union issues.

The other key weakness, which has hampered the operations of trade unions at EPZ, is the lack of an enabling legal framework. The government of Kenya being the largest employer tamed trade unions in Kenya basically through legislation. For example, the government enacted the Trade Unions Act, (Cap 233 of the Laws of Kenya), which, while giving workers the right to go on strike, also
whittled down their rightful agitation by giving the Minister for Labour immense powers to declare any strike illegal. Other unsavoury statutes include The Workers Compensation Act, (Cap 236 of the Laws of Kenya) which, is tedious thus making it difficult for victims to get compensation.

The said statutes among others make going on strike unfavourable and costly in terms of time and energy spent. The employers, whether government or private sector, have always had the upper hand when it comes to workers welfare. Consequently, some employers have taken advantage of this imbalance to sack employees who go on strike whether the employees have genuine grievances or not.

In addition to the above, even though the essence of a strike is to force an intransigent employer to negotiate with the workers and arrive at an amicable solution, the problem might not be the ‘intransigent employer but the laborious procedure of calling the strike. Under the Trade Union Act, Cap 233, the workers must give a 21 day notice to the Minister of any impending strike. Yet a strike is a spontaneous action that needs to be effected within the time it is called if its to be effective. When delayed, the momentum fizzles out. At the EPZ, the workers have no job security and many fear to get involved in a strike lest they lose their jobs.

The other inherent weakness in the legal systems is the time taken by the industrial court to determine a pending dispute. The Kenya constitution provides for the right to association as well as an industrial court system. However, the court takes too long to hear and rule on the dispute. As if this is not bad enough, the law creates the industrial court as a quasi-judicial body. Though the Trade Disputes Act provides that the decisions of the industrial court are final, this has been successfully challenged. This means that an aggrieved party may appeal against the decision of the industrial court to the High Court of Kenya. This makes the time taken before a final decision is made even longer.
The other issue that limits the effectiveness of Trade Unions at EPZ is the “fluid nature” of their operations. In the last five years a number of EPZ outfits have closed down and relocated to other regions and countries. This means, if the operators are of the view that the labour practices are not friendly they will demand a change in those policies with a threat to relocate if the government does not yield to their request. Since it is so easy for the factories to relocate, which translates into loss of jobs, trade unions are not able to take hard line positions when negotiating. In addition to this, any factory that relocates translates to loss of Trade Union members thus weakening the unions.

The researchers recommendations are:

- That the union officials should be trained and educated on how to effectively manage trade union affairs. It is possible that the problem is arising from the fact Trade Union officials operating at EPZ do not have knowledge and skills to deal with the complex situation confronting them, specifically they most likely lack capacity to comprehend and apply the guidelines proposed by ICFTU affiliates. The Officials need to understand how they can become effective taking into account the dynamic world they operate in and the ever changing aspirations of the workers.
- There is need to improve the salaries and wages earned by employees at EPZ without over prizing Kenya in the global labour market.
- The structure of trade unions needs to be changed to make them effective.
- The unions at EPZ must strengthen their efforts to recruit women workers. Innovative methods of recruitment must be reinforced by organizational changes within unions to show women members that they are guaranteed the opportunity to participate in union activities and can be elected to serve as union representatives, and on policy making bodies and at the executive level.
The government needs to address length of time taken in finalising disputes by employing more judicial officers who can handle the disputes within the shortest time possible and upgrade the status of the Industrial Courts to make its decision final.

5.1.2 Limitations of the study

- The researcher was limited due to available resources to undertake the study. With sufficient resources the research should have interviewed workers at EPZ located in Mombasa.
- The time for the research was also a limiting factor.

5.1.3 Areas for further research.

- Further research may be conducted to establish whether the EPZ have achieved their intended objective by the government in respect of creating jobs and transfer of skills.
REFERENCES


Begg D (1987), Economics, 2nd edition, UK


Dave A. (2003), Responding to Globalisation – The Role of Workers Education, IFWEA website.


De Silva SR (2000), Human Resources Management Industrial Relations achieving management objectives, Bangkok International Labour Organization Publication

Foulkes F (1980), Personnel Policies In Large Non-union Companies, Prentice Hall, New Jersey Website.


Kersty M (2003), EPZ What are They, Choike Website.


Sue D (1997), The catch in Garment Production, ICFTU website

Taylor R (1994), The Future of the Trade Unions, TUC, UK.


Mburu Wendy (2003) Job Creation needs economic change and not EPZ, Nairobi Website.


ICTFU Publication Johanesburg.

ILO Publication Geneva.

of Labour markets, (Porto Portugal).

Companies in Nairobi Kenya.

Implementation of Strategic trade and Industrial Polices, International
Development Research Centre Publication, Nairobi.

Jauach H and D Keet (1996) Export Processing Zones in Southern Africa:
Social Political and Economic Implications,Environmental &urbanization

Rosta K. (1985) Organising women workers in free Trade Zones ILO
Publication, Sri Lanka,
APPENDIX 1: QUESTIONNAIRE

Section 1: Respondents background

Hallo, my name is ______________________________. We are conducting research on trade unions' response to challenges posed by conditions of work at the Export Processing Zones (EPZ) in Kenya. We would very much appreciate your participation in this research. Do you have any questions on the research before we begin?

May I begin the interview?
Respondent agrees to be interviewed; Respondent declines to be interviewed. END.

Tick where appropriate

1. What is the location of the EPZ where you work?
   - [ ] Nairobi
   - [ ] Athi River

2. How long have you been working with your current employer?
   - [ ] Less than a year
   - [ ] 1-3 years
   - [ ] 4-6 years
   - [ ] Over 6 years

3. What is your employment status?
   - [ ] Permanent and pension able
   - [ ] On contract
   - [ ] Casual worker
   - [ ] Any other specify ______________________________

4. What is your age bracket?
   - [ ] 18-25
   - [ ] 26-35
   - [ ] 36-45
   - [ ] above 45
5. Gender
   - Male
   - Female

6. What is the highest level of formal education that you have achieved?
   - Primary School level
   - Secondary school level
   - Post Primary vocational training
   - Middle college level/diploma
   - University degree

Section 2: Salaries and other benefits.

2.1. After how long are you paid your wages/salary?
   - Daily
   - Weekly
   - Monthly
   - Irregularly

2.2. On average how much do you earn in a month?
   - Below Kshs. 4,000
   - Kshs. 4,000 - 6,000
   - Kshs. 6001 - 8,000
   - Kshs. 8001 - 10,000
   - Kshs. 10,000 - 15,000
   - Kshs. 15,001 - 20,000
   - Above Ksh. 20,000

2.3 On average, how many hours do you work per day?
   - 8 hours
   - 10 hours
   - 12 hours
   - 14 hours
   - More than 14 hours

2.4. In your opinion, are you overworked by your employer?
   - No
   - Sometimes
   - Always
   - I don’t know
2.5. How frequent does your employer ask you to work overtime?

☐ Always
☐ Often
☐ Occasionally
☐ Rarely
☐ Not at all

2.6. When you work overtime are you paid for working overtime?

☐ Yes
☐ No
☐ Sometimes

2.7. Comment on your overtime pay.

☐ Excellent
☐ Very good
☐ Good
☐ Poor
☐ Very poor

2.8. How often does your employer appreciate when you have done an excellent piece of work in terms of output?

☐ Always
☐ Often
☐ Occasionally
☐ Rarely
☐ Not at all

2.9. If your employer appreciates, how does your employer show the appreciation?

☐ Pays cash bonus
☐ Promotion
☐ Salary increments
☐ Gifts
☐ Praise
☐ Any other specify-------------------------------------
2.10. Give an overall comment on your salary/wages.

- Excellent
- Very good
- Good
- Poor
- Very poor.

2.11. Are workers given daily targets on their work?

- Yes
- No
- I don't know

2.12. If the answer to 2.11 above is yes, tell us what happens when a worker fails to meet the set daily targets;

- Nothing happens
- Is given a lower target
- Forced to work overtime without pay
- Dismissed without benefits
- Any other please specify

2.13. Who is responsible for determining the levels of salaries payable to workers?

- The employer only
- The employer in consultations with the trade union
- The Government
- The employer negotiates with individual employee.
- Any other please specify

2.14. How often do workers get salary adjustment?

- Annually
- Depends on employee's performance
- Rarely
- Not at all
- Any other please specify
2.15 In your view, what is the attitude of your employer towards employees?

☐ Work come first
☐ Workers welfare is of paramount importance
☐ Indifferent
☐ I don’t know

2.16 How often does your employer consider the workers grievances in running the company?

☐ Very often
☐ Often
☐ Occasionally
☐ Rarely
☐ Not at all

(b) Occupational Health, safety and gender rights

2.17 To what extent does the environment in which you work pose health risk?

☐ To a great extend
☐ Reasonably risky
☐ Minor risks
☐ Not at all
☐ Any other please specify.................................................................

2.18 If the work environment, in which you work presents a health risk, does your employer provide you with protective clothing?

☐ Yes
☐ No
2.19 How frequent does the work environment require you to wear protective clothing?

- Always
- Often
- Occasionally
- Rarely
- Not at all

2.19 Comment on first aid facilities provided by your employer at your place of work;

- Excellent condition
- In good condition
- In fair condition
- In poor condition and lack skilled personnel
- Non exists

2.20 Does your employer maintain a medical cover for the workers?

- Yes
- No

2.21 Are sick employees allowed to take sick leave?

- Yes
- No
- Sometimes

2.22 If a worker is injured while on duty, is such a worker entitled to compensation under the Workman’s Compensation Act?

- Yes
- No
2.23 If the answer in 2.22 above is yes, comment on the compensation scheme;
- Excellent
- Very good
- Good
- Poor
- Grossly inadequate.

2.24 How often are cases of sexual harassment reported at your place of work?
- Always
- Often
- Rarely
- Not at all
- I don't know

2.25 What happens to female workers who may need to go on maternity leave?
- Granted maternity leave with pay
- Granted maternity leave without pay
- Dismissed
- Any other please specify

2.26 Are workers paid terminal dues if they are declared redundant?
- Yes
- No
- I don't know

Section 3: Trade unions activities and response to challenges posed by conditions of work.

3.01 How long has the trade union at your place of work been in existence?
- Less than 2 years
- 2.5 years – 5 years
- 5.5 years - 8 years
- Over 8.5 years
- I don't know
3.02. Since you joined the Trade Union, has there been any positive changes on conditions of work?

☐ There have been important changes
☐ There have been a few changes
☐ There has been no changes
☐ I don’t know

3.03. If there have been changes as envisaged in 2.24 above, are these changes attributable to efforts of the Trade Union?

☐ Yes
☐ No
☐ Some of the Changes are attributable to the trade union
☐ I don’t know

3.04. Describe the trade union in your organization;

☐ Very active
☐ Active
☐ Not so active
☐ Dormant
☐ I don’t know

3.05. What is the attitude of your employer towards union official and trade unions activities?

☐ Cordial
☐ Good
☐ Suspicious
☐ Hostile
☐ Any other please specify ..........................................................
3.06. How often does the Trade union present worker's grievances and other welfare issues to the employer?

- Always
- Often
- Occasionally
- Rarely
- Not at all

3.07. How often does the Trade Union organise workshops and seminars to create awareness among its members on conditions of work and other relevant issues?

- Monthly
- Quarterly
- Half yearly
- Once a year
- Not at all

3.08. How often do you receive information from the Trade Union?

- Monthly
- Quarterly
- Half yearly
- Annually
- Not at all

3.09. In your view, to what extent is the trade union working to improve the conditions of work at your work place?
☐ To a great extend
☐ Satisfactory
☐ It can do more
☐ Not at all
☐ I don't know

3.10. If the trade union is not doing enough to improve conditions of work at your work place, what do you think the trade union can do to change this? Please explain;

3.11. If in your view the trade union is doing enough to improve conditions of work at your work place, tell us what the trade union has achieved so far.

3.12. What else would you like the trade union to do to improve your working conditions?

3.13. What challenges does the trade union face in an attempt to improve conditions of work at your place of work?

3.14. What is the trade union doing to overcome these challenges?

<table>
<thead>
<tr>
<th>Challenge posed by:</th>
<th>Trade Unions Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low salaries</td>
<td></td>
</tr>
<tr>
<td>Long working hours</td>
<td></td>
</tr>
<tr>
<td>Lack of protective</td>
<td></td>
</tr>
</tbody>
</table>
3.14. In your view, do you think the government can assist the trade union in its endeavour to improve conditions of work at EPZ and if so state how?

This marks the end of the interview. We sincerely thank you so much for taking time to respond to our questions.