

**AN ANALYSIS OF THE TERMS AND CONDITIONS OF
EMPLOYMENT IN THE EXPORT PROCESSING ZONES:
A CASE STUDY OF ATHI-RIVER EXPORT PROCESSING
ZONES (EPZs)**

BY

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DECLARATION

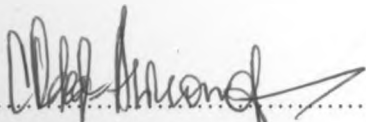
I **KIBUNA, JEDIDA NGINA** do declare that this Paper is my original work and has not been submitted for examination in any University.

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Date.....2/11/2005.....

DEDICATION

This Report is dedicated to my husband Mr. Onesmus F. Kibuna for his selfless support and encouragement and to my children; Wanjiru, Maina and Wairimu and also my niece Belinda Wakonyu, for their support and understanding even when the research work demanded my long periods of absence from their familial company.

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ABBREVIATIONS AND ACRONYMS

EPZs	Export Processing Zones
EPZA	Export Processing Zone Authority
FKE	Federation of Kenya Employers
ICFTU	International Confederation of Free Trade Unions
ILO	International Labour Organisation
KNUT	Kenya National Union of Teachers
NSSF	National Social Security Fund
NESC	National Social and Economic Council
TTWU	Tailors and Textile Workers Union
UASU	University Academic Staff Union
UKCS	Union of Kenya Civil Servants
UNRISK	Union of National Research Institutes Staff of Kenya

ABSTRACT

The Export Processing Zones (EPZs) are being used by many countries as strategies for employment creation, foreign exchange earning and transfer of technology. In Kenya, the EPZs provide both direct and indirect employment opportunities to about 50,000 persons. The purpose of this study was to assess the terms and conditions of employment in the EPZ firms within the Athi-River Zone.

Using data collected from eight firms in the zone, it was established that the EPZs have indeed continued to provide employment opportunities to a growing number of people since their inception in 1993. For example, the firms under study¹ contributed about 35 percent of total EPZ employment in 2004. Majority (64 percent) of the workers in the firms were females. Although the high proportion of female employment in the firms has a positive implication on the impact of the EPZs on women empowerment and poverty reduction in the country, the low wages, non-provision of maternity and sick leaves and the long working hours are negative attributes to women development. The employment conditions in the firms are relatively unfavourable and cannot benefit the women workers.

Even though most of the firms in Athi-River have recognized the Tailors and Textile Workers Union, there is no significant difference between the wages and other terms and conditions of employment offered in the unionized firms and those observed by the non-unionized firms. Most (68 percent) of the EPZ workers interviewed are not aware of the existence, provisions, application and enforcement mechanisms of the country's core labour laws and ILO provisions. This portends a greater possibility of

¹ The firms were: MRC Nairobi EPZ Ltd., Protex EPZ Ltd., Alltex EPZ Ltd., Mirage Fashion Wear Ltd., Rising Sun EPZ Ltd., Rolex Garments EPZ Ltd., Global Apparels EPZ (Kenya) Ltd., and Rupa Cotton Mills EPZ Ltd.

the workers being exploited or their rights being infringed on without noticing the same and/or modalities for seeking redress.

It is, therefore, recommended that measures be put in place to improve the wages and terms and conditions of employment of the workers. An awareness creation campaign should also be mounted to sensitize the workers and employers on the country's labour laws and relevant ILO conventions.

CHAPTER ONE

BACKGROUND AND PROBLEM STATEMENT

1.1 Introduction

The shift from an inward to outward oriented development strategy world over and lately in Africa has been accompanied by the emergence of Export Processing Zones (EPZs). The EPZs have been invariably called Bonded Warehouses, Transshipment Zones, Free Trade Zones and Licensed Manufacturing Warehouses (Tekere, 2000). The EPZ refers to a geographical or judicially bounded areas in which free trade, including duty free import of capital and intermediate goods is permitted provided that all or a significant share of the goods produced within the zones are exported.

The EPZs have become important instruments for social and economic policy in most countries, including Kenya. They are aimed at stimulating exports, generating scarce foreign exchange resources, employment opportunities and economic growth. EPZs are also designed with the objective of luring new investments particularly foreign investment assorted with technology diffusion, transfer of modern technology, administrative and exporting skills. Thus, the export knowledge of multinational firms operating in the EPZ is expected to spill over to domestic firms in EPZs and then to the non-EPZ firms in the national economy, thereby creating important linkages.

A common characteristic of EPZs is the provision of special incentives to attract investors for export production. These incentives range from tax holidays, duty free export and import, free repatriation of profits, provision of infrastructure and exemption from labour laws (Jauch, 2003).

EPZs are not a new phenomenon. Jauch (2003) asserts that the first zones were set up in Spain in 1929. The 1970s then saw the EPZs boom, especially in developing countries of Latin America, the Caribbean, Asia and to a lesser extent Africa. As reported by the International Confederation of Free Trade Unions (ICFTU, 2004), the International Labour Organization (ILO) estimates that the number of EPZs and countries hosting them has increased significantly over the last three decades. According to the estimates, the number of EPZs increased from 79 zones in 1975 to 5,174 zones in 2004, depicting an annual average increase of 215 percent over the period. The level of employment within the zones nearly doubled from 22.5 million persons in 1997 to about 42 million persons in 2004 (ICFTU, 2004).

Kenya started implementing the EPZ programme in 1990. Kenya's EPZ programme is covered under the Export Processing Zones Act, (Chapter 517) Laws of Kenya. The Act defines EPZs as "...a designated part of Kenya where any goods introduced are generally regarded, insofar as import duties are concerned, as being outside the customs territory but are dully restricted by controlled access..." The objective of the programme is to promote exports, foreign exchange earnings, transfer of technology and skills, employment creation and enhancement of industrialization (Republic of Kenya, 2004). According to Manda (2002), the EPZ incentive regime provided exporting firms with a 10-year tax holiday, unrestricted foreign ownership and employment, and freedom to repatriate unlimited amount of earnings.

The EPZs have registered tremendous growth in Kenya over time. The number of gazetted EPZ zones in the country has increased gradually from 10 in 1993 to 41 in 2004 (Republic of Kenya, 2005; 1995). The zones are basically concentrated in Athi-

River, Nairobi (Rururaka) and Mombasa, mainly in Changamwe area. The number of operating enterprises within the zones has also grown from 12 in 1993 to 74 in 2004, representing an average annual increase of 47 percent (Kibua and Nzioki, 2004; Republic of Kenya, 2005).

Direct employment of Kenyans from the EPZ firms has also grown significantly from 1,594 persons in 1993 to 38,199 persons in the year 2003. The level of direct employment, however, declined by 1.2 percent to 37,723 persons in 2004 (Republic of Kenya, 2005). The drop in employment was attributed to uncertainty in the extension of the privileges under the American supported African Growth Opportunity Act (AGOA) and fear of removal of quotas in textiles. The zones also created 12,573 indirect jobs in sub-contracting and supplies in the year 2004, thereby bringing the total employment from EPZs in 2004 to about 50,298 persons.

The EPZ strategy to employment creation and export promotion has been promoted in many countries. Within Asia and the Pacific, Sri Lanka, Indonesia, Philippines and Bangladesh have rapidly growing EPZ industries. China also has a thriving EPZ business in manufacturing. In Africa, Egypt, Mauritius and Tunisia all have incentive structures to promote EPZs. The employment level within Egyptian EPZs, for example, increased from 25,000 in 1986 to 90,000 in 1995. In Tunisia, the zones provided employment to about 94,000 persons in 1991 down from 40,000 in 1991 (ILO, 1996).

Experience from countries with EPZs shows that the enterprises attract labour intensive and simple manufacturing processes. According to ILO, EPZ workers have

little control over the production process. Most of the EPZ workers are engaged in low skill activities, and the zones do not have structured training programmes.

According to Jauch (2003), collective bargaining and sound employer-employee relationship are extremely rare in EPZs. Instead, high labour turnover, absenteeism, stress, fatigue, low productivity and labour unrest characterize employment in most EPZ firms. Many EPZ companies try to compete and improve their performance by intensifying work, thus putting more pressure on workers to reach higher production targets.

1.2 Problem Statement

This study is designed around the idea of investigating the general working conditions in the EPZ's. Employment creation and poverty reduction remain as major policy objectives of the Kenya government. Specifically, Kenya's wage and employment policy seeks to promote and protect the interest of workers, especially the vulnerable group such as women, youth and low skilled workers in general.

The EPZs have contributed significantly to formal sector employment creation in the country. As much as the establishment of the zones were noble, the exemption of the EPZ investors from observing the country's labour laws has contributed to significant violation of workers' rights within the zones. Most of the EPZ firms pay very low wages, expose workers to longer working hours and hardly observe health and safety regulations in their workplaces. This is more so compounded by the fact that the Factories Act (Chapter 514) Laws of Kenya are not enforced within the zones. The poor terms and conditions of employment within the EPZs have significant implication to the country's goal of poverty reduction and general empowerment of

the workforce. The aim of this study was to undertake an analysis of the terms and conditions of employment within the EPZ firms.

The Regulation of Wages and Conditions of Employment Act (Chapter 229) Laws of Kenya states that an employee's contract can be terminated on account of redundancy but the employer must inform the union of which the employee is a member of the reasons for proposed redundancy. The employer is also obliged to give the employee appropriate notice or pay in lieu of such notice, besides paying the appropriate severance benefits. Majority of workers in the EPZs are engaged as casual employees and have no job security. With the high levels of unemployment and investor instability within the economy, the workers are not sure if they would be in a position to secure the same jobs the next day. Their destiny is, therefore, at the mercy of their employers and they cannot plan their lives well. The fear of loss of employment during the harsh economic times in the country has created fear amongst workers and majority opt to suffer in silence.

Until 2003, enterprises within the EPZs were exempted from both the Trade Unions Act (Chapter 233) and the Trade Disputes Act (Chapter 234) Laws of Kenya. Except for eight (8) EPZ firms in Athi-River and of late one (1) EPZ firm in Mombasa, the rest of the EPZ factories in the country have not recognized the relevant trade union body (Tailors and Textile Workers Union) organizing workers in the sector. The firms have also not fully accepted and embraced the role of trade unions in promoting employees' welfare and industrial democracy. This study investigated how different (if any) the terms and conditions of employment in EPZ unionized firms are from those in the non-organized firms.

The EPZ firms are exempted from certain core labour laws, such as the Factories Act (Chapter 514) Laws of Kenya. In addition, most of the firms have not recognized the legitimate workers body, the Tailors and Textile Workers Union. It is not, therefore, clear the extent to which the workers in the EPZs are aware of the existence and provisions of the country's labour laws and core ILO Conventions. This study sought to investigate the level of awareness of the workers on the relevant labour laws and fundamental ILO Conventions.

1.3 Objectives

- (i) Find out the terms and conditions of employment in the EPZs;
- (ii) Find out the effect of trade union representation on the terms and conditions of employment for EPZ workers; and
- (iii) Find out the level of awareness of the workers about relevant ILO Conventions and the Country's labour laws.

1.4 Research Questions

The following questions guided the research and facilitated achievement of the study objectives:

- (i) What are the various terms and conditions of employment that EPZ workers are exposed to?;
- (ii) How do the terms and conditions of employment for workers in Athi River EPZs compare with the basic statutory rates as provided for in the country's relevant labour laws?;
- (iii) Are the terms and conditions of employment in union-organized EPZs different from those in non-organized EPZ firm?; and
- (iv) Are the EPZ workers aware of the provisions of the country's labour laws and relevant ILO Conventions?

1.5 Significance of Study

One of the priorities of the Kenya government is to promote employment creation and poverty reduction. ILO's core conventions, especially Convention No. 156 focuses on equal opportunities for both men and women. The ILO also aims at promoting decent work agenda where workers have access to freely chosen and remunerative employment. Although EPZs were established to facilitate and complement the government's efforts to job creation, complaints have arisen about the alleged poor conditions of employment.

This study is, therefore, beneficial in a number of ways: First, the study will help establish the extent to which workers in the EPZs are exposed to poor working conditions as argued by the critics of the programme. It will detail the obtaining conditions of employment within the zones and how they compare with the basic conditions of employment as provided for in the relevant labour statutes. Such information is useful to the government in guiding the formulation of appropriate remedial actions.

Second, employment and fair working conditions are basic human rights. It is now clear that the quality of work in the EPZs has been deteriorating rapidly hence the need to understand the work conditions so that the work environment is not compromised.

Third, good working environment is vital for enhancing the development of workers and it is both a fundamental right and a requirement for sound human and societal development. A healthy workforce is a basic requirement for successful industrial

development. A sound working environment is a condition that would produce workers who are capable of making maximum contribution to the country's economic, social and political development. There is a direct relationship between a healthy and happy workforce and its productivity. The urgency to undertake this study in order to understand the EPZ work environment cannot, therefore, be over-emphasized.

Fourth, a study of working conditions in EPZs will generate new knowledge and therefore fill gaps in areas not covered by previous studies. Kenya's need for employment has been increasing hence the need for fair working conditions. Thus, the Kenya government in the late 1990's initiated a review of the country's six core labour laws and a deliberate drive to include as many workers as possible into the unions. A Task Force appointed by the Government did the review. It completed its work and submitted the draft bills to the Attorney General in April 2004. The draft bills have made deliberate attempts to expand trade union activity and worker representation in the country. Workers, especially in the EPZs have realized the necessity of fair working conditions hence the strikes, which rocked the EPZs in early 2003. It is, therefore, important to establish the nature of the working conditions, whether they have improved or not and what workers, their representatives and management are doing about it.

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CHAPTER TWO

LITERATURE REVIEW

2.1 Introduction

A number of studies have been conducted to establish the nature of employment in EPZ firms in most countries. Studies that have been conducted in Kenya have not been deep in analysing the actual conditions of employment faced by the EPZ workers. The studies have only given piecemeal comments about the working conditions in the enterprises.

The EPZs were established through an Act of Parliament: The Export Processing Zones Act (Chapter 517) Laws of Kenya. The Act became effective on 23rd November 1990. It provided for the establishment of the EPZs and an authority (Export Processing Zones Authority) to facilitate the operations of the EPZ firms. The major objective of the Act is to promote and facilitate export oriented investments. It also aims at promoting the development of an enabling environment for such investment in the country.

What follows is a review of relevant literature on the area. It starts with a review of the institutional framework for formulation and implementation of labour market policies in Kenya followed by empirical studies on terms and conditions of employment facing women workers in selected EPZ countries.

2.2 Labour Administration and ILO Conventions

Labour administration in most countries is governed by the ILO Conventions. ILO Convention No. 150 of 1978 on Labour Administration and Recommendation No. 158 provide the parameters of the structural and institutional arrangements and the

bodies concerned with national labour policy. Article 1 of Convention No. 150 paragraph (a) defines labour administration to mean public administration activities in the field of national labour policy. The concept of labour administration is interpreted in the broadest sense, to cover *“all activities undertaken by public administration bodies to assist governments in the elaboration, implementation, control and evaluation of labour policy in the service of man. It covers the whole system of Ministerial departments and public agencies set up by national laws and regulations to deal with labour matters”* (ILO 1999).

Article 2 provides room for delegation of certain activities of the system to NGOs and particularly employers' and employees' organization. A member country who ratifies the Convention is required by Article 4 to ensure effective operation and co-ordination of labour system. The use of suitably qualified staff who are independent of improper external influences is also underlined in the Article. In essence, the staffs are expected to have the material means and financial performance of their duties (ILO, 1999).

Article 5 provides for the principle of tripartism, therefore requiring that arrangements be made within the system for consultation, co-operation and negotiation between the public authorities and the representative organizations of employers and workers. The accompanying Recommendation No. 158 lists out four areas in which labour administration system is to exercise its function, that is, labour standards, industrial relations, employment and research in labour matters. Competent authorities of the system of labour administration should take an active part at all stages of preparation, development, adoption, application and review of labour

standards through consultation with organization of employers and employees. This should include a system of labour inspection to secure enforcement of legal provisions relating to work and the protection of workers in workplaces.

Convention No. 81 on Labour Inspections in Industry and Commerce of 1947 offers great details on organization and functioning of inspection services, responsibilities of a central authority, co-operation between the central authority and both public and private services including employers and workers organizations, the recruitment of staff in sufficient numbers, material means and facilities (offices and transport) and publication of reports and annual statistics on the work of inspections services.

On labour relations, Recommendation 150 requires the enumeration of various means by which free exercise of the right of association, the right to organize and collective bargaining, provision of advisory services, development and utilization of machinery for voluntary negotiations may be attained. Labour administration systems are further expected to give means by which an effective employment policy could be put in place. This includes co-ordination of activities of various authorities and bodies which are concerned with particular aspects of employment policy, and establishment of an effective free public employment service. Research in labour matters is also a requirement under the Recommendation.

2.3 Tripartite Consultation and Social Dialogue

Since its inception, the ILO has consistently pursued co-operation between governments, employers and workers in furtherance of social justice (Omolo and Apiyo, 2003). This has been through regulation of labour matters at the international level (ILO 2000). The rationale of this mission is that workers, employers and

governments all have a crucial role in creation of national wealth. Consequently, their active participation must be sought in policy making.

A number of ILO Conventions contain provisions establishing that the representative organizations of employers and workers are to be associated in their formulation, adoption and application. It is also noteworthy that all programme activities and operations of the ILO are approached from a tripartite position. Thus, in a resolution to strengthening tripartism in the ILO's overall activities, member countries adopted a tripartite consultation standard in 1976. The Kenyan Government ratified the Convention on Tripartite Consultation of 1976 in 1990 and in effect, is bound by its conditions.

2.4 Convention No. 144 on Tripartite Consultation of 1976

Articles 1 to 3 of the Convention require that the most representative organizations of employees and employers enjoying the right of freedom of association must be consulted effectively through established procedures. The members of these organizations must also freely choose their representatives. Article 4, on the other hand, places responsibility on the competent authority to provide administrative support of the procedures of the Convention. It further requires that appropriate arrangements be put in place for financing of training for participants in these procedures.

2.5 National Tripartite Arrangement

The spirit of Tripartism has been entrenched in labour relations in Kenya since 1962 when representatives of government, employers and workers signed the Industrial Relations Charter (Omolo and Apiyo, 2003). The Charter was founded on a common realization that it was in the national interest for the government, employers and Workers to recognize the importance of consultation and co-operation as a prerequisite

for efficiency and productivity. Thus within the Charter, the parties sought a guarantee for good terms and condition of employment, security of employment and income and lastly improvement of workers' condition in general. The Charter has since been revised in 1979, 1980 and 1984.

2.6 Gender Equality

The Government of Kenya is a signatory to various ILO Conventions, which serve to promote equality and equity in society. In 1984, for example, Kenya ratified the United Nations *Convention on Elimination of all forms of Discrimination Against Women* and later in 2001 ratified two core labour standards of the ILO, that is, *Convention No. 100 on Equal Pay for Work of Equal Value* and *Convention No. 111 on Discrimination (Employment Occupation Convention, 1958)*.

The government formulated a Gender Equity Bill in 2003. An elaborate outlay is given in Section 7 of the Bill on labour and employment. Within the framework of the bill, discrimination is prohibited in advertisements of jobs, selection and recruitment procedures, terms and conditions of employment, and policies and practices that promote unequal pay for work of equal value. Other prohibitions are in regard to inequities in access to opportunities for promotion, training, and retention or to benefits associated with employment, accommodation, maternity and paternity leave and breastfeeding time for nursing mothers. Section 22 of the Bill further envisages establishment of an Equity Board whose objective and function will be to work towards the elimination of all forms of discrimination and to promote equality of opportunity and good relations between persons of different gender status.

2.7 Analysis of the Relevant Labour Legislations

The administration and co-ordination of labour issues in Kenya is the prerogative of the Ministry of Labour and Human Resource Development as established by law in various Acts of Parliament. The Ministry discharges this function chiefly through five of its technical departments/divisions: labour; occupational health and safety; vocational and industrial training; human resource management and employment; and economic planning division. Co-ordination of the labour relations system is basically done through the International Relations Division within the Ministry, which prepares reports on implementation of labour standards and give responses to queries made by the ILO. A summary of the six core labour statutes governing employment and operations within the labour market are given below:

2.7.1 Employment Act (Chapter 226): This is an Act of Parliament meant to consolidate, with amendments, the law relating to employment and other similar matters. It is, therefore, the primary piece of legislation governing employment matters in Kenya. The Employment Act was legislated in May 1976 and has since been amended four times. The latest amendment was done in 1983 through Legal Notice No. 11. The piece of legislation provides the basic conditions of an employment contract, and regulates employment of children, among others. It is anchored against forced labour, discrimination of employment and any form of harassment. It codifies the common rules of the workplace.

The Act does stipulate certain labour related offences for employers but prosecutions are rare. It also contains certain provisions regarding women and young persons but fails to address gender inequalities and workplace violations such as, any form of harassment and discrimination. In fact, the Act even circumscribes the rights of women

and children to work in certain areas and engage in certain types of employment at certain hours.

The Employment Act provides for the establishment of a Labour Advisory Board whose role is to advise the Minister in charge of labour matters on issues relating to labour and employment policy in the country. The Board is also mandated to act on any matters referred to it by the Minister. According to the Act (Section 3(3)(a)), the members of the Labour Advisory Board are appointed by the Minister to serve a three year renewable term. The Act does not, however, specify the size and organizational composition of the Board. It indicates in Section 3(2) that the secretary to the Board is to be appointed by the Minister from amongst the officers in the Labour Department of the Ministry of Labour but fails to specify the rank of such officers.

In practice, members of the National Labour Board have been drawn from the most representative employers' and workers' organizations: Federation of Kenya Employers (FKE) and Central Organization of Trade Unions (COTU), respectively. Other members have been identified from private sector organizations, national universities, research institutions and other institutions of higher learning. Failure to specify the composition of any body and the qualifications of members of such bodies can expose the institutions to manipulation, leading to ineffectiveness.

2.7.2 Regulation of Wages and Conditions of Employment Act (Chapter 229):

This statute was legislated in April 1951. It has been amended ten times. The last amendment of the Act was done in 1967 via Legal Notice 9 of the same year. This Act of Parliament provides for the establishment of Wages Advisory Boards and Wage

Councils for the regulation of remuneration and conditions of employment within the country. Under this Act, the minister is empowered to appoint a General Wages Advisory Board. The minister also has powers to fix basic minimum wages in respect of employees generally or in any specified area. The same applies in areas of agriculture.

Under the Act, labour officers or labour inspectors are empowered to enter any premises to carry out investigations on the conditions of employment without obstruction from the employer. Any employer who obstructs a labour inspector is guilty of an offence and liable to a fine not exceeding Ksh. 400. This shows how important it has been to review labour laws as the penalties are outdated.

The Act gives guidelines on minimum basic wages, house allowance, hours of work, weekly rest day, overtime, public holiday, annual leave, sick leave, maternity leave and warning system to any employee who commits misconduct. It sets the basic terms and conditions of employment, enforcement machinery and also outlines the penalties for violation of the stated minimum provisions.

Though Kenya has a tradition of reviewing minimum wages annually to coincide with Labour Day celebrations, the same is not explicitly provided for in the Act. Section 5(1) of the Act states *“the Minister, if he is of the opinion that it is expedient to fix a basic minimum wage in respect of employees generally or in any area or in respect of any category of employees either generally or in any area, or to regulate the rates of wages and other conditions of employment of any specified category of employees either generally or in any specified area, may require the General Wages Advisory Board to*

inquire into the matter". The implication is that minimum wages can only be fixed if it is reasonable to do so. In addition, it does not have to cover all areas and categories of workers as is presently the case.

2.7.3 Trade Unions Act (Chapter 233): This Act of Parliament that governs establishment of staff associations, employees' associations and employers' organizations. The Trade Unions Act was legislated in August 1952 and has been amended 14 times. The last amendment was done in 1982 through the Legal Notice No. 19 of 1982.

The Act mainly govern the registration of trade unions, regulation of trade union activities and other connected purposes such as holding of trade union elections, keeping of financial records, filing of returns, and deduction and remission of union membership dues. Section 9(3) of the Act, for example, provides that a trade union or an employers' organization can be formed by at least six persons. Application for such registration of a trade union is covered under Section 10(1) of the Act. The section requires those seeking registration of a trade union to furnish the registrar of trade unions with their names, occupation, addresses, names and details of union officials and also the details of the union that they seek to register.

Section 29(1) of the Act restricts members and officials of any trade union, except for the position of the secretary general, to be persons who are actually engaged or employed in the industry or occupation with which the union is directly concerned. Section 29(1)(ii) allows non-serving members of any trade to hold union positions if the

same is sanctioned by the registrar of trade unions. The Act also prohibits trade union officials from holding elective positions in other unions.

2.7.4 Trade Disputes Act (Chapter 234): This is an Act of Parliament that provides for settlement of trade disputes, establishment of Boards of Inquiry and a standing Industrial Court. The Act also controls and regulates strikes and lock-outs, makes provisions for collection of trade union dues and other related matters. The piece of legislation was enacted in June 1965 and has been amended 12 times, the last of which was done in 1988 through Legal Notice No. 13 of 1988.

The Trade Disputes Act gives the general framework for resolution of trade disputes in the country. It establishes the general framework for interaction between an employer, employee and organized labour. It defines what may constitute a trade dispute and also outlines the sectors that are eligible to be organized by trade unions. The Act also specifies and defines the procedures of registering collective agreements. It is the Trade Disputes Act that also establishes the Industrial Court of Kenya. Wage Guidelines are also issued within the purview of the Trade Disputes Act.

Section 5(1) of the Act, for example, empowers the Minister for Labour to consider any trade dispute reported to him and to consult Tripartite Committee before taking any action that he deems expedient for promoting a settlement. Sections 26-30 of the Act gives elaborate procedures for calling union strike and the circumstances under which the strikes may be considered illegal. It, for instance, provides that for a strike to be lawful, the union intending to hold the strike must serve the Minister for Labour with a written notice of such strike 21 days before the intended strike. Employees in essential

services such as hospitals, fire brigade and other emergency areas are required to give a further seven days notice after the initial 21 days. Though not explicitly indicated in the said section, a strike can only be called by the secretary general of a union and not any other officers or shopstewards.

Strikes in Kenya have been very controversial with the Minister for Labour declaring virtually all strikes illegal. Even if appropriate notices have been served, workers are not allowed to withdraw their labour if the Minister of labour has taken action to settle the matter. Section 40(3) further bars workers from going on strike if sixty days elapses before going on strike after serving the required notice. This means that if a strike notice is given and the Minister for Labour initiates action to resolve the dispute and it takes more than 60 days, then even if the matter is not resolved, workers cannot withdraw their labour based on the earlier notice.

2.7.5 Workmen's Compensation Act (Chapter 236): This is that Act that provides for compensation of workers who are injured or dies in the course of duty. It was legislated in October 1949 and has been amended 19 times. The last amendment was done in 1987 via Legal Notice No. 22 of 1987. The Act defines a workman as *“any person who hasentered into a work under a contract of service or apprenticeship with an employer, whether by way of manual labour, or otherwise, whether the contract is express or implied, is oral or in writing, whether the remuneration is calculated by time or by work done and whether by day, week, month or any longer period”*.

The Act sets out the general obligations of the employer and employee. It also outlines the procedures that an injured worker follows in order to qualify for compensation

under the Act. The Act also defines who “dependants” are for the sake of facilitating compensation to a deceased employee.

Even though the Act is among the ones that have been widely revised, its provisions remain largely outdated and out of tune with the current economic circumstances. Section 6 of the Act, for example, provide that where death results from injury and the deceased employee has dependants who wholly rely on his/her earnings, then the amount of compensation shall be sixty months’ earnings or Ksh. 35,000 whichever is higher. The implication is that unskilled workers with generally low wages are entitled to very minimal compensation. In addition, the compensation under the Act does not recognize the number of dependants nor their age. This means that it is not equitable.

2.7.6 Factories Act (Chapter 514): This Act of Parliament came into operation on 1st September 1951. The Act makes provision for health, safety and welfare of persons employed in factories and other places. It also makes provisions for health and safety matters that may arise out of employment and/or connected with employment.

The Act defines a factory as “*any premise in which, or within the close or cartilage or precincts of which persons are employed in manual labour in any process for or incidental to either the making of any article or of part of any article; the altering, repairing, ornamenting, finishing, cleaning or washing, or breaking up or demolition of any article; or adapting for sale of any article*”. Part XI of the Act provides for offences, penalties and legal proceedings for any contravention.

The Act stresses on maintenance of cleanliness, ventilation, lighting, drainage of floors, sanitary conveniences, over-crowding. It provides definition for occupational diseases and health and safety standards that should be maintained by factories. Like many other labour laws, the penalties are unsatisfactory being old and outdated.

2.8 Institutional Framework

Formulation and implementation of labour market policies in Kenya is within the mandate of the Ministry of Labour and Human Resource Development. The Ministry, in collaboration with relevant government ministries and departments, the social partners (COTU and FKE), private sector stakeholders and development partners, are responsible for the formulation and implementation of suitable labour market policies necessary for the creation of productive and durable employment opportunities (Omolo and Apiyo, 2003). The institutional framework for policy formulation and implementation is discussed under the following components:

2.8.1 National Joint Consultative Council

The National Joint Consultative Council consisting of representatives of the Federation of Kenya Employers, Central Organization of Trade Unions is set up within provisions of the Charter and plays an advisory role to the Minister for Labour on industrial relations matters in general. The Council's engagement in policy formulation on matters of employment and productivity in particular normally involves participation of other stakeholders besides the three social partners (ILO, 1999). The Charter also provides for the establishment of Tripartite Consultative Council, which deals with matters affecting the economy in general and employment matters in particular. The Minister for Labour chairs it.

The legal and institutional framework for labour market regulation in Kenya is found within the context of the Industrial Relations Charter; Trade Unions Act (Chapter 233); Trade Disputes Act (Chapter 234); A functional Industrial Court, with provision for circuit court arrangement; fairly active trade unions, a trade unions' umbrella body (COTU) and employers' organization (FKE); and country wide labour offices to enhance resolution of industrial conflicts.

2.8.2 Ministry of Labour and Human Resource Development

The Ministry of Labour and Human Resource Development is the official government representative in the tripartite set-up. It has the mandate to coordinate and/or formulate labour policies in the country. It also enforces the country's labour laws.

The Ministry is structured into five technical departments. These are: Labour Department; Department of Human Resource Management and Employment (DHRME); Department of Micro and Small Enterprise Development (DMSED); Directorate of Occupational Health and Safety Services; and the Directorate of Industrial Training. The Ministry has service departments such as Finance and Administration, and the Central Planning Unit (CPU). The Ministry also houses the Industrial Court.

2.8.3 Industrial Court of Kenya

Industrial Court is one of the critical institutions within the industrial relations framework in Kenya. It plays a significant role in promoting industrial peace and harmony in the country (Mutsotso, 2002). The Court was established in 1964. It has five Judges appointed by the President on a five-year renewable term. The Judges are

assisted by a team of members appointed by the Minister in charge of labour matters on recommendation from COTU and FKE.

The Industrial Court has contributed to a fairly high level of cordial industrial relations between employers and employees due to impartiality in its awards. This is confirmed by the relatively high number of registered agreements as compared to the number of disputes arbitrated during the same period as shown in Table 1.

Table 1: Collective Agreements and Trade Disputes, 2000-2002

Year	Collective Agreements		No. of trade disputes
	No. Registered	No. of employees covered	
2000	316	71,586	127
2001	247	43,031	113
2002	306	-	100

Source: Republic of Kenya: Economic Survey, 2002 and Ministry of Labour and Human Resource Development, Annual Report, 2002

2.8.4 Central Organization of Trade Unions

The Central Organization of Trade Unions (COTU) is the umbrella workers' body. It is registered under the Trade Unions Act (Chapter 233) Laws of Kenya. It is made up of about 36 registered and active trade unions in the country. A few trade unions are, however, not affiliated to COTU. The unions include Kenya National Union of Teachers (KNUT), Union of Kenya Civil Servants (UKCS), University Academic Staff Union (UASU) and the Union of National Research Institutes Staff of Kenya (UNRISK). COTU, being a membership organization mobilizes finances through membership contributions. It also gets donations from other international

development partners in the trade union fraternity. It is COTU that represent workers' views in major consultative fora within the country including the Labour Advisory Board, The National Social Security Fund (NSSF), National Hospital Insurance Scheme (NHIF) and currently the National Social and Economic Council (NESC).

2.8.5 Federation of Kenya Employers

The Federation of Kenya Employers (FKE) is a critical tripartite partner in terms of industrial relation framework in the country. It is membership organization of employers. FKE is registered under the Trade Unions Act (Chapter 233) Laws of Kenya. It is an association of employers whose objective is to promote and protect the welfare of the members. FKE has a membership of about 2,500.

FKE provides a wide range of services to its members. The services include advice on industrial relations, facilitation of collective bargaining and representation at the Industrial Court. The federation also represents employers in major representative committees in the country as discussed under COTU.

2.9 Growth and Employment in EPZs

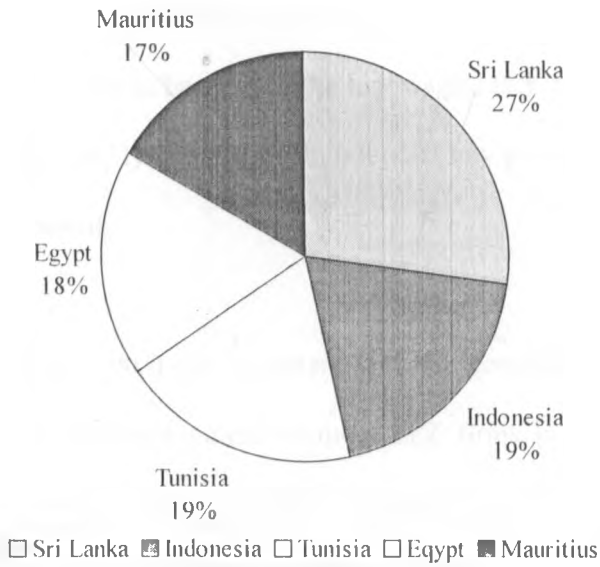
Table 2 shows the growth pattern of EPZs over the period 1975-2002. It reveals that the number of countries with EPZs have increased significantly from 25 in 1975 to 116 in 2002. The number of EPZs has also blossomed to 3000 by the year 2002, employing a total of 43 million workers worldwide.

Table 2: Growth Pattern of EPZs, 1975-2002

Item/Year	1975	1986	1995	1997	2002
No. of countries with EPZs	25	47	73	93	116
No. of EPZs	79	176	500	845	3000
Employment (millions)	n.a	n.a	n.a	22.5	43

Source: ICFTU, 2004

Figure 1: EPZ Employment in selected countries



Source: ILO (1996)

The number of zones designated for the EPZ firms and the factories have equally increased over time. The zones have grown from 10 in 1993 to 37 in 2003. The number of EPZ enterprises has also grown significantly to reach 69 in 2003.

Table 3: EPZ Growth and Employment, 1993-2003

Variable/Year	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003
Zones	10	11	13	14	15	16	16	19	23	31	37
Enterprises	12	15	19	22	17	18	22	24	39	54	69
Employment	1594	2632	2718	2884	2824	3645	5077	6487	13444	26447	35000

Source: Kibua and Nzioki (2004) and Republic of Kenya (2004)

2.10 Empirical Studies

Jauch (2003) asserts that a significant proportion of EPZ companies that are engaged in low skill-cheap labour production. According to the author, the general quality of EPZ jobs is very poor. This is because of the low wages, lack of job security and low level of skills acquisition. The EPZ jobs do not offer any possibility of promotion or professional development.

The findings by Jauch (2003) are consistent with the general observation about the terms and conditions of employment of most EPZ firms in the country (Kenya). According to one observer, workers in EPZs factories, especially those in Athi River are exposed to poor and demeaning conditions of employment. It is argued that the workers in the Athi River zones “earn below US \$ 2 a day, work long hours for 25 days each month, and are not allowed to join trade unions. Factory management sexually harass the 80 percent female workforce, hired because they are considered submissive”. (<http://cog.kent.edu/lib/NaidooEPZ.htm>).

Omolo and Omiti (2004) did an evaluative study of the minimum wage policy in Kenya. The authors argued that the working conditions in most EPZ firms are poor and cannot accord their workers attainment of a minimum standard of living. It was

observed for, example, that the Athi River EPZs have negotiated wages which are only 5-10 percent above the statutory minimum. The implication is that as opposed to other formal sector employers who pay considerably above the country's minimums, the EPZ employers pay their workers rates, which are only slightly above the minimum wages. This means that any considerable increase in the statutory wages would see majority of EPZ workers earn below the government minimum ceiling.

Mireri (2000) examined the impact of EPZ development on employment creation in Kenya. The results showed that EPZs pay lower wages than non-EPZ enterprises. In addition, firms in the EPZ employ more women than Kenyan national average, although the proportion is less than the international average amongst the EPZ enterprises. According to Mireri (2000), weak trade union movement in the country, inefficient and inadequate social security, absence of employment benefits and opportunities for training and promotion, and low pay are some of the problems faced by EPZ workers.

Human Rights lobby groups assert that workers in Kenya have a history of oppression (see Quarterly Human Rights Report, 2004). The groups argue that Kenya's labour laws are inconsistent with the current socio-economic environment that is characterized by global competition and liberalization. The laws, according to the group were enacted during the colonial days and still have colonial connotation of protecting the interest of masters and not enhancing the welfare of servants.

Tekere (2000) notes that employment creation through the EPZ programme has not been effective. It is observed that in Africa, only three countries viz: Mauritius,

Tunisia and Egypt account for 95 percent of EPZ employment while the rest of the other countries implementing the programme within the continent account for only 5 percent. The author notes that over 70 percent of EPZ workers worldwide are women falling within the age brackets of 16-35 years. Tekere (2000) argues further that the EPZ jobs, including their quality is not worth the investment. The author notes that the “billion Kenyan shillings borrowed to establish the Athi River EPZs only realized a few thousand jobs”. As reported in Tekere (2000), Jamali (1995) asserts that the EPZs are strategies aimed at promoting worker exploitation.

In Sri Lanka, the main attraction to the EPZ investment was an educated, intelligent and submissive labour consisting of young women whose labour could be exploited with low wages and over work (Asian Labour Update, 2001). It is noted that the incentives offered and concessions granted to EPZ investors in Sri Lanka have resulted in workers being exposed to poor and restrictive working conditions manifested in long working hours, compulsory overtime and unachievable hourly targets. The workers are also scolded in abusive language by their supervisors and do not freely access washrooms to answer a call of nature.

The conditions in Sri Lanka are similar to the ones in Kenyan EPZs where WRC (2004) established that workers are not allowed to join union of their choice, are forced to work for overtime which are hardly paid, are locked in factories at night and women workers are sexually abused, among other ills.

Weissman (1996) argues that EPZ investors tend to be smaller concerns in labour-intensive industries, especially garments. The author argues that wages in EPZs are

very low and the conditions of employment are in most cases oppressive. Weissman (1996) further asserts that EPZ workers work in unsafe, dirty factories, and are forced to work at high speeds with supervisors who mostly abuse them.

ICFTU (2003) explains that in Philippines, majority (80 percent) of workers in some EPZ organizations are women. The women workers are considered to be cheap and more compliant than their male counterparts. However, the female employees are forced to do compulsory overtime, work in poorly ventilated rooms despite the presence of chemicals and are forced to resign four months into pregnancy. Some of the women workers are not also allowed to resume work after maternity.

The ILO (1996) did a comparative study of the working conditions in EPZ enterprises in Africa, Asia and America. The study established that women dominate the workforce in EPZs, especially in the electronics and textile industry. According to the study, young rural women who come fresh from school are preferred by EPZ employers in the electronics factories because the employers believe that the women are more likely to: take orders, embrace company ethics and to accept lower pay. The young women are also seen as being less inclined to join trade unions and better able to perform repetitive tasks that characterize the enterprises.

2.11 Theoretical Framework

There is a growing body of both theory and empirical evidence on the role played by employees in socio-economic development. The following sections highlight some of the theories relating to work management and compensation in organizations as advanced by Karl Marx and Fredrick Taylor.

2.11.1 Theory of Surplus Value

Karl Marx interest on materialism and consequent focus on economic sector led him rather naturally to consider the works of a group of political economists such as Adam Smith and David Ricardo. Karl Marx lauded the basic premise held by the economists that labour was the source of all wealth. Consequently, in his labour theory of value, Karl Marx argued that profit of the capitalists was based on the exploitation of labourers.

Karl Marx maintained that capitalists performed the rather simple trick of paying workers less than they deserved. This means that workers received less than the value of what they produce in a work period. The difference between the value of what was produced and what was actually paid out to the workers is what Karl Marx called surplus value. Karl Marx argued that the surplus was normally retained and re-invested by the capitalists and it is what forms the entire capital system. Karl Marx argued that capitalists grow by increasingly the level of exploitation of the workers.

Karl Marx's theory of surplus value is quite relevant in the EPZ framework where it has been argued that workers are exploited. The exploitation is furthered in terms of payment of wages which are even below the country's minimum rates. In addition, some companies set targets at very high levels which cannot be ordinarily met within the normal working hours. Consequently, employees are forced to put in extra hours of work in order to meet the target. The firms do not, however, pay for such hours.

Within the context of labour, Harry Braverman (1974) considered the labour process and worker exploitation to be the heart of the Marxian theory. Although Braverman recognized economic exploitation, which was Marx's focus, he concentrated on the issue of managerial control over workers. Following Marx, the workplace is an arena of class conflict between the ordinary work force and the managers. In this case, bosses (managers) exercise power personally, intervening in the labour processes often to exhort workers, bully and threaten them, reward good performance, hire and fire on the spot, and favour loyal employees. The foregoing theory guided this study within the assumption that EPZ employers in Athi River zone maintains tighter managerial control of their workers and that they prefer female to male workers due to their submissiveness.

2.11.2 Theory of Alienation

According to Karl Marx, the structure of capitalism causes alienation. Karl Marx basically offered a theory of alienation rooted in the social structures. It is the social structure that acts to break down the natural interconnections that characterize human nature. In an ideal sense of crucial significance here is the two class system in which the capitalists employ the workers and thereby own this labour time and own the means of production tools and raw materials as well as the ultimate products. In order to survive and to have access to tools and nature, workers are forced to sell their labour time to capitalists (Giddens, 2004).

The workers are alienated not only from productive activities but also from the object of these activities the product. The product of their labour does not belong to the workers, to be used by them in order to satisfy basic needs. In stead, the product like the process that resulted in its productions belongs to the capitalists who may use it in

any way they wish. Not only do workers not have control over products, but they do not even have a very good sense in many cases of what they are producing. They often perform highly specialised tasks and as a result have little sense of their role in the total production process. Playing such small roles in the process, workers often come to feel that it is the assembly line rather than the people who work on it that produces the final product.

Generally, workers in capitalist society are alienated from their own human potential. Individuals perform less and less like human beings as they are reduced in their work to animals, beasts of burden or inhuman machines. Consciousness is numbed and ultimately destroyed as relationships with other humans and with nature are progressively severed. The result is a mass of people who are unable to express their essential human qualities, a mass of alienated workers (Ritzer, 1988).

Alienation theory fits in this study very well because workers relate to the tools and not to fellow human beings. Those who work in packaging do not relate with those in finishing, machine, cleaning or ironing. Workers work like slaves yet they have to do so to feed their families or else they go without food.

2.11.3 Scientific Management Theory

Fredrick Winslow Taylor advanced the theory of Scientific Management. It involved a detailed study of industrial processes in order to break them down into simple operations that could be precisely timed and organized. According to Taylor, every task can be examined rigorously and objectively in order to determine one best way of carrying it out.

Scientific Management Theory was not merely an academic study. It had widespread impact on the organization of industrial production and technology. Many factories employed Scientific Management techniques in order to maximize industrial output and to raise the level of productivity of workers. Employees were closely monitored by management to ensure that work was completed quickly and accurately, according to the precise specifications handed down from above. To encourage efficient work, an incentive payment system was introduced whereby workers earned wages in accordance with their rates of productivity.

Taylor was concerned with improving industrial efficiency but he gave little consideration to the results of that efficiency. Mass production demands mass market and the industrialists Henry Ford was among the first to see this link.

Scientific Management theory fits very well within the context of this study, particularly the work management style within the EPZs. Factories in EPZs are known for mass production. In these enterprises, there is close supervision by management. Individual supervisors are assigned specific production lines where they closely monitor processes. Management set production targets without the involvement of workers. There is also no close relationship between the pay of workers and performance. This means that the desire for high levels of efficiency is not matched with pay.

The Scientific Management Theory, however, has very limited relevance to the modern management practices. Its weaknesses draws from the fact that it considers

workers to operate like machines, to be carrying out instructions of the supervisors without necessarily making an assessment of the orders given. In the modern world, workers ordinarily get involved in production decisions and their performance is related to the extent to which they are integrated in the process and the satisfaction they derive from work performance. This is the line of argument that was advanced by Elton Mayo (1933) under the Human Relations Theory as discussed in the section that follows.

2.11.4 Human Relations Theory

This theory was advanced by Elton Mayo of the Human Relations School (Harvard University) in the United States of America (USA) in 1933 (Amstrong, 1996). The theory originated from a landmark study commissioned on one of the Electric Companies in the USA in the early 1930s. The company in question was one of the largest industrial concerns in Chicago, employing over 30,000 workers and offering the most attractive pay package, including other fringe benefits such as medical cover, pension scheme and recreational facilities. Despite the favourable pay package, the firm had one of the most discontented workforce, with high levels of absenteeism and low productivity.

The Human Relations theory emphasized on people's social needs and believed that productivity of a worker is directly related to the job satisfaction that the employee derives from the work performance. Elton Mayo and other proponents of the Human Relations theory discarded the Scientific Management theory on grounds that the latter focuses on routine tasks and assumes that workers can be treated as machines. According to the proponents of the Human Relations theory, social and psychological

factors are important in influencing organizational output. Thus, employers should not focus on monetary and other quantitative terms of employment if they have to improve on worker productivity. Instead, productivity improvement mechanism should also focus on sociological and psychological factors that affect workers such as child care facilities for female workers, breast feeding times, and social interaction in workplaces.

EPZs companies are generally known to offer relatively poor terms and conditions of employment. With the expiry of the quota system under the Multi Fibre Agreement (MFA) all EPZ companies are now striving for competitiveness. The same cannot, however, be achieved by tightening on supervision and setting of productivity targets as most firms are currently doing. Employees need to be motivated and appreciate work performance. They need recognition and other enablers to facilitate change of attitude towards productivity culture. It is these sociological aspects that the Human Relations theory advocated.

CHAPTER THREE

RESEARCH METHODOLOGY AND DESIGN

3.1 Introduction

This Chapter entails the methodology that was used in undertaking the study. Elements such as the research design, and types and forms of data have been discussed. Study population, sampling design, methods of data collection, data collection instruments, questionnaire administration and procedure, and methods of data analyses are also contained in the Chapter.

3.2 Research Design

The purpose of this study was to explore the conditions of work in the EPZ, Athi River zone. The study involved both descriptive and exploratory techniques of investigation. These designs were considered appropriate for the study since it sought to describe and interpret the various terms and conditions of employment facing workers in the Athi River EPZs. A comparison benchmark used in the study is the statutory terms and conditions of employment provided under the country's labour statutes such as the Employment Act (Cap. 226), the Regulation of Wages and Conditions of Employment Act (Cap. 229) and the Trade Disputes Act (Cap. 234).

3.3 Types and forms of Data

The study design required the use of both primary and secondary sources of data. The secondary data was used to provide comparative analysis and insights into the various statistics regarding quantitative aspects of employment such as proportion of female to male employees, wages, hours of work, leave and maternity days, overtime payments, and normal work-week.

3.4 Population and Sampling Frame

The population of study consisted of eight (8) firms operating within the Athi-River EPZ. All the firms have recognized the relevant workers union, Tailors and Textile Workers Union (TTWU). The list of the firms was obtained from the TTWU.

3.5 Sample Design, Size and Techniques

Sampling method means the utilization of a limited number of items representing the population for studying the characteristics of the whole population. In the present case, a sampling study design was used in the collection of data necessary to answer the research objectives. Both probability and non-probability sampling techniques were used at different stages of the sample design to provide proper representation and research focus. Administrative data on the various terms and conditions of employment offered by the eight (8) individual firms were also captured through literature survey.

In addition, qualitative data on other aspects of employee-employer relationship and awareness of workers on the provisions of the country's labour laws and ILO Conventions were captured through interview of workers. A random sample of 30 workers from each of the firms were drawn and interviewed. The sample population constituted a fairly significant and representative sample under a social research design.

3.6 Methods of Data Collection

The study used both survey (personal interview) and observation methods of collecting primary data. A semi-structured questionnaire and observation guides were also used.

Key informant interviews were conducted to supplement the primary data collection. Key informants included human resource and production managers from each of the EPZ firms studied; Labour officers from both branch and Ministry of Labour headquarters; senior officials from Export Processing Zones whose docket EPZ falls, and branch and national officials of the TTWU.

Secondary data was collected through review of existing relevant literature on economic, development and industrial relation indicators, especially as it relates to EPZ enterprises. The main sources included materials from the internet, Ministry of Labour and Human Resource Development, EPZA and TTWU, among others.

CHAPTER FOUR

DATA ANALYSIS AND RESEARCH FINDINGS

4.1 Introduction

This section presents the research findings. Discussion under this area is divided in three thematic areas in line with the study objectives. The immediate sub-section details the findings on the terms and conditions of employment for the EPZ workers in Athi River. The next sub-section provides a comparative analysis of the terms and conditions of employment between organized and non-organized EPZ firms; while the last sub-section highlights the levels of awareness of EPZ workers on the relevant labour laws and the core ILO Conventions that provide standards for terms and conditions of employment and other workplace relationships. The actual names of the firms and staff have been concealed in the current Chapter of research findings as requested by the employers and workers of the factories in question.

4.2 Terms and Conditions of Employment

4.2.1 Employment

The policy objective of the Kenya government remains promotion of the creation of adequate employment opportunities necessary to absorb the country's growing labour force. The establishment of the EPZs was meant to facilitate achievement of the employment creation objective. As at the time of the study, the eight (8) firms sampled had employed a total of 13,269 workers. Table 4 shows the number of workers employed in each of the study firms and their gender segregation.

Table 4: Employment Level (Numbers)

Factory Identity	Level of Employment		
	Males	Females	Total
A	980	1220	2200
B	250	1250	1500
C	1000	1800	2800
D	1250	1350	2600
E	200	600	800
F	273	1027	1300
G	239	530	769
H	600	700	1300
Total	4,792	8,477	13,269

Source: Field Data (2005).

The Table shows that the total level of employment in the firms was 13,269. While the eight firms form only 10.8 percent of the total number of EPZ enterprises in the country, their cumulative level of employment constituted 35.2 percent of the total direct employment in the EPZs in 2004. Employment in the respondent firms represented about 5.5 percent of the total manufacturing sector employment in Kenya in 2004 (Republic of Kenya, 2005).

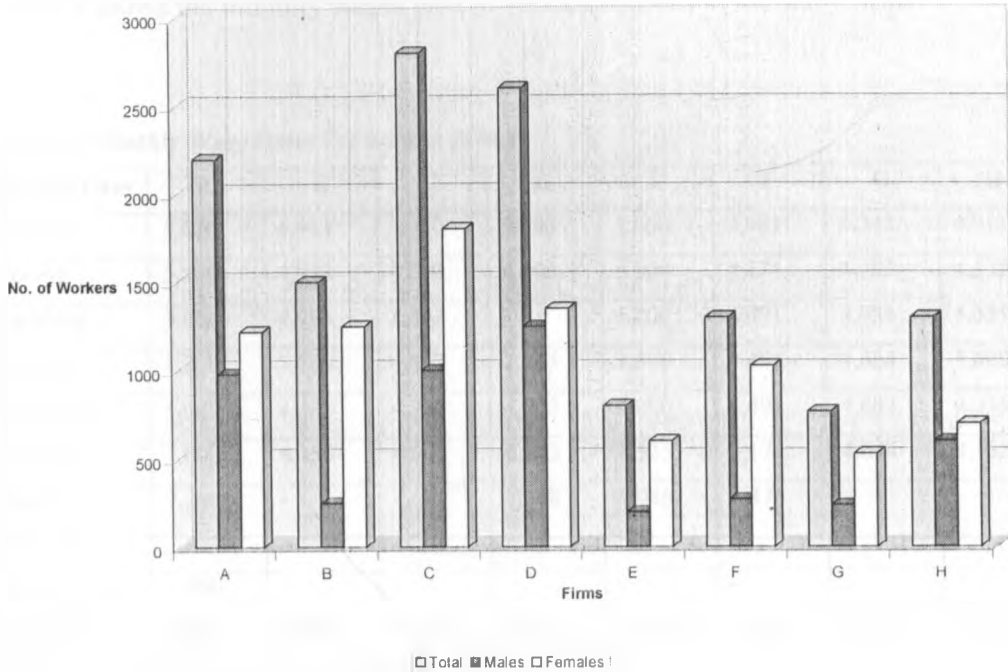
This means that the firms made significant contribution to employment in the country. What remains to be assessed is the nature of the jobs created in terms of the rates of pay, other benefits and the general conditions of employment. Critics contend that EPZs create and offer poverty jobs. Thus, even though they employ large numbers, the workers are exposed to poor terms and conditions of employment, constant harassment by their managers, including sexual exploitation.

Field data showed that majority (11,942 or 90 percent) of the workers in the EPZs are local workers while the remaining 1,327 or 10 percent are foreigners. The local workers are mainly found in the production departments while their foreign counterparts are mainly in the administration, supervisory, marketing and finance departments. All the eight firms issue workers with at least some form of written employment contracts as required under the Employment Act (Chapter. 226). Less than half (5,440 or 41 percent) of the workers employed in the firms are on long-term (permanent) employment.

Majority (7,829 or 59 percent) of the workers were engaged by the firms on short-term contracts, mainly depending on the availability of production orders. This is consistent with the current employment trends where most organizations have resorted to contract or casual employment as a means of controlling labour costs (Omolo and Omiti, 2004). Two out of the eight firms had engaged all its employees on short-term employment.

Further analysis shows that on average, the firms employ more females than males. Female workers constituted 8,477 or 64 percent of the total number of workers in the firms as shown in Figure 2. This finding is consistent with results from most studies (ICFTU, 2004; Tekere, 2000; ILO, 1998) which show that majority (over 70 percent) of EPZ workers worldwide are female.

Figure 2: Employment by Gender (2005)



Source: Field Survey Data (2005)

4.2.2 Wage Rates

Wages are important socio-economic parameters that affect the life of any society. Workers and their families depend almost entirely on wage earnings to provide themselves with food, clothing, shelter and other necessities of life (Omolo, 2001). Wages in the EPZ firms are paid according to their occupational categories or work sections. The dominant occupational divisions (sections) in the EPZ factories visited are Machine, Ironing, Cutting, Packaging, Cleaning, Quality Control, Finishing and Maintenance.

The lowest paid categories of employees are helpers, who earn an average of Ksh. 4,300 per month. The average wage rate for the labourers in the firms is only marginally (0.5 percent) above the Ksh. 4,279 gazetted statutory wage rates for labourers in the region in 2005. Employees in quality control, maintenance and

cutting sections are the highest paid, earning an average of Ksh. 7,419 per month.

Table 5 shows the monthly wages paid in various sections in the study firms.

Table 5: Monthly Wage Rates Per Section (Ksh.)

Section/Firm	A	B	C	D	E	F	G	H
Machine	5,626	4,913	5,100	4,903	5,000	4,983	5,242	4,913
Ironing	5,200	4,913	4,800	4,903	5,000	4,174	4,983	4,335
Finishing	5,000	4,913	4,567	-	5,200	4,491	4,684	4,335
Cutting	7,200	7,000	4,367	7,345	7,800	4,491	4,684	5,400
Packaging	5,000	4,335	4,300	4,903	5,000	4,491	4,684	4,335
Cleaning	5,000	4,335	4,300	4,903	4,335	4,174	4,684	4,335
Quality Control	7,200	-	-	7,358	5,086	4,476	-	-
Maintenance	7,700	-	-	-	-	-	-	-
Average	5,991	5,068	4,572	5,719	5,346	4,469	4,827	4,609

Source: Field Survey Data (2005)

Table 5 shows that average monthly pay in the firms ranges between Ksh. 4,469 paid in firm F and Ksh. 5,991 being the average wage rate in firm A. The lowest average wage rate of Ksh. 4,469 is about 40 percent lower than the average minimum monthly wage payable in Nairobi, Mombasa and Kisumu cities in line with the provisions of the Regulation of Wages and Conditions of Employment Act (CAP. 229), Laws of Kenya. It is also about 35 percent lower than the average minimum monthly wage payable to workers in Municipalities as regulated under Cap. 229.

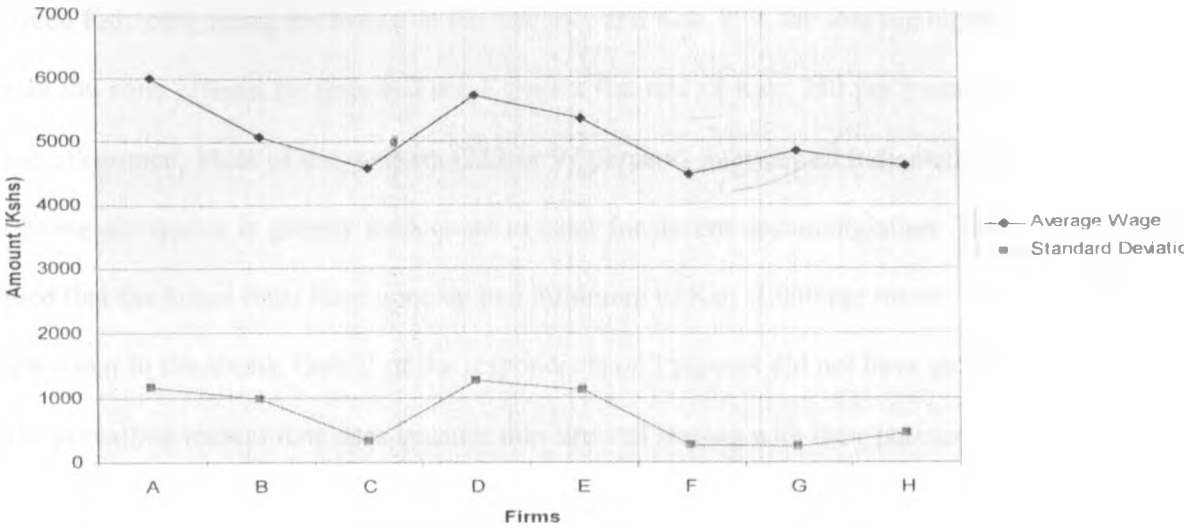
Overall, the average basic wage rate for the eight firms was Ksh. 5,075, which constitutes only 34 percent of the aggregate mean wages (Ksh. 14,886) paid by unionized firms in Kenya in 2004. The average wages for the EPZ firms studied was also 29 percent lower than basic wages paid in the Textile, Wearing Apparels and Leather sector in Kenya in the year 2004 (MLHRD, 2005). The low relative wages

paid in the EPZs confirm findings of other studies that EPZs pay poverty wages (Human Rights Report, 2004).

According to Omolo and Omiti (2004), the urban poverty line in Kenya was Ksh. 2,648 per adult equivalent in 1997. Assuming constancy, the lowest average wage rate paid in the EPZ firms is 67 percent above the poverty line. However, since 1997, the cost of living has changed by a cumulative figure of 62.8 percent (Republic of Kenya, 2005). The implication is that the estimated poverty line has increased by the change in the cost of living to about Ksh. 4,311 in 2004 assuming no change in the consumer basket of goods and services. Thus, the lowest average EPZ wage is only 3.7 percent above the estimated poverty line for 2004. Clearly, the wage rate is way below the expenditure requirement for a household of six, including a spouse and four children. The wages offered cannot, therefore, guarantee a worker and his/her family attainment of basic essentials of life as measured by the poverty line.

The wage data also shows variation in the monthly wages paid to different categories of employees in the factories interviewed. The standard deviation of the wages range between Ksh. 236 in firm G and Ksh. 1,168 in firm A. Firm A also pays the highest wages per category of staff in the various sections of the firm. Figure 3 summarizes the average monthly wages paid in the firms and the standard deviations of the wages.

Figure 3: Wage Comparisons (Ksh.)



Source: Field Survey Data (2005).

4.2.3 Housing Allowance

It was found that all the firms under study except one (Firm F) pay a monthly housing allowance that varies with an employee’s basic salary. The seven firms (A, B, C, D, E, G and H) pay house allowances at the rate of 15 percent of the basic salary. Table 6 shows the average housing allowance paid by the firms studied.

Table 6: Average Basic Wages and Housing Allowance (Ksh.)

Firm	Average Basic Wage	Average Housing Allowance
A	5991	899
B	5068	760
C	4572	686
D	5719	858
E	5346	802
F	4469	750
G	4827	724
H	4609	691
Average	5075	771

Source: Field Survey Data (2005)

From Table 6, it can be seen that the average housing monthly allowance paid ranges between Ksh. 686, being the lowest in the category and Ksh. 899, the average highest rate in the zone offered by firm A. Firm F pays a flat rate of Ksh. 750 per month as house allowance. Most of the workers (233 or 97 percent) interviewed indicated that the house allowance is grossly inadequate to cater for decent accommodation. They argued that the house rents have gone up to a minimum of Ksh. 1,000 per month for a single room in the slums. Only 7 of the respondents or 3 percent did not have an idea of the prevailing market rent rates because they are still staying with their parents.

4.2.4 Working Hours

All the firms studied operate on a working week of six days of 45 hours. From Monday to Fridays the working day is 8 hours while on Saturday they work for 5 hours. However, workers may be required, when necessary, to put in extra hours of work which qualifies for payment of overtime. The work schedule is consistent with the provisions of the Regulation of Wages and Conditions of Employment Act (Cap. 229) General Order, Section 5 (1), which stipulates a normal workweek of six days of no more than 52 hours of work.

The respondents indicated that they, at times, work for more hours than the stipulated hours. Up to 62 percent or 149 of the respondents noted that in some cases they were required to do “compulsory overtime which is not paid for”, and this amounts to overexploitation. The compulsory overtime requirement was practiced in all the eight firms. For example in firm G, workers earn a fixed salary irrespective of the amount of overtime worked. More than half (127 or 53 percent) of the respondent workers also indicated that in their companies, targets are set at high levels which cannot be

ordinarily met within the official hours of work. This also forces workers to do “compulsory overtime to meet their targets”. This requirement amounts to official exploitation and too much surplus value.

4.2.5 Paid Leave

Paid leave forms an important component of an employee’s terms and conditions of service. There are various categories of leave in the country. These include annual leave, maternity leave, public holidays and sick leave. The same are also provided for as entitlements within the Regulation of Wages and Conditions of Employment Act (Cap. 229), Laws of Kenya. Table 7 gives a summary of paid leave days provided by the respective factories.

Table 7: Paid Leave Days

Firms/Leave	Annual Leave	Public Holidays	Sick Leave	Maternity Leave
A	24	9	None	60
B	24	9	None	None
C	24	9	None	None
D	24	9	None	60
E	24	9	None	None
F	24	11	52	60
G	27	12	52	60
H	24	11	Discretionary	60

Source: Field Survey Data (2005)

The Table shows that all the firms have paid annual leave which is more favourable than the minimum statutory rates which stands at 21 days. Out of the 8 firms studied, 5 observe public holidays for 9 days in a year against the gazetted 11 days recognized in the country. The implication is that workers who are called upon to be on duty on the public holidays that are not observed by the firms may not be paid overtime. This

constitutes exploitation of workers besides violation of the country's labour laws. It also represents a major infringement on human rights.

The aspect that is highly violated by the firms is provision for paid sick leave. The Regulation of Wages and Conditions of Employment Act (Cap. 229) General Order Section 12 states, "*After two month's continuous service with an employer, an employee shall be entitled to a maximum of thirty day's sick leave with full pay and thereafter to a maximum of fifteen days' sick leave with half pay in each period of twelve months' consecutive service*". It is evident from Table 7 that only 3 out of the 8 firms provide for paid sick leave. Firms F and G gives about 7 days above the statutory rate while the rate for firm H is discretionary. The rule in firm H may promote arbitrariness and discrimination in application, implementation and enjoyment of the statutory benefits. It may also promote violation of relevant labour laws and labour exploitation.

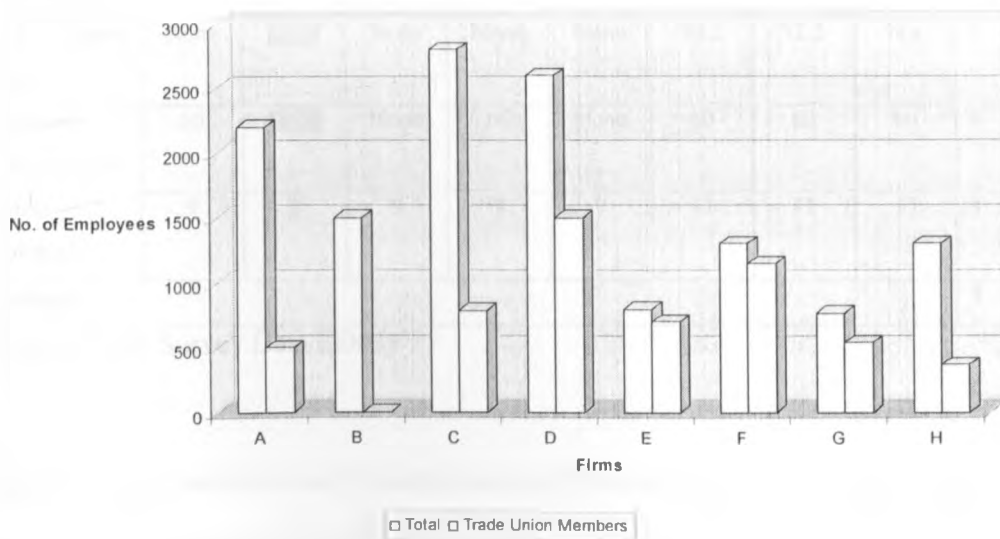
Five out of the eight firms studied pay maternity leave at the same rates provided for in the law. The other 3 firms do not provide for maternity leave at all. This is despite the fact that women workers are the majority (64 percent) in the firms. The field survey revealed that women workers are preferred in the EPZs since they are considered to be more loyal and submissive as compared to men, are generally more productive in areas such as cutting, sewing, and ironing which are some of the core tasks in the EPZ factories. Failure to provide maternity leave by the factories, implies that female workers are forced to resign when they are expectant. This means that while the right to childbirth is guaranteed and inherent, the same is infringed on by these employers. In addition, women workers stand discriminated against by the

firms, hence violating their rights to equal access in employment, promotion and other benefits as enshrined in the ILO Convention No. 111 (Employment Occupation Convention, 1958) on *Discrimination*.

4.3 Trade Union Representation

A trade union is an association of workers that seeks to promote and protect the welfare of its members (Omolo, 2001). All the eight firms studied had recognized the relevant trade union body (TTWU). Union activities were, however, found to be less vibrant in one of the firms (B) than in the other 7 remaining firms. For example, all the 30 workers sampled and interviewed in firm B confirmed that they did not know much about their union nor the benefits accrued to union members. Low trade union activity in firm B was also confirmed by 182 or 87 percent of the respondents drawn from the other 7 firms who are also members of the TTWU. The remaining 27 or 13 percent indicated lack of awareness on the union status of firm B. Figure 4 shows the level of trade union representation in the eight firms that were studied.

Figure 4: Trade Union Representation



Source: Field Survey Data (2005)

Overall, 216 or 90 percent of the workers interviewed conceded that they were happy with their union and its interventions in the firms. The respondents observed that the conditions of employment have at least improved with the coming in of the TTWU. The workers also noted that the TTWU has, at least, provided them with a forum and institutional framework for channelling their grievances.

4.4 Comparison of Terms and Conditions of Employment

Table 8 compares selected terms of employment between firms with strong union activities and the firm (B) where union activities are less vibrant.

Table 8: Comparison of Selected Terms of Employment (Firm B Vs Others)

Section/Firm	A	B	C	D	E	F	G	H	Rank
Employment (Nos)	2,200	1,500	2,800	2,600	800	1,300	769	1,300	4
Wages (Ksh.)	5,991	5,068	4,572	5,719	5,346	4,469	4,827	4,609	4
House Allow. (Ksh)	899	700	686	858	802	750	724	691	4
Annual Leave days	24	24	24	24	24	24	27	24	2
Sick Leave (days)	None	None	None	None	None	52.2	52.2	N.s	5
Maternity Leave (days)	60	None	None	60	None	60	60	60	6
Public Holidays	9	9	9	9	9	11	12	11	4
Average									4

Source: Field Survey Data (2005)

Table 8 shows that the terms of employment in Firm B compare favourably with those offered in the other firms in the zone with more effective trade union activities. The

average monthly wage rate for firm B is the fourth highest in the cluster. The firm ranks second in terms of provision of annual paid leave. The firm scores poorly in terms of observation and provision of sick and maternity leaves. Firm B together with firms C and E do not grant paid maternity leave to their female employees. This is despite the statutory provision that guarantee female employees a paid maternity leave of 60 working days (Regulation of Wages and Conditions of Employment Act, 229). Generally, the terms and conditions of employment in the unionized and non-unionized EPZ firms are similar.

4.5 Level of Awareness of Laws and Conventions by Workers

There are various laws and regulations that govern operations within the labour market in Kenya. There are also core ILO Conventions that are important for efficient operations within the labour market. The study sought to assess the level of awareness of workers on six core labour laws in the country and the ILO Convention No. 98 on Freedom of Association and the Right to Collective Bargaining; Convention No. 100 on Equal Pay for Work of Equal Value; and Convention No. 111 on Discrimination.

The assessment was done on the basis of:

- (i) Knowledge about the existence of the laws or Conventions;
- (ii) Awareness of the main provisions of the law or Convention;
- (iii) Applicability; and
- (iv) Enforcement authority

4.5.1 General Awareness

Table 9 provides a summary of the responses obtained from the interviewees regarding their levels of awareness about the relevant core labour laws applicable in Kenya.

The responses shows that more respondents (60 or 25.7 percent) knew about the existence of the core labour laws as opposed to their general provisions, application and enforcement machinery. Specifically, the Employment Act (Chapter 226) was known to 76 or 31.8 percent of the respondents while the Industrial Training Act(Chapter 237) was known only to 43 or 1.8 percent of the respondents.

Table 9: Level of Awareness about Core Labour Laws (%)

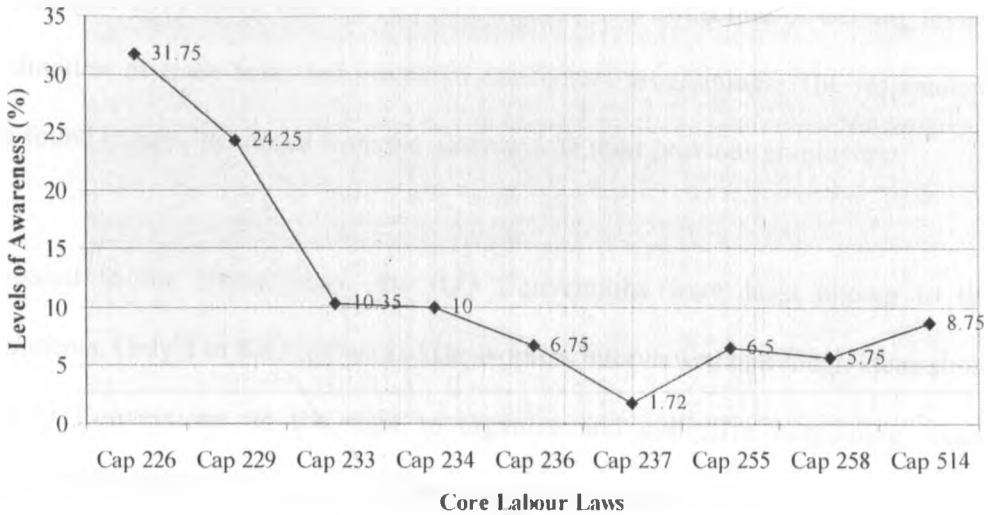
Labour Law		Assessment Criteria			
Description	Chapter	Existence	Provisions	Application	Enforcement
Employment	226	53	43	18	13
Regulation of Wages and Conditions of Employment	229	48	30	12	7
Trade Unions	233	37	3	1	0
Trade Disputes	234	23	17	0	0
Industrial Training	237	5	2	0	0
Factories	514	27	5	3	0
Workmen's Compensation	236	13	4	0	0
National Hospital Insurance	255	14	10	1	1
National Social Security Fund	258	11	9	2	1
Average		25.7	13.7	4.1	2.4

Source: Field Survey Data (2005)

Incidentally, a higher proportion of the workers (8.8 percent) are more aware of the Factories Act (cap. 514) as compared to the Workmen's Compensation Act (Cap. 236), National Hospital Insurance Act (Cap. 255) and the National Social Security Fund Act (Cap. 258) which are known to 6.8, 6.5 and 5.8 percent of the respondents

respectively. Figure 5 gives the general levels of awareness of the labour laws and ILO Conventions by the workers.

Figure 5: Level of Awareness of Laws and ILO Conventions



Source: Field Survey Data (2005)

The respondents who indicated knowledge of the provisions of Employment Act cited clauses on contract employment obligations by employers to provide workers with appointment letters and restriction on “employment of women past 6pm”. On Regulation of Wages and Conditions of Employment Act (Chapter 229), the 72 respondents indicated knowledge of the Act and that it provides for minimum wage setting and other basic conditions of employment such as working hours, maternity leave, overtime payments and public holidays.

Provisions of the Trade Unions Act (Chapter 233) was known to only 7 or (3 percent) of the respondents. The workers in question were clear that the Act of Parliament provides for the registration and regulation of the affairs of trade unions as well as providing for trade union elections. Only 41 (17 percent) of the 240 respondents knew about the provisions of the Trade Disputes Act (Chapter 234). All the 41 respondents

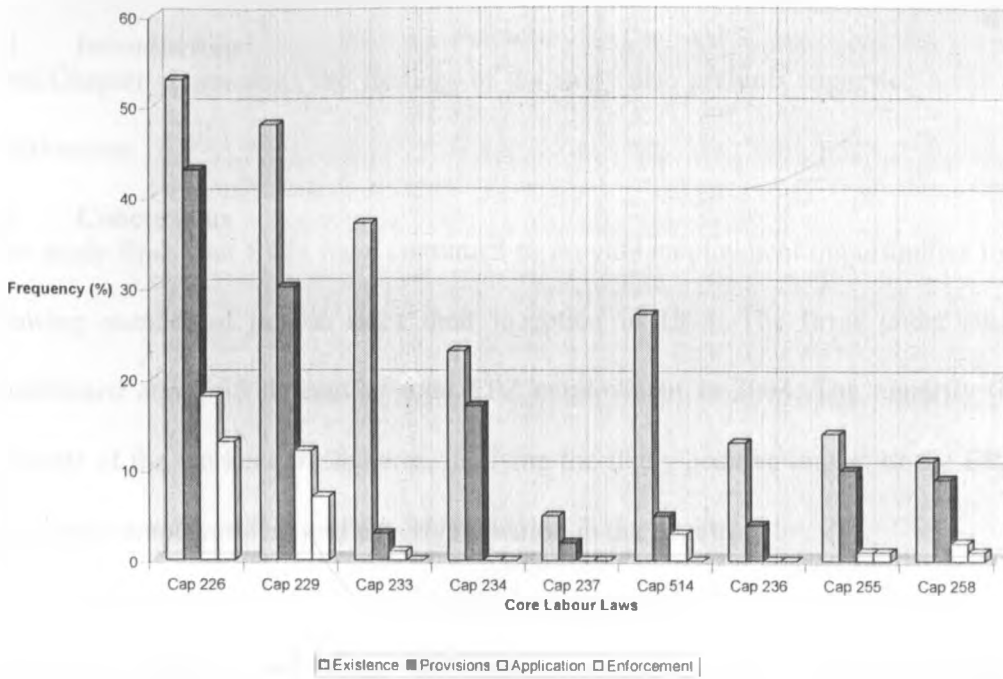
mentioned that the Act regulates on workers' strike, provides for dispute settlement and specifies conditions for declaration of redundancies by employers. The 12 or 5 percent of the respondents who knew about the provisions of the Industrial Trading Act (Chapter 237) stated that the Act sets structures for collection of training levies, coordination of trade tests and industrial attachment programmes. The respondents were found to have benefited from the scheme with their previous employers.

Compared to the labour laws, the ILO Conventions were least known to the respondents. Only 2 or 0.83 per cent of the workers interviewed had rough ideas about the ILO Conventions on the right to organize and collective bargaining; equal remuneration and discrimination. Of the three Conventions (Nos. 98; 100 and 111), Convention No. 98 was known to the 2 workers while Convention No. 100 on equal pay for work of equal value was being confused for the Convention No. 111 on Discrimination.

4.5.2 Specific Elements of Awareness

The results showed that a few workers (60 or 23.3 percent) are aware of the existence of the various labour laws. However, the workers are least sensitized about the critical elements such as the provisions of the law, its application and enforcement authority (Figure 6). The implication is that the workers' rights enshrined within the relevant laws and Conventions can be violated without the knowledge of the workers. This inadequacy on the part of the workers can promote exploitation and other unfair labour practices in the country. It also has negative implications on enforcement, compliance and general industrial harmony in the country.

Figure 6: Awareness of Core Labour Laws



Source: Field Survey Data (2005)

CHAPTER FIVE

CONCLUSIONS AND RECOMMENDATIONS

5.1 Introduction

This Chapter summarizes the findings of the study also presents suggested areas of intervention.

5.2 Conclusions

The study finds that EPZs have continued to provide employment opportunities to a growing number of people since their inception in 1993. The firms under study contributed about 35 percent of total EPZ employment in 2004. The majority (64 percent) of the workers are females, implying the likely positive impact of the EPZs on women empowerment and poverty reduction in the country.

The wages paid by some of the EPZ firms are low even when compared with the average statutory minimum wage rates. This means that the employment provided by the EPZ firms are not well remunerating with significant surplus value being retained by the employers who are the capitalists. The employment in the EPZs therefore largely promotes subjection of workers to poverty and increases alienation. The effect of unions in EPZs is not visible as wages and other terms and conditions of employment in the unionized firms are not significantly different from those of the non-unionized firms.

While the EPZ firms observe the basic provisions for other terms and conditions of employment such as housing allowance, working hours and paid annual leave, about 63 percent of the firms pay for 9 days of public holidays instead of the gazetted 11 days. The same firms also do not provide for paid sick leave contrary to the government's minimum provision of 45 days. In addition, some (38 percent) of the firms do not grant female workers any paid maternity leave. This is in sharp contrast

to the Kenyan law which guarantees a female employee to 60 days of paid maternity leave as long as she forfeits her annual leave days. The above situation is also complicated by the fact that more than three quarters (185 or 77 percent) of the workers are ignorant about the existence of the relevant labour laws and ILO Conventions. The implication is that the workers cannot effectively defend their rights when they live in ignorance of what governs their employment relations.

5.3 Recommendations

In order to improve the terms and conditions of employment within the EPZs, the following measures can be taken:

- (i) The government, EPZ employers and the TTWU should undertake measures aimed at improving the wages within the firms. This can be achieved by carrying out a comprehensive review of the existing terms and conditions of employment within the framework of collective bargaining. The proposed review should take into account the current economic realities such as the cost of living, performance of the companies in question, general economic performance and the need for the firms to remain globally competitive;
- (ii) The government should enhance its inspection services and compel the EPZ firms that have not complied with the basic minimum provisions as provided for in the laws such as the Regulation of Wages and Other Terms and Conditions of Employment Act to do so. Government efforts in this area can be complemented by the TTWU in its capacity as the workers' watchdog by discussing with the affected employers any areas of violations and reporting serious and persistent violations to the Government

- (iii) The government in collaboration with the Federation of Kenya Employers, Central Organization of Trade Unions, the TTWU and other labour support institutions should initiate programmes to sensitize workers on the relevant labour laws and ILO Conventions. This should target enhancing understanding of the workers on the existence of the laws, their provisions, application and enforcement machinery. Such programmes can take the form of short-term tailor-made trainings through seminars and workshops.

5.4 Areas for Further Research

In order to add more knowledge on the study area, it would be necessary to undertake a study to establish why there is no significant difference between union and non-union terms and conditions of employment within the EPZs and yet the role of trade unions is to improve workers' welfare.

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APPENDICES: STUDY QUESTIONNAIRES

Appendix 1: Questionnaire for Workers

Date	
Name of Interviewer	
Name of Respondent (optional)	
Job Position (optional)	

General Information

1. What is the name of the company/factory?				
Name of Factory/Company				
2. What is the physical address?				
Address				
3. Where is the factory located?				
In an EPZ?	Yes		No	
In another industrial area?	Yes		No	
Other? If other please specify below:	Yes		No	
4. When did the factory start production?				
Year				
5. How many workers are employed in the factory?				
Total number				
How many are male? How many are female?				
Number of males		Number of females		
6. Are there any codes of conduct in the factory?				
Codes of conduct	Yes		No	
If yes what is the name of the company on the code of conduct? In which language are they written in?				
Name:	Language:			
Name:	Language:			
Name:	Language:			

7. Are there any groups that come to check the working conditions in the factory?			
Groups checking working conditions	Yes	No	
If yes, who are these groups?			
Name			
Name			
Name			
If yes, do these groups talk to workers			
Talk to works	Yes	No	
If yes, please give details			

Wages

8. What is the monthly basic wage received in your factory for the following categories?		
Machine operator basic wage		
Ironing basic wage		
Finishing basic wage		
Cutting basic wage		
Packaging basic wage		
Cleaning basic wage		
Other basic wage Please specify other:		
9. How much money do you receive every month for the following? Are these added to the money you receive or are these deducted off?		
Housing allowance	Added:	Deducted:
Meal allowance	Added:	Deducted:
Pension fund	Added:	Deducted:
Other remunerations paid to you? (please specify)	Added:	
Other deductions? Please specify	Deducted:	
10. Is there any shift work at the factory?		

Shift work	Yes		No	
If yes, please explain				
11. Do you get paid piece rate?				
Piece rate	Yes		No	
What amount is this?				
Piece rate amount				
12. Do you get paid under any production incentive scheme?				
Incentive scheme	Yes		No	
How much is this?				
Incentive rate amount				
13. What are the normal days of work in the week?				
Days of work				
How many hours do you work in a normal working week (excluding overtime)?				
Hours of work				
What are the normal hours of work on a week day?				
Hours of work on weekday				
What are the normal hours of work on a Saturday?				
Hours of work on Saturday				
What are the normal hours of work on a Saturday?				
Hours of work on Saturday				
What tea breaks and lunch breaks do you receive?				
Tea and lunch breaks				
14. Are you forced to work overtime?				
Forced overtime	Yes		No	
Please explain				
15. On average how many hours of overtime do you work a week?				
Average overtime hours per week				
How many hours of overtime would you be asked to work on a weekday?				
Hours of overtime on weekday				
How many hours of overtime would you be asked to work on a Saturday?				
Hours of overtime on Saturday				
How many hours of overtime would you be asked to work on a Sunday?				

Hours of overtime on Sunday				
16. Are you paid for overtime?				
Paid overtime	Yes		No	
What is the overtime rate for weekdays?				
What is the overtime rate for weekends/public holidays?				
Overtime rate weekdays				
Overtime rate weekends/public holidays				
17. Is your overtime recorded properly?				
Proper recording of overtime	Yes		No	
If no, please explain				
If yes, do you get paid in full for your recorded overtime?				
Full pay for recorded overtime	Yes		No	
18. How much is your total wages per month before overtime?				
Total wages per month before overtime				
19. How much is your total wages per month on average after overtime?				
Total wages per month on average after overtime				

Health and Safety

20. Is there enough ventilation in the factory so that you are comfortable at work?				
Adequate ventilation	Yes		No	
If no, please explain				
21. Is there enough lighting in the factory for you to do your work?				
Adequate lighting	Yes		No	
If no, please explain				
22. Do workers have access to clean drinking water at all times?				
Access to clean drinking water	Yes		No	
If no please explain				
23. Do workers receive protective clothing or equipment?				

Protective clothing or equipment	Yes		No	
If yes please describe this				
24. Do workers suffer from any health problems that are caused by the working conditions in the factory?				
Health problems	Yes		No	
If yes please explain				
25. Have there been any accidents in the factory?				
Accidents in the factory	Yes		No	
If yes please describe these				
26. Have workers that have been injured at the factory been compensated?				
Worker compensation	Yes		No	
Please give details				
27. Are there any emergency exits?				
Emergency exits	Yes		No	
If yes, Are the opened or closed during working hours?				
Opened		Closed		
If closed please explain				
28. Is there any fire fighting equipment in the factory?				
Fire fighting equipment	Yes		No	
If yes please describe the fire fighting equipment				
29. Do workers have access to a first aid kit at work? Please explain				
First aid kit	Yes		No	
Please explain				
30. How many toilets are there for male and female workers?				
Number of toilets for males				

Number of toilets for females			
Please describe the condition of the toilet facilities.			
Do you need permission to use the toilet?			
Permission to use toilet	Yes	No	
If yes please explain			
Is there a limit to how many times you can use the toilet?			
Limit to toilet use	Yes	No	
If yes please explain			
31. Have there been any cases of sexual harassment?			
Sexual harassment	Yes	No	
If yes please explain			
32. Have there been any cases of wage discrimination between men and women workers?			
Wage discrimination	Yes	No	
If yes please explain			
33. Have there been any cases of physical or verbal abuse?			
Physical abuse	Yes	No	
If yes please describe these			

Terms of Employment

34. How many workers have written contracts of employment?	
Number of workers with written contracts	
35. How many workers are on long term contracts? How many workers are on short term contracts? How many workers have no contract at all?	
Number of workers with long term contracts	
Number of workers with short term contracts	
Number of workers with no	

contracts			
36. Do all workers get paid annual leave?			
Paid annual leave	Yes	No	
If no please explain			
How many days paid annual leave do workers get a year?			
Number of days of paid annual leave			
Can workers decide when to take their annual leave?			
Paid annual leave	Yes	No	
If no please explain			
37. Do all workers get paid public holidays? If no please explain			
Paid public holidays	Yes	No	
If no please explain			
How many days of paid public holiday do workers get a year?			
Number of days of paid public holidays			
38. Do you receive medical treatment at the expense of factory?			
Medical treatment at the expense of company	Yes	No	
Please explain			
39. Do you have paid sick leave?			
Paid sick leave	Yes	No	
If yes, how many days paid sick leave do you get a year?			
Days of paid sick leave a year			
40. Do you have paid maternity leave?			
Paid maternity leave	Yes	No	
If yes, how many days paid maternity leave do you get?			
Days of paid maternity leave			
Do you have unpaid maternity leave?			
Unpaid maternity leave	Yes	No	
If yes, how many days unpaid maternity leave do you get?			
Days of unpaid maternity leave			

After having your baby does the company take you back into the same job and pay?				
Return to same job and pay after maternity leave	Yes		No	
Please explain				
41. Is there a grievance/disciplinary process at the factory?				
Grievance/disciplinary process	Yes		No	
If yes please describe these				

Awareness of Labour Laws and ILO Conventions

42. Are you aware of the various labour laws and ILO Conventions applicable in Kenya				
			Yes	No
List the Labour statutes you are familiar with				

Trade Union

43. Is there a trade union representing workers at the factory?				
			Yes	No
Name of union				
How many members does the union have at the factory?				
Is there another trade union organising at the factory?				
			Yes	No
What is the name of the other union organizing at the factory?				
Name of other union				

Appendix 2: Questionnaire for the Union

1. Name of factory				
2. Does the union have recognition at the factory?				
Union recognition	Yes		No	
Were there problems with gaining recognition?				
Problems with union recognition	Yes		No	
If yes please explain				
3. Have there been any disputes between the union and management?				
Disputes between the union and management	Yes		No	
If yes please explain				
4. Does the union have a collective bargaining agreement with the factory?				
Collective bargaining agreement	Yes		No	
If yes what were the union demands				
5. Is there any form of discrimination between male and female employees in the factory?				
	Yes		No	
Please Explain				
6. Have there been retrenchments at the factory?				
Retrenchments	Yes		No	
If yes, how have these been done?				
With no consultation with the union				
After notice was given to the union				
After negotiation with the union				
If yes describe the situation				
7. How do the terms and conditions of employment for workers in the EPZs compare with those of non-EPZ firms?				