

THE PRACTICE OF STAFF BARGAINING ON TERMS AND
CONDITIONS OF SERVICE OUTSIDE UNION REPRESENTATION IN
THE KENYA CIVIL AVIATION AUTHORITY

BY

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Declaration

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

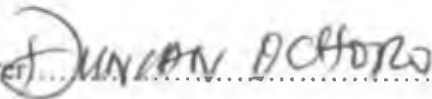
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This research project has been submitted for examination with my approval as the University Supervisor

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Dedication

This project is dedicated to my wife Millicent, my children and the other family members whose understanding and support went along way in helping me undergo the course and write this project.

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List of Abbreviations/Acronyms

DCA	Directorate of Civil Aviation
DPM	Directorate of Personnel Management
EASA	East African School of Aviation
ILO	International Labour Organization
IPSIA	Institute for Peace Development and Innovation
JKIA	Jomo Kenyatta International Airport
KCAA	Kenya Civil Aviation Authority

Abstract

Kenya's history since independence has witnessed a culture of strong labour movements where trade unions have earned their mark both in the pre independence struggle for freedom and post independence struggles championing the workers' course. They have often come out as the voice of the worker with legislation in place bestowing on them the right to represent workers in bargaining with employers.

Despite eminence of trade unions as the champions of workers in the employment industry, a unique phenomenon has been going on at the Kenya Civil Aviation Authority. Here the staff without union representation have for over 20 years engaged the employer and succeeded in improving their terms even where the unions failed, casting doubt as to the role of unions in this organization and posing the question as to whether bargaining for terms and conditions of service can be feasible outside a union structure. This research therefore set to determine how well the practice of bargaining on terms and conditions of service outside union representation is working at the Kenya Civil Aviation Authority.

The research was conducted as a case study and data collected through interviewing respondents. Six instances where staff took to industrial action without union representation were enumerated to respondents and their opinion sought as to the extent each measured up to a normal union led bargaining. The findings are that five (5) of these instances measured up to the standards of any other normal union led bargaining by over 80%. This has therefore led to the conclusion that the practice of staff bargaining for their terms and conditions outside union representation at the Kenya Civil Aviation Authority has worked like any other union led bargaining and has been used by these staffs for over 20 years. It is therefore recommended among others that the unions trying to penetrate this area have to relook at their strategies with the view to regaining their position here.

CHAPTER ONE: INTRODUCTION

1.1.0 Background of the study

As a concept, collective bargaining is the coming together of workers as a united force to face the employer with the aim of determining the conditions of employment and to have more say at the work place, an area where the employer obviously has more powers and say than the employees. Traditionally, the imbalance of workplace power in favor of employers over the workers has been in existence since the 18th century with the advent of industrial revolution. The two had traditionally engaged in face-offs with the workers resorting to their numerical strength as an advantage and gaining grounds against employers as time passed. 19th century scholars like Karl Marx saw this tug of war as the future source of a revolution that would see workers overthrow the employers leading to humanity establishing its ideal society. Allan (2007) for instance argued that through collectivism, workers could band together to protect their mutual interest. To him the concept of collective bargaining therefore primarily implies workers organizing collectively and bargaining with employers regarding the workplace. In a broad sense it is the coming together of workers to negotiate their employment (ILO Good Practice Guide: <http://www.ilo.org/GPS/CollectiveBargaining.pdf>).

While the two sources saw the concept of collective bargaining as the coming together of workers for a common cause, it is worth noting however that the concept of collective bargaining in most text books has since been identified with trade unions to the extent of giving the impression that it can not exist outside a trade union. This dimension apparently has been influenced by legislations in commonwealth countries that recognize trade unions as the legal entities for workers to come together derived from the universal "principle of freedom of association" - (ILO Convention No. 87, 1948 and No. 98, 1948). In the Kenyan Legislation, the Labour Relations Act (2007) emphasizes on 'collective agreements' the end result of 'collective bargaining' and gives the unions the legal responsibility of representing workers in going through collective bargaining and arriving at collective agreements. The

same also applies in Uganda under the Labour Disputes (Arbitration and Settlement) Act 2006. The fundamental principle that has been downplayed here is the coming together of workers as united front and gaining grounds against the employer whether through legal means or not, whether through a union or other means. It is therefore correct to argue that any other avenue that brings together workers in unison and makes them win the recognition of the employer that "this is a force to reckon with" and further succeeds in winning grounds in favor of workers basically serves the very principle of collective bargaining.

Another dimension of collective bargaining as advanced by most writers probably influenced by legislations is the soft approach that assumes among others that its success is premised on mutual trust and respect between the two parties, a joint vision for the future and the means to achieve it, continuous exchange of information and shared goals (Roscow et al in Armstrong (1999). While this is the ideal form of what collective bargaining should be, it tends to overshadow the fact that the workers as a primary condition must first have the ability to flex muscles and win recognition of the employer that it is a force to reckon with. Chamberlain in Campbell et al (1995) from an economist's perspective calls it 'the bargaining power' which he defines as 'the ability to secure your opponent's agreement to your terms'. The element of 'power' on the side of workers that tames the employer into accepting them as equal stakeholders however mild should not be lost. Chamberlain puts it another way when he asserts that at least one party must perceive disagreement to be more costly than agreement in order for agreement to occur.

1.1.2 Bargaining through unions

Unionization is the effort by employees to act as a single unit when dealing with management. When recognized, a union has the legal authority basis to negotiate with the employer on behalf of the employees. They then obtain legal rights for their members that employees without union representation don't have (Jackson et al, 2009). Armstrong (1999) asserts that traditionally the fundamental purpose of trade unions is to promote and protect the interest of their members. Within this overall role the trade unions have two specific roles

namely; to secure through collective bargaining improved terms and conditions for their members and to provide protection, support and advice to their members as individual employees. Lloyd et al (1997) thinking on the same line argued that before the collective bargaining process begins the employees of an organization must decide whether they want to be represented by a union and that for one to understand the collective bargaining process, knowledge of what attracts employees to unions is a prerequisite.

The idea that collective bargaining is an integral part of unionization is further exemplified by the history of trade union movements which has reflected them as the drivers of the collective bargaining process. 19th century for instance saw their development into powerful legal institutions championing workers' rights. In the United States for example, the Mechanics' Union Trade Association in 1827 became the first U.S. labor organization which brought together workers of divergent occupations. This was the first city-wide federation of American workers, which recognized that all labor, regardless of trades, had common problems that could be solved only by united effort as a class (http://en.wikipedia.org/wiki/Trade_union). In Great Britain in 1868 the Trade Union Congress, an amalgam of smaller trade unions was formed and achieved reasonable success in lobbying the government on behalf of smaller trade unions and other workers in general to pass legislation favoring employee bargaining edge (Jackson et al 2009).

In Kenya, trade unionism began to manifest itself from the 1930s when industrialization, urbanization and plantation farming gave rise to wage employment as a more promising means of livelihood away from the traditional rural agrarian life. Okumbe (2001) in tracing labour movements in Kenya states that in 1937 Labor Trade Union of East Africa (LTUEA) was registered. In 1949 the East African Trade Union Congress (EATUC) was established with six union affiliates. Okumbe (2001) argues further that by mid 1950s towards 1960 trade unionism had become the only avenue through which the Africans could agitate for independence from the colonial government, political parties having been banned in the state of emergency of 1952. Powerful trade unions like Kenya Federation of Registered Unions

had forged the fore fronts championing the African cause for independence. According to Cocker (1987) Kenya crossed into independence in 1963 with a tradition of very powerful labor movements.

1.1.3 Bargaining in Kenya Civil Aviation Authority

It is an observation in this research that while the unions through legislations (that tends to empower them as the custodians of collective bargaining); through their history (that has pictured them as the only avenues for collective bargaining) and through attitude of scholars (that tends to imply they must exist for collective bargaining to materialize); have come out convincingly as the prerequisite for collective bargaining, a close study of the Kenyan health sector and the aviation industry points at indications that collective bargaining can actually occur without necessarily involving the unions.

A typical example is the case of the Directorate of Civil Aviation (Now Kenya Civil Aviation Authority), a state corporation which until October 2002 had been a department of the ministry of transport. It has a history of strikes by the technical staff dating back as early as 1978(DPM 1996). With no trade union to represent them, these workers have often held the aviation sector at ransom with their strikes forcing the government to always comply with their demands. A brief look at their striking history is as follows: In 1978, air traffic controllers staged a strike demanding to be placed in a grade higher than those of other technical cadre staff in the civil service. The government responded by arresting and locking up many of them in cells. This did not work and the government opted for negotiations and released the arrested controllers. Their entry grade on appointment was raised as they had demanded (DPM 1996). In 1992 air traffic controllers and the engineering staff went on a go slow demanding to be placed on a higher grade in the entry point to their job and be given various allowances in addition to basic pay. The government responded by raising the entry point grade as demanded and promised to pay the allowances (DPM 1996). In 1993, air traffic controllers went on strike demanding allowances promised in 1992 but resumed work after a presidential intervention (DPM 1996). In 1996 another strike demanding

improvement of their allowances made the government award them the same totaling to 80% of their basic salary along with other technical cadre staff of DCA (DPM 1996). In 1999 the government issued a press statement allowing Directorate of Civil Aviation to be de-linked from the mainstream civil service into a parastatal after a strike by air traffic controllers demanding so (file KCAA /CONF/001). In 2002 the government hastily came up with the Civil Aviation Amendment Act (2002) changing Directorate of Civil Aviation to Kenya Civil Aviation Authority, an autonomous body from the mainstream civil service capable of offering better terms. This followed a strike led by air traffic controllers in March 2002 in which other cadres of the technical staff also joined in. In 2004, new terms and conditions of service were introduced to the staff of the new Kenya Civil Aviation Authority that saw their packages rise by more than 300 %.

It is worth noting that even after winning the creation of a new Civil Aviation Authority with better pay packages, the air traffic controllers have still continued to use the advantage of their trade to make more bargains. In May 2010 after threatening to go on strike and holding audience with the Chief Executive, the Kenya Civil Aviation Authority (KCAA) Board hastily approved special allowance of 10% of basic salary applicable only to air traffic controllers. This was despite protest from the other technical cadres claiming bias and favoritism on the controllers by management. By this time they side-stepped the Aviation and Allied Workers Union that had come into the scene in June 2009 and claiming to represent all the unionisable workers of Kenya Civil Aviation Authority including the air traffic controllers

1.2.0 Research problem

From the discussions, the line of thinking that collective bargaining as a concept stands on its own, independent of trade unions is very strongly argued. While a number of writers, legislation and historical trends have implied that collective bargaining can not exist outside a trade union, the authors who have taken to addressing collective bargaining as a subject of study have succeeded in secluding it as an independent idea of its own with trade union

movements acting as its avenue to have its impacts felt. Writers like (Wolfbein., 1970); (Marshall et al., 1971); Dunlop in Wolfbein., 1970) and whose works have been reviewed in this proposal are good examples. Its success according to them is therefore greatly pegged on the effectiveness of the unions themselves. This line of thinking is quite in line with the concern of this research that collective bargaining is a subject independent of trade unions.

The second area of concern addressed by the writers is the idea that over the years, trade unions have undergone a phase of decline that has severely impeded their roles as the facilitators of collective bargaining. This line of thought has been strongly brought out by authors like Beardwell et al., (2004) who have raised concern that an alternative has to be sought. Other authors like Thomas(1996) have suggested overhauls in the economics that would declare trade unions irrelevant while others like IPSA (2005) have suggested re-strategizing that would see them change their roles.

The idea that collective bargaining could be finding alternative avenues to express itself was glimpsed as early as 1970s by writers like Wolfbein (1970) who recommended that sectors of the economy experiencing such phenomenon needed further study but never went beyond the recommendations. The thought that collective bargaining is actually finding its way independent of trade unions still remains a gap un-addressed. It is therefore correct to argue that the unique phenomenon and dimension in collective bargaining as manifested in Civil Aviation Authority; dating back to 1978 and ignoring unions leads one to question as to whether the role of trade union in championing the cause of air traffic controllers and other employees in Kenya Civil Aviation Authority in general has become irrelevant. It also poses the further question of the possibility of a new dimension in collective bargaining coming up different from the traditional practice.

It is apparent that this unique area in the subject of collective bargaining has escaped the attention of authors like Okumbe (2001) and Cockar(1987) who in their works have paid special attention to labour movements in Kenya since independence. Equally other studies

commissioned by the government to look into the perennial industrial unrests in the civil aviation sector never paid any attention to this unique phenomenon. Sypher (1994) and DPM (1996) both recommended the delinking of the Organization from the mainstream civil service as the ultimate solution and stopped at that. It is worth noting that other authors in human resource management and industrial relations seem to have paid little attention to the phenomenon even in the United States where a strike by air traffic controllers in 1981 posed a big problem and has since been referred to as "one of the most important events in late twentieth century U.S. labor history" (Wikipedia, http://en.wikipedia.org/wiki/Professional_Air_Traffic_Controllers_Organization_1968). This phenomenon remains as a gap in the study of the subject of collective bargaining posing the question: Is collective bargaining finding its way outside unions? Is it beginning to be practiced outside union representation?

1.3.0 Objective of this study

To determine how well the practice of bargaining on terms and conditions of service outside union representation is working at the Kenya Civil Aviation Authority.

1.4.0 Importance of this study

This study will contribute to effective and strategic management of labour relations in Kenya Civil Aviation Authority and other industries facing the same phenomenon.

In terms of legislation it may further contribute in future to the formulation of legislation on labour relations especially the role of unions.

This research will also pave way for further research on the emerging trends on the subject of collective bargaining.

CHAPTER TWO: LITERATURE REVIEW

2.1.0 The concept of bargaining

It is an observation in this proposal that those authors who have taken the approach of addressing collective bargaining as a subject of study tend to view it as an independent idea with trade union coming in as a back up unlike majority of authors in human resource management who have taken the approach that tends to imply it is an integral component of trade unionism.

The International – ILO(1960) for example who looked at it as a subject of study argued that it may be defined as negotiations about working conditions and terms of employment between an employer, a group of employers or one or more employers organization on one hand and one or more representative workers' organization on the other hand with a view to reaching agreement. ILO(1960) further argued that in the absence of a representative workers' organization, representatives of the workers duly elected and authorized by them may be parties to collective bargaining negotiations. ILO (1960) added that in some countries particularly in the initial stages of the development of trade unions, legislation permitted casual groups of workers, usually strike committees to conclude collective agreements.

It is worth noting that ILO(1960) again argued in favor of collective bargaining as a separate entity from trade unions when they asserted that even if only 25 percent or 30 percent of workers in an undertaking or in an essential occupation are firmly organized, they are often in a position to bargain effectively. According to ILO (1960) if the employer is not willing to offer terms which they consider reasonable, they can call a strike. When that happens many of the workers who are not members of the union will usually stay away from work during the strikes and production is brought almost to a standstill. Even if a considerable number of non members do continue to work, production will inevitably be disorganized, the undertaking will probably lose money and the employer may lose business to his competitors.

ILO(1960) concluded that the employers knowing all this will be anxious in their bargaining to avoid stoppage of production or if one takes place will wish to bring it quickly to an end. This will lead the employer to make concessions in order to reach agreements.

Chamberlain et al (1965) in their work brought out the idea of collective bargaining as something distinct from unions by acknowledging that they were out to study collective bargaining as an institution on its own right and not merely an activity of unions or procedure for determining wages and conditions of work. In their discussion of the concept, they argued that collective bargaining efforts seeks to eliminate competition among workers and enables them as a group to participate in the determination of their terms. They observed that whenever there were fewer jobs than applicants and no organization among the workers, the neediest and most desperate of the job seekers were likely to underbid their competitors simply to obtain some job and some income.

Arguing in this direction Chamberlain et al (1965) made their point stronger when they asserted that it was not the ruthless employer who brought about the situation but rather the operation of individual competition in the labour market. To counter this competition according to Chamberlain, workers had to agree on the minimum terms to be accepted by any other worker regardless of his personal willingness to accept less. The elimination of individual competition was achieved through the device of common rule replacing individual terms with general terms in all the important particulars that formed part of the job. This Common rule then became the collective agreement, developed through collective action. It would be reinforced by the workers coming together and sometimes swearing an oath. Later for purposes of greater protection for collective agreements and to ensure uniform action among the workers the idea of closed shops (unions specific to an undertaking) were introduced to face employers and arrive at collective agreements. Chamberlain et al (1965) concluded that collective bargaining therefore gave rise to the common rule and out of the common rule came the collective agreements.

Dunlop in Wolfbein(1970) argued that collective bargaining as a practice existed long time before the term was applied to the institution. He asserted that the phrase 'collective bargaining' was invented by Beatrice Webb, the British Fabian writer and her husband Sidney Webb. They invented and used the phrase 'collective bargaining' to distinguish it from individual bargaining. According to Dunlop, the idea meant that a group as a whole dealt with management and this collective relationship contrasted markedly with individual bargaining. It is worth noting here that the role of the union is downplayed making the subject 'collective bargaining' stand out as the area of discussion without mentioning union.

Wolfbein (1970) on the other hand further stressed this line of thinking when he raised concern about informal groupings coming up and involving in collective bargaining activities. He pointed out groupings like those of nurses, hospital workers, including even catholic priests which he argued had a family resemblance to unions and using methods akin to collective bargaining. To (Wolfbein 1970) it was important to study the sections of the economy witnessing these new developments as they generated new issues in collective bargaining not only in these new sectors but also in the old established areas of collective bargaining as well.

Marshal et al (1971) defined collective bargaining as the idea of workers banding together to present their demands with a single voice, a voice which is far more powerful than that of a worker speaking on his own behalf. They explained further that workers don't bargain as a group. Instead they elect representatives who speak on the group's behalf. They made the subject of collective bargaining come out distinct from the union in their observation that historically collective bargaining in all countries had been inextricably linked with unions and real collective bargaining does not begin until unions have become sufficiently established to undertake the task. The unions however come in as intermediaries speaking on behalf of the workers and introducing a third voice into the bargaining process. Marshal et al (1971) argued that the unions are a third voice because they are separate institutions with different goals and lives of their own. Issues like their futures and survival usually preoccupy

them at the expense of the fortunes of its members thus a dichotomy in terms of interest arise. Collective bargaining is therefore one of the reasons for their existence but they also involve in other activities like politics often deciding which area to give priority.

While from the above arguments, collective bargaining as a subject clearly comes out as an independent entity from trade unions, it is worth looking also at the authors in the subject of human resource management where majority have tended to paint the picture that collective bargaining is an integral part of trade unionism and can not exist on its own.

Beardwell et al(2004) are some of the authors in the subject of human resource management who have devoted a good portion of their work to the subject of collective bargaining. Tracing the development of collective bargaining in the United Kingdom, they argued that as capitalism developed and begun to mature, the foundations of wage economy were formalized. This led to contention regarding how work should be measured and valued. In response to the exploitative nature of early capitalism, trade unions developed as collective forces to protect employment conditions for skilled labour. The state after some dissension made union representation legal and laid basic protective rights for labour on statute. Employers grudgingly accepted these constraints upon their freedom and so the concept of negotiating terms and conditions of employment of labour emerged into modern society (Coates and Topham, 1963). Beardwell et al(2004) further explains that regarding the establishment of, and improvement to the terms and conditions of employment, it was determined the most efficient and equitable manner in which the 'effort-wage bargain' should be negotiated for the majority of labour in society was through collective bargaining. Beardwell et al(2004) then went ahead to define collective bargaining as "the process of negotiation undertaken between employers' representatives and trade union representatives to determine the conditions under which labour should be employed".

Armstrong(1999) sharing the same trend of thought and quoting (Flanders, 1970) defined collective bargaining as the process that regulates the industrial relations system and is a

social process that continually turns disagreements into agreements in an orderly fashion. To (Armstrong,1999), collective bargaining aims to establish by negotiation and discussion agreed rules and decisions on matters of mutual concern to employers and unions as well as methods of regulating the conditions governing employment. It therefore provides a frame work within which the views of management and unions about disputed matters that could lead to industrial disorder can be considered with the aim of eliminating the courses of the disorder. Armstrong(1999) went further to give another definition as “a political relationship” in which trade unions according to Chamberlain and Kuhn(1965) share industrial sovereignty or power over those who are governed, the employees. Armstrong(1999) then summed it that: ‘above all, collective bargaining is a power relationship which takes the form of a measure of power sharing between management and trade unions’. Armstrong(1992) then went ahead and identified two basic forms of collective bargaining. The first is what he termed as ‘conjunctive bargaining’ which arises from the absolute requirement that some agreement or any agreement may be reached so that the operations on which both are dependent may continue and results in a working relationship in which each party agrees explicitly or implicitly to provide certain requisite services, to recognize certain seats of authority and to accept certain responsibilities in respect of each other. The second is what he called ‘cooperative bargaining’ in which it is recognized that each party is dependent on the other and can achieve its objectives more effectively if it wins the support of the other.

Nzuve(1997) defined collective bargaining as an 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 unrests. According to Nzuve(1997) the term is only applied to bargains between the employees (represented by a trade union) and the employer(s). Nzuve(1997) further added that collective bargaining can also be viewed as a method of mutually determining terms and conditions of employment and thus regulate both economic and managerial relationships through formalized agreements. To Nzuve(1997) collective bargaining is a long lasting process and once it is negotiated, can always be reviewed from

time to time as conditions may necessitate. He went ahead and explained the nature of collective bargaining asserting that workers do not negotiate individually and on their own behalf but do so collectively through trade unions representatives. Nzuvc(1997) came out strongly arguing that because of this, collective bargaining can only take place where there is a trade union which is recognized by management. He then explained the conditions under which collective bargaining can function. Among them are; willingness by the workers and their trade union officials, the power to force the employer to accept negotiations, willingness by management to accept that decisions affecting workers must be agreed between the two parties before they are implemented and a positive political climate that encourages collective bargaining as a means of enhancing industrial peace.

Okumbe(2001) on his part defined collective bargaining as the process in which representatives of two groups, usually the management and the labour union meet and negotiate an agreement which specifies the nature of future relationship between them. The main aim of collective bargaining according to Okumbe(2001) is to establish through negotiations and discussion, the rules, decisions and methods regulating the terms and conditions of employment. He asserted that collective bargaining is a joint process between the management and the labour unions. Like Armstrong, Okumbe(2009) also identified the two forms of collective bargaining.

It is an observation by the researcher that from the two approaches to collective bargaining, there is consensus in some basic principles as regards the subject. Some of these include the facts that it has to be collective and there must be representation of both the parties involved. Examples are (Okumbe 2009), (Armstrong 1999), (ILO1960). A divergence however seems to appear when the authors who take to writing on collective bargaining as a subject of study inclines towards the idea that it is an independent entity developing on its own with trade unions coming in as a back up(Chamberlain et al 1965), (ILO 1960). The authors on the subject of human resource management who mostly cover collective bargaining as one of the topics in their works, in contrast, adopts the view that it can not exist outside trade unions

and sees its major role as a tool to be invoked for purposes of dissolving conflict in labour relations(Okumbe 2001), (Torrington et al 2005).

2.1.1 Bargaining outside trade unions

It is an observation in this proposal that most authors in the field of human resource management and economics some of whom their works are discussed below seem to have come to consensus that there is a general trend in the decline of trade unions over the years including their role in bargaining and effectively championing the cause of workers. This trend is in line with the research question of this proposal that collective bargaining could as well be finding other avenues outside trade unions. None of the authors however seem to have adopted the eye view that a new trend in collective bargaining outside unions could be the future norm.

Beardwell et al(2004) for instance basing their work in the United Kingdom and quoting (Brown 1993) argued that during the latter part of the 19th century, and for most of the 20th century collective bargaining came to be accepted as the most appropriate vehicle for establishing the terms and conditions for employment and to this end has been tacitly supported by the state and accepted by employers. However with the election of a conservative administration in 1979, this supportive stance from both the state and employers was actively challenged. With a clear affiliation to free market philosophy, successive conservative governments since 1979 have overseen a calculated decline of the influence of trade unions in the United Kingdom. Along with the constraints and control of trade union power came a concomitant decline in the coverage of collective bargaining. Beardwell et al(2004) further stresses this line of argument by stating that this decline had been recorded by successive workplace surveys undertaken during the period. They cite (Cully et al 1999) whose surveys revealed that in 1984 it was found that 70 percent of employees were covered by collective bargaining agreements. By 1998, this figure had dropped to approximately 45 percent. Beardwell et al(2004) however acknowledged that despite the trend the majority of

the largest firms in the economy and substantial proportion of the public sector still utilized collective bargaining to establish and change the terms and conditions of employment.

Beardwell et al(2004) advanced the argument on the decline further when they claimed that until recently in any debate upon how the terms and conditions of employment are agreed, the critical focus would have been upon collective bargaining. However it is now clear that whilst a substantial minority of employees still enjoy collective bargaining coverage, the majority do not. They claimed that this was evident in the increasing number of firms who did not recognize unions as either employee representatives or bargaining agents. Beardwell et al(2004) pushed their argument further by asserting that while in overall, collective determination of the terms and conditions of employment no longer dominated in the United Kingdom, there was little evidence for a credible alternative model of employment relations emerging to replace the collective bargaining approach leaving what (Beaumont 1995) described as institutional vacuum. Beardwell et al(2004) went ahead to cite (Towers 1997) who suggested that there was now a representation gap in the UK where no formal method of articulation for employee voice had emerged with any coherence to effective replacement of collective representation.

Towers(1997) in (Beardwell et al 2004) took the argument a notch higher by raising concern that the decline of unions and bargaining had denied employees an independent representative channel within the naturally exploitative capitalist system and that there were implications for national productivity given that firms with a strong union presence were more effective at producing change. Towers(1997) stressed that collective bargaining could contribute positively toward the economic performance of individual enterprises and the economy as a whole.

Supporting this point, Cully et al(1999) in (Beardwell et al2004) argued that investment in high-commitment management practices was more likely where there was a strong union presence whilst only a minority of workplaces without union representation offered

employees formally agreed consultation over the organization of the labour process. Brown(1993) in (Beardwell et al 2004) upon observing the decline of collective bargaining as recorded in the 1992 workplace industrial relations survey(Millward et al., 1992) concluded that employees were much worse off if they did not enjoy collective bargaining protection. They were on average, less favored than their union counterparts. Beardwell et al(2004) concluded this argument by predicting that periods of transition from collective representation to an alternative model would be turbulent and lead to casualties. They further observed by citing (Nolan and O'Donnell, 1995) that this process of transition had been underway for sometime and at the time of their writing, the decline in collective representation would appear to have denied labour a democratic channel to articulate their rights and did not appear to have contributed to a sustained productivity growth in the United Kingdom.

It is worth noting here that Beardwell et al(2004) wrote from the perspective of human resource management authors and have considered collective bargaining as an integral part of unionization. It is an observation here that because of that approach the decline of unions has been treated as synonymous with the decline of collective bargaining and the eye view of collective bargaining finding other avenues outside the declining unions has therefore been blurred.

Howard et al (1971), on the other hand writing in the US had observed critics of unions arguing that union leaders had become fat cats who settled for higher wages to be at the helms of unions rather than fight on the front lines where poverty, discrimination and exploitations existed. Howard et al (1971) noted further that increasing public disenchantment had led to the growth of government interference with the union's effectiveness in collective bargaining. Economic hardships had led the government to place great emphasis on maintenance of production even if one or both parties to the process is dissatisfied thus subjecting collective bargaining to undue pressure by government officers. The unions in most cases had to bear the brunt.

Campbell et al (1995) on their part paid special attention to the fact that trade unions were on the decline. Basing their setting in the US, they argued that the relative size of the labour movements peaked in 1970s and had since been declining. Between 1980 and 1992 in the absolute, number of active union members also decline sharply. Campbell et al (1995) advanced three hypotheses to try explaining the decline. The first one is the structural change in both the economy and the labourforce which had been unfavorable to the expansion of union membership. The second hypothesis is the management opposition where management resorts to such tactics discouraging unionization like hiring permanent strike breakers, delaying union certification (recognition), hiring labour consultants specialized in anti union campaigns, dismissing pro union workers. The third hypothesis according to Campbell et al (1995) is the substitution hypothesis where employers resort to providing services and benefits which were historically available to workers only through unionization. Other hypotheses the writers advanced included public policy environments that had become increasingly anti labour creating an administrative legal environment hostile to unions. They also indicated that Canada was experiencing the same trends.

Armstrong (1999) sharing the same line of thought also argued that in the US, total number of trade union membership fell from 13 million in 1979 to 8.5 million in 1992. The total membership as a proportion of the civilian workforce in employment fell from 53% in 1979 to 34.7% in 1990. Basset and Cave(1993) in Armstrong (1999) argued that the causes had been a shift in the economy away from the large-scale manufacturing industries(traditionally heavily unionized) to the service industries (traditionally non unionized) ; the trend to decentralize organizations; a decline in the number of workplaces employing large numbers of people; growing number of women, white collar workers, and part time workers and the impact of unemployment. Torrington et al (2005) also concurred with the position taken by Armstrong but gave the examples in the UK where he said that trade union membership declined from 58% in 1979 to 26.6% in 2002. He further observed that there had also declined, the number of employees whose terms and conditions are determined through

collective bargaining and that collective agreements were now very rare outside the public sector.

Campbell et al (1995) also sharing the same line of thought argued that the unions in order to regain their relevance resorted to such strategies as merging with one another to avert shrinking membership and declining income. They further argued that unions had changed their organizing and negotiating strategies and were now resorting to training union organizers and defining bargaining demands which appeal to white collar professionals and to an increasing female labourforce whose interests are in areas like maternity leave, paternity leave, child care, flexible workforce schedules, worker drug testing, HIV/AIDS protection. The unions had also resorted to offering several traditional services such as low interest rate credit cards, job counseling to both union and non union members. Other strategies adopted by unions include opting for go slows instead of strikes where workers are in their place of work but produce to the bare minimum opening grounds for initiating talks with employers. Armstrong (1999) seems to concur with Campbell et al (1995) and skeptically mentions additional strategy of unions playing a valuable role as partners in the workplace helping to manage change and improving productivity. Other authors in human resource management like Price Allan (2007) and Jackson et al (2009) shared the same sentiments. It is worth noting however that the authors fail to pay attention to the concern of this project; that is- the possibility that other avenues for collective bargaining could come up to fill the gap created by weakening unions.

From the local perspective narrowing down from African to the Kenyan setting, writers addressing labour movements in their works also share the view of the gradual decline of unions and their powers to bargain. Thomas (1995) argued that in Africa, the unions have continued to face challenges of authoritarian regimes heavily controlling them and cites examples of devastating trends in the labour market occasioned by drastic falls in earning, massive retrenchments in the public sectors, absence of job creation in the medium and large scale enterprises. Thomas (1995) argued these had destroyed any possibility of trade union

movements acting as stable institutions in the labour market development and transformation. He further observed that the migratory flows of workers of various kinds and enormous expansion of informal sector activities were clear symptoms of structural economic weaknesses that needed to be overcome for unions to have any relevance. Thomas (1995) recommended a complete overhaul of economic strategies with human resource development and promotion of technology innovations in small and micro enterprises which he acknowledged were at odds with unionization.

It can therefore be correctly argued that Thomas envisioned economic changes in which the unions were likely to be irrelevant. He unlike Campbell et al (1995) and the other writers already mentioned in this chapter, did not see remedy from the perspective of unions adopting new strategies to survive but was more radical in his approach suggesting a complete overhaul of economic strategies. He is partly in line with the thinking of this project from the perspective of diminishing union effectiveness but falls short of seeing from the perspective that collective bargaining could be finding other avenues outside trade unions.

Institute for Peace Development and Innovation (IPSIA) Kenya (2006) whose work is based on the Kenyan setting had in its overview of labour relations and trade unions in Kenya, traced the developments of labour movements in the pre independent Kenya; into the independent Kenya; then paid special attention to the establishment of the Central Organization of Trade Unions (COTU) the umbrella body of trade unions in the country. IPSIA identified COTU with some achievements especially in the informal sector and in other formal sectors where the Organization had been instrumental in spearheading the formation of unions, citing workers in the textile industry and the EPZ. In its further analysis of COTU's effectiveness, IPSIA(2006) argued that COTU had been the channel of government manipulation that had seen interference in trade union movements, almost rendering them ineffective. In its conclusions on trade union effectiveness in Kenya, IPSIA(2006) argued that trade unions were not performing. It strongly believed that trade

unions had been used as vehicles of wealth accumulation by their officials. On the other hand, many employees were unable to belong to these trade unions because of various reasons among them being the nature of their work (particularly casual employees), little knowledge on trade unionism, continuous disappointment by the existing unions, and little awareness on labour laws among the employees. IPSIA (2006) felt that it was a reality that the gap between majority trade unions and their member employees was very wide and they did not have regular communications from either side. Worst still according to IPSIA (2006), trade unions never organized workshops or general meetings in which they would invite all their registered members to attend.

IPSIA(2006) further asserted that through their research, it was possible to determine that the employees' level of consciousness was extremely low, such that they sought contentment in their status quo and they were not determined to challenge it. Consequently, their rights as employees were taken for granted by the employers and this led to their exploitation. In as much as the labour laws need to be reviewed, the desire of true change was lacking from the side of the employees and this was to the employers' advantage. Further more, most trade unions (mainly those affiliated to COTU) were run by under qualified and incompetent officials. IPSIA(2006) observed a general lack of transparency and accountability among unions which most of the times were rocked with internal leadership wrangles which revolved around the unions' funds and tribal machinations. The fact that these unions were run with employees' little contributions, and that the leadership was consistently wrangling over the same, made the unions inefficient and ineffective in representing member employees in Industrial Courts in cases of labour disputes.

IPSIA(2006) went ahead to recommend that in a country where more than 60% of the population live below the poverty line (less than 1US\$ per day), trade union leaders must turn a new leaf by focusing on reforming and revitalizing the trade union movement. This is the only avenue through which poor suffering employees can be heard by the employers, including the government. More fundamental, there is a great need to re-politicize the labour

movements just as it was in the late 1950s. Through this, the employees' level of consciousness will be raised and they would eventually be able to push for their reforms agenda in the labour sector. IPSIA(2006) observed that the government would not amend the laws that easily unless pushed to do so by the employees. This would be achieved only if trade unions were organized, well informed and focused. IPSIA(2006) concluded that any effort to make improvements in the labour sector should invest heavily on employees' education and awareness creation, geared towards strong grass-roots-founded associations.

IPSIA(2006) thus shared the same thinking with Thomas (1995) when it argued that investment in human resources would be the way forward. The two however differed when IPSIA(2006) saw a new role for unions while Thomas(1995) apparently saw no future role for them. Again in line with the thinking of this research, the idea that unions may be losing their role in collective bargaining seems to be featuring but on the contrary, there is no thought given to the idea of other alternatives for collective bargaining away from trade unions taking root.

CHAPTER THREE: RESEARCH METHODOLOGY

3.1.0 Research design

The researcher used case study. This was preferred because it entails the detailed and intensive analysis of a single case. According to Cooper & Schindler (2009), it is a powerful research methodology that enables the researcher to select the specific organization or situations to profile because these examples offer critical, extreme or unusual cases. Its flexibility and its emphasis on understanding the context of the subject being studied allow for a richness of understanding.

3.2.0 Data collection

Data was collected using structured interview guide. The guide gave a chronology of six (6) cases in the history of the organization where staffs went into engagements with management over their terms and conditions of service without union representation. Against each case, the guide sought the opinion of the respondent as to whether there were manifestations of collective bargaining or not. Five (5) parameters were used against each case to help the respondents state their answers. The interview guide form was divided into two parts (a) and (b). Part (a) was used to ask for the details of the respondent while part (b) was used to outline the questions for discussion. The interview guide was administered by the researcher in person.

Three respondents were identified for the purpose of data collection. One of the respondents was the Manager, Human Resources and Administration who was identified owing to his vast knowledge in labour relations and employee bargaining matters pegged on his expertise and experience. The next two were the chairpersons of the two major staff associations who understood well the subject of employee bargaining having participated in the same in the past.

3.3.0 Data analysis

Content analysis was used for data analysis because the data analyzed were collected through interviews and were qualitative. The findings were to be presented in the forms of tables, percentages, graphs and pie charts.

CHAPTER FOUR: DATA ANALYSIS, RESULTS AND DISCUSSION

4.1.0 Introduction

A total of six(6) incidences where staff engaged management without union representation were enumerated and each respondent interviewed using five (5) parameters to find out in their opinions how well each incidence worked for staff compared to a union led negotiation.

4.1.1 Responses

i) Incidence of Feb 1992:

Incidence: Controllers went on go slow demanding upgrading

Effects: DPM upgraded their entry point on employment from job group G to H and promised to pay some allowances

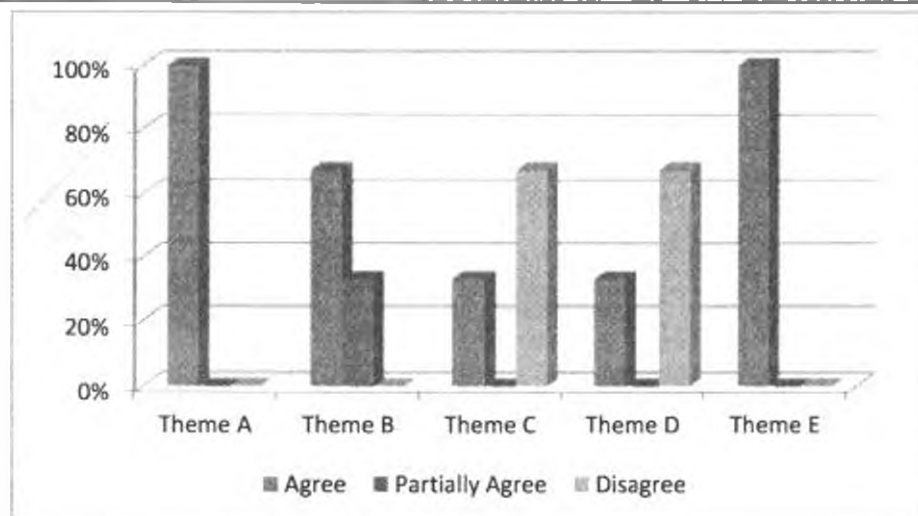
Responses

	Parameters/Thematic areas				
	Collective power of staff at work (A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached (E)
Respondent 1	Agree	There was an element of representation but not in the real sense	Negotiations took place	Spirit of give and take only on part of Govt.	Settlement was agreeable to both parties
Respondent 2	Agree	Both parties were represented	No negotiations took place. Govt. was ambushed	Spirit of give and take displayed by all parties	Settlement was agreeable to both parties
Respondent	Agree	Both parties	No negotiations	Spirit of give and	Settlement was

3		were represented	took place. Govt. was ambushed.	take only on part of Govt.	agreeable to both parties
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Summary

Parameters/Thematic areas				
Collective power of staff at work	Collective representation from both management and staff	Actual talking and negotiation between the two parties taking place	The spirit of give and take displayed	Final settlement agreeable to both parties being reached
(Theme A)	(Theme B)	(Theme C)	(Theme D)	(Theme E)
100% agree	67% agree 33% partially agree	33% agree 67% disagree	33% agree 67% disagree	100% agree



Source: Field data

In the incidence of Feb 1992 there is a universal agreement among respondents that collective power of staff was at work and that the final settlement was agreeable to both parties and both two themes have attracted 100% support. However, the idea that there was a collective representation from both parties and that there was the spirit of give and take while not ruled out appears to attract some reservations as 33% agree while 67% disagree in both cases.

ii) Incidence of December 1993

Incidence: Technical staff went on go slow demanding allowances promised in 1992

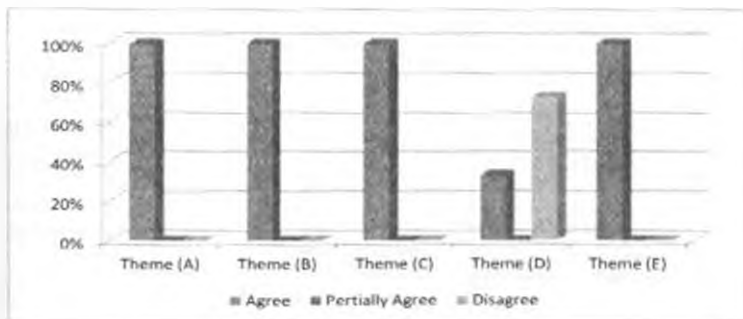
Effects: Permanent Secretary summoned a cross section of DCA staff in his office and promised speedy preparation of schemes of service. New schemes released in Feb 1994 and upgrading done

Responses

	Parameters/Thematic areas				
	Collective power of staff at work (A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached (E)
Respondent 1	Agree	Agree	Agree	Agree	Agree
Respondent 2	Agree	Agree	Agree	Govt was arm twisted	Agree
Respondent 3	Agree	Agree	Agree	Govt was arm twisted	Agree

Summary

Parameters/Thematic areas				
Collective power of staff at work (A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached (E)
100% Agree	100% Agree	100% Agree	33% Agree 73% Disagree	100 Agree



Source: Field data

In the Incidence of December 1993 there is a universal agreement among respondents that that the incident manifested collective power of staff at work, that there was collective representation from both sides, that there was actual talking and negotiation between the two parties and that a final settlement agreeable to both parties was reached. The fact that the spirit of give and take was displayed has generated 33% support while 73% of respondents disagree

iii) Incidence of April 1996

Incidence: Controllers went on strike demanding improvement on their salaries and allowances. This was after an earlier strike in 1994 was called off due to presidential intervention and a memo to Permanent Secretary in 1995 demanding further allowances failed to be effective.

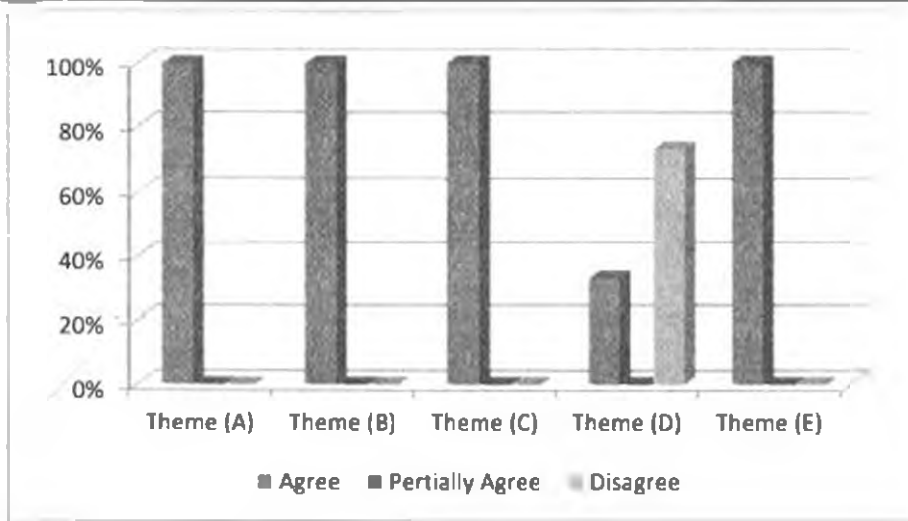
Effects: The head of public service among other top government officials met the striking staff and return to work formula agreed. The Government awarded upto 80% shift and validation allowance for the DCA technical cadres and 45% aviation allowance for others

Responses

	Parameters/Thematic areas				
	Collective power of staff at work (A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached (E)
Respondent 1	Agree	Agree	Agree	Agree	Agree
Respondent 2	Agree	Agree	Agree	Govt was arm twisted	Agree
Respondent 3	Agree	Agree	Agree	Govt was arm twisted	Agree

Summary

Parameters/Thematic areas				
Collective power of staff at work (A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached (E)
100% Agree	100% Agree	100% Agree	33% Agree 73% Disagree	100% Agree



Source: Field data

In the Incident of April 1996 the same trend in response as that of 1993 is repeated. There is a universal agreement among respondents that that the incident manifested collective power of staff at work, that there was collective representation from both sides, that there was actual talking and negotiation between the two parties and that a final settlement agreeable to both parties was reached. The fact that the spirit of give and take was displayed has generated 33% support while 73% of respondents disagree

iv) Incident of 1999

Incidence: Controllers along with other technical staff including the MET staff went on strike demanding that the DCA and MET be delinked from the central government into parastatals capable of paying better packages.

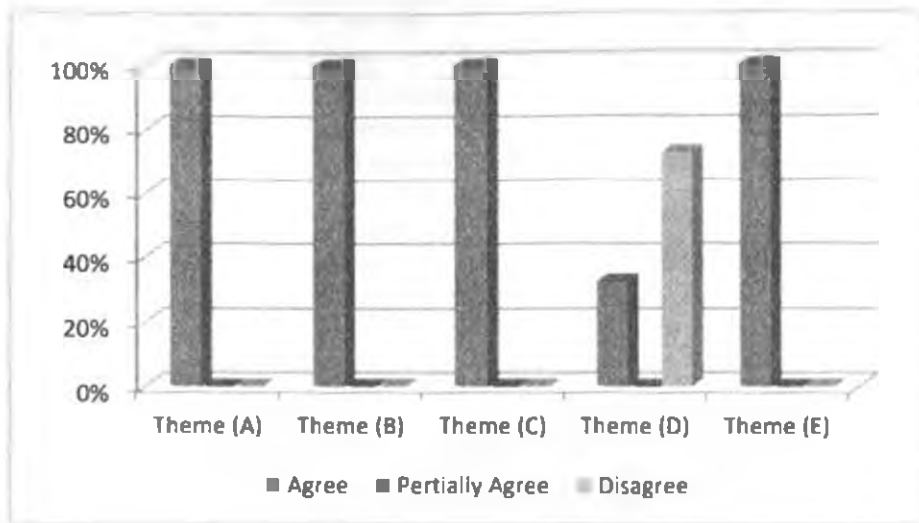
Effects: The government issued a statement allowing DCA to be delinked from the Ministry of Transport

Responses

	Parameters/Thematic areas				
	Collective power of staff at work (A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached (E)
Respondent 1	Agree	Agree	Agree	Agree	Settlement was no agreeable to both parties. MET case was not adequately addressed
Respondent 2	Agree	Agree	Agree	Govt was arm twisted into issuing a statement	No settlement reached. Govt. simply issued a statement
Respondent 3	Agree	Agree	Agree	Govt was arm twisted into issuing a statement	Govt. arm twisted the staff

Summary

Parameters/Thematic areas				
Collective power of staff at work (A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached (E)
100% Agree	100% Agree	100% Agree	33% Agree 73% Disagree	100% Disagree



Source: Field data

The trend in response has continued as in incidences of 1993 and 1996. There is a universal agreement among respondents that that the incident manifested collective power of staff at work, that there was collective representation from both sides, that there was actual talking and negotiation between the two parties and that a final settlement agreeable to both parties was reached. The fact that the spirit of give and take was displayed has generated 33% support while 73% of respondents disagree

v) Incidence of March 2002

Incidence: The technical cadre staff went on strike over the delay in delinking DCA from mainstream civil service. About 8% of the technical staff lost their jobs

Effects: In October 2002, the Civil Aviation (Amendment) became effective delinking DCA from mainstream civil service.

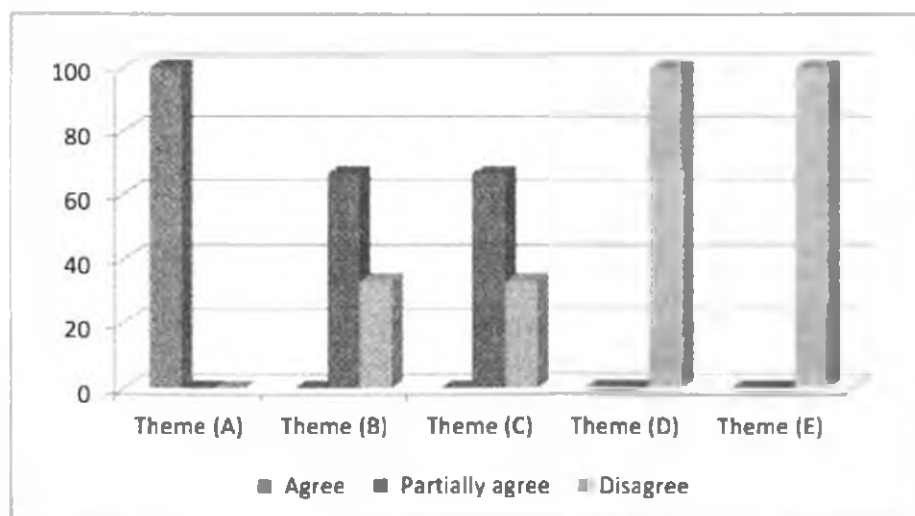
Responses

Parameters/Thematic areas				
Collective power of staff at work	Collective representation from both management	Actual talking and negotiation between the two parties taking	The spirit of give and take displayed (D)	Final settlement agreeable to both parties

	(A)	and staff (B)	place (C)		being reached (E)
Respondent 1	Agree	The concept of representation did no apply here. This was a tug of war	There was no room for talking and negotiation	It was the winner take it all	It was the winner take it all
Respondent 2	Agree	Only management was represented but no staff	There was talking and negotiation which ended in an impasse	It was the winner take it all	It was the winner take it all
Respondent 3	Agree	Govt. did not give room for staff representation	There was talking and negotiation which ended in an impasse	It was the winner take it all	It was the winner take it all

Summary

Parameters/Thematic areas				
Collective power of staff at work (A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached (E)
100% Agree	33% Disagree 73% Partially agree	33% Disagree 73% Partially agree	100% Disagree	100% Disagree



Source: Field data

Here there is a universal agreement among respondents that collective power of staff was at work but that the spirit of give and take and that of reaching a settlement agreeable to both parties were not manifested. On the idea of collective representation from both side and actual talking and negotiation between the two parties going on, the response indicates 33% disagreeing and 73% partially agreeing in both the two cases.

vi) Incidence of May 2010

Incidence: The air traffic controllers threatened to go on strike over the need to improve their allowances and demanded audience with the CEO.

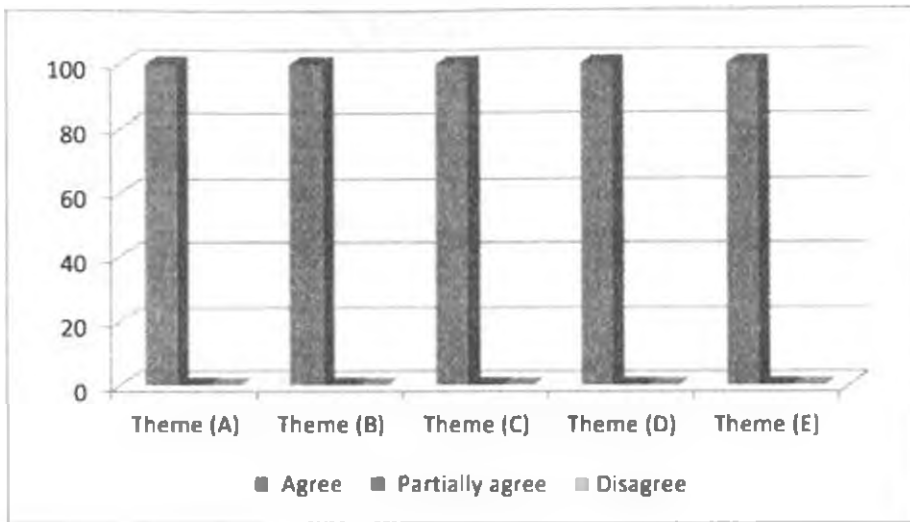
Effects: The audience was granted followed by the Board approval of special allowance of 10% of basic salary applicable only to air traffic controllers.

Responses

	Parameters/Thematic areas				
	Collective power of staff at work (A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached (E)
Respondent 1	Agree	Agree	Agree	Agree	Agree
Respondent 2	Agree	Agree	Agree	Agree	Agree
Respondent 3	Agree	Agree	Agree	Agree	Agree

Summary

Parameters/Thematic areas				
Collective power of staff at work(A)	Collective representation from both management and staff (B)	Actual talking and negotiation between the two parties taking place (C)	The spirit of give and take displayed (D)	Final settlement agreeable to both parties being reached(E)
100% Agree	100% Agree	100% Agree	100% Agree	100% Agree



Source: Field data

In the incidence of May 2010 there is a universal agreement among all respondents that collective power of staff was at work, that Collective representation from both management and staff was manifested, that there was Actual talking and negotiation between the two parties taking place, that there was the spirit of give and take displayed and that there was a final settlement agreeable to both parties reached

CHAPTER FIVE: SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

5.1.0 Introduction

The objective of this research was to find out how well staff bargaining on terms and conditions of service outside union representation is working at the Kenya Civil Aviation Authority. A total of six (6) incidences were enumerated to the respondents and five uniform parameters used against each incidence to guide the respondents judge as to the extent each incidence measured up to a formal union led bargaining. The responses were gauged on the basis of agreeing, partially agreeing and disagreeing against the parameters used. Mean scores on the basis of agreeing, partially agreeing or disagreeing were expressed as percentages of the total mean score to help gauge how each incidence measured up to a formal union led bargaining. Summaries of the same are as here below.

5.1.1 Incidence of Feb 1992

Responses agreeing that the incidence measured up to that of a formal union led bargaining were 70%, responses partially agreeing were 5% while those disagreeing were 25%. The findings in regard to this incidence heavily points out that the incidence of Feb 1992 was a strong indication that successful bargaining outside union representation is effective.

5.1.2 Incidence of December 1993

Responses agreeing that this incidence measured up to that of a union led bargaining formed 87%, those disagreeing 0% and those partially agreeing 13%. It therefore heavily leans on the side of bargaining without union representation being effective.

5.1.3 Incidence of April 1996

The responses for the incidence of April 1996 has taken the trend of that of December 1993 with responses agreeing that this incidence measured up to that of a union led bargaining

being 87%, those disagreeing 0% and those partially agreeing 13%. Equally, the findings heavily lean on the side of bargaining without union representation being effective.

5.1.4 Incidence of 1999

This incidence has also taken the trend of those of April 1996 and December 1993 with 87% of the responses agreeing that this incidence measured up to that of a union led bargaining 0% disagreeing and 13% partially agreeing. Like the others above, the findings heavily leaning on the side of bargaining without union representation being effective.

5.1.5 Incidence of March 2002

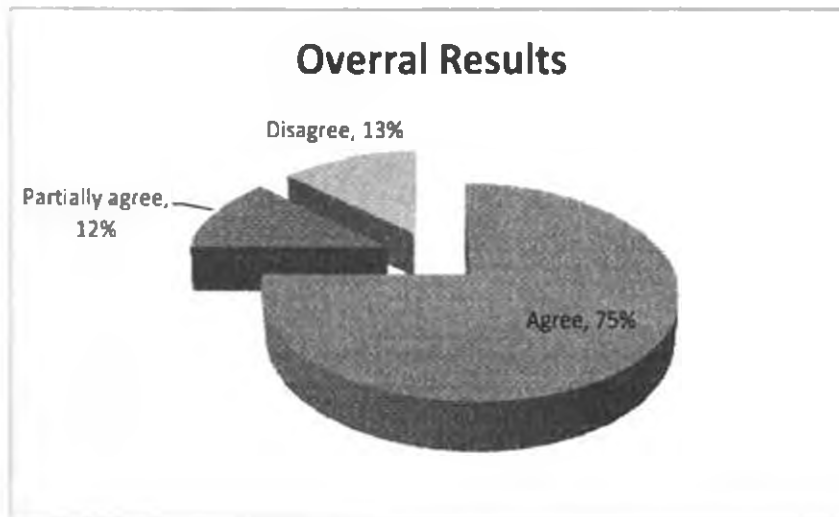
Responses agreeing that this incidence measured upto that of a formal union bargaining were 20%, those partially agreeing 27 and those disagreeing 53%. The finding here leans towards the idea that collective bargaining outside union representation is not effective.

5.1.6 Incidence of May 2010

This incidence has elicited 100% support from the responses that it measured upto a union led formal bargaining with 0% partially agreeing and 0% disagreeing. The findings here give a strong indication that the practice of collective bargaining outside union representation is very effective.

5.1.7 Overall Summary

This was determined by getting the mean percentages of total scores of those responses agreeing, those partially agreeing and those disagreeing in respect of all the six (6) incidences covered by the project. Response agreeing took 75%, those partially agreeing 12% and those disagreeing 13%.



The findings show that the practice of bargaining of terms and conditions outside union representation was actually working.

5.2.0 Conclusions

The following conclusions can be made from the findings of this project:

5.2.1 Bargaining and union representation

The findings show that the practice of staff bargaining for their terms and conditions outside the union structure is quite feasible. It is a practice that has been going on in the history of Kenya Civil Aviation Authority for the last two decades and has been working for staff. More remarkable has been the ability of these staff to succeed in getting the government into

talks and winning; an area which had become a tall order for giant trade unions like the union of Kenya Civil Servants which at one time was banned in 1980(Cocker,1980).

5.3.0 Recommendations

5.3.1 The challenge to trade unions

The success of bargaining without union representation is likely to erode the role of trade unions in championing the cause of staff at the Kenya Civil Aviation Authority especially in the eyes of staff whose support and belief in the union gives the union its very lifeline in the industry. The union representing Kenya Civil Aviation Authority staffs need to come up with a well thought strategy to regain its position.

5.3.2 Legal implications

While the Labour Relations Act(2007) does not explicitly preclude employees from bargaining with the employer without union representation, its relevant clauses covering this area overtly bestow this responsibility on the union to the extent that it appears the process could not be recognized as legal without union representation. There is therefore the need for the Act to be revised to come out clear in this area.

5.3.3 Kenya Civil Aviation Authority management

Kenya Civil Aviation Authority management should take advantage of this unique phenomenon in its labour relations and adopt strategies likely to work to the advantage of the industry ie whether to encourage the practice of bargaining without union representation or to encourage bargaining under union representation.

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Appendix 1: QUESTIONNAIRES

QUESTIONNAIRE

This questionnaire is retracing past incidences where staffs managed to engage management for better terms and often succeeded without union representation and seeks your opinion as to how well the practice of staff bargaining on terms and conditions of service outside unions is working at the Kenya Civil Aviation Authority.

Section A

Respondent's Details:

Department/Station headed.....

Period of service in the Organization.....

Section B

The table below on the second left column outlines the instances where DCA (now KCAA) staff collectively confronted management over their terms in the past years without union representation. This questionnaire, using five (5) parameters as outlined in the right column seeks your opinion as to how well this worked.

Your response will be highly appreciated and will be strictly for the purposes of this research.

YEAR	ACTION AND RESULTS	Tick one box under each question
Feb 992	<p>Controllers went on go slow demanding upgrading.</p> <p>DPM upgraded their entry point on employment from job group G to H and promised to pay some allowances</p>	<p>Compared with a formal union collective bargaining to what extent could one claim that there was:</p> <ol style="list-style-type: none"> 1) Collective power of staff at work 2) Collective representation from both management and staff 3) Actual talking and negotiation between the two parties taking place 4) The spirit of give and take displayed

QUESTIONNAIRE

This questionnaire is retracing past incidences where staffs managed to engage management for better terms and often succeeded without union representation and seeks your opinion as to how well the practice of staff bargaining on terms and conditions of service outside unions is working at the Kenya Civil Aviation Authority.

Section A

Respondent's Details:

Department/Station headed.....

Period of service in the Organization.....

Section B

The table below on the second left column outlines the instances where DCA (now KCAA) staff collectively confronted management over their terms in the past years without union representation. This questionnaire, using five (5) parameters as outlined in the right column seeks your opinion as to how well this worked.

Your response will be highly appreciated and will be strictly for the purposes of this research.

AR	ACTION AND RESULTS	Tick one box under each question
2	<p>Controllers went on go slow demanding upgrading.</p> <p>DPM upgraded their entry point on employment from job group G to H and promised to pay some allowances</p>	<p>Compared with a formal union collective bargaining to what extent could one claim that there was:</p> <ol style="list-style-type: none"> 1) Collective power of staff at work 2) Collective representation from both management and staff 3) Actual talking and negotiation between the two parties taking place 4) The spirit of give and take displayed

	<p>.....</p> <p>.....</p> <p>5) Final settlement agreeable to both parties being reached</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>ATOs and Engineers went on go slow demanding upgrading.</p> <p>Permanent Secretary Ministry of Transport promised the upgrading</p>	<p>Compared with a formal union collective bargaining to what extent could one claim that there was:</p> <p>1) Collective power of staff at work</p> <p>.....</p> <p>.....</p> <p>2) Collective representation from both management and staff</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>3) Actual talking and negotiation between the two parties taking place</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>4) The spirit of give and take displayed</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>5) Final settlement agreeable to both parties being reached</p> <p>.....</p> <p>.....</p> <p>.....</p>
<p>993</p> <p>Controllers went on go slow demanding allowances promised in 1992.</p> <p>Permanent Secretary summoned a</p>	<p>Compared with a formal union collective bargaining to what extent could one claim that there was:</p> <p>1) Collective power of staff at work</p> <p>.....</p> <p>.....</p> <p>2) Collective representation from both management and staff</p> <p>.....</p> <p>.....</p> <p>.....</p>

	<p>cross section of DCA staff in his office and promised speedy preparation of schemes of service. New schemes released in Feb 1994 and upgrading done.</p>	<p>3) Actual talking and negotiation between the two parties taking place</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>4) The spirit of give and take displayed</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>5) Final settlement agreeable to both parties being reached</p> <p>-----</p> <p>-----</p> <p>-----</p>
<p>April 1996</p>	<p>Technical cadre staff went on strike demanding improvement on their salaries and allowances. The Government awarded upto 80% shift and validation allowance for the DCA technical cadres and 45% aviation allowance for others</p>	<p>Compared with a formal union collective bargaining to what extent could one claim that there was:</p> <p>1) Collective power of staff at work</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>2) Collective representation from both management and staff</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>3) Actual talking and negotiation between the two parties taking place</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>4) The spirit of give and take displayed</p> <p>-----</p> <p>-----</p> <p>-----</p> <p>5) Final settlement agreeable to both parties being reached</p> <p>-----</p> <p>-----</p> <p>-----</p>

99

Controllers along with other technical staff including the MET staff went on strike demanding that the DCA and MET be delinked from the central government into parastatals capable of paying better packages. The government issued a statement allowing DCA to be delinked from the Ministry of Transport.

Compared with a formal union collective bargaining to what extent could one claim that there was:

- 1) Collective power of staff at work
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- 2) Collective representation from both management and staff
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- 3) Actual talking and negotiation between the two parties taking place
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- 4) The spirit of give and take displayed
.....
.....
- 5) Final settlement agreeable to both parties being reached
.....
.....

March 2002

The technical cadre staff went on strike over the delay in delinking

Compared with a formal union collective bargaining to what extent could one claim that there was:

- 1) Collective power of staff at work
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	<p>DCA from mainstream civil service. About 8% of the technical staff lost their jobs. In October 2002, the Civil Aviation (Amendment) became effective de-linking DCA from mainstream civil service.</p>	<p>.....</p> <p>2) Collective representation from both management and staff</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>3) Actual talking and negotiation between the two parties taking place</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>4) The spirit of give and take displayed</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>5) Final settlement agreeable to both parties being reached</p> <p>.....</p> <p>.....</p> <p>.....</p>
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<p>y 0</p>	<p>The air traffic controllers threatened to go on strike over the need to improve their allowances and demanded audience with the CEO.</p> <p>The audience was granted followed by the Board approval of special allowance of 10% of basic salary applicable only to air traffic controllers.</p>	<p>Compared with a formal union collective bargaining to what extent could one claim that there was:</p> <p>1) Collective power of staff at work</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>2) Collective representation from both management and staff</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>3) Actual talking and negotiation between the two parties taking place</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>4) The spirit of give and take displayed</p> <p>.....</p> <p>.....</p> <p>.....</p> <p>5) Final settlement agreeable to both parties being reached</p> <p>.....</p> <p>.....</p> <p>.....</p>
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Thank You!