

**A SURVEY OF THE STRATEGIES USED BY TRADE UNIONS IN  
NEGOTIATING WITH THE EMPLOYERS IN KENYA**

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**A management research project presented as part of the requirements for the  
MBA degree in the School of Business, University of Nairobi**

**2006**

**DECLARATION**

This research project is my original work and has not been presented for a degree in any other University.

Signed.....*Mline*.....

**MORAA A.**

Date.....*23/11/06*.....

This research project has been submitted for examination with my approval as the University Supervisor.

Signed.....*BB Adams*.....

Date.....*24.11.06*.....

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**QUOTE**

*Anyone who stops learning is old, whether at 20 or 80.*

*Anyone who keeps learning is young.*

*The greatest thing in life is to keep your mind young.*

*Henry Ford.*

## **DEDICATION**

This research project is dedicated to my dear loving family for the endless support they gave me during my studies and long hours spent away in class and discussions and also to all my close friends who encouraged me to soldier on.

## ACKNOWLEDGEMENT

Several people contributed enormously towards putting this research project together and ultimately coming up with the final document.

I worked closely with several people ranging from students to lecturers in the field of Human Resource and other academic areas and all have done me proud, to complete this work successfully.

First and foremost, I would like to thank my supervisor George Omondi for accepting to supervise my work from the beginning up to the end. His unwavering advice remained an inspiration to me throughout the entire period. Your schedule was forever tight but you still managed to fully supervise and guide me all through. Thank you very much and let God bless you.

I would like to thank all the MBA Lecturers who contributed directly and indirectly to the success of this project.

I would also like to thank all my dear colleagues – more especially, Harrison, Monique, Moraa, Jane, Sam, Chacha, Ombui among others whom we kept close contact and who made my academic work both challenging and enjoyable.

Last but not least, I would like to thank all my relatives for their social support.

Thank you all and I wish you the best in your undertakings.

## **ABSTRACT**

The study sought out to determine the strategies used by the trade unions to negotiate for their members and also to establish the factors which influence the choice of strategies used in negotiation with the employees in Kenya.

The population of interest consisted of all the 68 registered Trade Unions in Kenya as per 31.December 2006.

Data was collected through a questionnaire which was administered to the respondents on a drop and pick later basis. Personal interviews were conducted to clarify the responses where necessary.

The study concluded that a mixture of the symbiotic and predation strategies are crucial if negotiations are to be successful. Most respondents felt that open communication, sharing of information with their opponents, being collaborative and persistent are key top success in negotiation.

One key issue noted was that negotiations between management and the unions fail because shop stewards who represent the employees are not fully equipped to do so. They should undergo some training to equip them with negotiation skills

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# CHAPTER ONE: INTRODUCTION

## 1.0. Background

A trade union is an association created mainly for the purpose of protecting and advancing the member's economic interests in connection with their daily work (Cole, 1995). It is also a continuous association of the owners for the purpose of maintaining and improving the conditions of their working lives (Webb 1980). The essential characteristics of trade unions are that they are voluntary association of workers and (employees): permanent in nature and not temporary or casual; formed for collective action by the workers to strengthen their bargaining power vis-a vis their employers; and they changes with changes in socio-economic, legal & political environment if they are to serve purpose to protect and promote the common interest of their members.

Trade unions are instruments of industrial democracy, cooperation, the political system and socialism. They are rooted in the economic, social and political interests of the workers. They are considered to be institutions experimenting industrial democracy for the benefit of the working class. The element of cooperation among workers with employers, government and other competing groups, is designed to eliminate the exploitation of the workers. Through workers participation in industry, trade unions may help in the promotion of socialism (Mutua 1998)

According to Mutua 1998, trade union movement in Kenya started long before independence and was involved in the fight against colonialism.

Trade unionism became little less than a crusade in Kenya after the II world war. According to Mutua 1988 from the hesitant beginning in 1950's and nationalization action in the early 1950's to growth and consolidation in the 1950's and 1960's Trade unions in Kenya have paralleled and greatly contributed to nationalism and the realization of an independent republic under majority rule. During the darkest days in the 1950's it was the trade union movement, which occupied the center of the political stage

(Trade Union Act Cap 233 Section 14)

There are over sixty eight active trade unions in Kenya most of which are affiliated to the central organization of trade unions (COTU). COTU was established in 1965 as a unified body. The industrial relations charter of 1962 and revised in 1967 recognized a complex of legislation and agreement among unions, the employees and the government, governors' of trade unions activities and industrial relations. A tripartite committee on which employees, employers and the government are represented regularly reviews trade disputes. If negotiations fail, disputes are referred to an industrial court decisions of which have so far been accepted by both parties (Okumbe 2001)

According to Okumbe 2001 after Kenya became independent, trade unions struggled to find their role in the new nation, the disagreements within the trade union movement grew within Kenya federations of Labour (KFL). Mutua (1988) ascertains that the recent legislation and establishment of COTU (K) has substantially restricted the independence of trade unions in Kenya. Although there is little government intervention in the administration either of COTU or individual unions. There is significant potential Government control over both trade unions structure and the settlement of

industrial disputes (Nzuze 1997). There is close watch by ministry of labour under COTU (K) Mutua (9188) and (Okumbe 2001:160-161)

A survey carried out by Flanagan 1990 shows that while most union members are satisfied with the representation, the fraction of non-union representation has declined. Increased jobs satisfaction, job commitment, and job improvement and increasing doubts that unions can improve wages and working conditions have played a major role in the decline.

### **1.1.1 Roles and objectives of trade unions**

To many people, trade unions are synonymous with confrontation and disputes Nzuve (1997). They are seen as troublemakers. However trade unions are about collective behavior and are concerned with desirable relationships between the employees and the employer. Like any other organization, a trade union cannot be seen without stated objectives. Initially the primary role of trade unions was to improve members' wages and better working conditions through collective bargaining and political activities Nzuve (1997)

Nzuve 1997 says that over the years, these objectives have changed with time through the influence of economic, political and social systems within which they operate. However there seems to be a universal consensus in trade union objectives, which are to secure workers fairer wages in light of the cost of living and prevailing standards. To improve the workers working conditions by securing shorter working hours, better working facilities and welfare benefits. (Okumbe: 2001 and Roderick: 1991) says that trade unions

assure the worker a share of the job done, protect the workers' interest and safe guarding them against exploitation and ensure the worker job security by resisting retrenchment and any victimization likely to harm them. They protect the larger interest of society by aiding the improvement of trade industry and provide a medium through which workers interest and grievance can be expressed. It is therefore by the attainment of these objectives against which the workers assess the success of their unions (Okumbe: 2001 and Roderick: 1991)

According to trade unions Act Cap.233, the objectives of COTU (K), which is the umbrella of all the Trade Unions in Kenya, are as follows:-

Generally to improve the economic and social conditions of all workers in all parts of Kenya and render them assistance whether or not such workers are employed or have ceased to be employed.

### **1.1.2. Functions of trade unions:**

According to Flanagan 1990, trade unions have the following functions. Members who operate under the umbrella of trade unions will bargain as one entity collectively. The collective bargaining process is achieved through negotiation. The trade union represents members in disputes and grievances. Trade unions involve members in activities that strengthen the union such as recruitment of members enhancing membership participation and seeking solidarity among members including creating awareness among them. Unions attempt to better the lives of their members by providing them with a variety of socio economic activities. Among these are co-operatives

(housing developments, savings, workers education program and benevolent or programs.).

### **1.1.3. Negotiation**

This is the major function of trade unions. Armystrong 1999 defines negotiation as a process whereby two persons or two groups strive to reach an agreement on issues or courses of actions where there is some degree of difference in interest, goals and values. Fisher, Ury and Patton 1991 define negotiation as a basic means of getting what you want from others. The importance of negotiation is elucidated by Dwyer, Schurr and Oh 1987 who note that negotiation is an important part of establishing relationships and it provides an excellent framework for research on relational exchange because its rich traditions address important antecedent conditions, communications, and power structures affecting exchange partners.

According to Armstrong 1999 negotiation requires participants to identify issues about which they differ, educate each other about their needs and interest, generate possible settlement options and bargain over the terms of the final agreement. Successful negotiations generally result in some kind of exchange or promise being made by negotiators to each other. The change may be tangible such as money, a commitment of time or a particular behavior or intangible such as an agreement to change an attitude or exception, or make an apology.

Pruitt 1991 identified two general processes of negotiation: integrative and distributive which may lead to different results. The term integrative means

to bring together or incorporate into a unified whole, to produce a larger unit. It is a process aimed at reaching an agreement that meets the objectives of both parties. Parties use cooperative tactics to achieve a win-win outcome. Soriano (1995) refers to these as principled negotiations. The second process is distributive in nature. It typically divides the resources competitively. Non-cooperative tactics may lead to a win-lose outcome (Soriano 1995).

#### **1.1.4. Negotiation Strategies and Tactics**

According to Lewicki and Robinson (1998), trade union negotiation strategies are established from the range of issues to be covered, the strength of the parties on each side and where the union is anticipated to stand and the arguments, which can be labeled against or for trade union case. Trade unions use different negotiation strategies to achieve what they want with their management for their members. Brown and Hopkins (1989) and Ury (1983) talk of symbiotic (interest –based) strategy that focuses on satisfying as many interest groups as possible for all parties. It is a problem solving process used to reach an integrative solution rather than distributing rewards in a win-lose manner. The strategy seeks to reconcile the parties' aspirations.

Lax and Sebenius (1986) and Fisher and Ury (1984) talk of predation negotiation strategy which is a series of positions, alternative solutions that meet particular interest or needs, are selected by a negotiator, ordered sequentially according to preferred outcomes and presented to another party in an effort to reach an agreement. Principled negotiation strategy is a combination of both interested based and predation based then positional (Brown and Hopkins 1989).

Lewixki and Stark (1996) developed and validated a five-factor classification scheme of negotiation tactics. These factors include traditional competitive bargaining, false promises, and misrepresentation of position, attacking opponents, network and inappropriate information gathering through the use of payments or bribes. They go further to say that tactic bargaining in which communication is conducted in non-explicit form (e.g. messages are passed between the negotiators in the form of hints, signs and obscure imitation) has also been identified as an important negotiation technique.

### **1.2.3. Collective bargaining agreement**

Negotiations are sealed through a collective bargaining agreement (CBA) According to Nzuve (1997) collective bargaining is a written agreement made by or on behalf of a group. It is the process of negotiating between unions and management aimed at settling disputes before they turn into Labour unrest. It can also be viewed as a method of mutually deterring terms and conditions of employment thus regulate both economic and managerial relationships through agreements. Collective bargain result into labour agreement or contract called Collective bargaining agreement (CBA), which is a written agreement between the trade union and management. The contract specifies rules and procedures to be followed by both parties during the contract period. The content of the contract may include: Name of the parties, and duration to be recovered wage rates and fringe benefit, working conditions, union security, job security, Limitations of strikes, lockouts and picketing, Grievance and dispute procedures, Managements right. There



must exist a minimum cooperation between the two parties in which to reach and maintain the agreement (Armstrong 1999).

### **1.2.3. Trade unions in Kenya**

The recognition agreement is the first step in establishing the relationship between the trade unions and the employee. The two parties (Management and the Trade Union) meet together in a free heart and voluntary association to determine and regulate the relationship between them. The two parties work together to establish and promote and establish mutual understanding and cooperation on various issues which include negotiating matters such as rates of pay and overtime, hours of work, method of wage payment, paid leave, duration of employment, collection of union dues, sick leaves, municipalities of redundancy and other general accepted terms and conditions of service (Trade Union Act cap 233). These issues are concluded through the collective bargaining agreement (CBA). The industrial relation charter establish three party structures of Industrial relation system in Kenya and they include F.K.E. to represent employers, government represented by the ministry of Labour and COTU to represent employees. The charter facilitates negotiations of matters of common interest and has provided support to legislation of governing labour matters in Kenya.

### **1.2.4. Organization and structure of Trade Unions.**

According to Armstrong (1999) and Nzuve (1997) the internal structure of individual trade union varies greatly. Like other organizations they imitate one another. They are however designed as one- party democracies without a formal opposition and they govern with the consent of their members. This

means that they depend on the member participation and they endeavor to practice internal democracies. The whole process of union organization and activity makes the worker aware of the dignity and importance in society in which he or she belongs.

Nzuve (1997) ascertains that there has been extensive government influence and regulations in the trade union functions in Kenya. This has diminished the movement and as a result, the trade unions have tried to broaden their range of interests and redefine their functions.

Elected union officials run the affairs of trade union. The chief executive is normally the secretary general who is elected by all the union members. The secretary general supervises the full time officials, controls the service facilities and pursues the policies set by the union members. At their place of work members are represented by a shop steward (Okumbe 2001)

A shop steward is a union representative at the work place. He or she is an elected official of the union and also as employee in the same organization as the people she / she represents. The shop steward is the daily contact between union members and the management and is expected to represent both members' interest and the union policy to management. He /She is also charged with the responsibility of recruiting new members, in charge of collecting union dues, pursue grievances with management and inform union officials of the outcome. In large organizations where there are many stewards achieve shop steward is elected from among the shop stewards to be the overall representative of management and the union according to Okumbe (2001) central organization of trade union(COTU) is the umbrella

of all trade unions in Kenya . The role of COTU include among others : to improve the economic , social of all workers in all parts of Kenya and to render them assistance whether or not such worker are employed or have ceased to be employed .The branches are distributed all over the country . There are currently 68 registered trade unions in Kenya according to the register of trade unions.

#### **1.2.5. Types of trade unions**

##### **Craft Trade union**

These consist of skilled workers who pursue the same craft. Originally unions were exclusively for workers who had acquired their skills through traditional apprenticeship for example Carpenters, masons, among others.

##### **Industrial Unions**

These are organized in particular industries irrespective of craft, trade occupational skills or the grade of the members. In Kenya trade unions are industry based i.e. they are mostly organized on industry wide basis there are trade unions in Kenya.

##### **General Unions**

These bring together all categories of workers across a range of industries regardless of craft industry or occupation. They are mostly of these occupations that cannot be easily defined as either craft or industrial.

## **Occupational Unions**

These are basically concerned with organizing technical, clerical, professional, supervisory and managerial staff separately from other workers. This research will focus on Industrial Unions.

### **1.3 Statement of the problem**

Over the last 250 years, about 96 % of work force has left agriculture and moved into offices and factories. It is likely to take only 15 to 20 years for a similar proportion to move out of factories and offices into the knowledge of economy (Cardinali, 2000). Drucker (1999) suggests that by 2020 we will see the virtual elimination of the blue color factory worker. There are a number of challenges that confront trade unions in view of changing work conditions and increased competitions among firms leading to decline in resources. For trade unions to be meaningful to their members they must deliver their objectives. To be able to do this, they require the use of appropriate strategies and effective negotiating tactics

Several research studies have been undertaken in the area of employee relations includes studies by : Nagemi (1974)who looked at trade union and government : a study of unions and industrial relations legislations in independent East Africa up to 1972; Waweru (1975) studied the development of personnel and industrial relations in Kenya; Kiranga (1975) Looked at employee relations in particular firms in Kenya; Byaruhanga (1981) analyzed trade union organization in Uganda through a study of national of trade unions; K'obonyo (1981) looked at the operation of trade unionism in Kenya : A study of the railway African Union (Kenya ); Barasa (1982) who studied the need and the scope for accounting information

disclosure in collective bargaining in Kenya Njihia (2002) conducted a survey of women's participations in trade unions in Kenya an Atandi (2003) who at the involvement of trade unions in the application of performance management programme. None of these studies specifically looked at the strategies that trade unions have adopted in bargaining with employers and therefore this study attempt to fill this knowledge gap.

#### **1.4. Objectives of the study**

- i) To determine the strategies used by the trade unions to negotiate for their members.
- ii) To establish the factors that influence the choice of strategies to use in negotiation with the employers in Kenya

#### **1.5. Importance of the research**

- i) The Research will be useful for trade unions in helping them to understand better, the various strategies and tactics used to negotiate for better terms and services for their members.
- ii.) Employers will be able to understand the changing approach by trade unions towards representation of employees in the changing world and in the spirit of "win-win" partnership, be more responsive to their employees changing needs.
- iii.) The study will contribute to the wider body of research in the area of trade unions

## CHAPTER TWO: LITERATURE REVIEW

### 2.0. Introduction

In today's business world "competition is the name of the game". Quality and productivity are that critical improved areas where companies can improve their competition edge. To attain this, however, they must first work out a cooperative and harmonious relationship between partners in production – workers and managers. The term of the working relationship must be defined and settled by bargaining with each other. Healthy companies with motivated and cooperative work forces survive and have a chance to overcome competition. Unhealthy firms with internal, debilitating conflicts between labor and management can lag behind a fall by the wayside. Collective bargaining is the centerpiece of industrial relations the world over. It is a procedure whose end result is the making of collective agreements between employers and accredited representatives of employees concerning political and economic issues of employment. The end result of collective bargaining process and an indicator of the success of labor unions to improve the working conditions of the employees they represent, is the collective bargaining agreement (C.B.A).

According to Nzuve (1997:120) workers join trade unions for various reasons. Members believe that unions increase their share of economic

package, higher wages, increase benefit, shorter working hours and better working conditions basically assumed to improve the economic welfare of members. Members want protection from unfair dismissal and retrenchment by their employer.

He went further to say that Employees are social beings and would want to belong and be recognized by their peers. A trade union therefore offers an avenue for affiliation with other workers who share common interest.

The trade union structure offers some employees an opportunity to gain recognition that is not available to them in the business organization. (Okumbe: 2001). He goes further to say that some workers join trade unions to obtain a voice in influencing decisions that affect them. It provides an avenue for employee's participation in management. There is also joint consultation to trade unions will seat in disciplinary system. Some workers become union members simply as the regulation agreement requires them to do so – closed shop, one must join a trade union as a pro-condition to employment or union shop close – once you are employed, you become a union member automatically.

## **2.1. Negotiation**

According to Armstrong (1999), negotiation takes place when two parties meet to reach an agreement. This can be a convergent process where both parties are equally keen to reach a win-win agreement. He goes farther to say that some negotiations can be divergent in which one or both of the

parties into win as much as they can from the other while giving away as little as possible.

### **2.1.1 Levels of negotiations**

Silva (1996) observes that originally employers viewed collective bargaining at the national or the industry level as a means of reducing competition. Based on Labour costs through standardized wage rates. Employers no longer view collective bargaining from this perspective. Instead, centralized and industry Level negotiation is considered as depriving enterprises of the needed of the needed flexibility to complete on the basis of adjustment at the level of enterprise in relation to pay, working hours and conditions, work organization, man power utilization and so on. The efficiency gains are considerably greater and more easily realizable and when negotiations take place at the enterprise level. Therefore, the major thrust in all countries where the pattern hither to was national or industry level bargaining, towards increased enterprise level bargaining, has been by employers. Not all unions favor this trend; their power position can be automatically eroded by this trend, just as it is enhanced through centralized or industry level bargaining. Under centralized bargaining that is industry and national level-Dunlop (1957) observers an intense interest that workers show how in the wages and other bargaining outcomes of their peers which as Oswald (1979) points out,



entries directly into their individual utility functions. Kuhn and Gu (1999) note that such tastes are sometimes argued to cause “pathological” bargaining outcomes; with greater industrial strife and inflationary pressure than if they did not exist. Bok and Dunlop (1970) argued that wages increases negotiated by one union might become a target to be exceeded by a second or third union, which in turn may require adjustments in the first settlement, in a cycle of more expensive negotiations. These pathological bargaining structures are themselves a major contributor to wage inflations. Many employers view centralized bargaining as facilitating a more equal distributing of incomes, but depriving employers of the ability to use pay as an instrument for productivity enhancement and to compensate for skills and performance. The push by employers for flexibility in the context of increasing global competition has raised many issues, which are more appropriately dealt with at the enterprise level. Some of the many concerns of employers such as productivity and quality, performance and skills developed to retain or gain competitive edge and to make rapid changes to adapt to the global marketplace are likely to increase the movement towards more enterprise level negotiation (Silva, 1996).

## **2.1.2 Negotiation strategies and tactics.**

According to William Ury (1981) a negotiation strategy is chosen after appraising both one's own and the other party's substantive and relationship priorities. Strategy is concerned with mapping out the plan and the basic policies to be followed in the bargaining process. Tactics on the other hand are particular actions that are taken while on the bargaining table. Their major objective is to bluff the other party. They are employed to create situations of enhanced strength as well as to enable the other party to find out the level of its critical striking points. Some common tactical devices include, shouting and table pounding, getting up from the bargaining table in a huff, requesting a recess, conceding certain demands with some fight, tabling a troublesome clause, suggesting for negotiation matters of no real importance among others (Willen 1987)

## **2.3 Symbiotic strategy**

### **2.3.1 Bargaining Strategy**

According to (Ronald J 1987) the symbiotic negotiation ideology is so named for his predisposition to create value by means of the negotiation process. Symbiotic negotiations tend to believe that mutual agreements are reached by being inventive, collaborative and persistent in searching for

substantial joint gains and the creation of value, relative to no agreement possibilities. The strategy stresses the importance of open communication and information sharing in an attempt to build a productive relationship with the other party. The perception of relationship building as a positive outcome of such a negotiation yields the joint gains necessary for a symbiotic strategy. In this one side receives primarily substantive gains while the other side receives the benefit of a strengthened relationship that could come to function in the form of future material rewards.

### **2.3.2 Win-Win negotiation strategy**

According to Fisher and Ury (1981), Win-Win negotiation is another symbiotic strategy in which both sides win and at least no one loses. Using this strategy, joint gains are achieved by avoiding actions that tend to worsen the relationship between the parties while increasing the substantive element of the negotiation. This is accomplished through the bipartisan efforts of both parties to either make the value of the pie larger or to find element within to satisfy both parties.

Roger Fisher and William (1981) outline four points that compromise the foundation of symbiotic negotiation strategy as follow: Separating the people from the problem, Focusing on interests and not positions, Inventing options for mutual gain, and insisting on usage of objective criteria.

Symbiotic strategies tend to emphasize open channels of communication, separating the substantive aspects of negotiations from the people involved in the discussion. By allowing negotiators to deal directly and empathetically with each other as human beings, these strategies increase the probability of reaching an amicable agreement. By focusing on the underlying human interest of each negotiator, they avoid the transactional costs associated with participants locking themselves into positions and then trying to dig their way out. Further by focusing on basic interest, satisfying options, and objective standards, these strategies have the potential to produce an agreement that meets the legitimate interests of each side to the extent possible, resolves conflicting interests fairly and takes into account the interests of associated third parties (Ury 1983).

### **2.3.3 Predation strategy**

According to Pruitt (1981) predatory ideology sees a pie of fixed size being divided between negotiators and each slice received by each party must be taken away from the other. Hardball is the name of the game as each negotiator tries to claim as much of the value of the pie as possible by giving the other as little as possible. At the extreme of the spectrum, predatory negotiators try to device Machiavellian ways to manipulate in such a manner as to claim the entire pie.

He goes further to say that the strategy is based on the view that negotiation is a hard, tough bargaining process in which neither participant cares about the needs of the other. In all cases, the relationship element of the negotiation is perceived as subservient to the substantive gains achieved in an adversarial context.

Ronald (1987) summarizes the win-lose strategy as follows: negotiation is a game to be won or lost. The outcome depends on each participants ability to concede slowly, exaggerate the value of concessions, minimize the benefit of the others concessions, conceal information, argue forcefully and behave on principles that imply favorable settlement, reducing attacking or intimidations, wait out the other participant and make commitment to accept only favorable settlement. Ronald (1987) says that although negotiators may realize the importance of cooperatively creating value by means of the negotiation process in a symbiotic manner they must also acknowledge the fact that each must eventually claim value through some degree of predation. Legitimate attempts by one negotiator to employ symbiotic strategies, which will disclose information that makes the negotiation vulnerable to the predatory strategies of his opponent. As a result, the problem solving atmosphere created by two symbiots is inevitably replaced by a competitive atmosphere of gamesmanship to the degree that at least one negotiator

begins to utilize predatory strategies. He terms the process of negotiation as a cooperative pursuit of joint gains and a collaborative effort to create value where none previously existed. At the other extreme it can be described as a street fight. The negotiators dilemma lies in determining where the cooperation ends and street fight begins. Understanding this paradox more fully serves to reduce the anxiety associated with the process of negotiation by giving negotiators as a structured approach to tailoring their strategies to both the substantive and relationship element at stake. He goes further to say that regardless of each negotiators strategy preference, severe actions may be taken at the operational level to increase the probability of achieving favorable outcomes while taking the relationship between the parties into account. The basis of these actions is found in the middle ground of the strategic spectrum borrowing concepts from both the predatory and the symbiotic ideologies. The suggested actions include:

#### Doing homework

A good negotiator must realize the implications of each item in table, the consequences associated with making various concessions and what entails the bottom line of the negotiations.

## **Getting to the top**

Unless you talk directly with individuals who have the authority to make the changes you propose, your success will hinge on someone else's ability to communicate in minutes what was discussed over several hours.

## **Building relationships wherever possible**

It is easier to communicate with a friend than with a stranger or an enemy. Relationships gains and losses are as much apart of the negotiated package as the substantive outcomes.

## **Avoid quick concessions**

Making concession without having fully considered the issues opens you up to the risk of giving up something unnecessarily and compromising your own needs use discretion when conceding from your stated position.

## **Accentuate the position**

By framing negative points in a positive way, you will be more likely to elicit a positive response. Couching controversial issues between positive points increase your chances of getting the other side to listen and agree to the other side to listen and agree to your demands.

## **Maintain composure**

In any negotiation, emotion may flare up and people may lose their tempers. Under such circumstances it is imperative to maintain composure.

## **Don't give up**

You may reach a point at which you not like the proposed agreement but still you do not see any alternative remember that what seems like a dead end may actually be a corner.

### **2.3.4 Negotiation process.**

Rees and Porter, (1997) identifies the following steps in negotiation: identify objectives and rank their order of importance; establish what tactics will be used to obtain the obtained objectives; establish the bottom line, i.e. the limit as far as concessions to the other party were concerned and decide action to be taken if there is no agreement.

#### **Step1: Planning for the negotiation**

Armstrong (1999) ascertains that the negotiation process begins with defining the issues to be discussed or the problem. This should be done in away, which is mutually acceptable to both sides; the problem should be clear and simple, depersonalize the problem and separate the problem definition from the search for solution.

Armstrong (1989) goes further to state that, the problem should be fully understood i.e. identify interest and needs, generate alternative solutions and finally evaluate and select the alternatives.



## **Step 2: The actual negotiation**

According to Ronald J. (1987), the actual negotiation should be done in a relaxed atmosphere, have preparatory informal consultation or pre-meeting to thrash out any little details, order of issues – from less Controversial to more virtual issues/develop spirit of mutual interest/ should be prepared and open should do maximum consolidation.

## **Step 3: Proposing and Bargaining**

It is during this stage that personal negotiation skills are most important. Key elements are clear communication, active, listening, a willingness to separate the people and personalities from the subject of the negotiation, and a desire to look for outcomes that can satisfy the interests of all parties (even though they cannot always be met).

## **Step 4: Closing**

When agreement has been achieved, it is important to be sure that it can actually be implemented by all parties. The agreement needs to be put in writing, but rushing to workers' representatives need to gain agreement from the work force, and the implementing agency may need approval of the privatization agency, ministries, or the head of state.

Armstrong (1999) summarizes the negotiation process as follows. Preparing for negotiation: this includes setting objectives, defining the strategy to use assembling data, Opening, Bargaining and Closing.

## **2.8 Creating value in the negotiation process.**

Ronald (1987) details seven golden rules of negotiating.

Negotiating tough – do not confuse tough with arrogant, rude, bullheaded or ruthless. Tough means sticking to your guns, letting the other side know you mean business.

Scrutinize the details – the success of the negotiation lies in the details of the final agreement. Focus on the rewards – maintain a myopic view of those things that you want to take away from the bargaining table and learn to counter your opponents negotiating strategies.

Avoid ultimatums – give your opponent choices instead of ultimatums for backing someone into a corner is similar to cornering a wild animal where predicting their reaction becomes impossible. Anything goes – negotiation is not a game with established rules. You can stall for time, cloud the issues or use facial expressions to indicate not they actually are. Find your opponents pressure points – probe your opponent's vulnerabilities then structure your negotiating stance to take full advantage of them. Control the negotiation – get your opponent to follow your game plan.

## **2.9. Factors that facilitate successful negotiation.**

For negotiation to succeed, Armstrong (1999) suggests that one must have good negotiating skills and these include:

Analytic ability – the capacity to assess the key factors which will affect the negotiating stance and tactics of both sides.

Empathy – the ability to put oneself in the other part's shoes to understand not only what they are hoping to achieve but also why they have those expectations and the extent to which they are determined to fulfill them.

Planning ability – should not only be able to develop and implement negotiating strategies and tactics but to be prepared to be flexible.

Interactive skills – the ability to relate well with other people to be persuasive without being domineering.

Communicating skills – the ability to convey information and arguments clearly, positively and logically while also being prepared to listen to the other side and respond appropriately.

## **2.10 Challenges facing trade unions in negotiation**

One challenge facing trade unions today is that many organizations attempt to keep Unions out of their plants. They feel that this gives them greater freedom over the control of Labour costs. Perhaps more importantly, they feel that they retain a degree of flexibility of Labour deployment that is often reduced by the many agreement that Labour leaders, understandable, wish to make to “better” the terms of employment of their members. If a company loses flexibility it may lose the ability to innovate and to be competitive. Peetz and Todd (2001 ) in a study on the Malaysian banking union

Note that the union devotes considerable resources to activities that might not seem “traditional” but which it considers are central to establishing a

strong bond amongst union members. These have included such things as charity luncheons, games, treasure, hunts, dinners, dances and trekking. Such events are especially important when there are no disputes and in the context of a decline in local community bonds and falling social interaction amongst workers in the face of increasing work demands and competition from television, video and other electronic machines that make workers confined to their homes. These special services, which seem not to be a mainstream union activity, emphasize collective identity. Thus unions need to compete with alternative forms of expression that are available to workers.

Petz and Todd (2001) also note that such cultural mechanisms are also important to pre-empt ethnic divisions that may otherwise arise within the workforce. Banks differ in the ethnic compositions of their workforces, according to their ownership and customer base, but cultural reinforcements and the emphasis on solidarity and consistency (e.g. through industry bargaining) minimize the potential for internal union damage due to ethnic division.

Lucio and Stuart (2002) document the modernization of employment relations via Partnership as is articulated in terms of the need to move away from adversarial to Cooperation. Kochan and Osterman (1994) argue that partnership is based on reinforcing collective voice mechanisms at the strategic, human resource department and workplace level. Understanding this commitment to voice is investment in training and development and fairness at work. Basically, the challenge is on trade unions to move away from traditional positions such as protection of workers rights to playing an

active role in influencing management decision in favor of improved workers conditions. Like all sectors, trade unions face the challenge of information and Communicate Technologies ( ICTs) in generating unions renewal and enhancing negotiation and bargaining. It has been argued that ICTs offer unions new ways of mobilizing and engaging with members and potential members and that they create opportunities for strengthening the union movement on an international scale (Diamond and Freeman, 2002). The terms “E-union” (Darlington, 2000) and “cyber union” (Shostak, 1999) were used to describe the new form of unions that would arise as a result of this technological revolution. While unions have embraced ICTs, and in some cases used the technologies innovatively, we have yet to seed the genuine e-union or cyber union. Trade Union negation process is also subjected to the increased presence of regional trading blocs. That regional trading bloc may be more than market-making arrangements has encouraged the view that they may be possible site of social-Standard setting, particularly on Labour and environmental matters (Cook and Katz, 1994). The revival of the East African Community is set to allow for free movement of Labour among the three east African states of Kenya, Uganda and Tanzania. This will affect trade union negotiations within the individual members’ states as there would be a need for standardization, among other requirements.

## **CHAPTER THREE: RESEARCH METHODOLOGY**

### **3.1 Research Design**

The research design, which was used in this study, was the census survey design. This was the appropriate best as the targeted population consisted of all registered Trade Unions in Kenya.

### **3.2 Population**

The target population consisted of all registered Trade Unions in Kenya registered of which are (68) as per 31<sup>st</sup> December 2005. This is as per the Registrar of trade Unions Report see appendix three.

### **3.3 Data Collection**

The primary data was collected through a questionnaire, which was administered to respondents on a 'drop and pick later' basis and personal interviews were conducted to clarify the responses where necessary. The respondents were the Secretary Generals of all trade unions.

### **3.4 Data Analysis**

Content analysis was used to develop aggregation of the responses to open ended questions while descriptive statistics such as proportions and frequency distributions was used to analyze the closed ended questions.

## **CHAPTER FOUR: DATA ANALYSIS AND PRESENTATION.**

### **4.1. Response rate**

Of the 68 trade unions that were contacted, only 45 responded, resulting in a response rate of 66%. This is considered adequate for the purpose of this study.

### **4.2. Demographic data of the trade unions.**

The trade unions in Kenya were registered from the time the country gained independence and over the years since then registration and dissolution of trade unions has continued. For a trade union to gain recognition from the employer it has to have at least 51% of qualifying members registered with it, hence the trade unions that were studied have majority membership in the work place.

### **4.3. Negotiation Process**

73.5% of the respondents felt that defining the bargaining issue, assembling facts, consulting others, developing supporting arguments and analyzing the other party; are very important in the negotiation process, while only 23.5% felt that the above facts were moderately important. This is supportive of literature and recent research findings in the area of negotiation strategies by trade unions.

#### **4.4 Actual Negotiation**

76.4% of the respondents felt that creating a relaxed atmosphere, having informal consultations to thrush out impending issues, creation of spirit of mutual understanding, being consistent and negotiating in good faith are necessary tools in ensuring success in the actual negotiation, while 20.5% felt that these are only moderately important.

#### **4.5. Negotiation Strategies**

Of the trade unions that responded, 86% felt that open communication, sharing information, being persistent, trying to achieve as much gain as possible are important negotiation strategies while 14% felt that these are only of moderate importance as negotiation strategies.

#### **4.6. Negotiation Tactics**

Only 12% of the trade unions acknowledged that shouting and table pounding, getting for up from the bargaining table in a huff, commending certain demands with some fight were effective tactics in negotiations while 88 % felt that the above tactics are not necessary in achieving success during negotiations. They argued that for purposes of establishing lasting positive relations, respect for one another was a necessity.



#### **4.7. Success Factors in Negotiations**

89.7% of the respondents acknowledged that good negotiation skills, analytical ability, interactive and communicative skills, faith in one's own problem solving ability, motivation and commitment to work are the key factors that determine the success of trade unions in negotiations.

#### **4.8 Challenges in Negotiation**

A total of 85.7% of the respondents reported that lack of communication skills, lack of good negotiating skills, increased pressure of regional trading blocks, and lack of government support are major challenges in negotiations. These factors are reported in literature as constituting common challenges facing trade unions in negotiating acceptable terms for their members the world over. Trade unions in Kenya therefore face same challenges in this regard as other unions elsewhere.

## **CHAPTER FIVE: SUMMARY, CONCLUSION AND RECOMMENDATIONS**

### **5.1. Summary**

Trade unionism in Kenya started way long before colonialism, however government only recognized them after the attainment of independence. Today there are 68 trade unions registered in Kenya.

Of the respondents, majority (73.5%) agreed that in the negotiation process; clearly defining issues to tackled, assembling the issues in a systematic manner, consulting others, developing supporting arguments and analyzing the others party thoroughly important for success of the negotiation.

In the actual negotiations, creating conducive atmosphere for discussions, having informal consultations before the actual day to thrush out any ambiguities, developing spirit of mutual understanding, being consistent and seeking the services of lawyers to assist them negotiate often result in effective negotiation for improved terms and conditions of service for members.

Most of the respondents felt that open communication, sharing of information with their opponent, and being collaborative and persistent are key top success in negotiations.

All the respondents agreed that one has to have excellent negotiating skills, good analytical abilities, good communication skills, faith in one's problem solving ability, and committed to his or her work.

## **5.2. Conclusions**

Negotiations between management and the unions fail because the shop stewards who represent the employees are not fully equipped to do so. The shop stewards should undergo some training to equip them with negotiation skills so that they are at the same level with management.

The era of fighting between management and trade unions is over, the two should work hand in hand to promote the overall organization objectives and goals.

Management should not take advantage over illiterate shop stewards to exploit the staff. They should instead embrace promotion of good industrial relations.

## **5.3. Recommendations for further studies**

From the findings of this research, it is recommended that further in depth research is undertaken the factors that determine the actual strategies and tactics used by trade unions in negotiating with employers in specific industries, crafts or occupations in Kenya.

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## APPENDIX 1

Alice Moraa Onserio

P O Box 6295

NAIROBI

Tel: 0722923166

Dear Sir/Madam

**RE: Letter to the respondent**

I am a post graduate student at the University of Nairobi, Faculty of Commerce, as part of the fulfillment of Master of Business Administration Degree (MBA). I am conducting a study of a Survey of strategies used by trade unions to negotiate for their union members in Kenya.. You are therefore kindly requested to assist me collect data by filling the accompanying questionnaire. My supervisor and I promise that the information gathered will strictly be used for academic purpose only. The copy of the final report will be made available to you on demand.

Your honest participation will be highly appreciated.

Yours faithfully,

.....  
Alice Moraa Onserio

MBA student

Human Resource Management

.....  
George Omondi

University of Nairobi

Department of Business  
Studies

## APPENDIX 2

### QUESTIONNAIRE

#### Part A- Details of Trade Unions

1) How long has the trade union existed from the date of registration?-----

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2) What is the membership of the trade unions?-----

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3) How many members does the trade union have as at 1<sup>st</sup> July 2006?  
(Registered members)-----

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4) How many branches does the trade union have? -----

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## Part B: Negotiation process.

To what extent are the following undertaken in the planning for negotiation?

1. -To a greater extent 2.- To a moderate extent 3. To a less extent 4.-Not at all

1) Defining the issues?

2) Assembling the issues and defining the bargaining mix?

3) Defining your interests and consulting with others?

4) Prioritizing and setting goals?

5) Developing supporting arguments and analyzing the other party?

6) Analyzing the other party important?

To what extent are the following statements important in the Actual Negotiation?

1) Creating a relaxed atmosphere?

2) Having a reparatory informal consultation to thrush out any little details?

3) Order of issues- from less controversial to more critical issues.

4) Spirit of mutual interest, preparedness and openness?

5) Keeping offers (maximum) confidential?

6) Being Consistency and authentic;



7) Use of lawyers to prepare the final document?  1  2  3  4

8) Making maximum consultations?  1  2  3  4

To what extent is the implementation of the resolutions by both parties important, during the closing of negotiation?-----

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**1) Part B: Negation strategies**

To what extent do you consider the following statement important in relation to negotiation strategies?

(1. To a great extent, 2. To a moderate extent 3. To a less extent 4. Not at all. Please tick the appropriate one)

1) To what extent is open communication important?  1  2  3  4

2) To what extent is sharing information in attempt to build a positive outcome with the party important?  1  2  3  4

3) To what extent is being collaborative important?  1  2  3  4

4) To what extent is being persistent in searching for substantial joints important?  1  2  3  4

5) To what extent is usage of positive criteria important?  1  2  3  4

6) To what extent is the focus on the interest of the concerned parties than positions important?  1  2  3  4

7) To what extent is the claiming as much value as possible important?  1  2  3  4

8) To what extent is giving as little as possible in negotiations important?  1  2  3  4

9) To what extent is the exaggerations value of concessions important?  1  2  3  4

10) To what extent is concealing of information from the other party important?  1  2  3  4

11) To what extent is arguing forcibly important?  1  2  3  4

**Party D: Negotiation Tactics.**

Do you consider the following as being important in the process?

- 1) Shouting and table pounding ? Yes[] No[]
- 2) Getting up from bargaining table in a huff? Yes[] No[]
- 3) Requesting a recess? Yes[] No[]
- 4) Commending certain demands with some fight? Yes[] No[]
- 5) Suggesting for negotiation matters of no real importance; Yes[] No[]

**Part E: factors that determine successful negotiation.**

(Please tick [] the number that provides the most accurate answer relating to the factors that facilitate successful negotiation }

- 1) Good negotiating skills are necessary Yes[] No[]
- 2) Analytical ability, empathy, planning ability, interactive and communicative skills are very necessary in negotiating. Yes[] No[]

- 3) Faith in one's own problem solving ability is important. Yes[] No[]
- 4) Motivation and commitment to work are necessary. Yes[] No[]
- 5) Trust is very important? Yes[] No[]
- 6) Clear and accurate communication is necessary? Yes[] No[]

**Part F: challenges faced in Negotiations**

(Please tick [] the number that provides the most accurate answer relating to challenges that trade unions face in negotiating for better terms and service for the members.)

- 1) Do you consider lack of communication technologies to be a challenge in negotiating process? Yes[] No[]
- 2) Do you consider lack of good negotiating skills to be a major challenge in negotiations? Yes[] No[]
- 3) Do you consider increased presence of regional trading blocks to be a challenge in negotiations? Yes[] No[]
- 4) Do you consider lack of governmental support as a challenge? Yes[] No[]