

UNIVERSITY OF NAIROBI

INSTITUTE OF DIPLOMACY AND INTERNATIONAL RELATIONS

**THE ROLE OF INTERNATIONAL ACTORS IN ENHANCING LABOUR RELATIONS
IN AFRICA; A CASE STUDY OF INTERNATIONAL LABOUR ORGANIZATION
(ILO) IN KENYA**

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**A Research Project Submitted in Partial Fulfilment of the Requirement for the Award of a
Master's Degree in International Relations at the Institute of Diplomacy and International
Studies (IDIS), University of Nairobi**

October 2021

DECLARATION

DECLARATION

This proposal is my original work and has not been submitted for a degree or any other academic at any institution.

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DEDICATION

I dedicate this project with tones of gratitude and appreciation to my family, friends, and lecturers who have been at the forefront of supporting me to achieve my dreams.

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ABSTRACT

The African continent has been identified as one of the rapidly developing and growing markets in the world. As such, Africa has recorded the highest economic growth rates than any other region in the world. Developing countries in Africa are also being viewed as key economic hubs by international corporations and even foreign government agencies. The high rate of industrialization has led to an increase in the demand for labor and the rapid development of industrial relations. Unfortunately, most of the employers in Africa do not value industrial relations and are driven by pure radical capitalism over employee relations. ILO is the international organization tasked with ensuring that employees all over the world enjoy decent working conditions and treatment. This study has been guided by the radical capitalist theory in analyzing the role of the ILO and challenges faced by the organization in the Kenyan informal employment sector. Focusing on the Kenyan industrial sector, this study has conducted a quantitative survey on 112 participants derived from employees at ILO, Ministry of Labor, and the central organization of trade unions (COTU). Data collected from trade unions, ILO offices in Kenya, and the ministry of labor was in the form of primary and secondary data. Using the SPSS software to analyze data statistically, this study identified the key strategies applied by ILO, the role played by ILO, and the challenges faced by the organization in an attempt to ensure decent working conditions for the Kenyan employees. According to the findings of this study, ILO plays a key role in ensuring decent work and inclusivity in the informal sector through the promotion of employee rights and also advocating for better wages and salaries in the sector. The organization has also been found to play a key role in the promotion of diversity and inclusion of employees in the informal sector through public education programs and campaigns. This has created more employment opportunities for women and disabled employees and other groups in the country. The success of the ILO in the execution of these roles has been largely dependent on the employee helpdesk established by the ILO in Kenya. This study has also established the role of the ILO in the development of labor laws in Kenya. Among the major strategies applied by the organization are advocating for the development of laws governing child labor, minimum wages, and also advocating for the independence of trade unions. Other strategies include the development of collaborations with the Ministry of labor and also COTU to aid in the development of labor laws to protect local employees from capitalist employers. However, the organization has not been able to execute its mandate effectively in the country due to several reasons identified by this study. These are the declining influence of the organization in local affairs, low ratification of the ILO laws and conferences, lack of representation of the ministry of labor and COTU, and also the bureaucratic structure of the organization that hinder quick decision making. This study concludes that the challenges faced by ILO in Kenya are due to the communication and collaboration gap that exists between the organization and the Kenyan labor authorities. Although other factors such as the organizational structure of the ILO have contributed to these challenges, the major challenges are linked to poor collaboration, consultation, and communication. This study, therefore, recommends the establishment of an ILO representative office the ministry of labor, autonomy of the organization at the international level, and reviewing the process of labor law development and enactment in Kenya.

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ACRONYMS AND ABBREVIATIONS

ILO-International Labor Organization

FDI- Foreign Direct Investment

KNUT-Kenya National Union of Teachers

KNUN- Kenyan National Union of Nurses

KMPDU-Kenya Medical practitioners and Dentist Union

UASU- Universities Academic Staff Union

SCORE- Sustaining Competitive and Responsible Enterprises

SME-Small and Medium Enterprises

GDP- Gross Domestic Product

CHAPTER ONE

INTRODUCTION AND BACKGROUND TO THE STUDY

1.1. Introduction

Globalization has reduced the world into a small technologically connected and interdependent village. This has seen a rise in the number of developing economies in the Americas, Europe, and Asian countries as well as in the African continent.¹ Globalization has been driven by technological advancement, an increase in GDP or productivity, and also the rising of investment opportunities in developing economies. At the heart of globalization is the upgrade and revision of labor regulations and policies.² Some of the emerging economies such as China, Brazil, and India offer much-needed labor to multinational corporations and other international organizations.³ However, employment and labor laws are still under development in these countries and a similar problem is being experienced in Africa.

In major African countries such as Rwanda, South Africa, Nigeria, and Egypt labor law and policies are still underdeveloped with some countries struggling with issues of child labor. There is also the issue of termination without notice or payment in lieu of notice and also poor employment terms.⁴ Focusing on east Africa, Kenya is regarded as the region's economic hub by international investors. Multinationals and international agencies establish FDI's and other forms

¹ Hitt, M. A., Ireland, R. D., & Hoskisson, R. E. (2012). *Strategic management cases: competitiveness and globalization*. Cengage Learning.

² Rogan, M., Roever, S., Chen, M. A., & Carré, F. (2017). Informal employment in the global south: Globalization, production relations, and "precarity". *Prekarious work*, 44-56.

³ PamZahonogo. (2018). Globalization and economic growth in developing countries: evidence from Sub-Saharan Africa. *The International Trade Journal*, 32(2), 189-208.

⁴ Potts, D. (2018). Urban data and definitions in sub-Saharan Africa: Mismatches between the pace of urbanization and employment and livelihood change. *Urban Studies*, 55(5), 965-986.

of investments in the country.⁵ It is important to review the employment regulations and policies and issues of decent work and employment laws in order to create a stronger regional economic hub that has a streamlined business legal environment. This study, therefore, examines the Role of International Actors in Enhancing Labour Relations in Africa; A case study of the International Labour Organization (ILO) in Kenya. This chapter covers; Background of the study, problem statement, research question, and research objectives. Others are Literature review, hypothesis, justification, theoretical framework, methodology, and chapter outline.

1.2. Background to the study

The International Labor Organization agency is responsible for advancing economic and social justice by establishing international labor standards. The agency was founded under the League of Nations in 1919, making it the first and the oldest UN agency. It has one hundred eighty-seven member states, most of which are in Europe and Asia. It has its headquarters in Geneva, Switzerland, and approximately 40 field offices across the globe. The organization's operations standards ensure accessible, sustainable, and productive work globally concerning freedom, security, equity, and dignity. Its conventions and protocols are a significant contributor to international labor law. It advances international labor standards via its field offices in Africa, the Arab states, Latin America and the Caribbean, Asia, and Europe. In Asia, the International Labor Organization. The ILO plays a key role in ensuring decent work and inclusion in both the developed and developing countries globally. The organization was established as labor relations specialized arm of the United Nations in 1946. The organization has been in operation since the 1950s and in the last decade, a total of US\$130 million was spent by the organization in labor

⁵ Jena, F. (2018). Migrant remittances and physical investment purchases: Evidence from Kenyan households. *The Journal of Development Studies*, 54(2), 312-326.

relations projects in Latin America, Asia, the Middle East, and Europe. The organization is committed to ensuring decent work and inclusivity for laborers of all gender diversity through its array of regional offices stretched from the Middle East, Africa, Asia, and Latin American countries. The International Labor Organization (ILO) has a role in promoting decent work through social protection, dialogue and employment as well as promoting the international labor standards. ILO has played a role in the formation of trade unions, establishment of fundamental working principles, and decent work in developing economies such as Brazil and India.⁶ One of the key global regions where the ILO has been active is the Asian region. The analysis of the role played by the organization in this region is important since, on a world view, it helps in identifying imbalances in the commitment of the ILO in the global industrial relations. It is vital to understand that the ILO regional office for Asia also covers the Pacific, called the ILO Regional Office for Asia and the Pacific. This region is one of the most diverse globally on account of ethnicity, culture, religion, and economy.⁷ Asia and the Pacific have more than four billion people, covering some of the wealthiest countries on the global front and two-thirds of the world's poorest countries. As such, ILO has a significant role in this region to ensure equity of labor laws and equal standards in these countries with significant diversity. Recently, Asia has experienced significant challenges that have undermined its socio-economic infrastructure.⁸ They include economic crises, natural disasters like earthquakes and floods, and consistent human conflicts. Moreover, the shift in an international economic context and increasing globalization create more challenges for this region. The International Labor Organization works with the Asia member states to address these and

⁶ Thomas, H., & Turnbull, P. (2018). From horizontal to vertical labour governance: The International Labour Organization (ILO) and decent work in global supply chains. *Human Relations*, 71(4), 536-559.

⁷ Bhattacharyya, N. (2012). *Monetary policy and employment in developing Asia*. Geneva: ILO.

⁸ Kneebone, S. (2010). The governance of labor migration in Southeast Asia. *Global Governance*, 383-396.

other issues. Therefore, it builds institutions and local economic development for economic and social progress.⁹ The organization also advocates for respecting fundamental rights and principles to ensure benefits to all society sections.

The ILO also fights child labor in Asia and the Pacific. It created the International Program on eliminating child labor (IPC) in 1992 to oversee the progressive elimination of child labor in its member states, including its member states in Asia.¹⁰ The organization sought to address this challenge by empowering countries' capacities to address the problem and promoting a global movement to fight against child labor. The IPEC has over the years become the largest program of its kind across the globe and ILO's largest solo operational program. IPEC has continued to gather more partners supporting its course, including worker and employers' organizations, private enterprises, international and government agencies, nongovernmental organizations, community-based organizations, among others. IPEC's role in eliminating child labor is constrictive of ILO's agenda because child labor prevents children from gaining the education and skills necessary for a better future.¹¹

In Asia, the International Labor Organization also fights forced labor as one of its major priorities. Economic interest during the interwar periods brought significant abuses to people in the form of forced labor, a concept borrowed from colonialism.¹² After 1945, ILO established the goal of fighting forced labor as a universal and uniform standard because of the world's awareness gained from World War II as addressed by a political and economic motive. Although the cold

⁹ Harkins, B., Lindgren, D., & Suravoranon, T. (2017). *Risks and rewards: outcomes of labour migration in South-East Asia*. ILO Regional Office for Asia and the Pacific.

¹⁰ Lake, M. (2016). The ILO, Australia and the Asia-Pacific Region: New Solidarities or Internationalism in the National Interest? In *The ILO from Geneva to the Pacific Rim* (pp. 33-54). Palgrave Macmillan, London.

¹¹ Lichtenstein, N. (2016). The ILO and the Corporate Social Responsibility Regime in East and South Asia. In *The ILO from Geneva to the Pacific Rim* (pp. 277-296). Palgrave Macmillan, London.

¹² Ford, M., & Gillan, M. (2017). In search of a living wage in Southeast Asia. *Employee Relations*.

war saw to the oppression of this objective, the International Labor Conference of June 1998 saw to the adoption a Declaration of Fundamental Principles and Rights at Work, obligating member states to promote, respect, and realize association freedom and the right to collective bargaining, eliminating of all forms of compulsory or forced labor, and eliminating discrimination on employment and occupation.¹³

The organization also plays a highly significant role in developing the private sector in Asia as it contributes significantly to the global economy and economic and social justice. In many cases, government and international organizations disregard and exploit the private sector. However, the ILO has over the years supported the private sector.¹⁴ It is a people-based and sustainable approach to enterprise development, aligning organizational growth and establishing productive employment and outstanding work with sustainable development goals. This approach revolves around three supporting pillars. The first one is creating a supportive environment for sustainable initiatives and employment, encouraging entrepreneurship and investment. This pillar ensures that the private sector thrives, receiving significant support from the ILO to establish and expand new private enterprises.¹⁵ The second pillar is helping entrepreneurs establish and build successful businesses. Indeed, there must be a balance between the public and the private sector in the business arena. The public sector receives significant government support, allowing it to grow and thrive. Since the private sector can lack adequate government support in Asia, especially in the low economic countries, the ILO supports entrepreneurs in these countries to establish and

¹³ Errico, S. (2020). ILO Convention No. 169 in Asia: progress and challenges. *The International Journal of Human Rights*, 24(2-3), 156-169.

¹⁴ Maul, D. R. (2016). The ILO, Asia and the Beginnings of Technical Assistance, 1945–60. In *The ILO from Geneva to the Pacific Rim* (pp. 110-133). Palgrave Macmillan, London.

¹⁵ Islam, M. R., & Cojocaru, S. (2016). Migrant domestic workers in Asia: Transnational variations and policy concerns. *International Migration*, 54(1), 48-63.

grow their enterprises. The last pillar links productivity improvements to ideal working conditions, favorable industrial relations, and healthy environmental practices.¹⁶

Nevertheless, Asia continues to experience significant challenges with the significant diversity in the region, mainly based on economic diversity. These challenges include increasing decent and productive employment opportunities for the Asian population, offering sufficient social protection, and responding to economic and natural crises.¹⁷ As an organization, the ILO strives to address all these challenges, following its economic and social justice. Many Asians in developing countries suffer significant levels of unemployment. While their countries have high populations, they lack the economic competitiveness required to create formal employment for most citizens. Hence, many of them work in the informal economic sector. The ILO supports informal economic employment in Asia because it employs many Asians in the developing nations, contributing significantly to the individual member states' workforce.¹⁸ The sector is characterized by a lack of protection for non-payment wages, cutbacks without compensation or notice, an unsatisfactory working environment, and lacking social benefits. Therefore, the informal sector in Asia requires significant intervention to protect all its workers, a role that the ILO plays significantly. While these roles also apply in other regions where the organization has jurisdiction, they apply more in Asia because of the challenges experienced in the region.

In Africa, the organization is playing a critical role in the enhancement of social dialogue between governments and agencies. In the last 10 years, ILO has been aiming to bridge the gap between the governments in Africa, businesses, and the employees in an attempt to promote better

¹⁶ Papola, T. S., & Kanan, K. P. (2017). ILO-Asia Pacific Working paper series. *Towards an India Wage Report. DWT for South Asia and Country Office for India.*

¹⁷ Ibid 12

¹⁸ Ibid 9

employment programs and laws that protect decent work dreams for most African countries coming from a crisis. Examples of such countries include Libya, Chad, Mali, Somalia, and also countries like Ethiopia.¹⁹ Over the previous few years, economic development has been relatively strong in most African countries according to reports by the World Bank. The African GDP expanded by 5.4 percent in 2005 and 2006, according to the International Monetary Fund (IMF), and is expected to grow by 5.9 percent in 2025. The number of nations with growth rates of more than 5% has risen, while the number of countries with growth rates of less than 2% has decreased.²⁰ Nonetheless, growth in Sub-Saharan Africa is low in comparison to that of the developing regions. Furthermore, even in nations where economic growth has been vibrant and promising, this progress has had a mild effect on poverty rates, and only a handful of African countries are projected to meet the first Millennium Development Goal (MDG) of halving severe poverty by 2025.²¹ The slow and unequal rise of quality job prospects is to blame for the poor performance of these countries in the global and regional rankings. Nonetheless, an array of changes in the geopolitical and economic climate provide chances for Africa to improve and redefine growth in order to increase job creation and alleviate poverty.²²

The international community has been increasingly concerned about rising rates of poverty, high unemployment levels, and also the rates of social exclusion in the developing world, particularly in Africa, since the 1990s. These challenges dominated the global agenda at the World

¹⁹ Bernards, N. (2017). The International Labour Organization and African trade unions: tripartite fantasies and enduring struggles. *Review of African Political Economy*, 44(153), 399-414.

²⁰ Seekings, J. (2019). The limits to 'global' social policy: The ILO, the social protection floor and the politics of welfare in East and Southern Africa. *Global Social Policy*, 19(1-2), 139-158.

²¹ Bellucci, S., & Otenyo, E. E. (2019). Digitisation and the Disappearing Job Theory: A Role for the ILO in Africa? In *The ILO@ 100* (pp. 203-222). Brill Nijhoff.

²² Gironde, C., Carbonnier, G., & Panizza, U. (2019). *The ILO@ 100: Addressing the past and future of work and social protection* (p. 320). Brill.

Summit for Social Development and have been termed as key concerns for the ILO. The United Nations Millennium Development Goals (MDGs) and the World Summit on Sustainable Development followed the same trend in Johannesburg, September 2002.²³ While the UN through the ILO had been drawing the attention of the international community's on the need to address the issue of the world's poorest and least developed African economies or countries for many years and In this case, it is important to note that the social partners and civil society organizations' active advocacy role has played a key role in bringing the issue of poverty and its links to the global development process into focus. The World Bank's Comprehensive Development Framework and the notion of Poverty Reduction Strategy Papers (PRSPs) brought a new focus in terms of incorporating poverty concerns into developing country policymaking. PRSPs have become the primary papers used by many countries to define their strategies.²⁴

Official development support to Sub-Saharan Africa has increased since the international community adopted the Millennium Development Goals (MDGs) in 2000. A promise was made at the G8 Summit in Gleneagles to raise government development assistance to developing nations to roughly US\$50 billion per year by 2010, with about \$25 billion going to African countries to aid in the creation of jobs and the support of local small scale businesses.²⁵

The strategic plans and focus in Africa and outside the region has evidently lacked scope, focus and the urgency befitting any action plan meant to realize the MGDs or even the level of developments that are needed by developing countries to eliminate poverty and create employment

²³ Shimeles, A., Verdier-Chouchane, A., & Boly, A. (2018). Introduction: understanding the challenges of the agricultural sector in Sub-Saharan Africa. In *Building a resilient and sustainable agriculture in sub-Saharan Africa* (pp. 1-12). Palgrave Macmillan, Cham.

²⁴ Mayounga, A. T. (2021). Strategic sourcing in Africa: the case for the labor market. *Journal of Global Operations and Strategic Sourcing*.

²⁵ Kieh, G. K. (2016). *Africa and the new globalization*. Routledge.

in the region.²⁶ This is according to the Commission for Africa's report, Our Common Interest that has also pointed out that it will take a huge push by the UN through the ILO to succeed. The Paris Declaration on Aid Effectiveness restated commitments to scale up aid made at the International Conference on Financing for Development and to improve Aid quality made in Rome. These pledges were established based on five guiding principles: these were harmonization, alignment, leadership and ownership management and accountability.²⁷

Many African countries have chosen trade liberalization strategies that remove tariff and non-tariff obstacles in order to speed their inclusion into the global market in an attempt to create jobs for the millions of graduates and skilled workers being released from universities and technical training institutes every year.²⁸ It is crucial to emphasize, however, that despite increased trade volumes, most African nations have witnessed a long-term worsening in the terms of trade as exporters of low-value agricultural products and importers of high-value goods and services. For a region that depends on agricultural production as a key economic activity, this also signals a decline in the level of jobs created and an increase in the number of entities collapsed. The recent increase in gasoline and mineral commodity costs partially offset this.²⁹ Growth in the extractive mineral and fuel sectors, on the other hand, has not resulted in a huge number of employment being created across economies. Despite most African countries having an increased government revenues and returns accruing to multinational and national corporations who are the primary beneficiaries of these trends, these funds have also not been channeled considerably into areas that

²⁶ Mazumdar, D., & Mazaheri, A. (2018). *Wages and employment in Africa*. Routledge.

²⁷ Maconachie, R., & Hilson, G. (2016). Re-thinking the child labor “problem” in rural sub-Saharan Africa: The case of Sierra Leone’s Half Shovels. *World development*, 78, 136-147.

²⁸ Konadu-Agyemang, K. (Ed.). (2018). *IMF and World Bank sponsored structural adjustment programs in Africa: Ghana's experience, 1983-1999*. Routledge.

²⁹ Čapkēvičs, M., Rukema, R. J., & Umubyeyi, B. S. (2019). Integration of international labor migrants: comparison between South Africa and Latvia.

might assist raise employment and incomes for the poor.³⁰ Simultaneously, sustainable growth from recent commodity price hikes (especially oil) cannot be guaranteed.

To fully realize the potential for most of the developing African economies to gain more employment benefits from trade openness, policy modifications at the state level as well as a more equitable African and an international global trading system will be required.³¹ The African economy access to the most profitable markets for their products must be a key focus at the international level, and the infrastructure required for taking advantage of market opening needs to be upgraded if the impoverished developing economies and transition economies are to enjoy the benefits of international commerce through employment opportunities.³² This necessitates, among other things, the improvement of the employment sector in the African region, the elimination of agricultural export subsidies by industrialized countries, the assurance that developing economies have not been hindered from pursuing legitimate domestic industrial development and growth strategies, and the improvement of the transparency and democratic processes within the World Trade Organization.³³ Improved access to the markets for developing-economies' products coupled with progressive commitment by developed economies to their own implementation requirements as dictated by the Uruguay Round, and the elimination of subsidies in agricultural products in the North all have the potential to boost the efforts of poverty eradication and also boost the improvement of employment conditions in the region through the support of the International Labour Organization. Despite the fact that the Doha Development Round of

³⁰ Ibid 23.

³¹ Jolley, E., Lynch, P., Virendrakumar, B., Rowe, S., & Schmidt, E. (2018). Education and social inclusion of people with disabilities in five countries in West Africa: a literature review. *Disability and rehabilitation*, 40(22), 2704-2712.

³² Rust, A. A. (2017). The preparation of the labor relations landscape of South Africa (1994-2008): an environmental perspective for sustainable development.

³³ Ibid 12.

multilateral trade negotiations began with the Fourth World Trade Organization Ministerial Conference, held in Doha in 2001 and launched the Doha Development Round of multilateral trade negotiations, progress has been slow, particularly on issues that are of particular concern to Africa.³⁴ Nonetheless, it has been nicknamed the "Development Round," providing African negotiators with some political leverage in order to construct a package that suits the needs of the continent's development. According to the World Commission on the Social Dimension of Globalization's Report on the Social Dimension of Globalization, "Governments must manage these changes in conjunction with important social actors, promoting adjustment and new possibilities, empowering individuals via participation and skills, and protecting citizens from job insecurity," according to the ILO.³⁵

Similar to other sub-Saharan economies discussed in this section, Kenya is also facing problems in the labor sector. The ILO has a role to play in the emerging Kenyan economy in streamlining employment and labor relations to international standards. As the region's economic hub, the country has witnessed a number of political, structural as well as economic changes over the past decade.³⁶ These changes have been driven by the promulgation of the new 2010 constitution that ushered in a new era of political and legal as well as economic progress. However, the country has continued to grapple with the challenges that are affecting other emerging economies in the region such as poverty, unemployment, and corruption.³⁷ The employment and labor legislation framework in the country is relatively new in the country and it's only a decade

³⁴ Ibid 45

³⁵ Ibid 47

³⁶ Ncube, F., & Kanda, A. (2018). Commentary on the organization of occupational health and safety in Southern Africa, the International Labour Organization and policies in general. *Annals of global health*, 84(3), 500.

³⁷ Lidiema, C. (2018). Effects of government borrowing on private investments in Kenya. *Journal of Finance and Economics*, 6(2), 49-59.

old. This new legal framework has greatly enhanced the much-needed changes in the employment industry and promoted the rights of employees.³⁸ However, to elevate the Kenyan labor sector to international standards, there is an urgent need to assess the way in which the input of international organizations such as ILO can help in improving the Kenyan employment and labor industry. As such, this research has focused on the analysis of the role of ILO in promoting decent work in Kenya and also challenges that the organization is facing while working with Kenyan organizations.

1.3. Statement of the Research Problem

Kenya has been identified as a key investment economy on the world map and has seen an influx of multinationals scrambling for a market share in the economy. Kenya offers vibrant, energetic, well-motivated, and highly trained labor. According to the US Privacy Shield, American companies and other multinationals from first-world countries are being encouraged to invest in the Kenyan market due to its youthful population of 75% people being below 35 years.³⁹ Despite Kenya being a growing promising economy, the country still needs to focus on the streamlining of the employment and labor laws that will help protect the Kenyan workers as the country opens up to the world.

In the past decade, cases of termination without cause and wrongful termination have increased by 5% in the country. This indicates that there are loopholes in the employment and labor regulations under the Kenyan constitution that needs the intervention of international

³⁸ Kazimierczuk, A. H., Kamau, P., Kinuthia, B. K., & Mukoko, C. (2018). Never a rose without a prick :(Dutch) multinational companies and productive employment in the Kenyan flower sector. *ASC Working Paper Series*, 23-28.

³⁹ Privacy Shield Framework. (2020, April 12). *Kenya - Market Overview*. Retrieved from <https://www.privacyshield.gov/>: <https://www.privacyshield.gov/article?id=Kenya-Market-Overview>

organizations such as the ILO.⁴⁰ Kenya has also seen a decline in the number of trade unions and a high rate of the near-collapse of existing trade unions such as the Kenya National Union of Teachers (KNUT) among others. Other unions meant to protect the rights of Kenyan employees also lack the legal ability and infrastructure to protect their employees from losing their jobs or mistreatment by their employees. This has been the case in the horticultural sector that has seen a retrenchment of over 5000 employees in a span of 10 months.⁴¹

With reference to these worrying trends in the country, Kenya needs to review the employment and labor laws as the country opens up as a regional economic hub to the world. The organization tasked with ensuring decent work, employment, and labor in accordance with the international standards in Kenya is ILO. The organization has been in operation since 1965. As such it is important to assess what are the underlying reasons that have led to deteriorating employment and the labor sectors under the watch of ILO. This study will focus on the role of ILO in Kenya, the strategies employed by the organization in enhancing labor laws in Kenya, and how the role of ILO can be improved to enhance decent work in Kenya.

1.4. Study Objectives

1.4.1 Research Questions

The following are the major research questions that this study will seek to answer.

- a) What is the role of ILO in the formation and oversight of decent work and inclusive industrialization in Kenya?
- b) What strategies does ILO apply in the development of labor laws in Kenyan informal sectors?

⁴⁰ Ibid 10.

⁴¹ Durrani, S. (2018). *Trade Unions in Kenya's War of Independence*. Vita Books.

- c) What challenges are faced by ILO in working with the Kenyan authorities to ensure decent work and inclusive industrialization?

1.4.2 General Objective

The general objective of this study is to analyze the challenges facing ILO in Kenya and the development of strategies to improve these strategies for improved employment and labor laws and policies in Kenya.

1.4.3 Specific Objectives

- a) To evaluate the role of ILO in the formation and oversight of decent work and inclusive industrialization in Kenya.
- b) To investigate the strategies applied by ILO in the development of labor laws in Kenyan informal sectors.
- c) To examine the challenges faced by ILO in working with the Kenyan authorities to ensure decent work and inclusive industrialization.

1.5. Literature Review

This section examines both theoretical and empirical literature relevant to the study. This was deemed important in helping identify the critical knowledge gap in relation to the subject under investigation. It covers both theoretical and empirical literature.

1.5.1. Theoretical Literature Review

In this section, the theoretical review of the key theories in labor relations has been reviewed so as to help examine the key debates around the role of international actors in enhancing labor relations. In this case, three key theories that guide the field of labor relations have been reviewed. These are the Unitarism, Pluralism, and Radicalism. These have been directly linked with the field of labor policies and recent work in developing economies such as Kenya and other

African developing economies. Employment relations can be traced back to the 1960s.⁴² This led to the development of three key theories that guide how employees are treated at the workplace and also what guides the employment contract in the human resource departments.

1.5.1.1. Unitarist theory

According to the Human Resource Management studies, unitary thinking is defined as the concept that management and employees are working together for the common good of the firm. According to unitary approach to industrial relations, the emphasis is on the entity as a cohesive team united by a single goal, where the business entity is regarded as an entire and harmonious whole with the concept of one happy family as its foundation.⁴³ According to the Unitarist theory, all members in a working organization share the same interest as employees and the employers share mutual benefits. This means that other players in the industry are irrelevant and the main focus is on the employee-employer labor relations. Unitarism mainly focuses on the management of the labor providers in the industry who share a common goal and their loyalty to the organization.⁴⁴ Industries that rely on this form of labor relations focus on the cooperation of the employees and the employer in order to focus on the primary goal.⁴⁵ It is worth noting that this form of cooperation is usually guided by regulations and policies in the labor market that protect the welfare of the employees and shield them from manipulation by the employer. These regulations are developed by labor organizations, trade unions, and also government agencies in collaboration with international agencies such as the ILO.

⁴² Fox, A. (1966). Managerial ideology and labour relations. *British Journal of Industrial Relations*, 4(1-3), 366-378.

⁴³ Van Buren III, H. J. (2020). The value of including employees: a pluralist perspective on sustainable HRM. *Employee Relations: The International Journal*.

⁴⁴ Vodenko, K. V., Shevchenko, O. M., Barsukova, T. I., Hubuluri, E. I., & Mishina, N. V. (2016). Modern institutes and regulatory forms of social and labor relations in Russian society. *International Review of Management and Marketing*, 6(6S), 33-39.

⁴⁵ Viotti, P. R., & Kauppi, M. V. (2019). *International relations theory*. Rowman & Littlefield.

Several studies have proven that there are other alternatives within the unitary perspective, and the efforts of numerous philosophers lend support to the Unitarianism approach to industrial relations. Fredrick Taylor's scientific management is classified as a Unitarist model because of its emphasis on work-study or on one ideal way of working, which results in uniformity of approach and execution.⁴⁶ It also emphasizes the importance of establishing work norms. Elton Mayo's approach to human interactions is another approach within Unitarianism. This approach to industrial relations focuses on the importance of employee groups and the shared social relationships that the employees have at the workplace workplace. For example, the models of Herzberg and Likert, among others, have a Unitarism feature since they focus the significance of individual employee's needs, the creation of fulfillment from the nature of occupations, and the character of leadership behavior, all of which are Unitarian in nature.⁴⁷ Unitarist approaches to human resource management are also prevalent because of their emphasis on the management of commitment, the integration of employees into organizational strategy, and the individualization of employment relations.

The unitary perspective emphasizes the idea that every company is a self-contained, self-regulating entity with a common mission and goal. There is an expectation that executives and other employees would work together toward a common goal that promotes cooperative efforts.⁴⁸ The paternalistic nature of the unitary approach means that employees are required to be devoted to management, which, in turn, ought to do everything in its power to promote the well-being of

⁴⁶ Cafferkey, K., Harney, B., Dundon, T., & Edgar, F. (2017). Unravelling the foci of employee commitment. *Journal of Organizational Effectiveness: People and Performance*.

⁴⁷ Kaufman, B. E., Barry, M., Wilkinson, A., Lomas, G., & Gomez, R. (2021). Using Unitarist, pluralist, and radical frames to map the cross-section distribution of employment relations across workplaces: A four-country empirical investigation of patterns and determinants. *Journal of Industrial Relations*, 63(2), 204-234.

⁴⁸ Crocco, F. G., & Martin, A. (2019). Towards a sustainable HRM in Latin America? Union-management relationship in Chile. *Employee Relations: The International Journal*.

its workers. The success of the organization is a shared goal of management and employees. Success here refers to the organization's ability to meet its goals and objectives. They're all aiming for higher productivity so that everyone may share in the rewards. Since conflict is considered as disruptive and unhealthy from this viewpoint, it's presumed that there won't be any because of agitators, personal conflict, and breakdown in communication. If there's a labor dispute in the workplace, it's considered temporary or the result of problematic behavior caused by troublemakers, incompetent governance, or ineffective communication.⁴⁹ The unitary approach maintains that trade unions as unwanted guests that disturb the integrated and cooperative structures of the entity. Unions are viewed as counterproductive, disruptive, and a threat to management's ability to retain key employees. This viewpoint asserts that a company's commitment to its personnel is beneficial to both parties. Workers have a responsibility of being loyal to the company and its leaders while also acknowledging the company's common goals. Because of this, it is proposed that two distinct groups of employees in the same industry, one working for and one fighting against corporate aims, cannot coexist peacefully. When everyone works together toward a similar objective and gives their fair share, the value of collaboration is extolled. Everyone also accepts their allocated position and function under the guidance of their selected manager or supervisor.⁵⁰

Business process improvement-oriented persons should be multi-skilled and prepared to challenge any task with vigor and effectiveness; the emphasis is on good relationships and sound terms and conditions of work being agreed upon with the individual; collective bargaining as a method to determine work-place relationship components is too distant and excluded from the

⁴⁹ De Prins, P., Stuer, D., & Gielens, T. (2020). Revitalizing social dialogue in the workplace: the impact of a cooperative industrial relations climate and sustainable HR practices on reducing employee harm. *The International Journal of Human Resource Management*, 31(13), 1684-1704.

⁵⁰ Ibid 25

Individuals.⁵¹ In order to empower people in their duties, the unitary method to employees enables employee engagement in managerial decision making, which emphasizes teamwork, innovation and creative thinking flexibility in problem-solving, quality, and improvement groups. The unitary approach to workers also means that staff participation in decision making is enabled, and this motivates people in their roles and emphasizes innovation and creativity in quality and improvement groups.⁵²

Employees have taken a unified approach, stating that bosses should be present and set a positive example for the workers to follow. The workforce should be given the impression that are boosted by the dedication and knowledge of their employer. Effective management enables the aspirations of democratic leadership and the labor relations school or thought to be realized.⁵³ It encourages management to use strong leadership in order to earn the commitment of employees. In order for a company to prosper and be sustained in its objectives, every employee must understand the business competitive dilemma and accept responsibility for their contribution to productivity and effectiveness while being completely focused on the customers. Unitarist management means the following things for employers: staffing policies should strive to unify effort, inspire and motivate employees; the organization's overall objectives should be communicated and discussed with employees; reward systems should be designed in such a way that they foster loyalty and commitment; line managers must assume responsibility of their team/staffing responsibilities.⁵⁴ According to studies, employee-employer conflict is caused by a lack of information and a poor presentation of management policies. It is also fueled by disgruntled

⁵¹ Ibid 27

⁵² Greenwood, M., & Van Buren, H. J. (2017). Ideology in HRM scholarship: Interrogating the ideological performativity of 'New Unitarism'. *Journal of Business Ethics*, 142(4), 663-678.

⁵³ Saini, D. S. (2017). Finding a voice at work? New perspectives on employment relations.

⁵⁴ Hickland, E. (2017). Finding a Voice at Work? New Perspectives on Employment Relations. *Employee Relations*.

employees and employees with anti-organizational attitudes and values. As a result, when hiring new employees, special care should be taken to ensure that their personal interests and values align with the company's culture. It is critical that those persons become incorporated into company conventions and ways of doing things through effective communication, training and briefing, and team activities. Every employee's personal goals should be discussed with them and connected with the company's demands.⁵⁵

Furthermore, according to the unitary perspective, management prerogative (that is, its right to manage and make decisions) is considered legitimate, rational, and acceptable, and any challenge to it, whether internal or external, is seen as irrational. The basic assumption of this viewpoint is that the organization is in perfect harmony and that all conflicts, including labor-management confrontations, are both unnecessary and unusual. The unitary approach has the following tenets.⁵⁶ When employees are unhappy or disagree with management, it's natural for them to engage in confrontation. Coercion is used to suppress conflict since it is seen as harmful to the organization. To make matters worse, trade unions are seen as an outsider intruding into the company and competing with management for the loyalty of employees. Because of this, unions should be excluded from the group. Market relations are all about allowing for trade union participation in pay and working conditions negotiations, so management may be obligated to do so.⁵⁷

The Unitarist theory has however been faulted by other scholars in that it ignores the presence of conflicts between the employers and the employees. According to the Royal Commission Research Paper, Fox has argued that the Unitarist theory is not a realistic ideology and that

⁵⁵ Ibid 44.

⁵⁶ Ibid 47

⁵⁷ Donovan, S., O'Sullivan, M., Doyle, E., & Garvey, J. (2016). Employee voice and silence in auditing firms. *Employee Relations*

industries will always experience conflicts despite employers and employees having the same goals and interests. However, most of the conflicts in industries arise from a lack of laws and regulations that ensure decent work for the employees.⁵⁸

This is the main issue in developing countries such as Kenya hence the need to assess labor relations. As such, the Unitarist theory paints an image of well-developed labor laws and regulations that promote decent work. Since decent work relations are hard to accomplish without the collaboration of international agencies, government agencies, and the public as well as the private sector, the popularity of the Unitarist theory is low.

1.5.1.2. Pluralism Theory

The pluralist theory focuses more on the issue of compromising and collective bargaining between the employee and the employers. In this case, this theory recognizes the fact that although employees may have the same goals, different subgroups may have different interests and may give rise to conflicts with the working environment. These often arise between the employers and the trade unions.⁵⁹ Compared to the theory of Unitarism, pluralist recognizes the role of conflict and negotiation in the labor industry. Studies have shown that companies that value this practice also value the need for negotiations and the importance of ensuring decent work at the workplace for the mutual benefits of both the employer and the employee. This usually limits the authority of the employers and reduces the chances of the employer misusing the company of their authority or mistreating the employees. The major limitation of this theory is the power and control that is possessed by the managers and employers. According to this theory, the primary power belongs

⁵⁸ Bruce E. Kaufman, Barry, M., Wilkinson, A., Lomas, G., & Gomez, R. (2020). Using Unitarist, pluralist, and radical frames to map the cross-section distribution of employment relations across workplaces: A four-country empirical investigation of patterns and determinants. *Journal of Industrial Relations*, 4(3), 44-56.

⁵⁹ Bayar, T. Ö. (2017). Industrial Relations Theory. *The Wiley-Blackwell Encyclopedia of Social Theory*, 1-3.

to the managers in an organizational setting and this gives them the power to provide solutions for the employees as they deem appropriate.⁶⁰ This means that the needs of the employees will only be met after the approval by the manager and this can be a key source of frustrations in the labor market.

The pluralist industrial relations perspective approaches work and employment from a theoretical perspective founded on an underlying conflict of interest between employers and employees engaging in imperfect labor markets.⁶¹ The employment relationship is considered as a bargaining dilemma between stakeholders with divergent interests; employment prospects are contingent on the many environmental factors that influence each stakeholder's bargaining strength. Modeling the working relationship as a bargaining problem raises fundamental problems about resource allocation and the laws regulating employer-employee interactions.⁶² As a result, companies, labor unions, governmental policies, and conflict resolution mechanisms are critical institutions (broadly defined) and study subjects in pluralistic industrial relations. Additionally, individual workers, executives, proprietors, and union bosses are considered human beings, as opposed to solely economic, rational individuals. Individual decision-making requires consideration of behavioral components such as cognitive limits, emotions, social or cultural norms, and values, habits, intrinsic and extrinsic motivators, and concern for others, fairness, and justice.⁶³

⁶⁰ Tapia, M., Ibsen, C. L., & Kochan, T. A. (2015). Mapping the frontier of theory in industrial relations: the contested role of worker representation. *Socio-Economic Review*, 13(1), 157-184.

⁶¹ Ibid 47

⁶² Ibid 21

⁶³ Sambrook, S. (2021). The life-cycle of engagement: towards a divergent critical HR/pluralist conceptualization. *Human Resource Development International*, 1-22.

Pluralist industrial relations philosophy originated in the early twentieth century with Sidney and Beatrice Webb in England, John R. Commons (the founder of American industrial relations), and members of the Wisconsin School of institutional labor economists. Its principles were institutionalized in the New Deal labor policy of the 1930s Great Depression era and were reinforced in practice by a subsequent generation of scholar-arbitrators.⁶⁴ This school of thinking continues to be the dominant paradigm for industrial relations in North America today. However, since the postwar ascendancy of the neoclassical model in economics, industrial relations have frequently been challenged for allegedly being confined to theoretical fact-gathering and hence not a genuine academic paradigm. Philosophers contested Commons' and others' early institutional economics, stating that "without a theory, they had nothing to transmit but a pile of descriptive material waiting for a theory or a fire."⁶⁵ Additionally, traditional industrial relations have also been criticized for placing an emphasis on facts rather than philosophy. In reality, with imperfect labor markets and human agents as theoretical foundations, employment outcomes do not have to be completely (and mechanically) determined by rational individuals and market forces; careful examination of real-world institutions and practices is thus a hallmark of industrial relations scholarship. However, this work is motivated by a certain theoretical approach, not by a deficit of theory.

Additionally, the pluralist school of industrial relations frequently accepts a balanced paradigm. Commons emphasizes the importance of "the balance of capital and labor" above one or the other. Kochan highlights that "industrial relations theories, research, and policy prescriptions must be cognizant of the linkages between the objectives of employees, employers, and the greater

⁶⁴ Ibid 29

⁶⁵ Heidrich, B., & Chandler, N. (2016, August). The whole of the moon: transforming from a unitarist to a pluralist perspective. Common Disciplines that Separate Us: Local Contexts in Global Networks Conference, 4th Annual Conference of the European Decision Sciences Institute (EDSI), Budapest, Hungary, Accessed.

society and explore ways to achieve a workable and equitable balance between these interests."⁶⁶ Income imbalances can slow economic growth by reducing consumer purchasing power and impeding investments in human and physical capital, according to a pluralist approach. Excessive corporate dominance can burden society with welfare-reducing social costs. Individual perceptions of balance or fairness can influence employee attrition, productivity, and other industrial relations results, as behavioral factors of decision-making indicate.⁶⁷ Thus, a central analytical tenet of the pluralist school is that employment relations outcomes emerge and persist not necessarily because they are the most efficient as would be the case under a neo-classical paradigm but because they strike a balance between the competing interests of various individuals, stakeholders, and institutions.

Furthermore, because individuals are viewed analytically as human beings rather than economic agents, industrial relations scholarship dating all the way back to the early twentieth century has raised questions about not only how employees behave, but also about the standards of treatment they deserve as human beings in a democratic society.⁶⁸ When labor markets are flawed, the existence of big firms or fierce rivalry among employees can result in substandard working conditions. As such, the intellectual underpinnings of pluralist industrial relations also serve as a powerful normative agenda, balancing the conflicting interests inherent in the employment relationship. Beyond efficiency or productivity, individual, organizational, and societal consequences are thus critical components of industrial relations studies. While these analytical tenets and normative difficulties were sparked by the inequity of the early twentieth-

⁶⁶ Ibid 47

⁶⁷ Van Buren, H. J., Greenwood, M., Donaghey, J., & Reinecke, J. (2021). Agonising over industrial relations: Bringing agonism and dissensus to the pluralist frames of reference. *Journal of Industrial Relations*, 63(2), 177-203.

⁶⁸

century job connection, they remain extremely significant for the employment relationship a century later.

With reference to the provisions of the pluralist theory, it is evident that the ultimate power of managing and ensuring decent work is possessed by the employers. According to business law, the employment terms and treatment of the employees are enshrined in the constitution.⁶⁹ As such, although the manager possesses the power to make decisions in an industry, they are guided by the laws and regulations put in place by the government, trade unions, and international organizations such as ILO. Given the fact that the Kenyan labor relations law is only a decade old and the fragmented nature of the Kenyan economy, more jobs are being created by both local and international companies.⁷⁰ The rate of trade unions collapsing and poor wage rates and salaries especially in the informal sector have been low. This creates an urgent need to review the role of international actors such as ILO in ensuring that as the country opens up to international trade, the power of employers and managers is controlled to avoid manipulation based on pure capitalism.

1.5.1.3. Marxist or Radical Theory

According to the Marxist theory of labor relations, employees and employers are bound to have conflicts based on capitalism. This theory values the ideas of control as important in the field of management of employment relations. As managers in developing and developed economies continue to embrace capitalism, a profit-oriented organizational culture, the needs of the

⁶⁹ Cheeseman, H. (2015). *Business law legal environment, online commerce, business ethics, and international issues*. Pearson.

⁷⁰ Kuiper, G. (2019). *Agro-industrial Labour in Kenya: Cut Flower Farms and Migrant Workers' Settlements*. Springer.

employees are often neglected leading to conflict between the employers and the employees. This natural conflict is often seen in the form of trade unions.⁷¹

Labor relations are seen from a Marxist viewpoint as founded on conflict. Relations between employers and employees can only be understood in the context of (capitalist) society as a whole. Marxists highlight the imbalance of power between the employer and labor, in opposition to any tacit or explicit assumptions about a balance of power in the business. Employees, according to Marxist theory, serve as the market's vendors of labor, while bosses serve as the market's exploiters.⁷² From a Marxist perspective, all industrial interactions may be explained as a struggle between the proletariat and the bourgeoisie, with capitalism serving to keep the latter at a disadvantage. Different firms in a company represent society's and class's differences. Marxists hold that organizations have built-in inequities that serve to keep things as they are and that any kind of worker opposition is relentlessly repressed by the state.⁷³ Marxist perspectives on labor relations are larger in scope and place a greater emphasis on the need for collective action and organization as outlined by mobilization theory. When Marxist views evolve, the organization and society change as well. Marxists extensively study capitalism and its production, distribution, and exchange systems.⁷⁴ This approach examines industrial relations not just in terms of organizational work control, but also in social, political, and economic perspectives. Marxists argue that capitalism's weakness and contradictions can result in revolution and the supremacy of socialism over capitalism. According to this view, capitalism would promote monopolies while

⁷¹ Ibid 17

⁷² Sen, A. (2017). *The State, Industrialization and Class Formations in India: A neo-Marxist perspective on colonialism, underdevelopment and development*. Routledge.

⁷³ Ibid 23

⁷⁴ Ibid 45.

simultaneously lowering wages to a subsistence level. Capitalists and laborers would strive for territory and their perpetual win-lose conflicts would be visible.⁷⁵

Economic disparities, according to the Marxist point of view on industrial relations, occur in broader social conflict, more precisely inside the industrial relations arena and industrial conflict. Certain assumptions are made from a Marxist standpoint. The first is that altering society might result in class conflict; without this struggle, society would cease to exist. Second, disparities in the allocation of economic power in society contribute to class warfare. Thirdly, the fundamental economic inequality is between those who possess capital and those who provide and sell labor.⁷⁶ The character of social and political institutions, on the other hand, is generated from this fundamental economic disparity. Through selective recruiting, inequality and discriminatory access to school, government employment, and other establishment institutions were preserved and promoted. According to Marx's view of labor relations, the conflict is structural and essential. Industrial conflict is usually manifested through strikes and other types of collaborative activities such as work-to-rule and go-slows among others.⁷⁷ Conflicts are a constant and unavoidable result of imbalance and division, and it is inextricably linked to political and social conflict. As a result, conflict is viewed as inevitable, and trade unions are viewed as a natural reaction by workers to capital's exploitation of them. Trade unions can strengthen their collective industrial influence by decreasing rivalry between individual workers. Trade unions serve as a focal point for expressing and defending the interests of the working class. Simultaneously, trade unions are a component of

⁷⁵ Ibid 21.

⁷⁶ Ibid 27

⁷⁷ Ibid 47

a political process that has the potential to alter the nature of the world's major social and economic institutions.⁷⁸

Employee interests collide with those of the employer, and even managers who regard themselves as 'higher up' than the workers and identify with the bosses are viewed in the same light as the workers at the bottom, Marxists say. Trade unions are viewed as a result of class conflict and are entangled in an 'antagonistic co-operation' with capitalism (Hyman).⁷⁹ There is no need for order in the Marxist perspective since conflict is fundamental and essential. They argue that conflict is persistent and fundamental in the employee relationship, more so than the Pluralists believe. They view conflict as chronic and ultimately unavoidable, and any kind of management, teamwork, or hostility resolution is a Band-Aid remedy. Marxists think that the only way to end the dispute is to abolish capitalism.⁸⁰ The Marxist perspective of the state is that it is an agent of capitalism and operates in its interests, since prosperous organizations benefit the economy by tax payments, and as far as they do so, they sustain the established order, which the state will resist changing out of fear of revolt.

In countries like Kenya, the government being the largest employer in the country has constantly manipulated the employment law and regulation. This has rendered trade unions such as Kenya national union of teachers (KNUT), Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA), and the University Staff Association (UASU) powerless when it comes to negotiations. Others such as the Kenya Medical Practitioners and Dentist Union (KMPDU) and the Kenya National Union of Nurses (KNUN) are also on the

⁷⁸ Ibid 21

⁷⁹ Szadkowski, K. (2019). An Autonomist Marxist Perspective on Productive and Un-productive Academic Labour. *tripleC: Communication, Capitalism & Critique. Open Access Journal for a Global Sustainable Information Society*, 17(1), 111-131.

⁸⁰ Ibid 53.

verge of suffering the same fate.⁸¹ A key factor to note is that employees in the informal sector are also at the risk of manipulation by employers as capitalism takes shape in the country.

The Marxist theory serves as a key dominant theory in this study as it paints an image of the major source of labor conflicts in developing countries like Kenya. As such, this study has focused on the role played by the ILO in promoting decent work, protecting trade unions. It will also assess the challenges that ILO is facing in Kenya as a result of capitalism and finally give a comprehensive report of how the role of ILO in the country can be improved.

1.5.2. Empirical Literature Review

This section has focused on literature that is directly linked to the three objectives developed in this study.

1.5.2.1. Role of ILO in Africa and Key Projects

The international labor organization spent \$130 million in the last decade in global operations outside Africa. The major projects were carried out in Europe, the Middle East, Latin America, and Asian countries. The ILO has a special interest in the global developing countries as they form the largest employment pools in the world. In this case, these numerous industries are more likely to violate employment laws as seen in the Chinese Apple and Samsung sweat shops.⁸² This explains why the ILO has not been investing more in developed countries such as North American countries and Western Europe. In the Latin American and Caribbean countries, ILO reports that these countries have experienced rapid employment growth and the rate of unemployment has dropped by 25% in the past decade.⁸³ However, the organization has also pointed out that Latin America and Asian countries experiencing rapid economic growth rates are more likely to lag

⁸¹ Ibid 13

⁸² Ibid 12

⁸³ Ibid 13

when it comes to developing policies that ensure decent work and inclusivity. As such, the organization is undertaking a major project in these regions to ensure that the policy makers keep on improving the labor relations in these regions.

Technical cooperation and programs are one of the key roles that the ILO plays in the African continent as it strives to promote decent work in African countries. Since 2002, ILO has helped in the implementation of 560 technical cooperation programs in African countries. These projects have been valued at \$542.2 million. The organization has played a key role in African countries starting from the west, central to East Africa, and also in the horn of Africa.⁸⁴ In West Africa, ILO has teamed with the government of Ivory Coast to boost climate action while ensuring that the job and human wellbeing of the employees are at the center of the program. The main role of ILO, in this case, is to ensure that the young African population is protected from climate hazards that arise from the industries in the West African countries.⁸⁵

According to the minister of labor and employment in the country, an initiative towards climate hazard control will also create more jobs for the young Ivory Coast and western Africa population. At the center of the climate action for jobs initiative is the programs focusing on the social dimensions that affect the workers in the West African countries.⁸⁶ Other countries that have been part of this program are Senegal, Nigeria, Algeria, Morocco, Ghana, and Niger. According to ILO, the engagement of workers in the climate action program will help in promoting decent and sustainable working conditions for the current and future generations in the country.⁸⁷

⁸⁴ Gironde, C., Carbonnier, G., & Panizza, U. (2019). *The ILO@ 100: Addressing the past and future of work and social protection* (p. 320). Brill.

⁸⁵ Seekings, J. (2019). The limits to 'global' social policy: The ILO, the social protection floor and the politics of welfare in East and Southern Africa. *Global Social Policy*, 19(1-2), 139-158.

⁸⁶ Bellucci, S., & Weiss, H. (Eds.). (2019). *The Internationalization of the Labour Question: Ideological Antagonism, Workers' Movements and the ILO since 1919*. Springer Nature.

⁸⁷ Ibid 7

ILO has been at the center of the action when organizations fail to provide decent working conditions for their employees. For example, in Ghana, a paper milling company, Buck Press Ltd was found to be endangering the lives of the employees and those of the community members.⁸⁸ In this case, the ILO stepped in and started training the workers at the organization on how to protect themselves at the workplaces while at the same time pushing for new policy formulations in the organization that helped in monitoring the power of the capitalist venture. As such, the ILO was able to protect the employees from manipulation by the organization. This was done through the Sustaining Competitive and Responsible Enterprises (SCORE) which is an ILO training program that is focused on the global scale training of employees and employers.⁸⁹

ILO has also been at the center of action in helping countries that are coming from a war crisis of the horn of Africa especially in Somalia. A key factor to consider is the role played by the ILO in helping resettle refugees who were former businessmen and employees in the city of Mogadishu. The organization has helped the refugees in securing jobs with government agencies and also promoted the culture of entrepreneurship in the country. In this case, ILO provided over 5000 Somali refugees with the tools and equipment to start small and medium-sized businesses (SMEs) in the city of Mogadishu in an attempt to revive the Somali economy. The 5000 refugees undertook 3 weeks of entrepreneurial training, employee rights training and were awarded an additional 14 days of financial training. In the end, the refugees were given \$500 as capital to start businesses.⁹⁰ On critical analysis of this role of ILO in Somalia, it is evident that the organization

⁸⁸ Olulu, M. R., & UDEORAH, S. A. F. (2018). The Principle of Collective Bargaining in Nigeria and the International Labour Organization (ILO) Standards. *International Journal of Research and Innovation in Social Science (IJRISS)*, 11(4).

⁸⁹ Hays, J., & Kronik, J. (2020). The ILO PRO169 programme: learning from technical cooperation in Latin America and Southern Africa. *The International Journal of Human Rights*, 24(2-3), 191-213.

⁹⁰ Gilbert, J. (2020). The ILO Convention 169 and the Central African Republic: from catalyst to benchmark. *The International Journal of Human Rights*, 24(2-3), 214-223.

has evolved from just providing employee training and development of policies to a key player in the financial wellbeing of employees and their employers in an attempt to avoid policy manipulation by capitalists.

ILO has invested over \$500,000 in the SIRAYE program in Ethiopia to promote decent work in the industrialized areas of the country. ILO has teamed up with the Ethiopian government to provide over 500, 0000 jobs for the Ethiopians. The textile industry in the country is expected to grow by 86% by 2025.⁹¹ ILO has played a role at the national, regional, and factorial levels in influencing laws and policies that ensure decent work in the textile industry. At the national level, the organization is involved in social dialogue with multiple stakeholders to ensure decent working conditions for the employees in the textile industry. The main aim of ILO is to make Ethiopia the hub of Africa's socially responsible developed garments. At the regional level, the organization focuses on the development of employee unions and also strengthening them through the ability of collective bargaining. The organization is also involved in the development of policies that ensure work health and safety in the textile industry. At the factory level, ILO aims to improve management systems, financial systems, and company policies in an attempt to reduce the capitalist's power over the employees.⁹² This is in line with the Marxian theory of labor relations.

ILO has been operational in Kenya since 1965. Throughout these years, the ILO has helped in unlocking green jobs in the country and also the boosting of the SMEs sector in the economy. One of the roles that ILO has played in the country is assessing the role of labor laws on the SME sector in the country and how the laws can be streamlined to ensure decent work among the Kenyan

⁹¹ Balun, B., & Şişman, Y. (2020). International Labour Organization (ILO) and Migrant Workers. *International Journal of New Paradigm*, 3(1).

⁹² Davern, E. (2020). *Trends and new developments in employment services to support transitions in Sub-Saharan Africa, the Middle East and North Africa Regions* (No. 995106792602676). International Labour Organization.

employees.⁹³ However, with the current employment and labor laws being just a decade old, there is an urgent need to assess the role of ILO in the new labor laws, improving decent working conditions, and most importantly helping the employees through collective bargaining power in the form of trade unions.

Similar to the developing Latin American and Asian countries, Kenya is more likely to encounter difficulties in matching economic developments with employment or labor relations policies. With cases of child labor still rampant in key regions such as in the mining industry in western Kenya and the northeastern part of the country, Kenya needs to streamline its local employment policies and standards to ensure that it mirrors a modern-day world-class developing economy.⁹⁴ As such, this study will pay attention to how the ILO is committed to ensuring an improvement of the Kenyan employment sector to match the international standards.

1.5.2.2. Major Strategies used by ILO in development of Labor Laws

The International Labor Organization was formed after the Second World War and become the first UN specialized organization. The organization consists of government representatives and employees from 186 different countries in the world. The organization is focused more on its four objectives. These are the promotion and realization of standards and fundamental rights and principles at work. The second objective is to ensure employment opportunities for both men and women employment and better income. There is also enhanced coverage and social protection for all employees. Lastly, the ILO also focuses on strengthening tripartisan and social dialogue.⁹⁵

⁹³ Arezki, R., Lederman, D., El-Mallakh, N., Mohammed Islam, A., Abou Harb, A., Fan, R. Y., ... & Zouaidi, M. (2020). *Where Missing Data Hurts the Most: Low Growth, Macroeconomic Vulnerability, and Labor Market Outcomes in Middle East and North Africa*. The World Bank.

⁹⁴ Ibid 28

⁹⁵ Dey, J. (2020). Emerging Challenges of International Labour Organization (ILO). Available at SSRN 3668622.

The ILO applies four key strategies in the process of accomplishing its goals and objectives. The first strategy used by the organization is the development of international policies and basic employee rights-oriented programs to promote human rights among the employees. This is aimed at improving the working conditions and living conditions as well as the creation of job opportunities.⁹⁶ These laws are made according to international standards and are used as the baseline of the ILO networks with governments and organizations in various countries.

In Africa, the organization mainly employs the policy-based approach since this is the main problem with the African employment sector. Africa is one of the rapidly developing regions in the world in terms of technology and industrialization. This in turn has created more employment opportunities and given employers an upper hand when it comes to employment. Due to the high rate of unemployment, capitalist employers are more likely to exploit the employees due to a lack of a clear policy framework guiding employment in some sectors. For example, most African countries have no legal framework governing casual labor relations and also overtime.⁹⁷ As such, the ILO employs a policy-based framework to elevate the African employment industry to the international standard.

The second strategy used by ILO is the development of international labor standards that have been backed by a unique system that oversees the implementation of these standards. For example, in the Kenyan industry sector, ILO should be focusing on how to elevate the working conditions and labor as well as employment standards to the international standards.⁹⁸ The third strategy used by the organization is the development of extensive technical cooperation programs.

⁹⁶ Halonen, T., & Liukkunen, U. (2021). *International Labour Organization and global social governance* (p. 146). Springer Nature.

⁹⁷ Ibid 17

⁹⁸ Supiot, A. (2020). The tasks ahead of the ILO at its centenary. *International Labour Review*, 159(1), 117-136.

These programs are formulated and implemented based on the partnership with key constituents to help the selected countries effectively implement the international policies. Such programs have been seen in the empirical literature review on the role of ILO in West African countries. Lastly, the ILO also uses training and research activities to improve the working and living conditions of the employees and workers in developing and developed economies.⁹⁹ For example in Somalia and Ethiopia, ILO has applied training and interagency cooperation to ensure decent work and improved working and living conditions among the employees.

1.5.2.3.. Challenges faced by ILO in promoting decent work globally

Among the key challenges faced by ILO in its mandate of ensuring decent work in African countries are under-developed labor policy systems, gender inequality, and lack of trade unions or underdeveloped trade unions in most African countries. Starting with underdeveloped labor policies, studies have shown that most African countries have young labor relations policies that have not been enforced by employers and the governing authorities. For example, most countries are still struggling with the menace of child labor with minimal action being taken by the governments. In countries like Liberia in West Africa and Sudan in northern Africa, the rate of child labor has been recorded at 24%.¹⁰⁰ With no government enforcing the abolishment of child labor in such countries, the ILO mandate of ensuring decent work and employee protection is derailed as the organization now focuses on child labor issues. In other countries, gender equality laws in the industrial sectors are still young as the continent struggles with a male-dominated culture.¹⁰¹ As such, there is a lack of commitment by stakeholders such

⁹⁹ Patel, D. A., & Bharadwaj, S. (2020). International Labour Standards on Social security.

¹⁰⁰ Ibid 12

¹⁰¹ Legas, H. (2015). Challenges to entrepreneurial success in sub-Saharan Africa: A comparative perspective. *European Journal of Business and Management*, 7(11), 23-35.

as employers and the government to ensure that gender equality is ensured in the African industrial sector.

The African continent is full of developing economies. As such, the labor marketing infrastructure is still developing and this has created a window for the employers to use their capitalist motives to exploit employees. The trade union movements in Africa are in their developmental stages and lack resources to protect the employees in the developing industrial sector.¹⁰² Given the fact that ILO teams up with trade unions and other human rights organizations in ensuring decent working conditions for the employees, it is becoming difficult for the organization to work effectively in African countries. This also explains why Africa has the largest number of ILO derailed projects in the world.

Studies also show a decline in industrial relations. The creation of new jobs in the African industries is becoming hard and full-time jobs have been on the decline. Statistics also show that membership and registration of new trade unions are on the decline in African and Asian countries. Most of the jobs in Africa are casual, subcontracted, or part-time.¹⁰³ This is a highly unregulated job segment and goes hand in hand with poor wages and manipulation of the job description by capitalist employers. Some industries such as the exportation industry even ban trade unions while others such as the manufacturing and processing industry have no concrete unions for their employees. Studies have also shown that African workers have also shown limited interest in joining the trade unions.¹⁰⁴ This creates an image depicting a complete

¹⁰² Ibid 35

¹⁰³ Auvergnon, P., Laviolette, S., & Oumarou, M. (2011). Labour administration in sub-Saharan Africa: Functions and challenges in the light of ILO Convention No. 150. *International Labour Review*, 150(1-2), 81-98.

¹⁰⁴ Ibid 30

nervous breakdown of industrial relations in African countries making it hard for the ILO to operate.

Another key factor to note is that the ILO faces a problem in African countries when it comes to balancing employment to accommodate the youth. Due to the imbalance in the region when it comes to employment, most countries do not have any protocols laid out for accommodating the youth. Africa's labor force is youthful and fast-rising. In 2020, young people aged 15–24 years will account for less than a quarter (23.6%) of the global working-age population.¹⁰⁵ Indeed, Africa is the only continent in the world where the youth labor force is growing rapidly and steadily.¹⁰⁶ Since 1990, the proportion of young people in the labor force has stayed steady or even decreased in absolute terms in most parts of the world. However in Africa, this number has almost doubled, from 61.8 million in 1990 to 115.8 million in 2020, a nearly twofold increase. Furthermore, it is estimated to have expanded by more than 25% (i.e., by about 30 million young people) by 2030, when it is expected that there would be 144 million youthful labor providers in the continent, according to estimates. This is a significant difficulty since employment, particularly respectable jobs, are necessary for all of these new entrants into the labor market.¹⁰⁷ The fast expansion of the youthful labor force offers – at the very least potentially a valuable resource in an era when global concerns are becoming increasingly focused on how to maintain an aging population that is rapidly growing older. Realizing this potential will need a re-energized structural transformation, directed by deliberate policy action, across the majority of countries in order to begin this process.¹⁰⁸ It is undeniable that African

¹⁰⁵ Poblete, L. (2018). The influence of the ILO domestic workers convention in Argentina, Chile and Paraguay. *International Journal of Comparative Labour Law and Industrial Relations*, 34(2).

¹⁰⁶ Ibid 105.

¹⁰⁷ Ibid 47.

¹⁰⁸ Ibid 29

labor markets have not been totally effective in handling this problem in recent years. Despite the fact that working poverty among young people is decreasing, the rate of decline is not as rapid as it is in other parts of the world, particularly Asia and the Pacific. Working impoverishment among young people (as well as adults aged 25 and over) is far higher in Africa than it is in other parts of the world.

According to the World Bank, the number of young Africans living in working poverty dropped by 14% between 2000 and 2020. (i.e. 10.5 percentage points).¹⁰⁹ Working poverty among young people has decreased by 65 percent (45.4 percentage points) in Asia and the Pacific, while it has decreased by even more in the Americas and Europe, where it was already significantly lower.¹⁰⁹ It is only the Arab States that performed worse than Africa, and this is almost completely due to the awful conditions in the Syrian Arab Republic and Yemen; the working poverty rates in the vast majority of other Arab States are near to zero or negative.¹¹⁰ With the increase in conflict-related poverty in this region, the overall prevalence of youth working poverty in Arab countries has reached levels comparable to those found in Asia and the Pacific, at around 25% of young workers – still significantly lower than the working poverty rate found among young Africans.¹¹¹ Globally, the average reduction in working-age poverty among young people was 45 percent. In 2020, 63 percent of young employees in Africa will be living in poverty, compared to 50 percent of adult workers (those over the age of 25) in the same year.¹¹² As recently as the early 1990s, the Asia-Pacific area saw similar or even greater rates of young

¹⁰⁹ Ibid 78

¹¹⁰ De Stefano, V. (2021). Not as simple as it seems: The ILO and the personal scope of International Labour Standards. *International Labour Review*.

¹¹¹ Ibid 67.

¹¹² Ibid 57.

working poverty as the African continent.¹¹³ In other words, while the reduction in working poverty in Africa should be commended, much more must be done to bring it even further down.

A similar scenario is also experienced in the Kenyan labor industry where the number of unemployed youth continues to rise each year. With reference to this statement, this study has focused on the identification of key challenges faced by ILO while implementing its mandate in the industrial sector. The main aim will be to critically assess how the identified challenges can be improved to ensure that ILO is successful in ensuing decent work in Kenya and other African countries.

1.5.3. Gaps in the Reviewed Literature

From the above literature review, it is evident that literature on the role of ILO in ensuring decent work and inclusivity in the Kenyan employment sector is scarce. This means that minimal research has been done in this area and the role of ILO in the formation and oversight of decent work and inclusive industrialization in Kenya remains unclear. It is also important to the strategies applied by ILO in the development of labor laws in Kenyan informal sectors have also not been adequately addressed by different scholars as seen in the literature review. Thirdly, the main challenges that are faced by the ILO while executing its mandate in the Kenyan employment sector have not been addressed adequately. ILO has played an important role in the promotion of gender equality, diversity, and inclusion as well as the promotion of decent work in other countries in Africa. These countries have achieved the international standards of the labor industry. However, as an enveloping economy with a vibrant informal sector, the role of ILO in Kenya has not been exhaustively defined and this limits the efforts of promoting decent work and inclusivity in the Kenyan economy. This study will therefore address these key gap areas as identified in the

¹¹³ Ibid 89.

literature and also examine the challenges faced by ILO in working with the Kenyan authorities to ensure decent work and inclusive industrialization. This research will therefore help the local authorities and the ILO maximize their collaboration and solve the major challenges hindering effective execution of the ILO mandate in the Kenyan economy.

1.6. Hypothesis

HO: The strategies applied by ILO in the Kenyan industrial sector are not effective in promoting decent work among Kenyan organizations.

H1: There exists government and organizational commitment in cooperating with ILO to promote decent work in the Kenyan industrial sector.

1.7. Justification of the study

The findings of this study will focus on the role of the ILO and how it can be improved to ensure decent work in Kenya and also help in elevating the labor laws and policies to international standards.

Policies: The findings of this study will be important to the government agencies involved in the development of employment and labor laws. In this case, the government will discover more ways in which the local labor relations laws can be promoted to mirror international working standards. The government will also learn more ways in which the managerial powers based on capitalism can be monitored through cooperation with international organizations. The findings of this study will be essential to both local and international organizations operating in the country. For local organizations, this study provides important insights on how to provide decent work and how to directly involve the ILO in developing local employment relations policies and laws to mirror the international standards.

Academic justification: This study will provide new literature for the scholars of international and local labor relations. The study is significant in that it tries to assess the role of the international labor organization (ILO) in the country. The key challenges that the organization faces in the country and ways in which the role of the organization can be improved. The study also provides insights on how to improve local labor relations through state actors and international players to mirror the international standards set by the UN.

1.8. Theoretical Framework

This study adopted the Marxist theory of Radicalization to explain the role of the ILO in ensuring decent work and inclusivity in the informal sector and also the main challenges that the organization faces when protecting employees from radical capitalism.

1.9. Methodology

This section has focused on the research design, target population, and data collection methods. The main research design applied in this study is the descriptive, qualitative, and quantitative designs. The scope of the study is limited to the Kenyan borders and the target population comprises employees working at the ILO, ministry of labor, and COTU offices. Data has been analyzed statistically and in strict adherence with the ethical codes of conduct of a research study.

1.9.1. Research Design

Research design can be defined as a blueprint of a framework that guides the researcher on the journey to answering the key research questions in a study.¹¹⁴ This study has adopted a

¹¹⁴ Baran, M. L. (2020). Mixed Methods Research Design. In *Applied Social Science Approaches to Mixed Methods Research* (pp. 26-52). IGI Global.

descriptive and quantitative research design. In this case, the research will focus on both statistical and descriptive data in an attempt to answer the key research questions.

1.9.2. Research Location/Scope of the Study

The research location refers to the area within which the research will take place or the key area of focus. This study was conducted in the environs of Nairobi city where the informal and formal sectors will be the key focus. The interviews were conducted among the participants located in the city. Since the study assess the role of ILO in promoting a decent working environment in Kenya and how this can be improved, the main focus was on the capital city. The main offices under focus were the international labor organization offices in Kenya, the trade union offices in Kenya, and the ministry of labor offices in the country. These are the main offices that are involved in partnering with the ILO in improving the working and living conditions of the employees. They are also involved in monitoring the working environment of the Kenyan employees in both local and international organizations based in the city and the whole country.

1.9.3. Research Target Population

The research target population is the officials working in the ILO offices in Nairobi. These will be the employees who are directly involved in the project aimed at improving the working condition and employment laws and policies in the country. The next target population will also comprise the employees of the ministry of labor who are directly involved in working closely in the project developed by the ILO. The last target population will be the trade union employees such as those employed by the central organization of trade unions (COTU) in Kenya.

1.9.4. Research Sample and Sampling Technique

The participants who will take part in this study will be drawn from the ILO offices in Nairobi, the ministry of labor, and the COTU organization. Since this is a study that was used to reflect the true image of the role of ILO in the whole country, it was important to use a suitable

sample size that can be developed using the following calculation formula recommended by Yamane (1967), as enumerated below.¹¹⁵

$$n = \frac{N}{1 + N(e)^2}$$

Where: n= Sample size, N= Population size e= Level of Precision (0.05). n= corrected sample size,

$$n = 98 / 1 + 98(0.05)^2$$

n=112 participants

The estimated sample size in each organization was 37 although this number differed based on responses received. The total number of participants was targeted in this study was 112

Table 1.1. Target Population, Sample Size, and Sampling techniques applied

Target Population	Sample size	Sampling technique
International Labor Organization Offices in Nairobi	40	Simple random
The Ministry of Labor	34	Simple random
Central Organization of Trade Unions (COTU)	38	Quartile sampling
Total	112	

Source: Researcher, 2021

Convenient sampling has been selected as the ideal sampling method in this study due to the inaccessibility of key participants in this study. For example, since each group of participants

¹¹⁵ Berndt, A. E. (2020). Sampling methods. *Journal of Human Lactation*, 36(2), 224-226.

requires at least 59 participants, it will be difficult to access all 59 participants from the ministry of labor, COTU, and the ILO offices in Kenya. As such, convenient participants will be targeted.

1.9.5. Data Collection Method

Data collection in this study targeted both primary and secondary data. In terms of primary data, the main methods were face-to-face interviews and also through the use of questionnaire-based survey with participants while observing social distancing in line with the COVID19 regulations by the Kenyan government. Online surveys were also be applied to employees working in the selected organizations from home. The study also accommodated ordinary employees working for various organizations in the informal and formal sectors. Surveys were done through Zoom, Google Meet, and Google forms. Secondary data was collected from journals, newspapers, ILO reports, and research organizations. The data collection in this study took a duration of one month.

1.9.6. Data Analysis and Presentation

This study has applied both qualitative and quantitative data collection methods. As such, these two forms of data will need to be analyzed using different methods. The quantitative data will be analyzed statistically using the SPSS software. The software will then generate cross-tabulations and frequency distribution tables. This will enable analysis and the interpretation of data collection paving the way to critical discussions and the development of a comprehensive set of recommendations. Qualitative data will be analyzed thematically and no special software will be used in this type of analysis. The responses from the interviews and online surveys will be grouped based on content analysis. This will help the researchers draw meaning and conclusions from the data based on assertions, associations, denotations, and connotations.

1.9.7. Piloting

To ensure that the relevant data is collected by the researchers, the questionnaires and online surveys were distributed among 10 participants to assess the quality of data collected by the tool. This helps in assessing the efficacy of the tool.

1.9.8. Research Limitations

Although this study is comprehensive in terms of scope and area of study, there were some key limitations associated with the study. The study has only focused on the role of ILO in the protection of employees and the promotion of decent work as well as monitoring the power of capitalists in the Kenyan economy. However, the study does not focus on the role played by the ILO in helping the entrepreneurs in the country especially those who own businesses in the SMEs sector. The study has also relied on a limited number of participants and this makes the scope of the study limited to the Kenyan market only. It is also important to consider the fear and emotional factors affecting the employees during the survey. In this case, there is a possibility that the employees were not giving honest opinions based on the fear that the researcher might have been hired by the employers. This might tamper with the quality of the results obtained in this study. There was also the time constraint and also delayed responses from the participants. Two months after collecting the data, some respondents have not yet sent in their filled-in questionnaires. This has forced the researchers to work with a smaller number of participants compared to the initial target of participants.

1.9.9. Ethical Considerations

Research ethic is one of the most critical aspects that researchers should uphold. As such, this study is dedicated to upholding the highest form of ethical standards during the data collection process. The following are the ethical considerations of this study.

Participation in the study was voluntary and no participants were threatened or coerced to take part against their will. Anonymity was highly observed and as such, the researchers did not collect any personal data related to the participants. This type of data includes names, residential addresses and titles, and organization names. The participants had the right to withdraw their participation along the process and also reserved the right to take back their data within seven days after participating in the survey. To ensure confidentiality, Data collected in this case was only be accessed by the researchers and their supervisors and was stored in encrypted hard disks and drives. This ensured high levels of confidentiality in the process.

1.10. Chapter Outline

Chapter One: This chapter introduces the research topic and gives an extensive background of the study area. It also provides the study objectives, justification of the study, the research framework, hypothesis, and the methodology used in the study.

Chapter Two: This chapter discusses the role of ILO in the formation and oversight of decent work and inclusive industrialization in Kenya.

Chapter Three: Investigate the strategies applied by ILO in the development of labor laws in Kenyan informal sectors.

Chapter Four: Examine the challenges faced by ILO in working with the Kenyan authorities to ensure decent work and inclusive industrialization.

Chapter Five: This chapter provides a comprehensive conclusion, proposed recommendations, and further research areas.

CHAPTER TWO

ROLE OF ILO IN THE FORMATION AND OVERSIGHT OF DECENT WORK AND INCLUSIVE INDUSTRIALIZATION IN KENYA.

2.1. Introduction

In the chapter, the study has analyzed the data of the first objective as collected by the questionnaire. The data was analyzed using the SPSS software and content analysis methods. The key trends, as well as strategies evident in the role of the ILO in Kenya, were the key focus. In particular, this chapter will analyze data on the definition of decent work and industrialization according to the ILO, strategies that ILO uses in ensuring employee rights, gender equality, legal policies in place by the ILO, and finally the future plans of the organization. The chapter will finalize with a full chapter summary.

2.2. Demographic information

The demographic study refers to the study of populations based on factors such as age, gender, and race. Demographic also refers to the socioeconomic data when expressed statistically like in this study. Demographic data may also include the employment status of the participants, education, marriage status, and even the annual income.¹¹⁶ However, depending on the type of research that a study is focusing on, the researchers selectively choose the type of demographic data to collect from their participants. In this study, the demographic data consists of age, gender, employment status, and education status.

¹¹⁶ Ibid 35

2.2.1. Gender

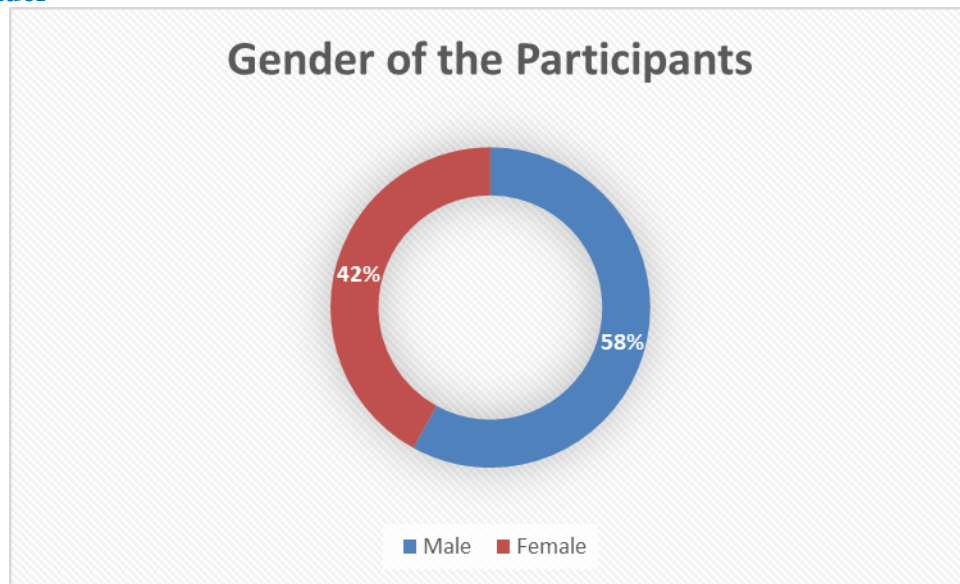


Fig 2.1. Gender of the participants

Source: Field Data 2021

Gender was regarded as a key factor of consideration among the participants in this study since men and women have different experiences and opinions at the work places. As such, including an almost equal number of male and female participants in this study ensured inclusivity and diversity of experiences and opinions and improved the quality of data collected. However since the response rate was recorded at 51%, the number of female participants reduced and the study had more male respondents compared to female respondents. From the table above, male participants accounted for 58% while female participants accounted for 42%. The study keenly focused on balancing the number of male and female participants in order to avoid gender-based bias in opinions and responses. As such, balancing the number of male and female participants ensured that all gender-related responses in the labor industry were captured.

2.2.2. Age of the participants

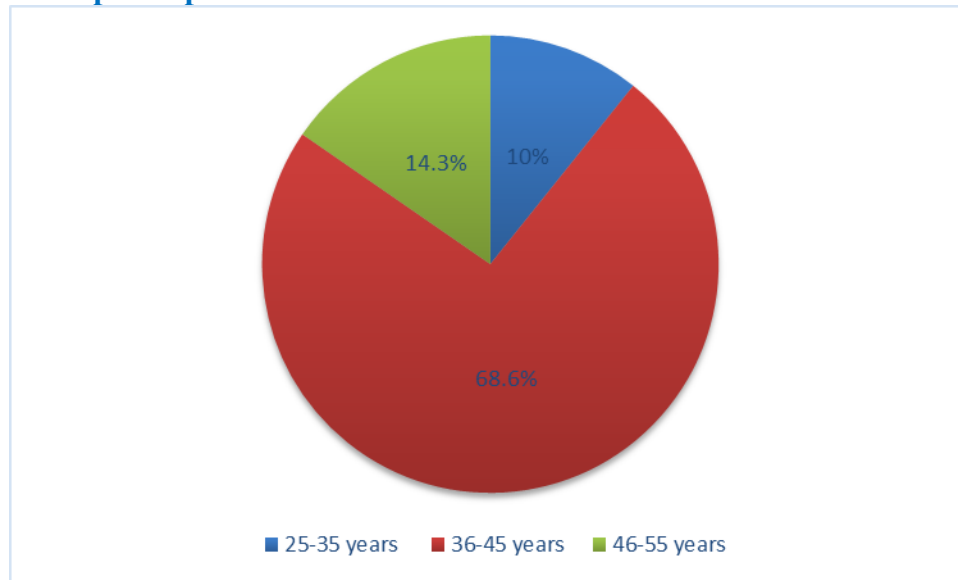


Fig: 2.2. Age of the participants in this study

Source: Field Data 2021

Age was a significant factor among the participants since it defines experienced versus inexperienced workers thus giving the research team an area to focus on. The study balanced the target population based on all age groups from the freshly employed to the experienced employees. This was in an attempt to ensure diversity in terms of responses among the participants. The researcher figured that freshly employed participants aged 25-35 years would bring fresh responses that do not ascribe to the daily cliché in the corporate industry. Due to the low number of such employees, this age group accounted for 10% of the respondents. The response team was dominated by the employees aged 36-45 years while employees aged 46-55 only accounted for 14.3% of the total respondents. The majority of the participants were aged 36 years and above. This shows that most of the responses used in this study were given by experienced employees who have worked in the organizations for at least ten years. This also shows that the information collected was credible for further analysis.

2.2.3. Level of education

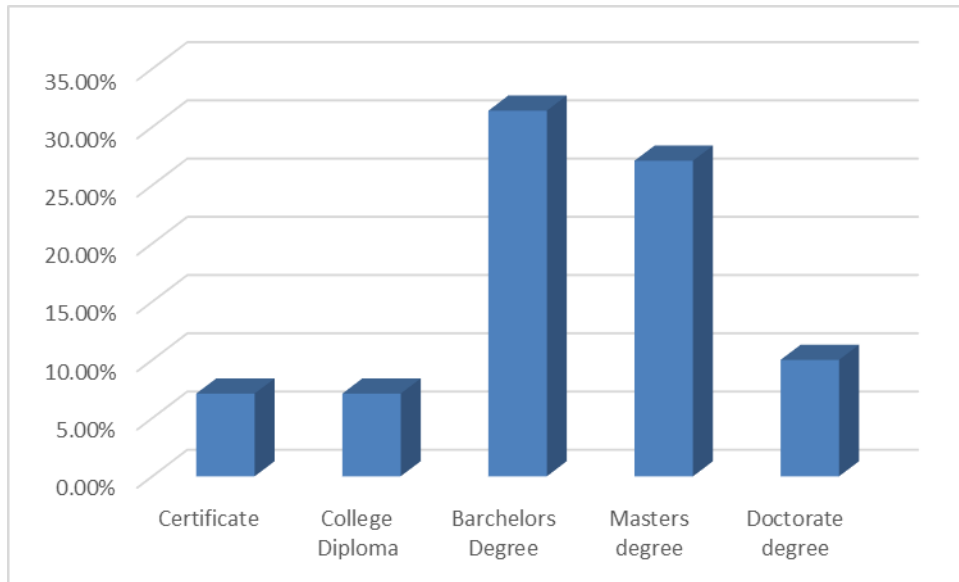


Fig 2.3. Education of the participants
Source: Field Data 2021

The level of education was also a key demographic factor in this study. Education defines both experience, responsibility, and eloquence in organizational matters. As such, accommodating employees with at least a bachelor's degree in the sample ensures the collection of quality data. In this case, the researcher was focusing on the diversity in terms of education among the participants. Both college diploma and certificate employees accounted for 14.2% of the total respondents. Graduates and postgraduate employees dominated the response teams. These two categories accounted for 68.5% of the total respondents in this study. The level of education of the participants is important for this study since it determines the nature of responses given on the assumption that the higher the level of education the higher the levels of experience and responsibilities assigned to the employees.

2.2.4. Organization

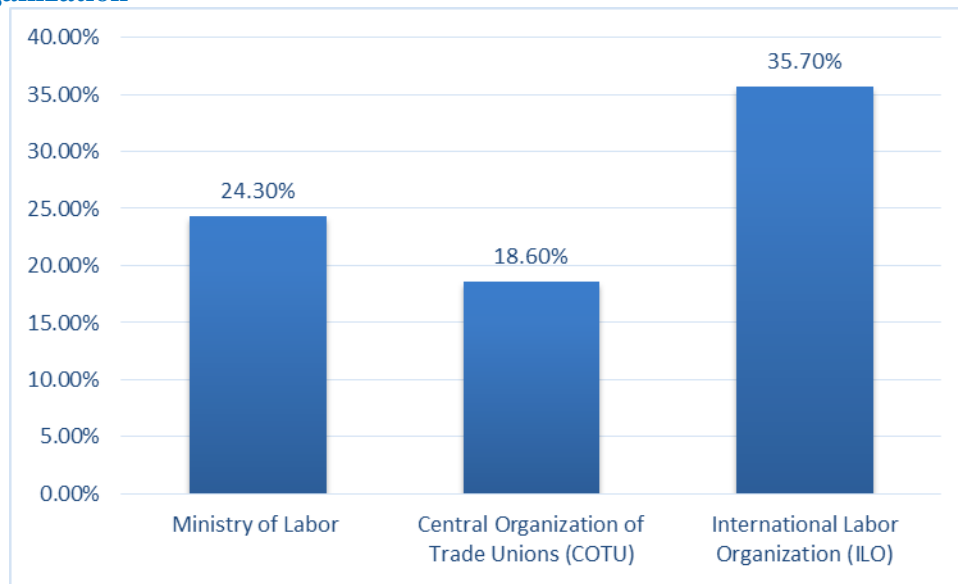


Fig 2.4. Employing Organization distribution among the participants

Source: Field Data 2021

Knowing the employing organization among the participants helps in the grouping of responses and also determining how well the data collected meets the set objectives of targeting three key organizations. The participants in this study were derived from three organizations that are involved in the regulation of the working environment in the country. These are the ministry of labor, the central organization of trade unions, and the international labor organization. The respondents from the ministry of labor accounted for 24.3%, COTU accounted for 18.6% while the international labor organization accounted for 35.7%. Employees from other trade unions accounted for 5.7%. The knowledge about the employing organization of the participants is important in this study to ensure that no organization dominates the responses and thus eliminate the bias in data collected.

2.2.5. Level of employment

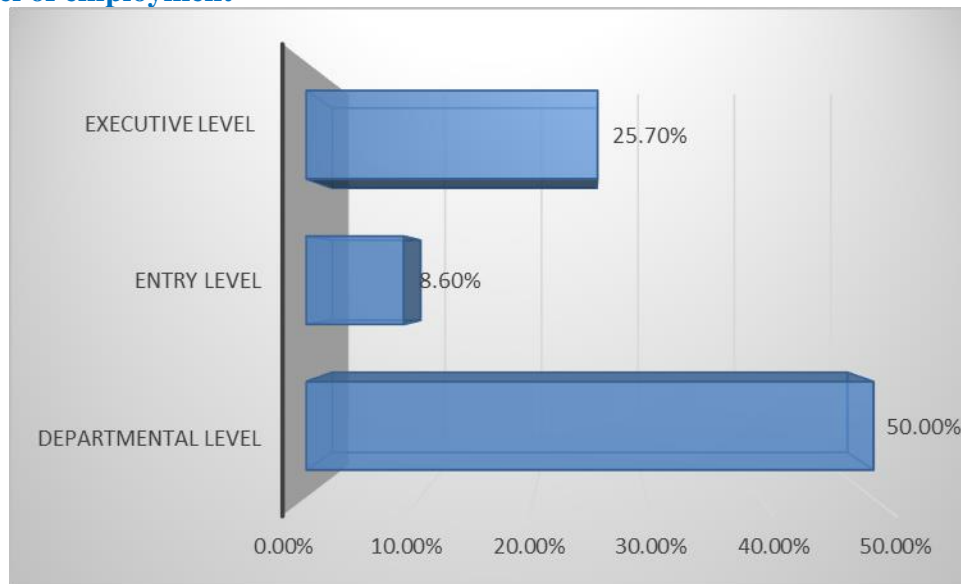


Fig 2.5. Employment level
Source: Field Data 2021

The level of employment defines the responsibility of the employees as well as the level of experience. As such, it helps in ensuring the quality of data collected in this study. A departmental manager is more likely to give more useful data compared to an entry-level employee. In terms of the level of employment of the participants, the study divided the participants into three key groups. These were the entry-level comprising of the freshly employed and non-promoted staff. The second category was the departmental level comprising of promoted employees but working within a specific department. These include team leaders, supervisors, and department managers. The last and highest level of employment is the executive level. These are participants who manage or oversee more than one department in the three mentioned organizations. 50% of the respondents had departmental level employment status, entry-level status accounted for 8.6% while the executive employees accounted for 25.7%. Finding out the level of employment among the

participants was important in that it helped the researchers in sorting out the responses and ensuring only experienced employees dominated the data analysis section.

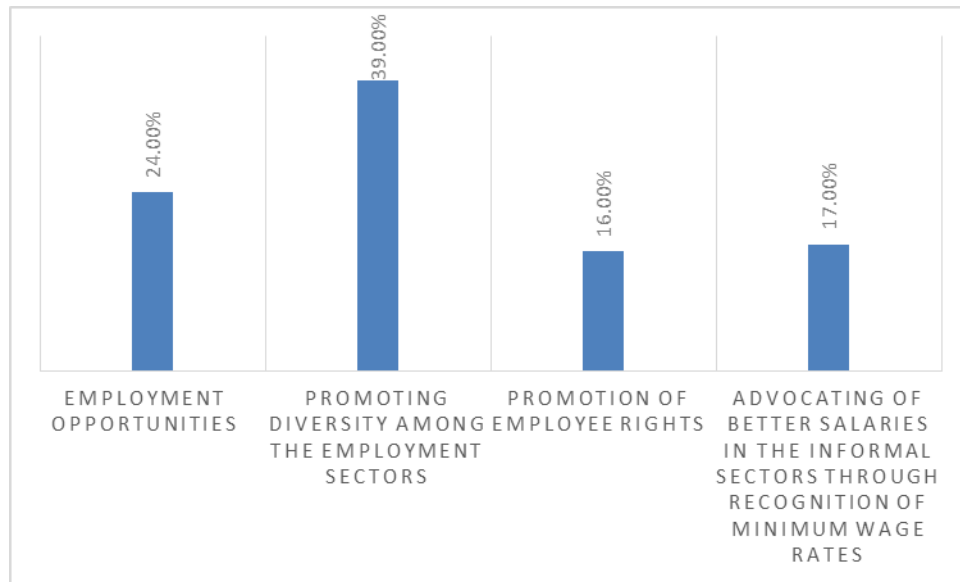


Fig 2.6. Strategies of decent work

Source: Field Data 2021

2.3. Promoting diversity among the employment sectors

The respondents were asked to state the strategies that the ILO has laid in place to ensure decent work in Kenya. 39% indicated that the ILO is more focused on promoting diversity and inclusivity in the workplaces in the country. One of the key factors to consider in the African labor industry is that the issue of diversity and inclusion has not been popular in the last decade. African and Asian countries share collectivist and conservative norms and values. As such, in terms of diversity and inclusivity of the employees in the workplaces, the African market is lagging and this can be seen in the Kenyan labor market. ILO has embarked on a mission to ensure that diversity in terms of race, sexual orientation, and religion as well as nationality has been embraced in the Kenyan labor industry. This has been done through the enactment of the Sexual and Gender Act and other gender-based programs in the country.

Currently, the country is struggling with the issue of the two-thirds gender rule as required by the Kenyan constitution. According to studies diversity and inclusion in the workplace increase revenue and productivity, innovation, and employee retention¹¹⁷.

An important issue that was raised by respondents throughout the diversity and inclusivity issues was the inclusion of people living with HIV/AIDs. In the last two decades, the issue of HIV/AIDs has become key employment relations and development issue. On critical analysis of the inclusivity of people living with HIV/AIDs in the labor markets, it is evident that this is a problem that has impacted Africa as a region. Despite accounting for just over 10% of the world's population, Sub-Saharan Region is home to more than 60% of all HIV-positive people or almost 26 million people. In 2005, an estimated 3.2 million persons in the region were infected with AIDS, with 2.4 million adults and children succumbing to the disease. Over 90% of those living with HIV are in their peak years.¹¹⁸ AIDS is destroying decades of development achievement in many nations, including increased life expectancy and improvements in health and education. In Sub-Saharan Africa, the average life expectancy is presently 47 years. It would have been 62 if it hadn't been for AIDS. HIV/AIDs is both a cause and an effect of poverty, just as gender disparities drive and are driven by HIV/AIDs and poverty. It has a negative impact on society's most vulnerable groups, exacerbates child labor, and fosters stigma and prejudice. It has the potential to stifle economic growth and development by affecting the labor force, households, and businesses.¹¹⁹ HIV/AIDs exacerbates the ill health and mortality caused by malaria and other infections and has resulted in a resurgence of tuberculosis (TB), putting immense strain on the healthcare system.

¹¹⁷ O'Donovan, Deirdre. "Diversity and Inclusion in the Workplace." In *Organizational Behaviour and Human Resource Management*, pp. 73-108. Springer, Cham, 2018.

¹¹⁸ Dauda, R. S. (2019). HIV/AIDs and economic growth: Evidence from West Africa. *The International journal of health planning and management*, 34(1), 324-337.

¹¹⁹ Ibid 41.

According to recent studies in the African labor industry, most of the people living with HIV/AIDs are discriminated against based on their health condition.¹²⁰ The African labor industry is heavily dominated by the informal sectors and in most cases, at least 70% of the job opportunities in the informal sectors are manual jobs.¹²¹ These are labor-intensive jobs that require energetic employees. Despite their health status and capabilities in doing such jobs, people living with HIV/AIDs are discriminated against when it comes to the recruitment process of such jobs.

The consequences for homes can be severe. Numerous families are experiencing income loss. In other circumstances, wage earners are compelled to stay at home to care for AIDS-infected families. Most of those who die have surviving spouses who are infected and in need of treatment themselves. They abandon bereaved children who are left to fend for themselves in the absence of a parent. As the pandemic spreads, demand for HIV care increases, but so does the number of afflicted health personnel. Schools are also significantly impacted. Additionally, significant levels of illness have been detected among instructors. This is a significant worry, as schools can play a critical role in mitigating the disease's impact through education and assistance. In Africa, stigma is both a cause and effect of HIV/AIDS secrecy and denial. While AIDS has received more attention as a source of stigma, TB is also a stigmatizing disease, both on its own and in conjunction with AIDS.¹²² Fear of stigma impedes the effectiveness of HIV testing programs, as individuals are fearful of breaches of confidentiality or gossip about their status. Fear contributes to treatment delays and thwarts preventative efforts.

¹²⁰ Azomahou, T. T., Boucekkine, R., & Diene, B. (2016). HIV/AIDS and development: a reappraisal of the productivity and factor accumulation effects. *American Economic Review*, 106(5), 472-77.

¹²¹ Ibid 54

¹²² Ibid 40.

HIV/AIDS is now widely recognized as a labor and socioeconomic concern. The epidemic has shed a new focus on the nexus of labor and socioeconomic stability. The impact of AIDS on household incomes and expenditures is exacerbated by the loss of labor force and decreased labor productivity, company efficiency, and competitiveness.¹²³ The virus increases businesses' direct costs through health, disability, mortality, and survivor benefits, as well as the cost of insurance to cover these risks. In many small and medium-sized businesses, costs are borne directly by employees and employers. This makes it hard for small-scale employers and even employees in demanding large corporations neglect the recruitment of people living with HIV/AIDS. An additional concern is long-term damage to human resources caused by the degradation of technical and management abilities. One of the most pernicious long-term repercussions of HIV/AIDS is the collapse of intergenerational skill transfer. The decline in the number of qualified workers and managers in the public sector jeopardizes nations' ability to deliver, let alone develop, important products and services.

Stigma and discrimination against people living with HIV or in HIV/AIDS-affected homes are of special concern. Discrimination against people based on their actual or perceived HIV status breaches fundamental human rights and obstructs disclosure and effective HIV prevention. Fear of stigma and discrimination results in low uptake of free services such as volunteer testing and treatment.¹²⁴ Employers' discrimination includes pre-employment testing, denial of training or advancement to HIV-positive workers, and reassignment or dismissal of HIV-positive workers regardless of their ability to work. Additionally, workers may stigmatize and avoid colleagues who are HIV-positive or think to be HIV-positive. These forms of discrimination contradict the ILO's

¹²³ Ibid 21.

¹²⁴ Romero-Daza, N., & Himmelgreen, D. (2018). More than money for your labor. Migration and the political economy of AIDS in Lesotho. In *The political economy of AIDS* (pp. 185-204). Routledge.

code of practice on HIV/AIDS and the world of work and significantly complicate the execution of HIV workplace policies and initiatives. Creating a supportive atmosphere necessitates not only the adoption and enforcement of legislation and the incorporation of rights into workplace practices, but also education to alter attitudes and alleviate anxiety. It is therefore important for the ILO to focus more on the needs of the people living with HIV/AIDS and other health conditions. Given the low level of education among the majority of the African workers in the informal sector, it is extremely important for ILO to focus more on how labor relation policies and other strategies that are collaborating with employers can help absorb and accommodate the people living with HIV/AIDS in the Kenyan market as part of the conventional inclusivity and diversity policies and practices.

Improving the rate of employee diversity and inclusion at the workplace will ultimately improve the Kenyan GDP and thus improve the rate of economic growth in the country. The major indirect benefit of an improved economy in Kenya is that the country will be in a better position to attract potential regional and international investors.¹²⁵ As such, ILO is not only helping the Kenyan labor market improve its diversity and inclusion ratio but also opening up for the regional and international market.

2.4. Promotion of employee rights

The majority of the respondents observed that employee rights have been a key issue in the Kenyan labor market and also the African labor market. In this case, aspects such as the recognition of paid leave, overtime as well as maternity and paternity leave have been the most popular

¹²⁵ Ng, Eddy S., and Nick Rumens. "Diversity and inclusion for LGBT workers: Current issues and new horizons for research." *Canadian Journal of Administrative Sciences/Revue Canadienne des Sciences de l'Administration* 34, no. 2 (2017): 109-120.

employment rights-related issues.¹²⁶ One of the key strategies that have been employed by the ILO in an attempt to promote the individual rights of the employees is through the development of employment legal education through media campaigns and also by partnering with private organizations in the country. According to employment and human resource legal studies, employee rights protect the employees from the wrongdoing of the employers such as denial of wages and salaries, basic work environment requirements, and also forms of harassment.¹²⁷ The Kenyan labor market is in its exponential phase of development. This means that the market is rapidly developing given the highly fragmented nature of both formal and informal sectors. The rapidly growing population and improved education sector have led to an increase in the supply of skilled graduates and craftsmanship in Kenya. However, when the supply of labor has been growing exponentially, there has been an inversely proportional growth of the job market.¹²⁸ This scenario has given employers an upper hand when it comes to selecting the best talent in the market.

Basic principles and workers' rights include a minimum and widely recognized set of international labor laws that are compatible with job creation and decent work and supports investment in these areas. Additionally, they serve as a foundation for strong labor relations systems and the effective implementation of other international labor standards. They mitigate risk in business by establishing a level global playing field with visible, predictable, and well-enforced rules of the game, thereby promoting fair competition. Africa is on the verge of achieving the ILO's

¹²⁶ Change, Doris, Teresia Kavoo Linge, and Damary Sikalieh. "Influence of idealized influence on employee engagement in parastatals in the energy sector in Kenya." *International Journal of Research in Business and Social Science* (2147-4478) 8, no. 5 (2019): 123-135.

¹²⁷ Cheruiyot, Thomas Kimeli, and Loice Chemngetich Maru. "Corporate human rights social responsibility and employee job outcomes in Kenya." *International Journal of Law and Management* (2014).

¹²⁸ Farah, Salah Abdirahman, and Hussein Abdi Ali. "A Study on the Causes of Unemployment among University Graduates in Kenya: A Case of Garissa County, Kenya." *European Journal of Social Sciences Studies* (2018).

goal of universal ratification of the eight foundational Conventions. However, successful implementation is complicated by a variety of issues, some of which are not due to governments' desire to fulfill their commitments, but rather to a lack of competence. In the informal economy, which accounts for the lion's share of economic activity, labor laws are frequently not implemented and collective agreements are either not applied or are not fully obeyed. Natural calamities, as well as environmental, political, and economic conditions, have wreaked havoc on governing mechanisms.¹²⁹ Nonetheless, African governments, employers' groups, and labor unions are steadfast in their commitment to international labor legislation and are leading the way in addressing the enormous problems inherent in enhancing work administration. Where the ILO's supervisory instruments identify problems with Convention implementation and national constituents designate areas for action, support measures, including monitoring of progress made, can be incorporated into DWCPs.¹³⁰ The enormous number of ratifications throughout Africa underscores the importance of this technique. The difficulty of implementing normative tools, on the other hand, necessitates increased resources in the form of competent and qualified national people, not only at the various ministries but also within business owners' and employees' unions.

At the same time, it has given rise to the development of many sweat shop-like industries where the rights of the employees are violated. As such, ILO has purposed to promote formal and informal education among employees on the basic rights that they should enjoy while at the workplace. At the same time, ILO has also developed helpline offices where cases of employee harassment, unwarranted dismissal, and also cases of child labor can be reported. This has helped in curbing cases of employee rights violations in the country.

¹²⁹ Ibid 59.

¹³⁰ Ibid 43.

2.5. Employment Opportunities for Women and the Disabled

The international labor relations have played a key role in the provision of employment opportunities in the informal sector in the Kenyan economy. 24% of the respondents indicated that the ILO has helped in creating job opportunities for women, the youth, and the disabled. This has been done through advocating for gender diversity and inclusivity in the employment sector. By teaming up with local organizations, the ILO has been able to exert pressure on employers to create more positions for the women and disabled people in the Kenyan economy. Through the promotion of the 2/3s gender rule and inclusion of the disabled in the labor industry, the number of female employees has increased by 12% in the Kenyan labor sector in the last five years. Organizations are also creating amenities and infrastructure to accommodate the disabled such as specialized lifts, designated parking lots, specialized desks, and also specialized pathways in the office buildings. A study done in Latin American countries has shown that employment opportunities can be improved through the creation of an enabling working environment for women and the disabled. The study continues to argue that while these strategies improve the employment diversity programs, they only offer a short-term solution of creating employment if the organizational structures such as culture and code of ethics.¹³¹

It is important to note that the duty to support female employees in the labor market has also been embraced by the national and county governments in Kenya. This has been done at the formal and informal levels of employment. However, the inclusion of disabled employees in the Kenyan labor industry has been low and this has led to an imbalance in the Kenyan labor industry. According to studies in the Kenyan labor industry, most of the disabled employed people work in

¹³¹ Mohezar, S., Jaafar, N. I., & Akbar, W. (2021). Welcoming Disabled Employees through Accommodating Workspace and Work Design. In *Achieving Quality of Life at Work* (pp. 89-105). Springer, Singapore.

the formal sector.¹³² However, in the informal sectors of employment, these employees account for the lowest number of employees with most of them opting to venture into their own proprietorships among other ventures. Although the ILO has played a key role in promoting the rights of the disabled workers in Kenya, there is still more to be done by the organization considering some of the achievements that the ILO has seen in other countries internationally when it comes to supporting disabled employees.

Studies show that globally, there are an estimated 1.1 million disabled people, with approximately 80 percent of them residing in poor nations such as Kenya, according to estimates.¹³³ Despite significant progress in recent years, individuals with disabilities continue to face a greater risk of poverty and social isolation than the general population around the world, particularly in developing countries. Disabled people are frequently rendered socially invisible by labor ministries and involved stakeholders in the Kenyan informal sectors and also in other African countries despite the fact that they are largely regarded in data gathering and policy formation. A total of around 800 million disabled persons are of working age, and many of them confront major challenges to equal opportunity in the workplace, ranging from attitudinal and physical barriers to information impediments from employers and colleagues at work.¹³⁴ As a result, the right of people with disabilities to work and to be employed is routinely denied to these individuals. In comparison to their non-disabled counterparts, disabled people, particularly disabled women, endure higher unemployment rates, economic inactivity, and low social support than the general population. It is critical to ensure that people with disabilities are able to exercise their right to work, but it is also

¹³² Ibid 14.

¹³³ Ajuna, A., Ntale, J., & Ngui, T. (2018). Impact of training on the performance of women entrepreneurs in Kenya: Case of Meru Town. *International Academic Journal of Innovation, Leadership and Entrepreneurship*, 2(2), 93-112.

¹³⁴ Muli, Koki. "'Help Me Balance the Load': Gender Discrimination in Kenya." In *Women's Rights Human Rights*, pp. 78-81. Routledge, 2018.

important for economic and business reasons for inclusion. These include the benefits to the economy as a whole, the benefits to firms who implement diverse practices, and the benefits to the individuals with disabilities themselves.

When it comes to integrating people with disabilities in other countries such as Bangladesh, Zambia, and Ethiopia, the ILO takes a double approach: ensuring their rights while also acknowledging the economic advantages of inclusion. UN Convention on the Rights of Persons with Disabilities, ratified by more than 150 nations, ensures the right of people with disabilities to conventional vocational training, employment, and social security benefits.¹³⁵ Working with people with disabilities is a cornerstone of the United Nations Convention, which is supported by the ILO's Vocational Rehabilitation and Employment (Disabled Persons) Convention, No. 159. (No. 111).¹³⁶ According to the International Labor Organization (ILO), providing appropriate job opportunities for people with disabilities has substantial economic benefits. Emerging economies lose up to 7% of their GDP as a result of disabled workers being excluded from the labor force. Companies around the world are also beginning to see the advantages of hiring a diverse workforce, including those with impairments.¹³⁷ The International Labor Organization (ILO) collaborates with governments, employers' and workers' groups as well as organizations representing disabled people to promote the inclusion of disabled people in the labor market. This is done through three key approaches. These are increasing the employability of disabled people, inclusive employment, and the creation of enabling environments for the employees to work in.

To ensure that vocational training and job opportunities for individuals with disabilities are included in the country's legislation, the ILO is working with the Zambian government as part of

¹³⁵ Ibid 27.

¹³⁶ Ibid 19.

¹³⁷ Ibid 17.

the Irish Aid Partnership Program.¹³⁸ The ILO offers advice to public vocational training centers on how to make their training programs more accessible to students with disabilities as part of its support. Because of this, the centers have devised their own plans for including people with impairments in their vocational training. In Asia, with the help of the European Union, the International Labor Organization (ILO) gave guidance on developing a national plan for the inclusion of people with disabilities into vocational education and training programs in Bangladesh.¹³⁹ About 500 people with disabilities are trained as part of the ILO's Bangladesh Skills for Employment and Productivity Project, which is supported in part by Canadian taxpayers. Employer and business networks, as well as groups that advocate for handicapped persons, are all part of the ILO Global Business and Disability Network. In operation since 2010, a Network is a meeting place for companies from developed and developing economies.¹⁴⁰ Networks in Brazil, Saudi Arabia, Chile, and Peru all owe their existence to the International Labor Organization (ILO). Across developing economies, business and disability networks work together to promote cooperative activities and knowledge sharing to guarantee that persons with disabilities have access to respectable jobs in the private sector. The "Better Work Programme," a collaboration between the International Labor Organization and the International Finance Corporation, operates in eight countries to support workers and companies in the global garment supply chain. Disabilities have been brought up in numerous countries as a result of this effort.¹⁴¹ Companies in Indonesia, for example, must have at least 1 percent of their workforce be disabled. As part of its capacity-building efforts in the garment industry, Better Work Indonesia has implemented pilot

¹³⁸ Ibid 17.

¹³⁹ Ibid 19.

¹⁴⁰ Ibid 19.

¹⁴¹ Ibid 38.

projects that educate and deploy individuals with disabilities in factories and offer guidance on how to employ people with disabilities.¹⁴²

Increasing the employability of disabled people and increasing the number of companies that include people with disabilities are two goals of the International Labor Organization (ILO). ILO encourages positive attitudes towards people with disabilities as well as work placement programs that are sensitive to the requirements of disabled people and social welfare that includes them. In this context, the ILO's collaboration with governments, unions, employers, and disability organizations is vital. The ILO is working with Irish Aid to conduct a program aimed at improving employment opportunities for people with disabilities (PROPEL). PROPEL is primarily active in Botswana, China, Ethiopia, Indonesia, Vietnam, and Zambia, among other places.¹⁴³ ILO promotes more inclusive employment frameworks, vocational training regulations, and a national strategic plan on disability inclusion in each of these countries.

On critical analysis of the role played by the ILO in creating more opportunities for women and disabled workers, this might only be a short-term solution if the organization does not engage the employing organizations directly and restructure the organizational culture and other human resources dynamics. The ILO needs to focus on developing more long terms strategies such as the one it has developed for other countries around the globe. Kenya being one of the fastest-growing economies in the continent, the ILO should focus more on developing more strategies that enable the employability of the disabled, creation of an enabling environment for them to be employed, and also advocating for their inclusion.

¹⁴² Ibid 67.

¹⁴³ Ibid 65.

2.6. Advocating for better salaries through the minimum wage rate

17% of the respondents pointed out that the ILO has helped in ensuring better wages in the country through the promotion of the minimum wage rate by the government. The minimum wage rate is a remuneration rate that is calculated seasonally by the government. It determines the rate at which the employees in the public and private sectors will be enumerated within a specified duration at work. The ILO recommends that the minimum wage rate is above the weekly expenses of the employees in each sector. However, given the diversity of the Kenyan informal sector, it is not possible for the ILO to promote better salaries without the input of local authorities. Studies have shown that corporations between the ILO and local authorities in countries like Australia have helped in the improvement of salaries and wages in the region. For example, in 2021, Australia has recorded a minimum wage of \$20.33 per hour.¹⁴⁴ However, in African countries like Kenya, the ILO has not been able to implement such initiatives since some of the businesses in the country do not adhere to basic employment laws. On critical analysis of the role played by ILO in boosting salaries and wages, the organization has only been successful in major corporations and government agencies in the country and not the informal sector.

2.7. Summary of the Findings

In this chapter, the study has focused on the data analysis regarding the role of the international labour organization in Kenya in ensuring decent work and industrialization. Among the participants were employees from the ILO, COTU, and also from the ministry of labor. Starting with the role of the ILO in ensuring decent work in Kenya, this chapter has established that the key strategies that ILO is using in promoting decent work in Kenya are the promotion of diversity and inclusion policies in the employment sector in accordance with the international standards,

¹⁴⁴ Hamilton, R., & Nichol, M. (2021). Minimum wage regulation in Australia in the wake of the pandemic: the future of the five wage concepts? *Labour & Industry: a journal of the social and economic relations of work*, 1-13.

promotion of employee rights, and advocating for better wages and salaries in the informal sector. ILO has focused on promoting employee rights in the informal sector through media education and also through campaigns. This has helped in creating awareness among the employees also helped in the reduction of employee rights violations ILO has achieved these objectives through the use of various policies and also the establishment of a helpdesk in the country to monitor the case of employee rights violations. However, when it comes to the promotion of inclusivity among the employees to accommodate the disabled people in the Kenyan informal sector, the ILO has failed to replicate the strategic policies and projects as well as partnerships that have yielded results in other countries. Currently, the Kenyan informal sector of employment has fewer disabled employees with most of them opting to venture into proprietorships due to employment hardships and discrimination. This chapter, therefore, concludes that given the commitment shown by the ILO in improving decent work in Kenya, the government and private organizations should team up and help popularize the programs championed by the international labor organization for faster realization of decent labor relations in the country.

CHAPTER THREE

STRATEGIES APPLIED BY ILO IN THE DEVELOPMENT OF LABOR LAWS IN KENYAN INFORMAL SECTORS.

3.1. Introduction

This section discusses some of the strategies that are being applied by the international labor organization in the development of employment laws in the Kenyan informal sector. The section has mainly focused on the key collaborations between ILO and the ministry of labor and also the COTU and the registered trade unions in Kenya such as anti-harassment and antidiscrimination initiatives, campaigns against child labor, and also the establishment of employment support offices.

3.2. Collaborations between the ILO and the Ministry Of Labor

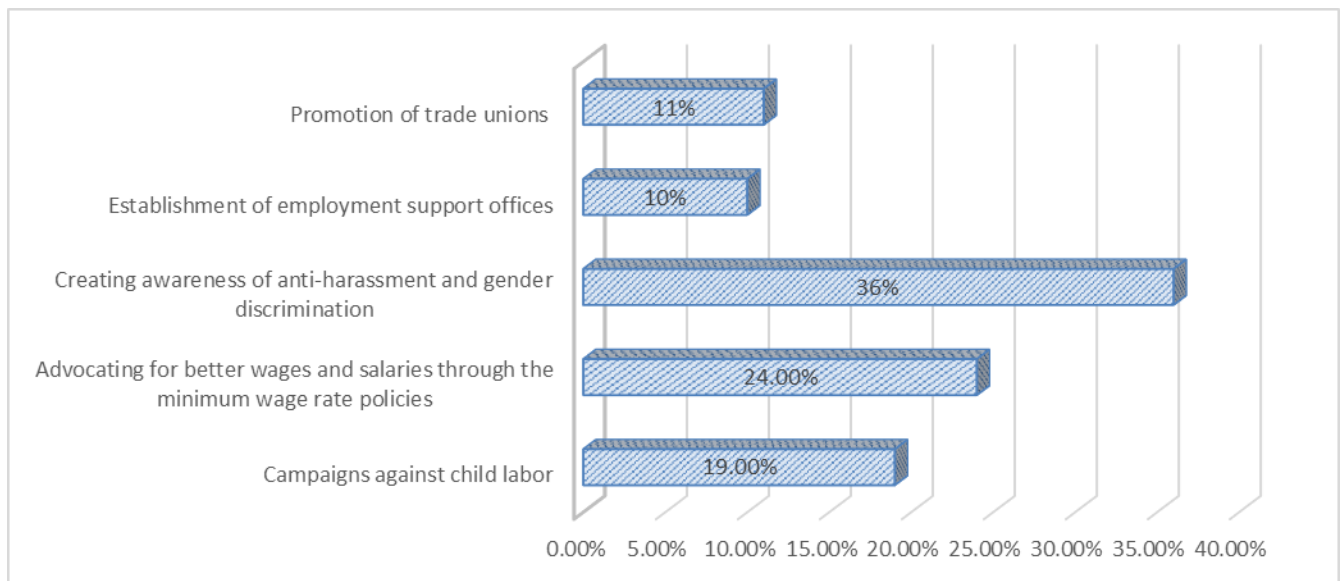


Fig 3.1. Collaborations with the ministry of labor

Source: Field Data 2021

3.2.1. Anti-harassment and gender discrimination awareness programs

The study observed that the ILO collaborates with local organizations when executing its mandate in the employment sector. As such the respondents in this study were asked to indicate the main collaborations that the ILO has with the ministry of labor. The majority (36%) of the participants indicated that the ILO has collaborated with the ministry of labor to advocate for anti-harassment and gender discrimination in the employment sector. Currently, the rate of employee harassment in the African labor market is at 27% with some industries such as the media industry recording an employee harassment rate of at least 50%. Currently, one in two women working in the media industry has experienced a form of sexual or verbal harassment at work.¹⁴⁵ The Kenyan informal labor market has also been highlighted as one of the industries where employee harassment has been on the increase according to studies¹⁴⁶. ILO has collaborated with the ministry of labor to develop standards that illustrate the treatment of employees by employers and how disputes should be handled in an ethical manner. As such, it is a requirement that all registered businesses at the company level in Kenya have a code of ethics that govern the key process and the treatment of employees.

ILO aims to maintain gender equality and equal opportunities for men and women to access employment opportunities. The organization ensures that both genders access decent work with fair pay and happening in conditions of equity, freedom, human dignity, and security. The International Labor Organization creates gender discrimination awareness by considering gender equality as a vital element in achieving the four strategic objectives pertaining to this endeavor. The objectives include promoting and realizing standards, fundamental rights, and principles,

¹⁴⁵ Kameri-Mbote, Patricia, Sarah Kinyanjui, and Yohana Gadaffi. "Sexual Harassment in the Workplace in Kenya." *E. Afr. LJ* (2018): 184.

¹⁴⁶ *Ibid* 57

creating opportunities for both genders to secure decent employment with a modest income, enhancing the coverage and effectiveness of social protection for men and women, and strengthening social dialogue. The organization's primary objective is to promote social and economic justice. Indeed, by pioneering anti-harassment and gender equality in employment, the ILO fulfills these objectives. The social aspect is satisfied by ensuring that the world treats both men and women equally, and it realizes economic justice by advocating for equal employment opportunities for men and women.

The organization's mandate to forward gender equality and anti-harassment awareness is articulated in its constitution and other relevant international labor standards. The four conventions on gender equality are the equal Remuneration Convention, Discrimination Convention, Maternity Protection Convention, and Workers with Family Responsibilities Convention. The International Labor Conference adopts resolutions to support the ILO mandate to pioneer gender equality and anti-harassment. This responsibility is also set in the context of various international instruments forwarding equality between men and women. They include the UN Charter, the General Assembly resolutions, the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW), the Millennium Development Goals, among others.¹⁴⁷

The ILO has a policy on gender equality, found in the Director General's Circular number 564 of 1999.¹⁴⁸ The policy advocates for mutually strengthening action to encourage gender equality in staffing, structure, and substance. The ILO achieves this through mainstreaming gender equality in all its work. The organization promotes gender equality in its programs and budgets, a shared responsibility of the entire organization. The general approach is to mainstream

¹⁴⁷ Ibid 51.

¹⁴⁸ Ibid 27.

gender equality and anti-harassment into all ILO programs, including national poverty reduction strategies and policies and Decent Work Country Programs. The organization backs its beneficiaries in this manner through its gender focal points and gender specialist's collaborations. Its approach to gender mainstreaming considers women and men's specific and diverse needs in the work environment. On the other hand, these needs and interests awareness are integrated with all the organization's programs, policies, projects, and organizational structures and processes. Where gender inequalities and harassments are extreme, the ILO addresses them using gender-specific measures for women and men together or separately or using measures for explicitly overcoming discrimination and harassment. Also, in cases of significant necessity, gender mainstreaming can involve gender-specific actions.

The ILO has an overarching action plan for gender equality that activates its 1999 policy on gender equality. The action plan fosters practical gender-responsive Decent Work Agenda delivery following the resolution of June 2009 about gender equality.¹⁴⁹ All the five regional offices of ILO, country, and sub-regional offices have recently established their strategies and offices that adapt to their localities. This initiative seeks to promote gender equality by fighting discrimination and harassment in ILO programs in the sub regions, especially with its Decent Work Agenda. This agenda is cross-sectorial and has a practical implementation through coordinated and integrated policy and organizational interventions. It covers various strategic objectives, including fundamental rights promotion, employment creation, social dialogue, and social protection. Apart from ensuring that women have equal access to employment as men, ILO ensures that they access education, healthcare, and skills training while considering their role in the global economy. Indeed, the world has been significantly patriarchal over the years, disregarding women

¹⁴⁹ Ibid 46.

and their efforts in many life aspects. This perception has made the word discriminate against women in many ways, including harassment and subjecting them to significant discrimination. However, recent years have seen the change of this narrative, where people have started recognizing women's efforts in society. The ILO recognizes that all humans have fundamental rights, and there is a significant need for equality. The organization fights discrimination against women and forwards gender equality through the above strategies, especially in the employment context.

3.2.2. Anti-child labor campaigns

19% of the respondents indicated that campaigns against child labor are one of the key strategies employed by the ILO in Kenya. Child labor and poor wages have been a key concern for the ILO in the African and the Asian market in the last two decades. ILO has teamed up with the ministry of labor and UNICEF to ensure that child labor is eradicated in Kenya. However, according to a report done in the Kenyan labor market in 2019, child labor is still a key challenge to control in the Kenyan rural areas, especially in remote communities.¹⁵⁰ This is despite the effort made by the government and the private sector in developing employment standards in an attempt to curb the rising cases of child labor. Statistics show that at least 9% of African children are at risk of being engaged in hazardous work as the continent record a 24% rate in child labor.¹⁵¹ This shows that the ILO and the local authorities have a mandate of ensuring that in developing economies such as the Kenyan economy, the rate of child labor is minimized and where possible eliminated. Child labor influences the investment rate in a country. According to a study in the global electronic industry in 2016 showed that companies mentioned in the sweatshop and child

¹⁵⁰ Sande, Anne. "Child Labor in Nona Region of Western Kenya and Implications on the Rights of Children: Critical Reflections." (2018).

¹⁵¹ Ibid, 52

employer lists in china recorded low ratings and sales in the Chinese market and the European region.¹⁵² As such, an increase in the rate of child labor in a country wade off investors from venturing into the Kenyan economy. With the country struggling with unequal distribution of capital and production factors, reduced investors will promote capitalism in the long term thus promoting manipulation of wage rate and other forms of payment in the Kenyan informal sector. This means that in the future ILO, UNICEF, and the ministry of labor might employ grass-root programs such as community initiatives to eliminate the problem of child labor.

Similar to the case of ILO on addressing the employment crisis of the disabled people in the country, the ILO is also lagging in the elimination of child labor policies. Studies on the role of ILO in other countries worldwide have indicated that the organization is investing heavily in anti-child labor policies and projects in regions such as Latin America, Asia, and other African countries. ILO's Governing Body, in its Worldwide Report in November 2006, adopted a global action plan suggested by the organizations. The ILO and its member states committed to ending the worst kinds of child labor by 2016 as the focus of the action plan. The goal was to propose and implement relevant time-bound actions by the fourth quarter of 2008 by all participating countries, notably African countries.¹⁵³ With regard to eliminating child labor, the framework for action also asks for a focus on Africa, especially in growing economies like Kenya and Rwanda. This complicated issue can only be addressed by creating and implementing time-bound national action plans against child labor as part of broader development initiatives. Time-Bound Programmed has been used by a few African countries, such as Ghana, Mali, and Tanzania, to establish and implement a national strategy.¹⁵⁴ With this approach, a variety of guidelines and other measures

¹⁵² Pun, N., Shen, Y., Guo, Y., Lu, H., Chan, J., & Selden, M. (2016). Apple, Foxconn, and Chinese workers' struggles from a global labor perspective. *Inter-Asia Cultural Studies*, 17(2), 166-185.

¹⁵³ Ibid 56.

¹⁵⁴ Ibid 71.

are used to target root causes of child labor and provide direct support in preventing children from being engaged in child labor's worst manifestations while also helping those who have already been engaged to withdraw, rehabilitate, and reintegrate back into society. It's not uncommon for programs to safeguard working children beyond the statutory minimum age from exploitation and dangers of the workplace, particularly in the unorganized sector. To comply with ILO Conventions 138 and 182, child labor policies must also bring law and practice into harmony.¹⁵⁵ It is via the ILO's monitoring and reporting systems that specific country problems are identified and prioritized, as well as the institutional capacities needed for the effective implementation of child labor rules. Policies must also take into account the connections between child labor, low education and income, and youth joblessness.

The most effective measure for ending child labor is free and high-quality education provided to all children until they reach the legal working age. Concerns about child labor must be factored into Regional education plans and regulations. The Global Task Force on Child Labor and Education for All, which was recently constituted, intends to continue the investigation of the relationship between child labor and education. Other significant partners of the Task Force include the International Labor Organization (ILO), which acts as its secretariat, as well as UNESCO, U.N. Development Programme (UNDP), United Nations Children's Fund (UNICEF), the World Bank, and Education International. Policies for DWCPs in Africa should be backed up with substantial resources from both inside the country and from the international community to ensure their success.¹⁵⁶ A few examples of such policies are allowing children to be excluded from the job market through technological and other inventions, allowing youth to be replaced;

¹⁵⁵ Ibid 42.

¹⁵⁶ Thomas, H., & Turnbull, P. (2018). From horizontal to vertical labour governance: The International Labour Organization (ILO) and decent work in global supply chains. *Human Relations*, 71(4), 536-559.

addressing issues that contribute to school drop-out, such as increasing the merit of elementary and secondary levels education to local economies, which would also help boost education demand; and providing. This necessitates the implementation of basic literacy, non-formal education, skill development, and internship programs.

Ending child labor in its most heinous forms necessitates political will and coordinated action by national and local governments, civil society, and the international community. In order to mobilize resources and devise and implement interventions in an integrated manner, expanding on and adding value to current programs, major government entities, nongovernmental organizations, and other civil society groups must be capable of doing so. This makes the collaboration between the ILO and the local labor authorities a necessity. There ought to be a greater exchange of policy and practice knowledge across African states and this is one role that the ILO has neglected in the African region especially in countries like Kenya. In Africa, the organization maintains that there are cases of forced child labor, especially in West African countries. To better understand the scope of forced labor, new knowledge and information must be developed. The ILO should support research on forced labor especially when it concerns the rights of underage children. Labor surveys and studies could uncover the underlying social-economic elements. Activism programs should develop ways to use traditional leadership and religious organizations to combat trafficking and forced labor based on IPEC campaigns against child exploitation. To counter forced labor and human smuggling, the IPEC says the following measures must be taken: to build a solid knowledge base on the issues; to assist ILO constituents and other key stakeholders in mainstreaming these issues in public policy frameworks; to begin implementing real solutions, and to develop a strategy that includes both trafficking prevention

and enforcement through inclusive pilot programs.¹⁵⁷ Informed legislators and law enforcement personnel are better equipped to prevent and combat child trafficking, thanks to new legislation being drafted to combat it. Locally, it has acted as a catalyst for community-based efforts to raise awareness about the dangers of migration, monitor hiring practices, and offer job training and self-employment options to those who are most in need.

To combat the trafficking cycle, operational programs can combine anti-trafficking efforts with poverty reduction methods, drawing learning from community-based interventions for legislation and policy recommendations. Current research reveals national action plans with awareness-raising activities such as community radio broadcasts and field-based programming are more likely to be successful in areas where there is a high proportion of people of slave origin. Traditional chiefs have played a significant role. This research study provides a solid foundation for policymaking that takes into account these lessons learned. Paying attention to the Marxist theory of labor relations, child labor is one tactic used by capitalists in the informal sector to control resources and exploit the labor providers.

Combating the problem of child labor in the African continent will take more than just policy development by the ILO. The organization should focus more on developing countries like Kenya and ensure more collaborations with the local authorities to control the problem of child labor in the Kenyan informal sectors.

3.2.3. Employment support offices

A minority of the respondents observed that ILO uses its regional offices in Nairobi to monitor the state of the Kenyan employment sector and develop new policies and strategies to impel the sector. Focusing on the achievements that the regional employment support offices have

¹⁵⁷ Ibid 33.

accomplished in the past decade, the ILO has managed to unlock green jobs for the youth through prompting the competitiveness of the Micro, Small, and Medium Enterprises. The organization is also able to explore the labor standards and policies among the SMEs thus creating an enabling environment for the employees working in this sector. This has been done through a series of youth empowerment and development projects in Africa by the ILO.

Africa as a continent has 70% of its population constituting children and youth below thirty years. Statistical projections indicate that by 2050, Africa will be home to twenty-nine percent of the global youth population. The high youth population in Africa has the potential, creativity, ability, and enthusiasm to achieve Africa's renaissance like the continent's leadership has articulated. Africa has a significant investment in its youth population's education and transition to education, social well-being, and health as a priority in the African agenda. The global repositioning agenda also has a significant interest in the African youth. The International Labor Organization (ILO) takes the responsibility to ensure social and economic justice in the world, especially in its member states. The organization also has and forwards this interest in Africa. It seeks to ensure that the African youth have equitable employment and work according to international labor requirements. Indeed, Africa has no shortage of challenges with youth employment. While many African youths have access to education, they face significant challenges accessing employment. Unemployment is one of the most significant challenges facing developing countries across the globe, and the same challenge applies to developing African countries. Nevertheless, the ILO has programs, policies, and initiatives to support and boost employment among the African youth.

Proper infrastructure and public commitment are necessary for youth employment. However, in their absence, the positive potential for the African youth can turn into dreadful

momentum because the youth population continues to swell. Hence, ILO member countries in Africa strive to provide education, health, and decent jobs for young adults to pivot to Africa's economic growth, regional peace, security, and stability. However, despite these efforts by individual African states, unemployment among the African youths continues to grow. Regardless, the ILO has in recent decades increased intervention measures to strengthen youth employment and development work. The organization adopted various strategies, including strategic alliances enhancement and fostering beneficial partnerships amongst youth stakeholders seeking to achieve practical outcomes and benefits for the African youths.

The ILO has also used policy measures to boost youth employment in Africa. For instance, it supported the adoption of the African Youth Charter. African countries made significant progress in recognizing the challenges and opportunities viable for the African youths. Therefore, with the assistance of the ILO, African states established national and regional youth networks such as the Pan African Youth Union. The goal of these networks is to direct youth engagement and promote youth ideologies for incorporation into the African strategies and programs promoting youth employment.

ILO interventions activities for youth employment activities in Africa cover three other fundamental fields, including technical assistance to multilateral constituents, knowledge development and advocacy, and knowledge dissemination. The ILO provides technical assistance to the African youths through technical cooperation projects. Although it uses other strategies for technical assistance, technical projects are its primary strategy in this field. Currently, the ILO has youth employment technical projects in twenty-seven African countries. The organization has allocated \$80 million to this portfolio to ensure that the African youth have employment in the technical field. Indeed, the modern economy depends significantly on technical projects. This

initiative by the ILO will ensure that many African youths find employment in the technical sector. The technical intervention covers actions like policy advisory services, employment services, and employment creation.

In advocacy for youth employment in Africa, the ILO initiated a partnership with the African Development Bank, the United Nations Economic Commission for Africa (UNECA), and the African Union Commission to cooperatively seek solutions to the challenge of youth employment and the country and regional levels. The goal of this partnership is to ensure that the responsible stakeholders cooperate to address youth unemployment. When individual states succeed in their initiatives with the assistance of the ILO and regional agencies, they manage to create more employment opportunities for the African youth overall. Moreover, the ILO's partnership with the UN and the World Bank in the Youth Employment Network on the global front has created African-based research and ad hoc projects like the Youth-to-Youth Fund. These projects are essential in funding youth employment projects.

Concerning knowledge development and dissemination, the ILO uses work indicators for Africa. It uses data that indicates state performance on youth-specific activities. Currently, the ILO is conducting school-to-work transition surveys in nine African states. This activity allows the collection of primary data that is highly scarce. Indeed, these intervention measures are vital in forwarding the African youth employment interests. The continuation in the continent will ensure that unemployment rates among the African youth increase significantly in countries like Kenya.

A similar role is seen in the regional employment support offices in regions such as the Middle East and Asian countries where gender inequality is high. Studies show that through the regional offices in the Middle East, the ILO has managed to boost the number of female and

immigrant employees in Saudi Arabia, UAE, and Qatar by 7% in the last five years.¹⁵⁸ Although the organization has managed to record such success rates in foreign markets, gender equality, child labor, poor wages rates, and manipulation of employee rights are still high in the country.

3.3. ILO Role in strengthening COTU and Trade Unions

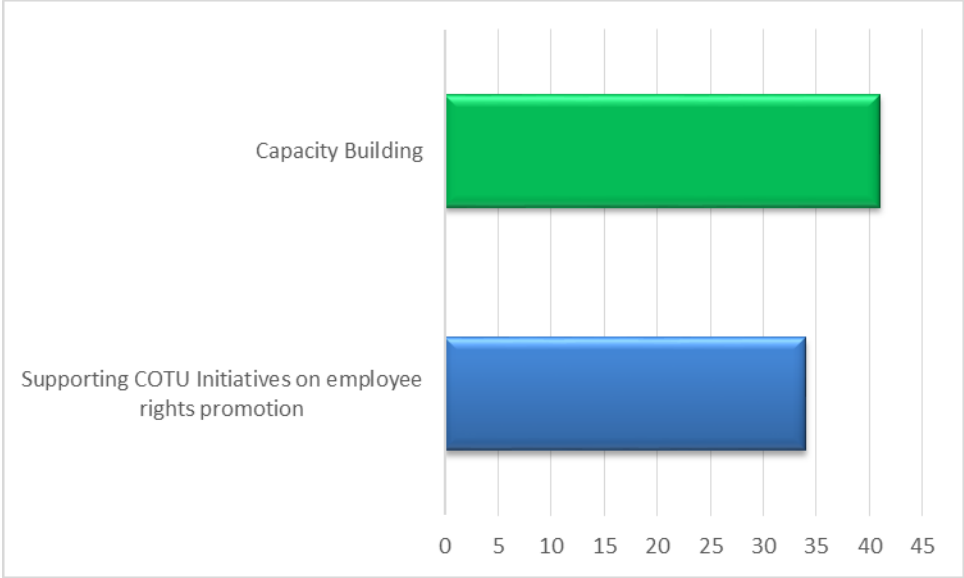


Fig 3.2. Roles played by ILO in the Strengthening COTU
Source: Field Data 2021

3.3.1. Supporting initiatives on employee rights promotion

The ILO also partners with trade unions in the country in the process of executing its mandate in the country. When asked about the main collaborations that the ILO has with COTU, the majority (34%) of the participants indicated that the ILO support COTU’s fights for employee rights and recognition. The main role of trade unions is to regulate the relations between the workers and the employers. This means that the trade unions are involved in the protection of employee rights and provide a platform for activities such as CBA negotiations with the employers

¹⁵⁸ Selwaness, I., & Krafft, C. (2021). The dynamics of family formation and women’s work: what facilitates and hinders female employment in the Middle East and North Africa? *Population Research and Policy Review*, 40(3), 533-587.

among other employment-related processes. Studies have shown that the ILO has also employed a similar strategy in other African countries such as South Africa and Nigeria where the wage gaps are high in the employment industry. In South Africa, ILO has seen a 6% reduction of employee rights violation-related cases while in Nigeria the organization has not released any results as of 2021.¹⁵⁹ The ILO is also committed to ensuring the full integration and recognition of the Declaration on Fundamental Principles and Rights at Work of 1998. Protection of employee rights especially in the informal sector is a key challenge facing the local authorities since there are no employment contracts between the employee and the employer. The ILO has thus collaborated with the local authorities such as the ministry of labor and COTU to compel workers in the informal sector to create and join trade unions where they can have bargaining power. However, this initiative has not been successful and in the long term, the ILO should focus more on engaging the employers in the informal sector.

3.3.2. Capacity Building

The second role played by the ILO is cooperation among the ILO, COTU, and the ministry of labor, and the ministry of finance. 26% indicated funding women and youth programs. The international labor organization works directly with the central organization of trade unions (COTU) in promoting and advocating for employee rights and also facilitating funding women and youth programs. In this case, the ILO promotes and popularizes youth empowerment programs internationally. This way the ILO provides additional funds for funds such as the Uwezo Fund and the Youth Empowerment Fund in Kenya.

The initiative by the ILO to provide resources and capacity building in developing countries such as Kenya was incepted in 2002 in Mexico. This was the first UN-hosted conference

¹⁵⁹ Seekings, Jeremy. "The limits to 'global' social policy: The ILO, the social protection floor and the politics of welfare in East and Southern Africa." *Global Social Policy* 19, no. 1-2 (2019): 139-158.

to address critical financial and developmental challenges and was held in Monterrey, Mexico in March 2002: the International Conference on Financing for Development. More than 200 cabinet members attended, as well as politicians from the non - government sector.¹⁶⁰ The Conference also included top leaders from all the major multilateral financial, trade, economic, and financial organizations. The Monterrey Agreement was adopted, and it resolved "to address the challenges of financing for development around the world, particularly in developing countries" as its primary goal. A number of academics hailed these discussions as major victories for Africa's emerging economies. In this case, world leaders committed "to make real efforts towards the aim of ODA to developing countries of 0.7% of GNP and to least developed nations of 0.15 to 0.20 percent of GNP" Despite the fact that these promises haven't been kept in full, aid is still pouring in.¹⁶¹ In 2005, aid to Sub-Saharan Africa grew by 2.5% as a result of Nigeria's debt relief. Taking Nigeria out of the equation reveals a decrease in help throughout the rest of the region. Looking at the big picture, Afghanistan and Iraq received the bulk of the additional help in 2005.¹⁶²

International development banks, as well as intergovernmental institutions, such as the European Commission, fund the vast majority of ILO technical cooperation programs, with only a small portion coming from local governments and non-state actors such as employers' and workers' organizations. Other sources of funding for ILO technical cooperation programs include the United Nations Development Program (UNDP) and the World Bank. Extra-budgetary spending increased from \$129.2 million in 2004 to \$156.6 million in 2005.¹⁶³ According to predictions, the volume will be around US\$161.5 million in 2006. This amount would be a new ILO record for extra-budgetary spending on technical cooperation. There will be a 25% rise in

¹⁶⁰ Ibid 51.

¹⁶¹ Ibid 27.

¹⁶² Ibid 46.

¹⁶³ Ibid 44.

spending in 2006 versus 2004. 41 In 2006, the ILO expects to have invested \$37.9 million or 23.5% of its overall technical cooperation funds in Africa, up from \$28.4 million and 22.1% respectively in 2004.¹⁶⁴ A growing share of overall ILO technical cooperation money has gone to Africa in the last few years, following a decline in the 1990s. To some extent, this surge in ILO support can be explained by increasing public understanding of the importance of the Decent Work Agenda to global growth and development initiatives, among other things. The Ouagadougou Summit's priorities will be supported by ILO technical cooperation in Africa, which will assist member states in putting the Summit's Plan of Action into action.¹⁶⁵ A key responsibility for ILO constituents in Africa is to collaborate with local ILO offices to mobilize resources for DWCs, given the increasing decentralization of donor support. Although from the results obtained in this study the ILO has been at the forefront in providing resources and capacity building for employees in the Kenyan market, previous research in this section has indicated that the organization is lagging in providing resources to the minority groups such as the people living with HIV/AIDs and also the disabled people. The organization however has been remarkable in boosting women and youth-related funds in the Kenyan employment sector.

This strategy of empowering employees in Kenya is in line with the findings from a report in the global labor industry. In this study, the researchers argued that the leading cause for economic imbalance and huge wage gaps in developing economies is the unequal distribution of resources.¹⁶⁶ As such, by providing funds to youth and women programs, the ILO does not only

¹⁶⁴ Ibid 56.

¹⁶⁵ Ibid 67.

¹⁶⁶ Haussen, Tina, and Marcus Schlegel. "Unemployment reduction through solo self-employment: A gender question?" *Empirical Economics* 59, no. 6 (2020): 3085-3105.

promote the trade unions through the creation of jobs but also through the creation of new ethical employers in Kenya through the reduction of capitalism.

3.4. Summary of the Findings

This chapter has noted that the ILO also plays a role in the promotion of labor laws in Kenya. Among the major role found by this study are campaigns against child labor, minimum wage laws, and campaigns, employment support offices, and also the promotion of the independence of trade unions in the country. Other roles identified in this section are collaborations with COTU and the ministry of labor to streamline the laws and regulations in the employment sector in accordance with international standards. ILO has helped the ministry of labor in fighting against employee harassment and also reducing the rates of child labor in the informal sector in the country. The ILO has been at the forefront in the promotion of employee rights through COTU and trade unions while at the same time helping in the redistribution of factors of production to minimize capitalism. In this case, the organization has helped in the promotion of the youth and women empowerment funds. Examples include Uwezo Fund and the Youth Empowerment Funds. This has helped in creating more ethical employers and employees in the country thus reducing the impacts of capitalism. The ILO however as discussed in other sections of this study has only focused more on capacity building and providing resources for women and the youth but neglected the minority populations such as people living with disabilities and HIV/AIDs.

This chapter concludes that ILO is an integral part of the industrial relations in the Kenyan economy and the organization still has a long way to go in empowering women and the youth, eliminating child labor, and promoting better wages. the current collaborations between the organization and the government as well as the ministry of labor and trade unions needs to develop more strategies to overcome the challenge capacity building, anti-harassment and youth

empowerment in the Kenyan informal sector. With reference to this conclusion, the government and the private sector should develop more collaboration and consultation infrastructure with the ILO in order to boots decent work and inclusivity in the informal sector.

CHAPTER FOUR

CHALLENGES FACED BY ILO IN WORKING WITH THE KENYAN AUTHORITIES TO ENSURE DECENT WORK AND INCLUSIVE INDUSTRIALIZATION.

4.1. Introduction

This chapter focuses on the key challenges encountered by the International Labour Organization (ILO) in working with the Kenyan authorities to ensure decent work and inclusivity. The chapter mainly focuses on the representation and non-cooperation gaps that exist between the organization and the ministry of labor as well as the Central Organization of Trade Unions. Major challenges identified are the restrictive decisions making process of the ILO, low ratification of its conventions, declining influence of ILO, and non-representation in local labor authorities. Towards the end of the chapter, the possible solutions to the identified challenges have been identified and thoroughly analyzed.

4.2. Challenges faced by the ILO

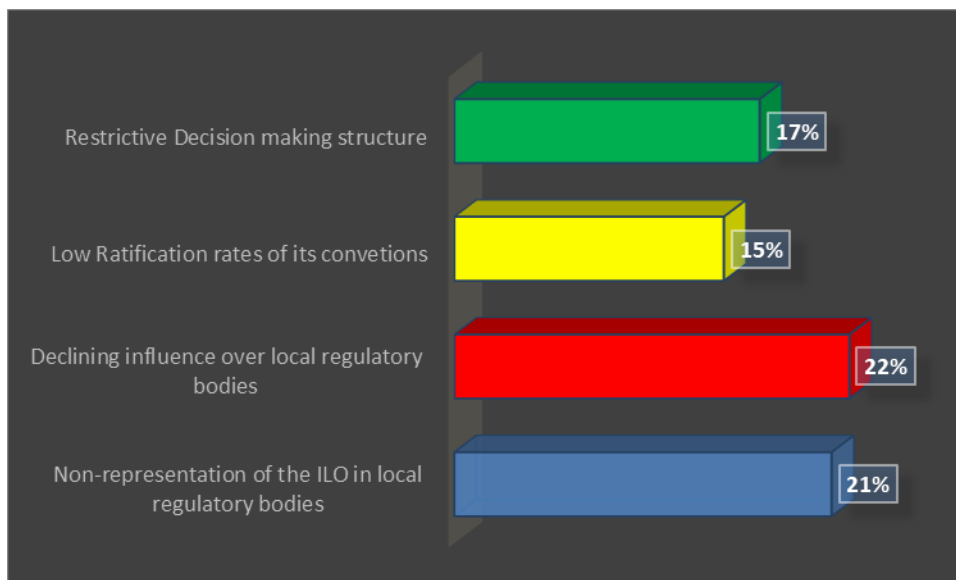


Fig 4.1. Challenges faced by ILO in Kenya

Source: Field Data 2021

4.2.1. Non-representation of the ILO in local regulatory bodies

International organizations such as the UN and its affiliate bodies have no direct jurisdiction in Kenya. However, they collaborate with Kenyan organizations in specific sectors. In the process of collaborating with local organizations, these organizations encounter some key problems. According to (21%) of the participants, the major challenge facing the ILO is the lack of representation in the local organizations such as the ministry of labor and COTU. non-representation of international bodies in their local partners hinders and limits the extent of major collaborations locally. In the case of ILO, lacks any formal representation in the ministry of labor and also in trade unions. As such, the organization has to rely on networking with these bodies and in most cases, the ILO is ineffective due to lack of direct contact. Studies have shown that lack of direct jurisdiction and representation is a key challenge for international organizations.¹⁶⁷ Lack of representation at the local level makes it hard for the ILO to influence the process of employment policy development by parliament and key regulatory authorities such as the ministry of labor. In the future, the ILO should consider approaching its key partners in the Kenyan private and public sector and establish offices that will give the organization direct contact with the Kenyan employment industry.

4.2.2. Declining influence over local regulatory bodies

A majority (22%) of the respondents observed that stated that the ILO suffers from declining influence in the formulation of labor policies in the employment sector. Throughout the world, international organizations have been found to succeed based on their global influence on the local industries. This form of political power gives the ILO a chance to convince and challenge local lawmakers and regulatory bodies to execute their mandate in accordance with the

¹⁶⁷ Copelovitch, Mark, and Jon CW Pevehouse. "International organizations in a new era of populist nationalism." (2019): 169-186.

international employment statutes. However, without political power, organizations such as the ILO have seen a declining level of influence in local labor markets. In a study done in 2018 in the African labor market, this decline in influence has been fueled by the heavy privatization of the labor regulatory authorities and the need for independence in decision making when focusing on the improvement of decent work and industrialization as well as minimization of capitalism. Privatization gives the organizations the power to operate independently making the influence of ILO in decision making almost an impossibility. It is important to note that most of the failures of the ILO in the Kenyan labor industry can be attributed to the limited influence that the organization has on the Kenyan government. This is also one of the toughest challenges to navigate since international organizations cannot dictate the affairs of a sovereign state like Kenya. However, with the limited level of influence that the organization has when it comes to the development of policies and projects that aid decent work and inclusivity, the ILO can replicate some of the key projects that have yielded results in countries like Bangladesh and Malawi as well as other developing economies.

4.2.3. Low Ratification Rates of Its Conventions

15% of the respondents observed that the ILO faces low ratification rates of its conventions in Kenya and regionally. Ratification rates in ILO refer to the sovereign act of the ILO that requires member states to be bound by the International Labor Convention. Since ILO is tasked with identifying labor policy improvement areas and developing the required labor policies and standards, the organizations hold regional and international conferences to deliberate on such issues. However, in the past decade, the organization has faced rebellion or subordination from developing countries who find the ever-evolving policies unhealthy and difficult to implement in a developing economy. For example, improving the wage rates to mirror those of countries like

Australia is an almost impossible program in Kenya. This has led to low ratification rates in the organization's programs in the country.

4.2.4. Restricted decision-making process

A slight minority of the respondents observed that a restrictive decision-making structure is the main challenge faced by ILO in Kenya and globally. For ILO to make decisions and implement them in the local labor industry, it must collaborate with the local authorities. In most cases the organizations in the labor sector find the local organizations find the laws and policies difficult to implement and do not ratify them. The lack of a statute requiring mandatory ratification of such policies and standards makes it difficult for ILO to make decisions on its own in the country. On critical analysis of this challenge, ILO would improve its operations in Kenya if the decision-making process was reviewed and the collaboration between the organization and the Kenyan government was improved. The organization should also focus on developing more regionally customized labor laws that will gradually guide the local employment industry towards attaining international status.

4.3. Recommended solutions for the challenges facing ILO in Kenya

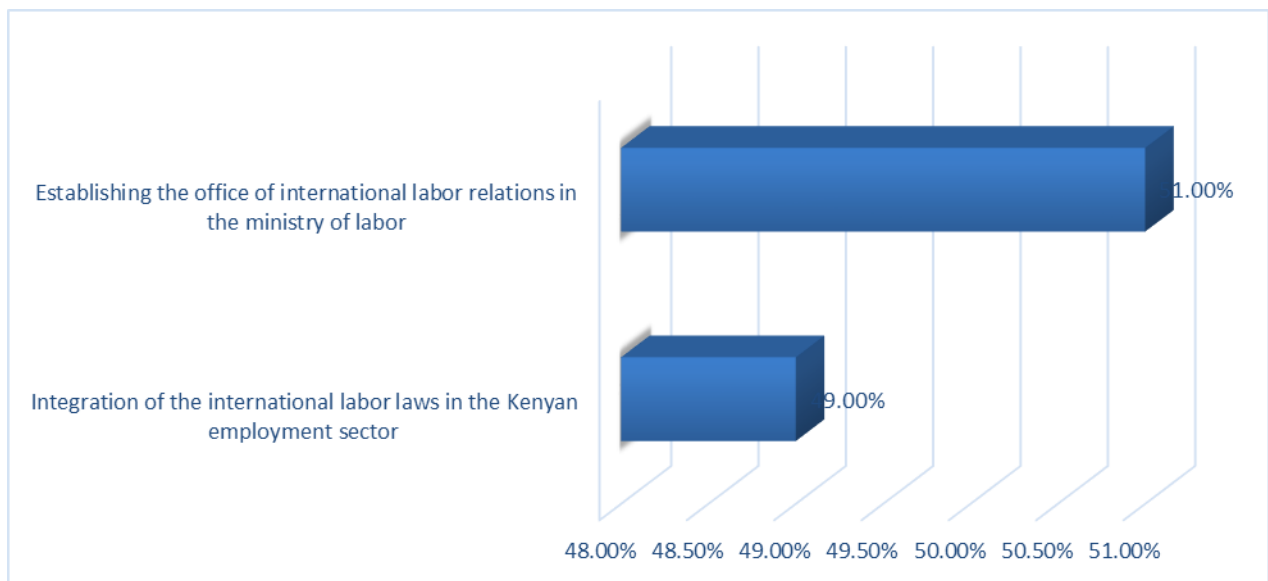


Fig 4.2. Improving collaborations between the ILO and Kenyan labor organizations
Source: Field Data 2021

4.3.1. Establishing an ILO representative office at the ministry of labor

The participants were also asked about the strategies that can improve the collaboration between the ministry of labor and the ILO. A slight majority (51%) indicated that the ministry of labor can open the office of the ILO representative in its headquarters. This will improve the collaboration between the ILO and the ministry of labor. According to a study done in the United States labor industry has indicated that the representation of trade unions in the ministry of labor in the federal government improved collaboration between the federal government and the American workers through their trade unions. In a similar fashion, establishing an ILO representative office at the ministry of labor and COTU will improve the relations among the ILO, Ministry of labor, and COTU.

4.3.3. Integration of international labor laws with local labor laws

According to the data collected 49% indicated that there should be an integration of the Kenyan laws and the international labor laws. The main aim of the ILO is to ensure decent work and industrialization in the Kenyan employment industry. The organization also aims to improve the employment standards and relations to mirror the international standards. As such, integrating the international labor laws within the Kenyan labor statutes will improve the operations of the ILO in the country. For example, the international labor organization has been effective in developed countries such as the US and the UK due to the similarity of the UK, US, and the international labor laws. As such, the local labor regulatory organization advocate for the same standards and policies as the ILO. However, in a study done in the African market, implementing international labor laws in developing countries is faced with a number of challenges. First, there is the issue of political influence in the labor industry and secondly, the economic hardships facing

the developing countries make it impossible to honor some tenets of the international laws such as the minimum wage rate. In the Kenyan market, full integration of international laws such as the minimum wage laws may not be possible in the informal sector due to economic challenges. As such, these solutions can be implemented gradually from the government employees to the informal sector.

4.4. Summary of the findings

This chapter has focused on the key challenges that the organization faces while operating in the country with the ministry of labor and also the central organization of trade unions (COTU). This chapter has established that some of the key challenges that ILO faces while working with Kenyan organizations are the declining influence of the organization in setting labor standards not only in Kenya but also in the world and non-representation in the ministry of labor and COTU. There is also the low ratification of its conventions and a restrictive decision-making structure. Some of the key solutions that have been proposed in this study are the integration of international labor laws and standards in Kenya and the establishment of an ILO representative office in trade unions and the ministry of labor. These solutions are aimed at reducing the collaboration gap among these organizations and also the improvement of the Kenyan employment sector with an aim of protecting the Kenyan employee. This chapter, therefore, concludes that the government and other parties in the labor industry should fast-track the development of solutions to the existing gap challenges between them and the ILO to maximize the role of the organization the country. There are also some key internal challenges that the organization needs to address at the international level to maximize its input in the Kenyan economy.

CHAPTER FIVE

SUMMARY OF FINDINGS, CONCLUSION, AND RECOMMENDATIONS

5.0. Introduction

This chapter discusses the summary of findings that have been established in the entire research in line with the role of ILO in ensuring decent work and inclusivity in the employment sector in Kenya. A summary of the findings has been developed based on the specific objectives of this research. These are; evaluate the role of ILO in the formation and oversight of decent work and inclusive industrialization in Kenya, investigate the strategies applied by ILO in the development of labor laws in Kenyan informal sectors, and examining the challenges faced by ILO in working with the Kenyan authorities to ensure decent work and inclusive industrialization. As such this chapter presents the summary of the findings of the entire research, a comprehensive conclusion, and recommendations.

5.1. Summary of Findings

5.1.1. The role of ILO in the formation and oversight of decent work and inclusive industrialization in Kenya

Based on research objective one which was to assess the role of the ILO in the oversight of decent work and inclusive industrialization in Kenya, this study established that the ILO plays a key role in the promotion of employee rights and the advocacy for better wages and salaries in the informal sector. The ILO is also involved in the promotion of diversity at the workplace through public education and campaigns. This enabled more women and disabled employees to secure employment opportunities in the formal and informal sectors of the country. The success of ILO in executing these roles is closely linked with the establishment of the helpdesk offices in the country to monitor the local employment sector.

5.1.2. Investigate the strategies applied by ILO in the development of labor laws in Kenyan informal sectors

Based on research objective two which was to analyze the strategies applied by the ILO in the development of labor laws in the informal sector, this study established that the ILO plays a major role in the development of the labor legal framework in the country. The key strategies as identified and discussed in this study are advocating for the development of laws governing child labor, minimum wages and also advocating for the independence of trade unions. The ILO has also developed collaborations with the central organization of trade unions and the ministry of labor to streamline the laws and regulations in the employment sector in accordance with international standards. As such, the ILO has enabled the ministry of labor to fight against child labor and the unlawful exploitation of employees by capitalist employers.

5.1.3. Examining the challenges faced by ILO in working with the Kenyan authorities to ensure decent work and inclusive industrialization

Based on objective three which was to analyze the key challenges that ILO faces while working with the Kenyan authorities to ensure decent work and inclusive industrialization, this study established that four key challenges are hindering the efficacy of the ILO. These are the declining influence of the organization on the implementation of labor laws in Kenya and also the lack of representation in the ministry of labor and COTU. There is also the low ratification of its conferences and a restrictive decision-making structure. Some of the key solutions that have been proposed to these challenges are the integration of the international labor laws in the Kenyan legal labor framework and the establishment of an ILO representative office at the ministry of labor. As an international organization, the ILO has no legal jurisdiction in Kenya and as such, it has to rely on its connection with local regulatory authorities such as the ministry of labor and COTU and other organizations in the labor sector. This means that the success of the organization is dependent on the nature of the relations that it shares with these bodies.

5.2. Conclusion

The International Labor Organization is an UN-affiliated but independent body governing and monitoring the global employment industry. The organization has developed major projects in the areas such as the Asian region, Latin America, the Middle East, and other regions in Africa. The success of the organization in any country depends on the nature of the relationship it shares with the labor regulatory authorities. In Kenya, the ILO plays a key role in ensuring diversity and inclusive industrialization in the informal sector. This helps in protecting the employees from capitalist authorities and employers in the sector. Based on the research conducted by this study, the major roles played by the ILO in line with its mandate are the promotion of employee rights, advocating for diversity and inclusivity of women and the disabled in the informal sector, and also the development of public education campaigns. Among the key strategies applied by the organization in the country are assisting in the development of minimum wages laws and anti-child labor policies. The organization also thrives in collaboration developed with the ministry of labor and COTU. However, this study has identified four key challenges that need to be addressed for the ILO to execute its mandate effectively in the country. These are lack of representation, low ratification of its conferences and laws, declining influences, and a lengthy decision-making structure within the organization. This research has therefore developed suitable recommendations to solve these challenges and ensure the successful implementation of ILO mandates in the country.

5.3. Recommendations

Representation of the international labor organization at the ministry of labor and COTU should be a key focus of the government and the ILO. In this case, the government should allocate an office of the ILO representative at the ministry of labor for consultation purposes. Due to the

inability of the ILO to execute any policies without the input of the ministry of labor in the country, this office should be classified as a senior consultation office in the matter of developing the legal framework governing industrial relations in the country. The office of the ILO representative should have the power to also consult for the central organization of trade unions when it comes to issues such as advocating for the enactment of various policies governing employee welfare and industrial relations.

Consultation with external regulatory and international bodies should be included as a key stage in the process of developing industrial relations laws in Kenya. One of the key challenges facing ILO in Kenya is the declining influence at the national, regional, and international levels. To solve this key challenge, the government should include consultation with key organizations such as the ILO in the process of developing laws and policies to govern the industrial relations in the country.

The ILO being an affiliate body of the UN should compel its member states to attend its conferences and also allow the member states to implement the international labor laws based on the prevailing economic conditions. One of the key factors leading to low ratification as identified by this study is that some of the laws developed by the ILO at the international level such as minimum wages are not feasible in the Kenyan economy. As such, for improved ratification levels, the ILO should compel the member states to attend conferences and also allow them to implement the international laws as per the prevailing economic and social conditions in the country.

Lastly, ILO should focus on autonomy in the decision-making process. The ILO has a lengthy decision-making structure based on an international bureaucracy structure. As such, the process of making a decision takes time-consuming and this makes consultations with the ILO ineffective in the country. As such, the organization should review its decision-making process to

ensure that feedback is provided with a specified time and that the autonomy of the organization is achieved to enable quicker decision-making.

5.4. Areas of Further Research

This study recommends that a detailed research study on how Kenya and the ILO can effectively implement international labor laws and also effectively collaborate with employers in the informal sector to ensure that exploitation and manipulation of the Kenyan employee by capitalist employers are minimized.

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Appendix 1: Questionnaire

Dear Respondent,

You are kindly requested to take part in this survey regarding the role of the International Labor Organization (ILO). The information that will be obtained from this survey will be very essential in improving the labor relations in the country. Participation in this study is strictly voluntary. Note that you reserve the right to decline this request and should you decide to take part, you still reserve the right of withdrawing your participation halfway without giving any reason. Feel free to seek clarification from the researchers in questions that you do not understand.

PART I: GENERAL INFORMATION

1. Please indicate your gender:
 - a) Male ()
 - b) Female ()
2. Please indicate your age:
 - a) 25-35 ()
 - b) 36-45 ()
 - c) 46-55 ()
 - d) 55 and above ()
3. Please indicate your level of education
 - a) Certificate
 - b) College diploma
 - c) Degree holder
 - d) Postgraduate Degree
4. Indicate the organization or institution that you work for:
 - a) International Labor Organization (ILO)
 - b) Ministry of Labour
 - c) Central Organization of Trade Unions (COTU)
5. Indicate your level within the organization.
 - a) Entry-level employee
 - b) Departmental manager
 - c) Executive level

PART II: OBJECTIVES

What is the role of ILO in the formation and oversight of decent work and inclusive industrialization in Kenya?

6. What do you understand by the concept of decent work and inclusive industrialization?

7. What strategies has the ILO put in place to ensure decent work in the Kenyan business organizations?

8. What legal policies has the ILO laid out to ensure decent work and inclusivity in these organizations?

9. How does the ILO ensure gender equality in the Kenyan labor industry?

10. What are the future plans of ILO in Kenya in promoting decent work and inclusivity?

To Investigate The Strategies Applied By ILO In The Development Of Labor Laws In Kenyan Informal Sectors.

11. What collaborations does the ministry of labor have with the ILO aimed at the development of labor standards in the country?

12. How has the ILO assisted the Ministry of labor in ensuring decent work and inclusivity in the informal sector?

13. How has the ILO assisted the central organization of trade unions (COTU) in ensuring employee rights are protected from capitalist manipulation?

14. How does ILO ensure the protection of trade union rights in Kenya from government manipulation?

What challenges are faced by ILO in working with the Kenyan authorities to ensure decent work and inclusive industrialization?

15. How can the role of ILO in protecting the trade unions in Kenya be improved?

16. What strategies can improve the collaboration between the ministry of labor and the ILO in ensuring decent work and inclusivity in the country?

17. How can the collaborations between trade unions be improved to ensure employee rights protection in the industrial sector?

Appendix 2: Work plan

Start time April 2021	Research Topic April 2021	Chapter 1 May 10 th – June 1 st , 2021	Data collection June 10 th –July 31 st , 2021	Report compilation August 2021	Report Submission September 30 th , 2021
Two weeks					
Three weeks					
Three weeks					
Two weeks					
One week					

Appendix 3: Breakdown of the Budget


	Items	Cost in Kshs
1	Stationery, typing papers, pens	900
2	Printing	800
3	Binding	780
4	Communication and telephone services	1100
5	Research assistants	3500
6	Travelling	4000
	TOTAL	11,080

Appendix 4: Research Permit from NACOSTI

NATIONAL COMMISSION FOR SCIENCE, TECHNOLOGY AND INNOVATION
REPUBLIC OF KENYA

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RESEARCH LICENSE




This is to Certify that Mr. Chrispus Mwangi Kamiri of University of Nairobi, has been licensed to conduct research in Nairobi on the topic: THE ROLE OF INTERNATIONAL ACTORS IN ENHANCING LABOUR RELATIONS IN AFRICA: A CASE STUDY OF INTERNATIONAL LABOUR ORGANIZATION (ILO) IN KENYA for the period ending: 24/July/2022.

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