

CHALLENGES FACING TRADE UNIONS IN KENYA

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the Requirements for the Degree of Master of Business Administration,
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DECLARATION

I declare that this research project is my original work and to the best of my knowledge has not been presented for the Award of Master in Business Administration in any learning institution.

Signed 

Date 16.11.2010

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This research paper has been submitted for examination with my approval as the university supervisor.

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DEDICATION

This research project is dedicated to my lovely children Rebecca Juma and Justin Juma.

Thank you for providing the space for my studies.

ABSTRACT

The primary function of a trade union is to promote and protect the interest of its members; improve working and living conditions and to represent workers' interests. Trade unions have however fallen short of achieving their set objectives due to challenges that are both external and internal.

This study was designed to investigate the challenges facing trade unions in Kenya. A census survey design was used. Primary data was collected using a semi-structured questionnaire and thirty two out of the forty trade unions responded to the questionnaire.

The results showed that there are many challenges affecting trade unions in Kenya which include financial constraints emanating from loss of membership, splitting of unions and mismanagement, government and employer intervention in trade union activities and controlling of their affairs, the differentiated and changing composition of workers that has had a general effect on weakening trade unions and advancements in technology have made it possible for the new units of production to be geographically dispersed hence it is no longer necessary for staff to be physically located in the same place, thereby reducing the workforce and in turn union membership.

It is recommended that trade unions enhance member education programmes, with emphasis on improvement of employee performance and build teamwork. Government should facilitate the role of trade unions through stringent enforcement of labor

legislation to harmonise the working relations with employers. Further studies can be done on; employer attitudes towards trade unions and the impact of the trade union on employee performance.

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CHAPTER ONE: INTRODUCTION

1.1 Background of the study

Employee relations consist of all those areas of human resource management that involve management of relationships with employees-directly or where trade unions are recognised (Bridgford and Sterling, 1991). The relationship concerns terms and conditions of employment and other issues arising from employment. According to Ferner and Hyman (1992), employee relations practices include processes, procedures and channels of communication; the employment policies and practices; the development, negotiation and application of formal systems, rules and procedures for collective bargaining, handling disputes and regulating employment; and policies and practices for employee involvement and communications.

A feature of the employee relations literature has undergone extensive change (Baglioni, 1990). Due *et al* (1991) observed that the last decade witnessed large scale movement in the social, political, legal and economic climate of many countries, resulting in changes in the nature of the relationship between governments, businesses and trade unions. The transformation of the various sectors of the economy has fundamental consequences for those working within them. According to Osbourne and Gaebler (1992), forms of privatization, the adoption of quality management systems, the decentralization of service delivery, the adoption of new accounting regimes, and increasingly individualized forms of management impact upon the way people are managed. Since the 1970s there has been a decline in trade union organization within the Organization for Economic Co-operation and Development (OECD) countries, which is causing some concern among trade unions (Bach and Della Rocca, 2000).

1.1.1 Employee relations in Kenya

The origin of employee relations system in Kenya is traced back to the struggle for independence, Trade unions' participation in the struggle for independence, made them be considered organizations that have the capacity to organize people, a capacity many governments would wish to control and keep checked. The presence of an authoritarian government has also affected the employee relations system in Kenya, the government ensured that trade 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 (Mutunga, 2006).

The core of employee relations 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 Ministry of Labor and the industrial court. This influence by government in employee relations has been prompted by the states involvement in business and the fact that the state is the single largest employer.

1.1.2 Trade unions

A trade union is an organization of workers who have joined together so as to try to improve their interest (Moraa 2006). A trade union would try to improve their members' welfare and regulate the relationship between the workers and employers. According to Cole, a trade union is an association of workers in one or more occupations. An

association carried out mainly to advance their members interests in connection with their daily work.

According to Moraa (2006), 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. 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.

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 Labor (KFL). Moraa (2006) ascertains that the recent legislation and establishment of Central Organization of Trade Unions has substantially restricted the independence of trade unions in Kenya. Although there is little government intervention in the administration either of Central Organization of Trade Unions or individual unions, there is significant government control over both trade union structure and the settlement of industrial disputes through the Ministry of Labor (Okumbe, 2001).

There are various types of trade unions in Kenya each representing a particular group, for instance; Craft Trade Union, these consist of skilled workers who pursue the same craft. Originally unions were exclusively for worker who had acquired their skills through

traditional apprenticeship like carpenters, masons etc in Kenya we have Amalgamated Union of Kenya Metal Workers. Industrial Unions which are organized in particular industries irrespective of craft, trade, occupational skills or the grade of the members. In Kenya trade unions are industry based, they are mostly organized on an industry wide basis, they include Kenya Chemical & Allied Workers Union and Kenya Union of Commercial, Food and Allied Workers. General Unions, which bring together all categories of workers across a range of industries regardless of craft, industry or occupation. They are mostly of these occupations which cannot be easily defined as either craft or industrial like the Kenya Building, Construction, Timber, Furniture and Allied Trades Employees Union. Occupational Unions that are basically concerned with organizing technical, clerical, professional, supervisory and managerial staff separately from other workers e.g. Banking Insurance and Finance Union Kenya.

1.1.3 Challenges facing trade unions

There are many challenges facing trade unions in their day to day operations. Workers' organizations are experiencing serious difficulties almost everywhere and are losing members. Few countries have unionization rates above 50 percent, while others have less than 20 percent of non-agricultural workers in unions. The Kenyan economy is largely agricultural based and therefore the working class has been small. This has adversely affected potential membership of unions and their capacity to bargain with employers on equal terms. (Mutunga 2006) contents that without job security and with high unemployment, the result of course is that labor 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 labor rights and out right union busting.

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 into affairs and activities of trade unions and thus tempts the government and employers to control trade unions activities. Political interference and intimidation has been a feature of the Kenya industrial relations system. The activities of trade unions have occasionally attracted the attention of the political establishments. 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 vice versa and this had tended to be prejudicial to trade unionism. Ghai and McAuslan (1970) argue that the legal status of Central Organization of Trade Unions is that of an independently registered trade union federation but actions of the government have appeared at times to assume it as an adjunct to the administration. Trade unions activities in Kenya have therefore not been clearly divorced from the politics of the day.

Kenya has not been left out and has been affected by globalization. Kenya liberalized her economy in 1994 and implemented structural adjustment programmed prescribed by the World Bank and the international monetary fund. Consequently, through the Finance Act No. 4 of 1994 an amendment was introduced to the employment act. The amendment was on regulation of union involvement in declaring workers redundant and related safeguards and procedures. This introduced the concept of retrenchment which the law gives unions no role to play and the benefits payable are left to the whims of the employer. One of the trade unions objectives is to fight for job security and workers

benefits therefore; legislations such as amendment No. 4 of 1994 that was introduced when Kenya liberalized her economy adversely affect the role and effectiveness of trade unions.

The trade unions are increasingly faced with financial constraints emanating from the following factors, among others: loss of members as a result of organizational restructuring, leading to loss of revenue since trade unions depend on members' contributions in order to undertake their operations; splitting of the of the trade unions, for instance Kenya Union of Post Primary Education Teachers from Kenya Nations Union of Teachers, thus reducing the financial base from membership contributions; and mismanagement of funds by the union leaders (Central Organization of Trade Unions, 2009).

Interventions to the factors above include the growing perception that labor will have to develop new strategies, including strategies that complement local organizing with international campaigns (Tilly 1995). But it is less clear what sorts of international campaigns will be the most effective. Several new strategies are emerging or evolving from old strategies. Targeting multinational corporations is an old strategy but it may be taking on new forms, particularly when combined with consumer activism (Anner 2001). Codes of conduct and private monitoring mechanisms have offered yet another albeit controversial venue (Fung, O'Rourke, and Sabel 2000). Experience has demonstrated that as with all organizations, trade unions are sensitive to wider issues and events, particularly labor market changes and the impacts of neo-liberal state policies. Such developments heralded a necessity for trade unions to adopt measures of organizational

change, in order to identify means for reform and revitalization. (Wills, 2001). According to Hoque and Rahman (1999), because of the fact that trade union movements represent a majority segment of the society, they contribute to the socio-economic development of the country.

1.1.4 Trade unions in Kenya

There are 40 registered trade unions in Kenya; with 32 of them being affiliated to the Central Organization of Trade Unions and have a total membership of 400,000, they include: Banking Insurance & Finance Union (K) (BIFU), Transport & Allied Workers Union (TAWU), Railways Workers Union (RAWU), Kenya Local Government Workers Union (KLGWU) University Academic Staff Union (UASU) etc, and Kenya National Union of Teachers (KNUT), Union of Kenya Civil Servants, and Kenya Union of Post Primary Education Teachers (KUPPET) who are not affiliates of Central Organization of Trade Unions. Central Organization of Trade Unions was established in 1965 as the sole national trade union federation, affiliated to the International Confederation of Free Trade Unions (ICFTU) and represents some 300,000 workers. (Registrar of Trade Unions 2010)

Of the eight ILO conventions only convention 87 on freedom of association has not been ratified by Kenya. The Constitution of the Republic of Kenya Chapter IV, 36. (I) states, “Every person has the right to freedom of association, which includes the right to form, join or participate in the activities of an association of any kind”. The Industrial Relations Charter, executed by the Government, the Central Organization of Trade Unions (COTU), and the Federation of Kenya Employers (FKE), gives workers the right to engage in legitimate trade union organizational activities; this is regulated by The Labor

Relations Act 2007 which regulates the formation and management of trade unions and employer organizations.

1.2 Statement of the problem

Turner (1966) argued that despite the importance of collective bargaining, industrial peace and harmony has been elusive as trade union activities are met with hostility, retrenchment of workers has also become an everyday practice; workers are paid poorly and work in poor conditions even though they are unionized. Trade unions have over the years found external challenges of globalization, increased international competition, technological change and the de-centralization of collective bargaining. Among the consequences of such changes has been a marked decline in union density across most industrialized societies (Undy, 2008). He observed that various strategies have been adopted by trade unions, including mergers, in the hope of improving union behavior.

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 here the corporations operating in the country come from. Trade unions have to adapt to the rapid changing global environment as well as articulate members interests, in the face of challenges posed by national, international laws and global human resource policies. The trade unions also have to manage challenges posed by the effects of globalization and liberalization of the economy.

There have been few studies of an empirical nature which sought to determine the challenges faced by trade unions and evaluated the effectiveness of the strategies used to

address the challenges. Studies related to human relations challenges in Kenya that are relevant to this research include those of Mutunga (2006) investigated the response of trade unions to challenges posed by conditions of work at the Export Processing Zone.; Gichira (2007) investigated the challenges of globalization and their impact on Kenya airways; Chumo (2007) undertook a study on the human resource challenges arising from use of temporary employees; a case study of Kenya Power and Lighting Company; Thathi (2008) investigated the human resource management challenges facing Kenya pipeline company in the implementation of enterprise resource planning. Njihia (2002) carried out a survey of women's participation in trade unions in Kenya. Machyo (2003) undertook an analysis of women's participation in Trade Union leadership in Kenya.; Businienei (2005) undertook a study of the moderating effects of Trade Union membership on employee perceptions of job security and fair treatment by management in the manufacturing industry in Kenya; None of the above studies focused on the challenges facing trade unions in Kenya. This study therefore seeks to address the knowledge gap.

1.3 Objectives of the study

- (i) To determine the challenges facing trade unions in Kenya
- (ii) To establish the interventions to address the challenges faced by trade unions in Kenya

1.4 Importance of the study

It is hoped that the research findings of the proposed study will be beneficial to various stakeholders, including the following:

- (i) The management of the various trade unions will gain a better understanding of the challenges faced by trade unions in Kenya. On the basis of the findings of the study, the leadership of the various trade unions are expected to implement measures that could address the identified challenges from an informed position for the benefit of key stakeholders.
- (ii) The policy makers in the Ministry of Labor and Human Resources, which is charged with the responsibility of managing the human resources will gain insight into the challenges faced by the trade unions in Kenya and accommodate the possible interventions that could be employed to enhance the unions' effectiveness in the policies to be formulated.
- (iii) The challenges facing trade unions in Kenya is an area that is understudied. The proposed study is expected to make a significant contribution to the growing body of knowledge in the area of trade unionism. It is anticipated that the findings will be used as a source of reference by other researchers.

CHAPTER TWO: LITERATURE REVIEW

2.1 Trade unions

To many people trade unions are synonymous with confrontation and disputes, they are seen as troublemakers. However, trade unions are about collective behaviour and are concerned with desirable relationships between employees and employers. Like any other organization, trade unions cannot be seen without stated objectives. Initially the primary role of trade unions was to improve member's wages and better working conditions through collective bargaining and political activities. Over the years, these objectives have changed through the influence of economic, political and social systems within which they operate. However, there seems to be a universal consensus in trade unions objectives and their generic functions may be categories as follows:

The primary function of a trade union is to promote and protect the interest of its members (Perlman, 1928; Hoxie, 1921). This can be summarized as follows: to improve working and living conditions and to represent workers' interests in various fora such as securing shorter working hours, better working facilities and other welfare benefits as well as safeguard them against exploitation (Freeman and Medoff, 1984); to offer responsive cooperation in improving levels of production and productivity, discipline, and high standards of quality; to secure fair wages for workers. Madheswaran and Shanmugam (2003); to enlarge opportunities for promotion and training; to promote identity of workers' interests with their industries; and to cooperate in and facilitate technological advancement by broadening workers' understanding of underlying issues.

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(Begg D 1987) says that the main purpose of a trade union is to improve and protect members pay and conditions of employment through negotiations and representation.

(Okumbe 2001 and Rodrick 1991) say that trade unions assure workers a share of the job done, protect workers interests and safeguard them against exploitation and ensure the worker's 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 works interests and grievances can be expressed.

According to Ratnam (2006), rapid changes in technology and successive revisions in pay have undoubtedly improved workers' conditions within the organized sector but mostly at the cost of loss of control over jobs. Jose (1999) argues that such structural changes among the working population, along with economic growth and a sustained increase in capital intensity in both the product and labor markets, have necessitated a paradigm shift in the roles of trade unions: from predominantly bargaining institutions, they have become specialized, representing the voice and interests of labor. In addition to their traditional bargaining activities, unions now have a newly acquired voice and representative function. Many of them are trying to increase their value to workers by providing a variety of services to their members, as well as to the community to which they belong. Such services range from providing legal and financial advice to improving skills (Ranganathan (2004). According to Monappa (2000), these new functions of trade unions, also called ancillary functions, can be categorized into the following groups:

Many large unions publish a newsletter or a magazine, with the main aim of clarifying their policy or stance on certain principal issues, as well as to pass on information about their activities; many unions are engaged in a number of welfare activities, such as providing housing and organizing cooperative societies to improve the quality of workers' lives; education helps to make workers aware of their surrounding environments. Unions make efforts to launch educational programs for workers to enhance their knowledge of the work environment and to inform them about issues concerning them, particularly those regarding their rights and responsibilities and regarding procedures and systems that exist in the workplace for redressing grievances; and union negotiators need updated information to be systematically collected and analyzed at the bargaining table. They also need to backup their wage demands with knowledge of the industry, of productivity, and of comparative industry practices. Many unions conduct their own research to this effect, laying emphasis on practical problems, especially day-to-day affairs at work.

According to the East Africa sub regional report (2002), the main functions of the trade unions in the three countries are to protect, promote and defend the interests of the members. Based on this, specific functions are as follows; representation of members in national and international bodies responsible for formulating and implementing policies with regard to economy, education, welfare, employment and occupational safety and health; recruitment of the new members; negotiation for Collective Bargaining Agreements for the members on wages, terms and conditions of employment; handling members' grievances at all levels; educating and training members on all trade union issues including HIV/AIDS; assisting members in the formulation of Income generating activities; and promoting gender equality in the trade unions.

Trade unions have however, fallen short of achieving their set objectives due to challenges both external and internal to their organisations.

2.2 Challenges facing trade unions

2.2.1 Management challenges

There are many challenges that face trade unions in their day to day operations. Having participated in the struggle for independence, trade unions are considered organizations that have the capacity to organize people, a capacity many governments would wish to control and keep checked. 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. Political interference and intimidation has been a feature of the Kenya Industrial Relations System, the activities of trade unions have occasionally attracted the attention of the political establishment, at times there has been no clear difference between trade unions leadership and the political leadership. Trade union officials have at times doubled as politician and vice versa and this has tendered to be prejudicial to trade unionism.

The core of industrial relations requires the ability of management and unions to negotiate terms and conditions of employment relatively free of state control or intervention. In Kenya, this freedom as been relatively less with the state exercising control through the Ministry of Labor and the Industrial Court. (Section II of Trade

Disputes Act). This influence by government in industrial relations has been prompted by the states involvement in business and the fact that the state is the single largest employer and like any other employer, wishes to influence the type of industrial relations that emerge (OED Onedo 1976). Trade unions operate under a number of statutes among them trade union Act, Trade Disputes act, employment act, workers compensation act among others. The current legal framework that regulates the activities of trade unions allows government interference 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 instance the trade unions act cap 233 requires all trade unions to be registered and consequently empowers the registrar of trade unions to de-register or suspend registration of trade unions or place them on probation (Section II). These powers have no checks in the strict sense and if they are exercised whimsically, they can amount to violation of these powers. 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 1995 just before the formation of Central Organisation of Trade Unions when the president ordered de-registration of Kenya Federation of Labor (KFL) and Kenya African Workers congress (KAWC).

Jose (2000) reported that the composition of workers is also changing and they are increasingly differentiated by their competence, the higher end of the spectrum, workers tend to be better-educated, career minded, individualistic and less motivated by class interests and solidarity. However, majority of workers belong to the lower end of the scale, usually employed in service industries and occupations, and they are mainly the women and the migrant workers. The above trends in the realm of labor and employment

have had the general effect of weakening trade unions, demarcating their organizing and bargaining opportunities. The challenge to trade unions therefore is to transcend their traditional approaches in mobilizing and organizing workers. Particularly, there is the need for trade unions to establish alliances with other institutions to be able to seek social justice for a wider group of workers and consequently, sustain their relevance amidst changing global and local pressures (Kochan, 2003).

According to the East Africa sub regional report (2002), the trade unions training programme in the field of employment policies face a number of problems including: little exposure on the training related to employment policies and poverty reduction strategies; training of such kind are normally conducted at international level by global unions; and few trade union members are exposed to this kind of training generally the focus is mainly trainers, educators and some of the General Secretaries.

2.2.2 Operational challenges

Globalization of the world economy has brought about heavy pressure on the local industries to become globally competitive. Heightened global competition has disposed enterprises to adopt greater flexibility - functional or numerical - in terms of labor utilization. Amongst the common functional flexibility employed by enterprises are the "broadening of job designs, mobility across tasks, enlarging the scope of individual skills, and extensive training and retraining programs" (Binghay, 2000). Numerical flexibility, on the other hand, entails practices such labor subcontracting, changing work hours, and hiring of casual, part-time, temporary and contract workers. The consideration of these practices as a typical employment has become outdated such that it is now typical for

increasing numbers of people and now have gained "legitimacy and political support in the climate of economic liberalism" (Jose, 2000). Globalization has also affected how firms see their employees (Binghay, 2000). With the rising costs of production, management has embarked on creating cheap labor market to attain the objective of keeping low prices for their products while maintaining high profits, leading one to think that labor have become commodity and not a partner for progress. Another phenomenon that could be associated with globalization is the emergence of more sophisticated "decollectivization" strategies on the part of employers. With intense competition, employers just could not afford any obstructions in their production processes, disposing them to adopt anti-union practices.

Kenya has not been left out and has been affected by globalization. Kenya liberalized her economy in 1994 and implemented structural adjustment programmes prescribed by the World Bank and IMF. Consequently an amendment to the employment act on regulation of wages and conditions of employment was introduced that required union involvement in declaring workers redundant and related safeguards and procedures. This introduced the concept of retrenchment of which the law gives the union no role to play and the benefits payable are left to the whims of the employer. One of the trade unions objectives is to fight for job security and workers benefits. Legislations such as this adversely affect the role and effectiveness of trade unions. The Kenya Human Rights Commission (2004) argues that this particular amendment has made the worker more vulnerable to the employer and generally increased job insecurity.

Further decade of economic degradation witnessed in Kenya since independence in 1963 have depressed labor conditions in virtually all the sectors of the country's economy causing the decline witnessed in most productive economic sectors.. The labor market in Kenya has remained weak with efforts being focused to strengthening the incentives given to investors. The Kenyan government has since independence given guidelines on minimum wages given for various sectors in what are seen as the lower cadre group of workers. The Kenya Human Rights Commission (2004) argues that the stipulation of minimum wages as the guideline means worker have few alternatives to demand higher wages from their employers. 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 from employers that there are many out there that are willing to take up their positions.

According to Bitonio (2000), Advancements in technology have made it possible for the new units of production to be geographically dispersed. Relevant to this is the fact that today, it is no longer necessary for people to work closely and be physically located in the same place. Szal (2000) argues that the computer has become an indispensable tool of the society with millions of people doing their work online. With the advancements in technology, the term virtual office has now become a reality. Another phenomenon associated with new technology is the automation of business processes and the consequent reduction in labor needs of businesses. Companies have been resorting to the substitution of labor-intensive operations by machine-processed operations.

2.2.3 Financial challenges

The trade unions are increasingly faced with financial constraints emanating from the following factors, among others: loss of members as a result of organizational restructuring, leading to loss of revenue since trade unions depend on members' contributions in order to undertake their operations; splitting of the of the trade unions, for instance Kenya Union of Post Primary Education Teachers from Kenya National Union of Teachers, thus reducing the financial base from membership contributions; and mismanagement of funds by the union leaders (Central Organization of Trade Unions, 2009).

Workers' organizations are experiencing serious difficulties almost everywhere and are losing members. Few countries have unionization rates above 50 percent, while others have less than 20 percent of non-agricultural workers in unions. The Kenyan economy is largely agricultural based and therefore the working class has been small. This has adversely affected potential membership of unions and their capacity to bargain with employers on equal terms. (Mutunga 2006) contents that without job security and with high unemployment, the result of course is that labor 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 labor rights and outright union busting.

2.3 Interventions to address the challenges facing trade unions

The trade union movement has faced a period of dramatic uncertainty in recent decades. Declining membership levels, influence and bargaining power have led many, both

within and external to the movement, to question the role of trade unions. Experience has demonstrated that as with all organizations, trade unions are sensitive to wider issues and events, particularly labor market changes and the impacts of neo-liberal state policies. Such developments heralded a necessity for trade unions to adopt measures of organizational change, in order to identify means for reform and revitalization. (Wills, 2001). According to Hoque and Rahman (1999), because of the fact that trade union movements represent a majority segment of the society, socio-economic development has a very close association with trade union organizations. Therefore, National federations and confederations of trade unions have to work independently or jointly on various issues of social concern. Booth (1995) asserts that a number of issues at a first glance may not seem related to trade unions, but if we go into depth, the socio-economic issues cannot be dissociated from trade unions. For instance, the issue of trafficking of women or of HIV-Aids or the environmental issues does not have any direct resemblance with trade unions and one may feel why a trade unionist should bother about the issues. But these issues, too, have closer links with working masses. Therefore, the issues associated with development strategies and socio-economic development must be taken into high consideration by trade unions. Their role as one of social partners is of high significance. Trade unions therefore need to transcend their traditional approaches in mobilizing and organizing workers. Particularly, there is the need for trade unions to establish alliances with other institutions to be able to seek social justice for a wider group of workers and consequently, sustain their relevance amidst changing global and local pressures

Employers have a major role in ensuring the effective implementation of laws and regulations in the organizations and minimize unfair labor practices, particularly in

relation to women workers, child workers and bonded labor. They should also engage in efforts to establish and extend a sound social security system compatible with the country's economy.

Government, apart from recognizing the role of trade unions as that of collective behavior and desirable relationships between employees and employers should ensure effective implementation of labor laws and regulations, as well as widen the coverage and enforcement of minimum wages and sound wage structure bearing in mind the interest of both the employer and the employees. They should put in place measures that would lead to minimization of unfair labor practices that would see all employees treated equally without any form of discrimination. Ratifications of the International Labor Organization Conventions would also be useful in achieving the government's effort to harmonize trade union activities with those of the employer and the government.

Interventions from trade unions should be to intensify their education programme to sensitize members on their functions as well as member's rights, benefits and privileges of being part of the union. They should seek to increase their membership by aggressively recruiting members to join their unions and seek to work together among themselves avoiding splits that would otherwise weaken their being.

Recruitment of union leaderships should be seen to be transparent and officials elected are of a high level of integrity, experience and educational background. This would see to it mismanagement of funds in the trade unions is brought to an end. A proper understanding of the history of trade unions in Kenya would also enable the union

leadership to effectively manage the union activities and discharge their functions more effectively.

According to Jose (2000) the major issues of union activities can be basically categorized as the following:-extension of legal framework conducive to working masses, formulation, revision and amendment to labor laws; effective implementation of laws and regulations; intensive efforts to secure job from new economic policies informalizing and casualising work; massive unionization of formal as well as informal sectors of work; widening the coverage and effective enforcement of minimum wages; sound wage structures; fair working conditions; minimization of unfair labor practices, particularly in relation to women workers, child workers and bonded labor; intensification of workers education programmes; and efforts to establish and extend a sound social security system compatible with the country economy.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1 Research design

The research design which was used in this study was the descriptive census survey. The census design considered appropriate for this study since all the registered trade unions in Kenya were targeted. The survey design has been used in the past by many researchers, including Kibiru, 1999; Murage, 2001; Ndubai, 2003; and Ogolla, 2005.

3.2 Population

The population consisted of 40 registered trade unions in Kenya (Registrar of Trade Unions, June 2010). All the registered trade unions were studied.

3.3 Data collection

Primary data was collected using a semi-structured questionnaire. Section I of the questionnaire covered the demographic characteristics of the trade unions while section II covered information on the challenges facing trade unions and section III the interventions being used to address the challenges in Kenya. The respondents were the Secretary Generals or their deputies. The questionnaires were administered using the drop and pick method.

3.4 Data analysis

The completed questionnaires were edited for completeness, consistency and to locate any omissions. Descriptive statistics such as percentages, proportions and frequencies were used to analyze and group the challenges faced by trade unions, while content analysis was used to represent the respondent's opinions on the any possible interventions to these challenges.

CHAPTER FOUR: DATA ANALYSIS, FINDINGS AND DISCUSSION

4.1 Response rate

Out of the forty questionnaires sent out 32 were returned completed (80%) response rate. This is a significant response rate and the findings are likely to present the reliable position with respect to the objectives of the study.

4.2 Demographic characteristics

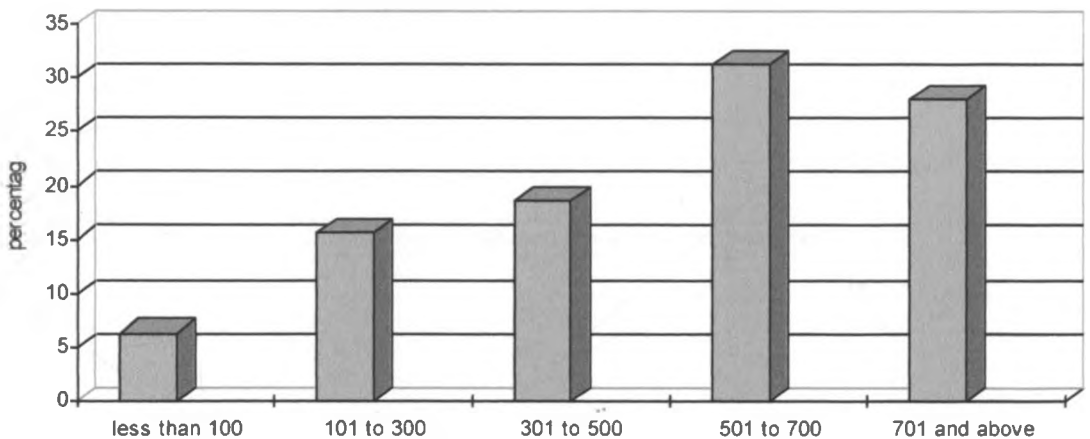
4.2.1 Age of the trade unions

Fifty percent (50%) of the unions have been in existence for 10 years and above, 31. % have been in existence for a period in between 6 to 10 years, 16% for 1 to 5 years and the minority 3. % have been in existence for less than a year. From the findings, it is evident that majority of trade unions in Kenya have been in existence for a reasonably long period of time.

4.2.2 Size of trade unions

The number of members the trade union has which is an indicator of the size of the trade unions is shown in the figure below:

Figure 1: Number of members in the trade unions

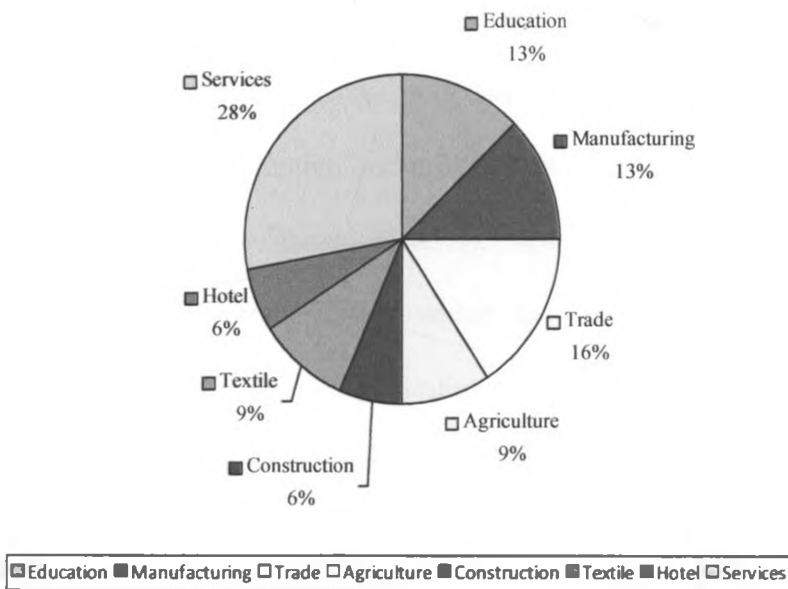


From the above, 31% have between 501 to 700 members, 28% have 701 and above members while 18.7% have 301 to 500 members, 16% have 101 to 300 members. This suggests that majority of organizations or companies have between 501 to 700 employees working for them.

4.2.3 Distribution of trade unions by industry

Majority of the trade unions are from the services industry (28%), Manufacturing sector (13%), Education (13%), Trade (16%), Agriculture (9%), and Textile (9%), Construction (6%) and Hotel (6%). This suggests that majority of the organizations or companies in Kenya are in the services sector. The distribution is shown in figure 2 below.

Figure 2: Industry represented by the union



4.3 Challenges facing trade unions in Kenya

Loss of membership was widely accepted as a challenge with respondents agreeing that HIV/AIDS, anti - union sentiments on the part of the new employers have led to recruitment difficulties (88%), and most workers being employed on casual and temporary basis (100%). The findings confirm the East African Regional Sub Report, (2002) which stated that loss of membership through retrenchment, HIV/AIDS and employment of workers on casual basis brought about recruitment difficulty therefore many workers do not qualifying to be members of the trade union. However, limited collective social responsibility that caused some workers under private companies not to be covered by social security schemes (88%) is seen to be a finding not reported by previous researches or relevant literature.

The respondents strongly agreed that they faced financial challenges due to loss of membership as a result of retrenchment of the workers brought about by economic restructuring (100%), fragmentation and proliferation of in-house union (66%), absence of solidarity which leads to divisions (88%). The findings confirm that of Central Organisation of Trade Unions (2009) which indicated that unions faced financial constraints due to factors such as organisational restructuring, splitting of trade unions and mismanagement of funds. Financial challenges brought about by weak leadership which fails to grow the movement (41%), and poor structural linkages and networking between affiliates (9%) have not been previously reported by earlier research.

Majority (100%) of the respondents noted that operational challenges were brought about by implementation of the new technologies that are fast and efficient that require less labour power, These findings support Ratman (2006) which reported that rapid changes in technology and successive revisions in pay have improved worker's conditions but mostly at the cost of loss of control over jobs and Szal (2000) who argued that new technology has brought about the automation of business processes and the consequent reduction in labor needs for businesses. Changes in employment patterns resulting to workers losing their jobs due to economic restructuring (75%), introduction of Export Processing Zone which do not allow trade union movement and also do not abide with national labor legislations (100.%), confirming the East African Sub Regional Report (2002) that the emergence of the global economy has brought about changes in the employment patterns that has resulted in workers losing their jobs due to economic restructuring.

Challenges brought about by the role of government in union activities were seen to be; new employers not recognizing trade unions and as a result there is no freedom of association in some workplaces (80%), lack of genuine political will and commitment on the part of the government(s) of the respective countries (90%), obsolete labour laws and inadequate regulations in place, which do not conform to international labour standards and therefore cannot, meet the present employment challenges (75%). Lack of institutional support from government systems e.g. state funding of labor education project (50%), and lack of credible legal systems, weak enforcement of laws and ineffective labour inspections (50%) were not identified as important challenges facing the unions. These findings agree with Mutunga (2006) that the presence of an

authoritarian government has controlled trade unions preventing them from emerging as a formidable force, Moraa (2006) who ascertains that the recent legislation establishing the Central Organization of Trade Unions has substantially restricted the independence of trade unions in Kenya and Okumbe (2001) that although there is government intervention in the administrations either of the Central Organisation of Trade Unions or individual unions, there is significant government control over both trade union structure and the settlement of industrial disputes through the Ministry of labor.

4.4 Interventions to the challenges facing trade unions.

The findings showed that all the respondents reported interventions that trade unions have adopted the strategy of; strengthening institutions of social dialogue. This confirms the findings of Hogue and Rahman (1999) who reported that because trade union movements represent a majority segment of the society, they engage in socio-economic development activities.

Intensive efforts to secure jobs from new economic policies, casualising work and massive unionization of formal as well as informal sectors of work (90%). This intervention contends with Undy (2008) who observed that various strategies should be adopted by trade unions including mergers in the hope of improving union movements and Wills (2001) that trade unions are sensitive to labor market changes and the impact of neo-liberal state policies hence the need for trade unions to identify means for reform and revitalization.

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Other interventions such as ratification and implementation of the International Labor Organization conventions with an exception of efforts to establish and extend a sound social security system compatible with the country economy (80%), these would enable proper functioning of the International Labor standards system.

Extension of legal framework conducive to working masses that would fix the rights and obligations of all concerned parties this would guarantee and improve proper functioning of the workers and employers.

Formulation, revisions and amendment of labor laws, effective implementations of laws and regulations, widening the coverage and effective enforcement of minimum wages and sound wage structure, are new findings not reported by earlier authors

CHAPTER FIVE: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1 Summary

The findings show that majority of the trade unions represent the services industry (28%) and 50% of the trade unions have been in existence for over 10 years with 501 to 700 members.

65% of the respondents disseminate information from the trade unions annually. majority (81%) of the trade unions organize awareness workshops and seminars to create awareness among its members on conditions of work and other relevant issues annually while a small proportion 13% do so half yearly. Further majority of the trade unions (85%) always present workers grievances to the employers while 15% do so often. However, some respondents disagreed to weak trade union education programmes (41%), weak leadership which fails to grow the movement using current potential (25%) and lack of qualified staff for specialized areas such as research, education and organizing (20%) as challenges faced by trade unions in Kenya.

Majority of the respondents strongly agreed to loss of membership due to retrenchment of the workers as a result of the economic restructuring (100%), increase in the implementation of the new technologies that are fast and efficient that require less labour power (100%), most workers being employed on casual and temporary basis and as such not qualifying to be members of the trade union (100%), absence of Union consciousness and solidarity and the dominance of business unionism, which leads to divisions (88%), changes in employment patterns resulting to workers losing their jobs due to economic

restructuring (75%), new employers not recognizing trade unions and as a result there is no freedom of association in some workplaces (80%), introduction of Export Processing Zones, which do not allow trade union movement and also do not abide with national labor legislations and loss of membership due to HIV/AIDS; anti - union sentiments on the part of the new employers, hence Recruitment difficulties (88%).

63% indicated that they feel the employer's attitude towards Trade Union officials and their activities are suspicious. (100%), lack of genuine political will and commitment on the part of the government(s) of the respective countries (90%), obsolete labour laws and inadequate regulations in place, which do not conform to international labour standards and therefore cannot, meet the present employment challenges (75%), as the union lose members the income of the union is affected and therefore it becomes difficult for the union to provide the required services to the members; and ex-trade union members become negative to the trade unions (65%) and there is limited collective social responsibility and this has caused some workers under private companies not to be covered by social security schemes (88%) as challenges faced by trade unions in Kenya.

All the respondents (100%) agreed to extension of legal framework conducive to working masses- formulation, revision and amendment to labor laws, effective implementation of laws and regulations, widening the coverage and effective enforcement of minimum wages; sound wage structures, minimization of unfair labor practices, particularly in relation to women workers, child workers and bonded labor, strengthening institutions of social dialogue, putting in place machinery to help trade union movement in HIV

prevention and AIDS management, ratification and implementation of the International Labor Organization Conventions and review of labor laws.

The respondents also strongly agreed to intensive efforts to secure job from new economic policies informalizing and casualising work; massive unionization of formal as well as informal sectors of work (90%) and intensification of workers education programmes, efforts to establish and extend a sound social security system compatible with the country economy (80%).

5.2 Conclusions

From the study findings it can be concluded that employers in Kenya including the government change employment patterns resulting to workers losing their jobs due to economic restructuring. New employers venturing the market fail to recognize trade unions and as a result there exists no freedom of association in workplaces.

The trade unions have weak trade union education programmes which do not create awareness to the employees about their rights and benefits they get from being union members. Trade unions have also been found to have weak leadership which in turn fail to grow. Kenya has obsolete labour laws and inadequate regulations in place which do not conform to international labour standards and therefore not meeting the present employment challenges.

Hence the study reveals that there are a number of challenges facing trade unions in Kenya. The challenges need to be addressed so as to build a conducive working

environment for the employees while safeguarding their jobs. The employer in general will gain from trade unions since it is the channel to which the employees communicate best with them to find possible solutions to adjust to future working conditions.

5.3 Recommendations

Employers in Kenya including the government should stop changes in employment patterns resulting to workers losing their jobs due to economic restructuring. There is need for new employers to recognize trade unions and as a result there will be freedom of association in workplaces.

The government and relevant arms of the law should do away with obsolete labour laws and inadequate regulations in place which do not conform to international labour standards and therefore not meeting the present employment challenges. There should be an extension of legal framework conducive to working masses- formulation, revision and amendment to labor laws and effective implementation of these laws and regulations. They should also widen the coverage and effective enforcement of minimum wages; sound wage structures, minimization of unfair labor practices, particularly in relation to women workers, child workers and bonded labor.

The trade unions should have strong trade union education programmes which create awareness to the employees about their rights and benefits they get from being union members. The trade unions also need to do away with weak leadership which fails to grow the movement using current potential and seek to find qualified staff for specialized areas such as research, education and organizing.

5.4 Suggestions for further study

This study focused on the challenges facing trade unions in Kenya. The study was done with focus on trade unions; further studies could be done on; Employer attitudes towards trade unions and the effect trade unions on employee performance.

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APPENDIX I: QUESTIONNAIRE

4th October, 2010

School of Business, University of Nairobi

P.O. Box 30107

NAIROBI

Dear Sir,

RE: LETTER OF INTRODUCTION

I am a student in the Department of Business Administrations at the University of Nairobi, Kenya. As a partial requirement for the attainment of the degree of Master in Business Administration (MBA), I am conducting a study on the Challenges Facing Trade Unions in Kenya.

Your organization has been selected to form part of the population of the study. The purpose of this letter is to request you to fill out the attached questionnaire. The information you provide will be treated with strict confidence and will be used solely for academic purposes. A copy of the final report will be made available to you upon request.

Lucky Clair Kisaka

STUDENT

George Omondi

SUPERVISOR

This questionnaire has been designed to collect information from Secretary Generals of Registered Trade Unions in Kenya and is meant for academic purposes only. The questionnaire is divided into two sections. Please complete each section as instructed. Do not write your name or any other form of identification on the questionnaire. All the information in this questionnaire will be treated in confidence.

SECTION I: BACKGROUND INFORMATION

1. Name of Trade Union (Optional) _____

2. For how long has your Trade Union been in existence? (Tick as appropriate)
 - (a) Less than 1 year
 - (b) 1 to 5 years
 - ✓(c) 6 to 10 years
 - (d) 10 Years and above

3. How many members does your Trade Union have (Pleas tick as appropriate)?
 - (a) Less than 100
 - (b) 101 to 300
 - (c) 301 to 500
 - (d) 501 to 700
 - (e) 701 and above

4. What industry does the union represent? _____

5. What is the attitude of the employers in your industry towards union officials and trade unions activities?

- (a) Cordial []
- (b) Good []
- (c) Suspicious []
- (d) Hostile []
- (e) Any other, please specify []

6. How often do you disseminate information from the trade union?

- (a) Monthly []
- (b) Quarterly []
- (c) Half Yearly []
- (d) Annually []
- (e) Not at all []

7. How often does your trade union organize awareness workshops and seminars to create awareness among its members on conditions of work and other relevant issues?

- (a) Monthly []
- (b) Quarterly []
- (c) Half Yearly []
- (d) Annually []
- (e) Not at all []

8. How often does your trade union present worker's grievances and other welfare issues to the employer?

- (a) Always []
- (b) Often []
- (c) Occasionally []
- (d) Rarely []
- (e) Not at all []

SECTION II: CHALLENGES FACING TRADE UNIONS IN KENYA

7. Listed below are some of the challenges that face Trade Unions. With respect to your Trade Union, please indicate along a five-point scale, the extent to which each of the listed challenges has affected your operations (Tick as appropriate)

Challenges facing Trade Unions	Response				
	Very Strong (5)	Strong (4)	Somehow (3)	Neutral (2)	Not at all (1)
Strong anti-union sentiments in national political culture and enterprises level					
Lack of institutional support from government systems e.g. state funding of labor education projects					
Capacity constraints at the Central Organization of Trade Unions (COTU)					
Lack of qualified staff for specialized areas such as research, education and organizing					
Weak leadership which fails to grow the movement using current potential					
Fragmentation and proliferation of in-house unions					
Absence of Union consciousness and solidarity and the dominance of business unionism, which leads to division					
Weak trade union education programmes					
Poor structural linkages and networking between affiliates					
Changes in employment patterns resulting to workers losing their jobs due to economic restructuring					

Challenges facing Trade Unions	Response				
	Very Strong (5)	Strong (4)	Somehow (3)	Neutral (2)	Not at all (1)
New employers do not recognize trade unions and as a result there is no freedom of association in some workplaces					
The introduction of Export Processing Zone (EPZ) which do not allow trade union movement and also do not abide with national labor legislations					
There is limited collective social responsibility and this has caused some workers under private companies not to be covered by social security schemes.					
Most workers are employed on casual and temporary basis and as such they do not qualify to be members of the trade union					
As the union lose members the income of the union is affected and therefore it becomes difficult for the union to provide the required services to the members; and ex-trade union members become negative to the trade unions					
Increase in the implementation of the new technologies that are fast and efficient that require less labour power					
Loss of membership due to retrenchment of the workers as a result of the economic restructuring					

Challenges facing Trade Unions	Response				
	Very Strong (5)	Strong (4)	Somehow (3)	Neutral (2)	Not at all (1)
Loss of membership due to HIV/AIDS; anti - union sentiments on the part of the new employers, hence Recruitment difficulties					
obsolete labour laws and inadequate regulations in place, which do not conform to international labour standards and therefore cannot, meet the present employment challenges					
Lack of genuine political will and commitment on the part of the government(s) of the respective countries					
Lack of credible legal systems, weak enforcement of laws and ineffective labour inspections.					
Others (Specify) Please add an extra sheet.					

**SECTION III: INTERVENTIONS TO ADDRESS THE CHALLENGES FACING
TRADE UNIONS.**

8. Listed below are some of the interventions that are used to address the challenges facing trade unions. Please indicate the extent to which you agree/disagree that your trade union has used each of the interventions by ticking as appropriate along a five-point scale (Please tick as appropriate)

Interventions used to address challenges facing Trade Unions	Response				
	Strongly agree (5)	Agree (4)	Somehow Agree (3)	Disagree (2)	Strongly Disagree (1)
Extension of legal framework conducive to working masses- formulation, revision and amendment to labor laws					
Effective implementation of laws and regulations					
Intensive efforts to secure job from new economic policies informalizing and casualising work; massive unionization of formal as well as informal sectors of work					
Widening the coverage and effective enforcement of minimum wages; sound wage structures					
Advocating for fair working conditions					

Interventions used to address challenges facing Trade Unions	Responses				
	Strongly agree (5)	Agree (4)	Somehow Agree (3)	Disagree (2)	Strongly Disagree (1)
Minimization of unfair labor practices, particularly in relation to women workers, child workers and bonded labor					
Intensification of workers education programmes					
Efforts to establish and extend a sound social security system compatible with the country economy					
Strengthening institutions of social dialogue					
To put in place machinery to help trade union movement in HIV prevention and AIDS management					
Ratification and implementation of the ILO Conventions					
Review of labor laws					
Others (Specify) Please add an extra sheet.					