

**Workers' Voices in Informal Employment Relations:
Case Study of Kamukunji *Jua Kali* Cluster, Nairobi.**

By

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the Award of a Master of Arts Degree in Development Studies

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DECLARATION

This project paper is my original work and has not been submitted for the award of a degree in any other university.



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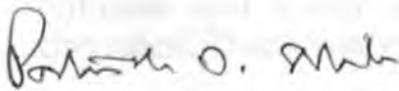
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DEDICATION

To all workers:

**Do not wait; the time will never be "just right". Start where you stand,
and work with whatever tools you may have at your command, and
better tools will be found as you go along.**

Napoleon Hill

A Luta Continua

TABLE OF CONTENTS

Declaration	ii
Acknowledgement	iii
Dedication	iv
Table of Contents.....	v
List of Abbreviations and Acronyms	viii
List of Figures	x
List of Frequency Tables and Boxes	xi
Abstract	xii
1.0 INTRODUCTION	1
1.1 Background to the Study	2
1.2 Statement of the Problem	5
1.3 Research Objectives and Questions	7
1.3.1 Study Objectives.....	7
1.3.2 Research Questions	7
1.4 Justifications for the Study	8
1.5 Scope and Limitations of the Study	9
2.0 LITERATURE REVIEW AND THEORETICAL FRAMEWORK....	10
2.1 The <i>Jua Kali</i> Economy	10
2.2 Organization among Workers.....	14
2.2.1 Brief History of Workers Organization in Kenya.....	15
2.2.2 Formal Dispute Resolution Mechanisms	19
2.2.3 Informal Workers Organization in Nairobi	20
2.3 Workers' Voices	23
2.4 THEORY AND CONCEPTUAL FRAMEWORK	25
2.4.1 Theory of Association	25
2.4.2 Institution Building Model.....	26
2.4.3 Sustainable Human Development	28
2.5 Hypotheses of the Study	31
2.6 Definition of Key Concepts	31
3.0 RESEARCH DESIGN AND METHODOLOGY	33
3.1 Site Description	33
3.2 Methodology	36
3.3 Data Collection	37
3.3.1 Scoping	38
3.4 Unit of Analysis	39
3.5 Case Studies Selection.....	39
3.6 Lessons Learnt from using this Methodology	39

4.0	LABOUR ISSUES AT THE KAMUKUNJI JUA KALI CLUSTER....	42
4.1	Introduction	42
4.2	Socio-economic Background of Workers.....	43
4.2.1	Age	43
4.2.2	Gender	44
4.2.3	Education.....	44
4.2.4	Marital Status.....	45
4.2.5	Areas of Specialization.....	46
4.2.6	Category of Workers.....	46
4.2.7	Employment History	47
4.2.8	Disputes at the Workplace.....	47
4.2.9	Dispute Resolution	48
4.2.10	Associational Life.....	49
4.2.11	Years in Operation	49
4.2.12	Enterprise Size	50
4.2.13	Informal Workers Duration in Employment.....	50
4.3	Age, Gender and Marital Status of Case Studies	50
4.4	Education, Training and Income	52
4.5	Duration in Business and Record Keeping	53
4.6	Wage Determination and Working Hours	54
4.7	Work Environment and Perceived Health Hazards	56
4.4	Chapter Conclusions	59
5.0	CHANNELS AND MECHANISMS FOR SETTLEMENT OF LABOUR ISSUES.....	60
5.1	Nature of Disputes.....	60
5.2	Arbitration Mechanisms.....	61
5.3	Institutions for Representation.....	65
5.4	Chapter Conclusions	67
6.0	EFFECTIVENESS OF MECHANISMS EMPLOYED IN DISPUTE SETTLEMENT.....	69
6.1	Organization/Association Life of <i>Jua Kali</i> Workers	69
6.2	Challenges of Organization.....	71
6.2.1	Membership Participation.....	71
6.2.2	Communication.....	71
6.2.3	Awareness on Labour Rights.....	72
6.2.4	Workers' rights and Obligations.....	72
6.2.5	Weak Organizational structures	73
6.3	Sustainability of Dispute Settling Mechanisms Employed	75
6.4	Chapter Conclusions	76

7.0	SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS.....	78
7.1	Summary of Findings.....	78
7.2	Study Conclusions.....	80
7.3	Recommendations.....	83
7.4	Policy Interventions	83
8.0	REFERENCES	85
9.0	APPENDIXES	
Appendix I:	Scoping Survey Questionnaire	92
Appendix II:	Checklist for MSE Workers	94
Appendix III:	Checklist for Ministry of Labour	97
Appendix IV:	Checklist for Provincial Administration	99
Appendix V:	Checklist for COTU	101
Appendix VI:	Checklist for KNFJK Workers Association	103
Appendix VII:	Checklist for Federation of Kenya Employers...	105

LIST OF ACRONYMS AND ABBREVIATIONS

CBD	Central Business District
CBO	Community Based Organization
CDF	Constituency Development Fund
COTU	Central Organization for Trade Unions
FKE	Federation of Kenya Employers
GDP	Gross Domestic Product
IB	Institution Building
ICFTU	International Confederation of Free Trade Unions
IE	Informal Economy
ILO	International Labour Organization
IS	Informal Sector
KAM	Kenya Association of Manufacturers
KANU	Kenya African National Union
KEPSA	Kenya Private Sector Alliance
KFL	Kenya Federation of Labour
KFR TU	Kenya Federation of Registered Trade Unions
KJKWA	Kamukunji <i>Jua Kali</i> Workers Association
KNFJKA	Kenya Nation Federation of <i>Jua Kali</i> Associations
KNUT	Kenya National Union of Teachers
KRA	Kenya Revenue Authority
KTUC	Kenya Trade Union Congress
KUDHEIHA	Kenyan Union of Domestic, Hotel, Educational Institutions, Hospitals, and Allied Workers
KUPPET	Kenya Union of Post Primary Teachers
LATF	Local Authorities Transfer Funds
MSE	Micro and Small Enterprises
MSME	Micro, Small and Medium Enterprises
NGO	Non-Governmental Organization
OECD	Organisation for Economic Co-Operation and Development

ROSCA	Rotating Savings and Credit Association
SACCOs	Savings and Credit Cooperative Organizations
SEWA	Self Employed Women's Association
SHD	Sustainable Human Development
SPSS	Statistical Package for Social Sciences
UIE	Urban Informal Economy
UIS	Urban Informal Sector
UKCS	Union of Kenya Civil Servants
UNDP	United Nations Development Programme

LIST OF FIGURES

Figure 1: Part of the cluster located along Sakwa Road	10
Figure 2: <i>Jua Kali</i> workers in a shed with a low lying roof	12
Figure 3: Furnace operators in their hazardous work environment ...	13
Figure 4: Asian Trade Union Movement leaders in the 1950s.....	18
Figure 5: An illustration of theory convergence	30
Figure 6: Part of the cluster located along Landhies Road	33
Figure 7: A variety of finished <i>jua kali</i> products	34
Figure 8: More <i>jua kali</i> products on display	35
Figure 9: <i>Karais</i> made out of used oil drums	36
Figure 10: The Association office and ablution block	40
Figure 11: Shop selling raw materials and finished products	45
Figure 12: Sheds producing and displaying different products.....	51
Figure 13: <i>Jua kali</i> workers shaping metal products	54
Figure 14: <i>Jua kali</i> metal workers using inappropriate equipment ...	55
Figure 15: The Kamukunji <i>Jua Kali</i> Workers Association offices	70

LIST OF FREQUENCY TABLES AND BOXES

FREQUENCY TABLES

Table 1: Categories of Informal Sector Workers by Gender	44
Table 2: Non-wage Workers	46
Table 3: Wage Workers	47
Table 4: Types of Disputes Experienced at the Cluster	48
Table 5: Dispute Resolution Mechanisms Employed	48
Table 6: Type of Conflict and Frequency	61
Table 7: Sources of External Assistance	63
Table 8: Organization/Association Life	70

BOXES

Box 1: Disputes Resolution Mechanisms	62
Box 2: New Rules of Engagement in the Cluster	75

ABSTRACT

This study investigates how emergent labour related disputes experienced by informal sector workers are resolved by Kamukunji *jua kali* workers in determining their employment terms and conditions. The study is based on both primary and secondary data. Secondary data was obtained through reviewing relevant literature whilst primary data was collected through in-depth interviews with purposefully identified case studies and key informants. A scoping exercise preceded the indepth case studies.

The broad objective of the study was to investigate how emergent labour related disputes experienced by informal sector workers were resolved and whether these informal workers have a voice when it comes to labour related matters. This information was gathered using a checklist of issues that guided the discussions during the face to face interviews.

The findings of the study indicate that various challenges are experienced by informal sector workers at their places of work. These challenges range from lack of recognition, minimal employment benefits, unregulated wages and work conditions, as well as and working hours that do not have any defined pattern as compared to those in the formal sector. These give rise to disputes ranging from encroachment into other informal workers' spaces, poor contract management and disputes on payment of wages as well as theft by employees and illegal broking.

Whenever a dispute occurs there is recourse to resolve it so that the workers can continue earning a living. The study shows that labour contracts in the informal sector are purely based on trust which can easily be compromised. The findings indicate that informal processes of arbitration in emerging disputes are adopted by these workers and these informal systems of arbitration have evolved and created an appeal system that is acceptable by majority of the informal workers.

These mechanisms have been institutionalized mostly by the officials of the Kamukunji *Jua Kali* Workers Association, Kamukunji Location Chief and the Police. The association has attempted to reorganize and strengthen its mandate over time by introducing rules of engagement that are binding to all workers including those who are not yet registered with the association.

With proper coordination, such an informal organization can act as a platform for advocacy and lobbying the Government for recognition of informal workers. In line with the findings, the study recommends that the Kamukunji *jua kali* and (other informal) workers' association(s) need to be supported through capacity building on labour matters so as to broaden their mandate, to not only operate as business entities but also act as workers voices articulating labour issues. This can be achieved through participation of informal workers in policy making processes on matters affecting the informal sector.

1.0 INTRODUCTION

People in the informal sector represent the largest concentration of needs without voice, the silent majority of the world economy (ILO, 2002b). These workers in vulnerable employment are less likely to have formal work arrangements, and are therefore more likely to lack elements associated with decent employment such as adequate social security and recourse to effective social dialogue mechanisms (ILO, 2010). According to the ILO (2002a), representation and voice are not only a fundamental right; they are also the means through which informal workers can secure other rights and achieve decent work. Voice and representation constitute one of the pillars of decent work and is the main policy agenda for the ILO which applies to all workers including those on daily wages and in very temporary informal employment.

Whereas the 1991 International Labour Organization (ILO) Conference considered job creation in the informal sector as a strategy, the 2002 Conference focused unequivocally on social protection and 'decent work' for all (Willems, 2006). The 'decent work' agenda sprung from the fact that workers in the informal sector are not different from other workers, except that they perform their work in unregulated and unprotected conditions (ILO, 2002a).

ILO (2002b) refers to decent work as the productive toil in which rights are respected; social and legal security and protection are provided, as well as protection from exploitative, dangerous, dirty working conditions and the possibility of workers taking part in all decisions that may affect them. The ILO therefore looks at the situation of informal sector workers in terms of 'decent work' deficits which include poor quality, unproductive and unremunerative jobs that are not recognized or protected by law, the absence of rights at work, inadequate social protection and lack of representation and voice.

The Government of Kenya has acceded to several ILO conventions among them Freedom of Association and the Effective Recognition of the Right Standards to Collective Bargaining. The state has however exhibited hostility towards informal economy workers who try to organize demonstrations and strikes to protest the violation of their rights even though several legislations to promote Micro, Small and Medium Enterprises (MSMEs) have been put in place. Such

workers are therefore in need of representation and voice as a fundamental right and an enabling right to enhance their access to a range of other privileges at work. It is this security of representation and voice that is the central concern that this study intends to explore.

1.1 Background of the Study

Representation through independent labour unions, employers' organizations and social dialogue institutions are essentially meant to ensure livelihood security among workers and according to the ILO; trade unions are recognized as the workers' voice (ILO, 1999). Unions give workers the avenue and power to express their concerns, grievances and negotiate their interests. They are formed voluntarily for the purpose of collectively agitating for workers rights ranging from poor working conditions and poor remuneration including human rights issues. These trade unions are a common phenomenon prescribed for workers in the formal economy. However, the diminishing capacity of the formal economy to absorb well trained and qualified individuals into the job necessitated the existence of the informal sector.

The concept informal sector was originally introduced by Keith Hart¹ in his 1971 study of informal income opportunities in urban Ghana (Chen et. al., 2002). The ILO subsequently mounted a series of studies to various countries and its Kenyan Mission Report (ILO, 1972) highlighted the contribution of the informal sector to economic growth.

A further study by the ILO reported that globally, the informal sector accounts for 25-70 per cent of total employed urban labour force (ILO, 1991) while informal workers in the non-agricultural workforce ranged from over 55 per cent in Latin America to 48-85 per cent in different parts of Asia (Chen et. al., 2002). In Africa alone, about 80 per cent of the labour force is employed in the informal sector. In Kenya, the sector commonly known as *jua kali*² continues to play an important role in job creation and overall labour market.

¹ Hart, Keith (1973) *Informal Income Opportunities and Urban Employment in Ghana*. The Journal of Modern African Studies 11 (1): 61-89 as cited by Chen et. al., 2002

² This is a Swahili word that literary means 'hot sun'. The term is commonly used to refer to micro and small enterprises that not only lack a roof to shelter them from the tropical sun but also to any activity regarded as informal or casual (Kinyanjui, 1999).

The informal economy generates over 90 per cent of employment in Kenya and employment in the sector is estimated to have expanded from 7.5 million in 2007 to 7.9 million in 2008 (Kenya, 2009). Nairobi alone accounted for a quarter of total jobs created in the informal sector in 2006. In terms of income, the share of earnings in this sector ranges between 20-45 per cent of total urban incomes and the share in GDP contribution is 18.4 per cent (Kenya, 2005).

The informal sector in Kenya is dominated by Micro and Small Enterprises (MSEs). Small businesses such as retailers, hawkers and *jua kali* artisans fall in this sector (Kenya, 2008). Other activities include: agri-processing, building, electrical, woodwork metalwork, leather work, textile, chemical, handicraft, service industry, trade and motor vehicle repair (Mitullah, 2006). Enterprises in this sector are characterized by reliance on indigenous resources, family ownership, small-scale operations and labour intensive production (ILO, 1972). Skills are often acquired outside the formal school system, adaptive technology is exploited and sale of goods is conducted in unregulated competitive markets (Omari, 1999).

The outlook of the informal sector has also changed since the ILO and other pilot studies. For instance, in contradiction to the ILO's 'ease of entry' to the urban informal sector, Macharia (1991) arguing on the basis of social networks, points out that ethnic dimensions in entrepreneurship do exist and in some sense act as a key element in the operation of the social network pervading the *jua kali* sector. Macharia adds that, in some cases, whole subsectors of the informal sector in Nairobi are operated by specific ethnic groups which tend to perpetuate the entry of the same ethnic group members to any space for running a business or a kiosk. Ethnicity is thus a significant factor when it comes to the allocation of informal business premises, transfer of skills, acquisition of technologies, access to markets and customers.

While over 70 per cent of MSEs in Kenya employ only one person, the average MSE employs 1-2 workers (Kenya, 2005) who in most cases are lowly paid, lack job security and are deficient in decent work tenets. The deficits include poor quality, unproductive and unremunerative jobs that

are not recognized or protected by law, the absence of rights at work and inadequate social protection including the lack of representation and voice. Employment in the informal sector according to Chen et. al., (2002) can be categorized into two:

Non-wage workers:

- Employers (owners of informal enterprises and owner operators of informal enterprises).
- Self employed (heads of family businesses, own-account workers and unpaid family workers).

Wage workers: employees of informal enterprises, domestic workers, casual labourers without a fixed employer, home-workers or industrial outworkers, temporary and part-time workers and unregistered workers.

In an attempt to earn a living, most of these workers often face the wrath of local authority and other law enforcement personnel resulting in physical beatings, arrests, destruction of business premises including damage and loss of goods. This contributes to loss of livelihoods and may ultimately lead to poverty. This study focused on workers/employees of MSEs.

Enterprises in the informal sector still face a myriad of challenges which include: unfavourable policy environment, inhibitive legal and regulatory framework; limited access to markets, financial services, information, infrastructure and linkages with larger enterprises; inadequate access to business skills and technology; gender inequalities, unfavourable taxation regime and health and safety among others (Kenya, 2005). These challenges impact negatively on the development of the MSMEs especially in terms of supporting and sustaining the workers' livelihoods.

According to King (1996), the informal sector in Kenya appears to have survived and prospered over many years in an atmosphere of at most, benign neglect by the Government in conjunction with a highly protected formal sector's economy. The first official attempt by the Government to act on the ILO's recommendations came in 1986 through the Sessional Paper No. 1 of 1986 on *Economic Management for Renewed Growth*. The paper recognized the leading role of the informal sector as a source of job creation and income generation in rural and urban areas. The

Government sought to give incentives to these small producers through offering direct assistance like credit facilities, expansions of technical institutions and relaxing restrictions on informal sector activities through policy reforms (Kenya, 1986).

1.2 Statement of the Problem

Even though according to UNDP (2000) the social welfare system protecting workers is decaying, institutions for modern industrial relations are still common and largely remain a feature of the formal sector (Kombo, 1976; ILO, 1999). In Kenya, the government only recognizes unions representing formal sector workers when negotiating labour matters leaving out over 80 per cent of the labour force located in the informal economy most of whom are often not members of these recognized trade/workers' unions.

At the national level the tripartite system made of government, employers and workers representatives has been institutionalized as the mechanism for settling labour disputes in the formal sector. Since social dialogue in tripartite arrangements only recognizes formal entities to take part in the negotiations (ILO, 2002a; OECD, 2004), informal workers' organizations are often left out of labour negotiations (ILO, 2002b) because most are only registered as social welfare and therefore not considered bona fide entities agitating for workers' rights.

Membership in workers' organizations is a right for all workers (ILO, 1999) and provides a platform for participation in agitating for their rights. Workers in the informal economy have formed a variety of associations/groups in response to challenges experienced in their livelihoods. Some are business associations while others are social organizations assisting members in welfare (McCormick et. al, 2003). These associations act as vehicles for collective action on issues of immediate mainly social concerns e.g. pertaining to funeral expenses, school fees for children, offsetting medical bills and sometimes to resist forced evictions and undue harassment by the local authorities.

However, Workers Associations in the informal sector are generally weak and highly fragmented. Mitullah and Wachira (2003) argue that, "associations that are well placed for advocacy and

policy influence on behalf of small-scale enterprises, among them the National Federation of *Jua Kali* Associations of Kenya, have performed poorly leading to membership withdrawal due to leadership wrangles in the federation”. This has in turn resulted in fragmentation of workers’ organizations rendering them weak, and incapable of adequately providing a steady platform through which they can articulate labour issues.

In the *Sessional Paper No.2 of 2005* (Kenya, 2005) on development of the MSE sector, the government planned to set up an MSE court to dispense justice and arbitrate in small and non-trivial claims emanating from the sector. Although wage workers in MSEs are few, they have no formal representation and the policy does not specify how disputes between the employer and employees should be arbitrated. A study conducted by McCormick and Muguku (2007) on job quality in garment and metal enterprises in Nairobi, revealed that disputes in MSEs are settled by “warnings, fines, suspension from duties, and dismissal or sacking”. This is essentially at the enterprise level between the employer and employee. What we do not know, however, is whether these workers have alternative platforms especially beyond the individual enterprise level to appeal or seek redress on emerging labour disputes.

On MSEs Associations, the policy has concentrated on ensuring sustainable, economic well-being of the enterprises through capacity building of business associations as opposed to supporting those agitating for labour rights of the work force operating within the sector. The Government in a bid to bridge the policy gaps on labour matters has been instrumental in reviewing certain Labour Laws and Statutes including the Constitution of Kenya (2010), Employment Act Cap 226 (2007); Labour Institutions Act (2007), Labour Relations Act (2007); Trade Disputes Act Cap 234; National Social Security Fund Act Cap 258; Public Health Act Cap 242 among others. These policies have attempted to address various issues affecting workers albeit with minimal reference to informal workers.

Informal sector workers therefore lack a comprehensive channel unique to their needs to act as an institutional platform through which their grievances can be addressed. There is need to highlight issues pertaining to informal workers’ labour rights because sustainable development of MSEs is dependent on the sustainable well-being of these workers. This study explores existing channels

and mechanisms of dispute resolution used by the Kamukunji *jua kali* workers to deal with emerging labour related disputes.

1.3 RESEARCH OBJECTIVES AND QUESTIONS

1.3.1 Objectives of the Study

The broad objective was to investigate how emergent labour related disputes experienced by informal sector workers were resolved. Specifically the objectives were to:

1. Identify labour related issues currently being experienced by informal sector workers in Kamukunji *jua kali* cluster.
2. Identify the channels and mechanisms used for settlement of these emergent labour issues.
3. Examine the effectiveness of the mechanisms employed by workers in Kamukunji *jua kali* cluster in resolving the disputes
4. Determine the extent to which these mechanisms are sustainable in increasing the workers' voices in employment terms and conditions.

1.3.2 Research Questions

This study explores how emergent labour related disputes experienced by informal sector workers are resolved. The specific questions investigated include:

1. What labour related issues are experienced by informal sector workers in Kamukunji *jua kali* cluster?
2. What are the channels and mechanisms for settlement of emergent labour issues?
3. How effective are the mechanisms employed by the informal workers in Kamukunji *jua kali* cluster in resolving the disputes?
4. To what extent are mechanisms sustainable in increasing the workers' voices in employment terms and conditions?

1.4 Justification for the Study

The increasing importance of the informal economy as a source of livelihood targeting both the urban and rural poor as well as a significant source of economic development cannot be overlooked. However, the sector's performance alongside pastoral and subsistence farming activities are often excluded from the Economic Surveys (Kenya, 2007a) yet they have a big impact on the country's economic well-being. With a share of about 18.4 per cent in Kenya's GDP, the informal economy remains a major contributor to economic growth. The sector has also employed about 90 per cent of the labour force accounting for up to 45 per cent of total urban incomes (Kenya, 2008, Kenya, 2005). It is therefore essential to assess challenges associated with engagements in this key sector.

Secondly, The 80 per cent labour force that is responsible for the informal sector's increased good performance deserves as much attention as the businesses themselves. Matters pertaining to the well-being and rights at work in regard to informal workers have been neglected by the MSE policy of 2005 (Kenya, 2005). To ensure decent work and livelihoods security, there is need to provide channels through which informal sector workers can articulate their grievances, seek redress on labour related issues and find sustainable solutions that guarantee them a voice. This study is a response to the notable gap in knowledge of labour challenges associated with the engagement in the informal sector.

The informal sector is an important source of employment which can be realized if policies are designed to regularize its linkages with the formal sectors. However, since formalizing the informal sector is not within reach (Schlyter, 2002), the task then is to assist workers in this sector in every aspect of their development and to ensure their livelihoods are protected for sustainable contribution to economic development. This study will therefore provide insights, with a bias to labour relations, as to how informal workers can be assisted to organize in agitating for their rights at work.

1.5 Scope and Limitation of the Study

This study focuses on informal sector workers in the metal (re)fabrication sub-sector at the Kamukunji *jua kali* cluster. Due to the confinement of the study area and the small sample of ten case studies and the five key informants certain limitations are expected in the outcome that might not be replicated. There is also the possibility that the ten case situations are insufficient for a comparative study. The choice of the Kamukunji *jua kali* cluster was motivated by the following factors including:

- i. A lot of literature exists from various studies conducted within the cluster by King (1996), Kinyanjui (1998, 2010) and McCormick (1999) on growth and development of the informal sector in Kenya, social networks and associations in the informal sector including enterprise clusters among other themes.
- ii. Kenya, (2008) states that Nairobi accounted for a quarter of total jobs created in the informal sector. These statistics depict Nairobi as the locus of informal employment opportunities in Kenya.
- iii. Similarly, the 2009 Kenya Population and Housing Census (Kenya, 2010) approximated the populations residing in urban areas in Kenya to be about 10 million and only 5 million are employed. With the decreasing job opportunities in the formal sector, the informal sector thus becomes the largest recipient of all skilled and unskilled job seekers.
- iv. Kamukunji *jua kali* cluster is strategically positioned a few metres from the CBD where heterogeneous activities regarded as formal and informal take place and where economic interrelationships by entrepreneurs from both sectors can take place .
- v. Proximity to the biggest transport hub of vehicles plying city as well as upcountry routes with products from the cluster denotes Kamukunji's link with nearly the whole country. This to a great extent, contributes to its perpetual existence as a network of customers enters and exits the cluster.

2.0 LITERATURE REVIEW AND THEORETICAL FRAMEWORK

2.1 The *Jua Kali* Economy

The urban informal sector is characterized by a heterogeneous range of operations broadly represented by services, construction and manufacturing sub-sectors. The locus of this study is the manufacturing sub-sector whose predominant activities cover food processing, textile and garments, wood processing and metal works. Whilst women dominate food processing, men constitute the majority population in metalwork and wood processing. Apprenticeship is the most common form of skill acquisition and employment in these urban informal manufacturing units.



Figure 1: Part of the Kamukunji *jua kali* cluster located along Sakwa Road.

The informal sector enterprise is one of the biggest employers in urban areas. The enterprises are popularly referred to as *jua kali* and constitute “micro and small enterprises that not only lack a roof to shelter them from the tropical sun but thrive and create jobs for a large majority of

Kenyans” (Kinyanjui, 2006). Most *jua kali* enterprises are found on various plots in open air spaces and commonly operate in clusters within the city. The Kamukunji *Jua Kali* cluster is one such site. Figure 2 above shows part of the cluster in the open air located along Sakwa road. Some of the sheds are constructed under electricity poles whose wires pose the risk of electrocution or might cause a fire. The shed to the right houses one of the associations affiliated to the Kamukunji *Jua Kali* Workers’ Association.

The term *jua kali* is also used in an ideological context of working for oneself by breaking away from the system of wage labour. Current statistics indicate that many economic activities linked to the formal sector are largely conducted in an informal way. For instance, a young IT graduate rendering his/her services on demand while moving from office to office through recommendations from his/her networks is sometimes referred to as “*jua kali*” work, depicting its informality. One of the inherent advantages of the *jua kali* sector thus lies in its flexibility.

Chen, et. al, note that, some of these informal workers belong to more than one of the wage and non-wage categories, these include: those who change jobs or activities across any given unit of time (day, month, year) and those who hold more than one job or are engaged in more than one economic activity at any given time. This may be necessitated by financial obligations and one can adjust from one category to another according to the prevailing conditions.

For workers in both the formal and informal economy, average wages still remain low in Kenya. Indeed the government is responsible for the establishment of minimum wage which is determined by the Wage Guidelines that spell out the modalities in wage fixing depending on inflation rate, the employment effect, and the ability of enterprises to pay higher wages (Kenya, 2008). This is, however only true for the formal sector where workers are legally recognized by the government and have platform to lobby for such support.

Currently, there is no standard set for informal sector workers’ wages. Their wages also do not improve whether their employers have a high turnover. Without leverage to lobby for better remuneration; informal sector workers remain vulnerable to poverty due to their unsustainable

and fluctuating incomes. This exposes them to exploitation especially in the absence of a platform to address such labour matters.

As a mode of survival, the *jua kali* sector also plays a vital role in supplementing incomes, especially for formal workers in the public sector where wages are relatively low and insufficient to support a family in urban areas. Thus the *jua kali* economy right from its formulation reflected a people's struggle to respond and negotiate their position in the city as well as assert themselves in the urban space (Kinyanjui 2006b). Figure 2 below shows some informal workers sharing a shed which also acts as a storage facility. Note the low lying roof that can hardly allow an adult of average height to stand up straight in their shed.



Figure 2: *Jua Kali* workers in a shed with a low lying roof.

Caplow as cited by Hall (1969) in his book *The Sociology of Work* argued that occupations are the major source of placement in the social status stratification system and this is true as regards the *jua kali* sector whose activities are often equated with illegality (ILO, 2002b). When these enterprises are deemed to be outside the legal and regulatory framework, so too are their workers,

who do not enjoy the protection of law (ILO, 2002b). Due to this lack of proper recognition, informal sector workers often fall at the bottom of the employment structure where decent work deficits are likely to be exhibited. The question of recognition can also influence one's choice of jobs as noted by Sen (1975).

The *jua kali* phenomenon gained momentum during the implementation of the structural adjustment programmes (SAPs) in Kenya which necessitated institutional restructuring in the public sector leading to job losses. Many workers who lost their jobs through retrenchment in the formal sector were accommodated in the informal sector where some of them have continued to earn a living to avert poverty.

According to ILO (2002b), increasing poverty is one of the underlying reasons for the growth of the informal sector. The close link between poverty and the informal sector mean that strategies geared towards decent work for informal sector workers can help reduce poverty. Conversely, it is also expected that poverty eradication strategies and policies can contribute to a decline in decent work deficits. Informal sector workers are thus vulnerable to various forms of work related disadvantages and hence the need for protection. Figure 3 below illustrates the dangerous working conditions of informal workers. Note the open fire, flammable material and no safety equipment in sight to intervene in case of a fire hazard. There is also no compensation for injuries that occur at the workplace.



Figure 3: Furnace operators in their hazardous work environment

2.2 Organization among Workers in Kenya

For the worker, the ILO (1991) argues, collective rather than individual bargaining with the employer is necessary and the right to form unions is a fundamental human right of any worker anywhere. The organization of trade union as it exists in Kenya today does not represent workers directly. It consists of affiliated unions as corporate members on an industrial basis under the Central Organization for Trade Unions (COTU) which was formed following advice from the International Confederation of Free Trade Unions (ICFTU) consultations in the 1950's.

The industry based unions include commercial, banking, metal works; bakeries and confectionaries; port workers, pilots, building and construction, chemical, engineering, game and hunting; local government, fishermen, petrol and oil; plantations and agriculture, railway workers, scientific research, shipping and clearing; domestic and hotels, entertainment, betting, journalism, printing and publishing; sugar plantations, seamen, tailoring and textile; transport, post and telecommunications. There are also independent labour unions not affiliated to COTU representing other professional categories of workers like teachers through the Kenya National Union of Teachers (KNUT) and Kenya Union of Post Primary Teachers (KUPPET); and civil servants through the Union of Kenya Civil Servants (UKCS) among others.

Historically, the trade union movement was built by unprotected workers who, through self-organization and solidarity, gained rights, benefits and social protection. However, the high level of unemployment, increasing number of informal workers in MSMEs, low numbers of unionized employees and fragmentation of trade unions (which affects their voices) have contributed to the diminishing role of the trade unions in collective bargaining agreements. The disconnect between trade unions and political parties has further weakened the movement. The above factors have in turn starved the once vibrant epitome of workers' voices of effectively spearheading industrial action on behalf of their members. This analysis was done by Johnstone Ole Turana's in an article appearing in the "Business Daily", Nation newspaper of 5th October, 2009.

Informal sector workers, who are generally 'invisible', scattered and difficult to contact and often have low levels of education, have been difficult to harness in the trade unions movement. The

nature of employment in the informal sector coupled with legal and bureaucratic considerations are an impediment to trade unions since trade unions rely on members from relatively fixed work premises whose traceability is easy. This is largely attributed to the “shop floor” recruitment strategy employed by most trade unions to recruit members through mobilizing industrial workers from various sectors to join their sector specific unions. Further, on exit, former employees are encouraged to assist the unions recruit new members from their networks. This strategy, has however not been effective in mobilizing informal workers whose workplaces are either unknown, inaccessible or denied. Unions therefore need innovative strategies to reach such workers who form the majority of workers in need of protection. COTU has attempted to harness informal workers through the various sectoral groups albeit with difficulty.

2.2.1 A Brief History of Workers Organization in Kenya

Kenyan workers began struggling for their economic and political rights as soon as foreign capital came to Kenya mainly through the construction of the Kenya-Uganda railway in a bid to open up the East African region. The genesis of labour law and practice in Kenya can thus be traced to the 19th Century when need arose for the colonial government to pass legislation to ensure adequate supply of cheap labour to service the emerging enterprises in agriculture, industry and in the service sector. Terms and conditions of employment for workers were therefore regulated by statutes and the English Common Law (www.cotu-kenya.org).

The colonial rule established a settler economy which went hand in hand with land alienation and a change in the mode of production. Wage labour was introduced and the natives were compelled to either endure as forced labour or as squatters. Population increase had by the 1930's put a strain on the land leading to land scarcity, landlessness or ownership of low potential small plots. Young men and women were forced to leave home in search for employment and join the labour force in order to earn a living in the emerging agricultural industries.

The mainstay of the colonial government's economy was dependent on exporting agriculture based raw materials for industrial processing in Europe and labour migration in search of better employment terms and conditions was gradually threatening this economic survival. Since profit

maximization through labour exploitation is the essence of capitalism, many industrial workers worked under circumstances which revealed exploitation existing in capitalist political economies (Singh, 1969).

As the working conditions became deplorable and workers fled from their employers in search of better prospects, many farms lay abandoned leading to losses by the then colonial landowners. To check this labour migration from farm to farm, the colonial government resolved to introduce the “*kipande*”³ system whose purpose was to bond labour so that one would not get employment elsewhere if not cleared or signed out by their former employers. Since taxes had to be paid and job search was limited, many African workers had to endure adverse employment situations.

The first mass campaigns against colonialism were organized by peasants and were tribal based e.g. the Nandi Resistance among the Kalenjin community in the Rift Valley, Mau Mau fighters among the Kikuyu Community in Central Kenya as well as Kinjekitile and the Majimaji Rebellion in Tanzania. Porritt (2005) postulates that human beings are more productive when organized in groups than as individuals. When united by a common interest, for instance, exploited workers are capable of spearheading the struggle against the interest of their employers who are the “owning class” (owners of the factories, machines, and tools used to produce wealth) in this struggle.

These struggles held on for a while until the natives were overpowered by the colonialists who used modern war machinery i.e. guns and other coercive means. Prominent leaders thus began to emerge among the African protagonists and lessons learnt from these struggles prepared them for better organization.

Political activity among the Africans thus began to emerge and by 1944 when direct political participation was accepted by the colonial government, the then Kenya African National Union (KANU) political party had been established and Jomo Kenyatta became its president. The expanding political landscape precipitated insurgency against British colonial rule in general and

³A system of compulsory registration and carrying of identification cards for all Africans above 18 years introduced by British colonialists that came into force between 1904 and 1907 to restrict movement of African workers.

its land policies in particular and from 1952 to 1956 the “Mau Mau” rebellion against the British colonial rule founded by members of the Kikuyu in central Kenya highlands led to the declaration of the State of Emergency.

The working class in Kenya began to set up their own organizations, trade unions and it is noteworthy to state that the colonial administration tried to prevent the formation of non-racial trade unions. Therefore, these organizations were divided not only according to the trade but also according to the races. Early trade unions included the Indian Trade Union based in Nairobi and Mombasa formed in 1914, Workers Federation of British East Africa for European workers formed in 1919 and the Indian Employees Association formed in 1919 (Shiraz, 2009).

The Trade Union movement in Kenya is (thus) a child of economic, political and social strife according to Lubembe⁴ (1968). Singh⁵ (1969) also adds that the fight for Kenya’s independence and for workers rights began in earnest with modern methods of workers rebellion through organized strikes and demonstrations.

The first African workers movements however had to take the form of Associations as noted by Shiraz (2009). This was also the category of workers who engaged in manual labour and were poorly paid in comparison with their Indian and European counterparts who held middle level managerial and clerical jobs. These Associations lacked strike powers and confined these workers’ to bargaining on limited issues such as wages. Pre-independence African Associations included, the Kenya African Civil Servants Association, Railway Staff Association among others. Makhan Singh seen in Figure 4 below was the founder of East African Trades Union Movement and openly associated himself with Africans despite the existence of colour bar and racial discrimination

The first organized General Strike of African workers in East African territories for political and economic demands took place in March 1922 led by Indian Dock workers at the Kenyan Coast. This had been preceded by a series of collective action by industrial workers in parts of East

⁴ Former COTU Secretary General

⁵ Makhan Singh was the founder of East African Trades Union Movement and spent 17 years in prison for Indian and Kenyan independence

Africa albeit informally. In an attempt to stamp out exploitation, the first Trade Union Ordinance came into force on 24th September 1937 upon which three unions were registered. It stipulated conditions under which Africans could organize themselves into trade unions.



(Photo courtesy of *Hindustan Times*. Chandigarh. 9th January, 2007)

Figure 4: Gopal Singh Chandan (garlanded) and Makhan Singh (with glasses) on his right (Nairobi. January 1950). Makhan Singh was the founder of East African Trades Union Movement.

In 1952 a national Trade Union called the Kenya Federation of Registered Trade Unions (KFRTU) comprising of several registered unions was formed. KFRTU was affiliated to and received advisory services from the International Confederation of Free Trade Unions (ICFTU). When the Kenya Federation of Registered Trade Unions (KFRTU) was founded in 1952, it enlisted a number of trade unions as its affiliates among which were the Transport and Allied Workers Union, Domestic and Hotel Workers Union some of which were led by budding political leaders. During the State of Emergency in 1952, political and Trade Union leaders were arrested and detained among them Bildad Kaggia, Fred Kubai and the late President Jomo Kenyatta.

KFRTU whose Secretary General was the late Tom Mboya later gave way to the formation of Kenya Federation of Labour (KFL). COTU (K), registered under the Trade Unions' Act Cap 233 of the laws of Kenya was finally founded in 1965 upon dissolution of the KFL and the African Workers' Congress (a splinter group). This occurred when rivalry for leadership threatened to ruin the labour movement as splinter groups, which unsuccessfully tried to form the Kenya Trade Union Congress (KTUC).

In the run-up to independence a landmark was established with the signing of the Industrial Relations Charter by the Government of Kenya in October 1962, by the Federation of Kenya Employers (FKE) and the Kenya Federation of Labour (KFL), the forerunner of COTU (Kenya). The Charter acknowledged the need for corporation between the Government, employers and workers in conflict situations regarding terms and conditions of employment, and thus tripartism was born.

Industrial confrontation arose not merely from traditional trade union activities, but also from the movement's political role in the struggle for freedom from colonial domination, particularly after individual political leaders had been arrested and placed in detention (Lubembe, 1968). These trade unions therefore acted as the only public forums through which the workers could voice their grievances and also fill the vacuum left by the proscribed political parties and restrictions of movement.

2.2.2 Formal Labour Dispute Resolution Mechanisms

The industrial relations officer for COTU handles workers grievances of both the members of affiliates and non-members. Most disputes emanate from unfair termination of employment. The disputes are handled on behalf of affiliates disputes with employers as regards the collective bargaining agreement and its negotiation and implementation. The Industrial Relations Officer assists affiliates in the preparation of their submission to the Industrial court and liaising with the other social partners namely the Federation of Kenya Employers (FKE) and the Ministry of Labour and Human Resource Development on issues related to trade disputes.

Tripartism was introduced in Kenya with the Industrial Relations Charter to initiate discussions or negotiations, or to break a deadlock in discussions or negotiations when industrial confrontation occurs. These confrontations are often characterized by strikes, go-slows, sit-ins, lock-outs, street protests and even mass sacking.

In such industrial relations, a definite procedure, often guided by legislation, exists outlining the mode of reporting disputes and the period for submitting such matters to a mediator, arbitrator or conciliator in the matter. This often consists of the management representatives and workers representatives in the form of shop stewards. Where disciplinary matters against non-managerial workers are not successfully settled by a conciliation board, the next machinery is the Minister responsible for Labour matters.

The Minister takes the stand of a mediator rather than an arbiter at least in cases of trade disputes. A definite procedure outlining the form and period for submitting an appeal to the Minister also exists. This should be done within ninety days of the complaint following which a conciliator shall be appointed by the Minister within twenty one days.

In the event that the conciliator is unable to resolve the dispute, then the matter is referred to the Industrial Court and following judgement the parties are asked to comply. However, the legal system is cumbersome, costly and time consuming. While awaiting judgement anxiety among the complainants who are mostly workers may interfere with the worker's prospect of finding alternative employment or may delude them to await compensation in vain.

2.2.3 Informal Workers Organization in Nairobi

In the world today, there are growing numbers of informal workers' organizations including unions, cooperatives, and other types of associations (Chen et. al., 2002) most of which are business or welfare based (McCormick et. al., 2003). In his 1991 Report, the Director General of the ILO pointed out that, "it is only through forming and joining of organizations of their own choice that those employed in the informal sector will be able to generate sufficient pressure to

bring about the necessary changes in policies, attitudes and procedures that hamper the development of the sector and the improvement of the working conditions in it" (ILO, 1991).

Currently, there are close to 1000 *jua kali* associations in Kenya an indication of widespread demand for recognition and greater security of tenure by informal sector workers. Associational activities among Nairobi's metal workers for example have a long history although the colonial government stopped artisans' organizations during the 1950's State of Emergency period. These groupings remained informal until former president Moi's early 1986 call for the artisans to form a *jua kali* association through which funds would be channelled to benefit the artisans. The government, NGOs and development partners initiated programmes on skills development, financial support and the promotion of entrepreneurial culture among *jua kali* operators (Kinyanjui, 2006). This ultimately contributed to lobbying for and acquisition of *jua kali* sites countrywide.

However, Macharia, (2007) argues that the perceived benefits for organizing in the informal associations have not always been grassroots driven. Macharia further argues that these associations have been suffering from poor leadership as well as political interference. In Kenya, associational life of the 1980s and 1990's was almost without exception 'top-bottom' instead of 'bottom-up'. This was perpetuated by the culture of client-patron in the *de facto* single party regime.

King (1996) in his study of *jua kali* in Kenya, notes that "rooted in the Kenyan political system is the way in which national bodies representing e.g. trade unions or women's organizations have become too closely associated with the state or ruling party and have compromised their obligations to be autonomous". Participation or facilitation in the development agenda was thus dependent on membership and loyalty to the then ruling political party Kenya African National Union (KANU) whose leader was the president and patron of all *Maendeleo Ya Wanawake*⁶ and youth groups.

⁶ Local Self-Help Women's groups engaged in various development agendas.

Many *jua kali* workers associations also took the same form as the trade union politics and organizational aspects that perceived political processes as a result of personalistic politics (clientism). King in his study of *jua kali* in Kenya, noted that 'rooted in the Kenyan political system is the way in which national bodies representing e.g. trade unions or women's organizations have become too closely associated with the state or ruling party and have compromised their obligations to be autonomous. This illustrates organizations from the top as opposed to those emanating from the bottom and may not be representative of all, especially of the most vulnerable workers in the informal economy.

Managerial wrangles among members of MSE associations began to emerge and gradually contributed to fragmentation of these associations leading to limited involvement of members. Consequently, many of these associations have remained weak and are not recognized as legitimate workers' organizations by formal trade unions in their respective countries or by the international trade union movements (Chen et. al., 2002) that represent workers.

To cope with this fragmentation, different forms of workers associations began to emerge. Kinyanjui and Macharia (1991) observed that, there is increasing evidence on the formation of sub-committees based on areas of origin, gender and sector activities. These emerging institutions, it is further argued, are stronger than local *jua kali* associations and perform the task of providing health insurance, paying funeral bills or contributing to a savings schemes, an indication that however small, these associations are capable of organizing on issues beyond business albeit informally.

Indeed, a study done on Nairobi's construction industry by Mitullah and Wachira (2003), established that, issues relating to working conditions of informal construction workers require the concerted action of the workers that was best achieved through membership in some form of association or trade union. Previous studies conducted on organizing by informal workers indicate that there are incidences where informal workers, having grown from strength to strength, have successfully organized themselves into formidable labour unions, some of which have attained both national and international recognition (Willems, 2006).

Initiatives by the Women's Wing of Textile Labour Association established in 1954 bore fruit in 1972 when Self-Employed Women's Association (SEWA) was formed as a trade union for poor self-employed women. The positive outcome of this association gained popularity when other groups of informal women workers also approached SEWA for protection thus transforming it into the largest trade union in India.

In Africa, SEWA went on to inspire global networks acting as a model for the launch of South African organization of Self-Employed Women's Union in Durban in 1994. A success story of informal workers organization in Kenya can be seen through efforts made by the Kenyan Union of Domestic, Hotel, Educational Institutions, Hospitals, and Allied Workers (KUDHEIHA) an affiliate member of COTU that has made organizing domestic workers (house girls and house boys) a strategic priority. In March 2009, KUDHEIHA-supported domestic worker committees in Nairobi and Kisumu organized awareness campaigns, conducted trainings, and convened public discussion forums on such worker rights. To date, more than 3,000 domestic workers have joined KUDHEIHA through these committees.

ILO (2002) perceives that without effective freedom of association, informal sector workers cannot exercise countervailing power to make their work recognized, protected, formal and decent. These initiatives often emanate from the workers themselves and illustrate an opportunity for informal sector workers to increase efforts at uniting for a worthy cause. Indeed, these informal workers' associations could emerge as pressure groups similar to local chambers of commerce to put pressure on local governments and town councils for equitable treatment, allocation of space and for representation as postulated by King (1996).

2.3 Workers' Voices

Trade Unions have over time been recognized as workers voices, however they are gradually declining and other forms of voice on social issues are emerging in the form of representation enhanced through participation of various other groupings deemed to be informal. These have been enabled through rigorous lobbying by various NGOs and CBOs advocating for the

recognition of the boy/girl child, human rights, women/youth empowerment, indigenous groups etc (Gallin, 2000).

Similarly, in labour matters, human beings have taken organization to a different level of function and complexity, developing political, legal and financial systems, work patterns that permit specialization and division of labour, and cultural institutions for both the quantity and quality of what can be produced (Porritt 2005). This is referred to as social capital.

UNDP (2000) argues that the crisis of Human Development has occurred because governance structures have failed to be participatory, transparent and accountable in the management of Kenya's human resources. However, while participation in associations is seen as a necessary condition for negotiation that takes different interests into account, participation of most informal sector workers in labour matters is inhibited due to their activities that are deemed to be on the fringes of the law (ILO, 2002b) and often confused for criminal activities by the authorities.

Informal sector workers therefore receive little or no legal or social protection and are unable to enforce contracts or have security of property rights and other fundamental rights at work. These workers are rarely able to organize for effective representation and have little or no voice to make their work recognized and protected.

With a focus on women, Stevens et al. (2006) argue that since the urban informal sector (UIS) is unregulated and unorganized, women employed in this sector receive no legislative protection. This however applies to most workers in the UIS, most of whom are poor. They further argue that, there is need to develop the capacity of the urban poor so that they are able to articulate their rights and demands; raise their voices and build organizations of their own. However, despite the existence of associations representing workers on various platforms, fragmentation or the existence of different organizations has been identified as an impediment to the effective organization of the informal sector as a whole (McCormick et. al., 2003). This to a large extent inhibits the ability of workers to articulate labour issues affecting them and especially the ability to speak in one voice.

Therefore, if well organized, informal workers associations, especially those emanating from interactions in clusters, can be beneficial to the general well-being of workers and firms operating within the cluster. If the constant managerial wrangles by the KNFJKWA officials are abated, the informal workers umbrella association can trigger the latent informal workers associations and emerge as the formidable voice for the informal workers.

2.4 THEORY AND CONCEPTUAL FRAMEWORK

The following theories and concepts illuminate the relationship between informal sector workers' voice, participation and related organizations:

2.4.1 Theory of Association

People join together in voluntary organizations to do things that they would find difficult or impossible to do alone (McCormick, et. al., 2003). These associations are often precipitated by common perceived needs. A study on associations among Kenyan MSEs (McCormick et. al., 2003) observed that, associations are often grouped according to their main purpose, for instance; business, associations, labour unions, civic associations, welfare organizations among others. These associations not only provide grounds for interaction, but also create alliances and forums for addressing issues that cannot be handled by individual entrepreneurs (McCormick, 1999; Mitullah, 1998).

Joining an association for an informal sector worker has several benefits. These benefits can either be tangible e.g. collective action or intangible such as influence. As cited earlier in this study, collective rather than individual bargaining is beneficial to the worker and this is often premised on the principle of finding strength in numbers. By using collective action, associations can mobilize resources either on their own or with the assistance of cooperating partners. Collective action whose bargaining results are often felt by majority of the members e.g. electricity and water connections, can be beneficial to people working in a cluster whether in form of improved lighting or access to clean toilet facilities which can be costly for an individual as opposed to a group.

In turn, members of an association can lobby for or influence favourable policies or administrative practice and with their strength in numbers they may succeed at asserting themselves. Intangible benefits can thus be realized especially where leadership of the association is in a position to influence the outcome of such decision. Such a strategy can enhance and increase voice among the informal sector workers as has been witnessed by SEWA in India.

In Kenya, however, fragmentation or the existence of different organizations has been identified as an impediment to the effective organization of the informal sector as a whole (McCormick et. al., 2003). For instance, some associations are registered under more than one Ministry e.g. under the Ministry of Cooperative Development, Ministry of Culture and Social Services, Ministry of Trade among others depending on services offered. This can also be attributed to the outcome of political processes that lead to merging or splitting of Ministries thereby making it a challenge for lobbying.

Many informal workers associations are formed on the basis of trust. Trust involves shared expectations, that an obligation will be honoured, in the outcome of a transaction. This trust however, increases vulnerability, because there is no absolute guarantee that the normal sequence of trust and honour will unfold (Möllering, 2005). Most informal sector transactions are characterized by verbal agreements based on trust whose enforcement may be impossible as there may be no records or witnesses. There is therefore need for contract enforcement which is an institutionally based trust which emphasizes a process whereby actors socially construct and maintain the game. If actors regularly enact the trust-honour sequence, then they may just play the game in the normal way and minimize conflict.

2.4.2 Institution Building Model

According to North (1990) institutions are generally viewed as rules or constraints that societies construct to control or enhance human interaction. These institutions can be categorized into four: economic institutions, political institutions, legal institutions and social institutions (Roy and Sideras, 2006).

Douglas North postulates that people require rules of engagement as “the rules of the game of a society; or more formally as the human devised constraints that structure human interaction”. Therefore, when dealing with the informal sector, it is important to assess the existing legal and institutional framework that supports this sector. The term “informal” however does not mean that there are no rules or norms regulating the activities of workers and enterprises in the informal sector. According to ILO (2000b), people engaged in informal activities have their own “political economy”. These comprise of their own informal or group rules, arrangements, institutions and structures for mutual help and trust. Such structures have the responsibility of providing loans, organizing trainings, transfer technology and skills, trading, market access, enforcing obligations among others.

ILO further portends that since informal enterprises are deemed to operate outside the legal and regulatory framework, informal workers do not also enjoy the protection of the law. For instance, labour legislations, and in particular minimum wage regulations, does not apply to categories other than wage-workers in the formal economy. To cope with these uncertainties, informal workers form their own rules of engagement at their workplace.

The usefulness of rules depends on their enforceability and voluntary compliance is a consequence of credible threat of enforcement. However, to enforce informal sanctions is difficult while recourse to the legal system is cumbersome, costly and time consuming. It is therefore necessary to put in place mechanisms for monitoring and enforcement of rules.

Since most informal organizations are established on trust, they develop their own *modus operandi* that maintains equilibrium in the relationships, even in the absence of written rules. These internal mechanisms when adopted and fostered over time are deemed to be the norms determining relationships among members and their external environment. McCormick (1999) postulates that, the fact that firms are geographically clustered encourages associations which usually focus on efforts to improve working conditions within the cluster or gain access to needed supplies e.g. infrastructural and services necessary for industrial production.

OECD (2004) holds a similar perspective that “these inter-firm exchanges are sometimes overlaid by common membership of artisanal, business and labour associations, as well as various community-based institutions”. Kinyanjui (2006b) also argues that, “the actors in the clusters form institutions that share the same consciousness, visions and goals”. This kind of organization is essential in mobilizing all available resources for the benefit of all and might influence the policy environment to accommodate the common practice adopted by these entities as they have been in practice and acceptable by the members. For instance mechanisms employed by an individual firm to resolve labour related disputes amongst its employees especially in a cluster, can influence surrounding firms to adopt the same practice and this is how relations can be institutionalized as they take a definite form.

Institution building (IB) is therefore a perspective on planned and guided social change. It is concerned with innovations that imply qualitative changes in norms, in behaviour patterns, in individual and group relationships, and in new perceptions of goals as well as means (Eaton, 1972). Institutions are therefore choices and by-product of other social interactions.

2.4.3 Sustainable Human Development UNDP, Kenya HDRs

Alila and Omosa, (1999) define sustainable human development as not only development that guarantees economic growth but distributes its benefits equitably; regenerates the environment rather than destroying it; empowers people rather than marginalizing them; and development that gives priority to the poor by enlarging their choices and opportunities while providing for their participation in decisions that affect their lives.

Human Development therefore, is about creating an environment in which people can develop their full potential and lead productive, creative lives in accordance with their needs and interests. This can be accomplished by expanding choices so that people lead lives that they value. Expanding human capabilities and access to opportunities in the social, economic and political arena, broadens people’s choices and raises their standard of living thereby improving the quality of life especially for the poor (UNDP, 2003).

UNDP (2003) argues that institutions have not effectively improved human welfare or responded to service demands as required. Due to the shrinking formal sector, improvements in employee-employer relations are no longer provided by most firms as was the common practice. Considering the vulnerability of informal sector workers, in the absence of reliable social safety nets these workers are predisposed to risks that may contribute to losing their livelihoods and becoming vulnerable to poverty.

Informal workers capabilities can therefore be enhanced through strengthening institutions that provide education and encourage their participation, e.g. associations in determining their labour relations. According to Mikkelsen (2005), participation is the voluntary involvement of people in self determined change, that is, involvement of people's development of themselves, their lives and their environment According to Eaton (1972), these democratic interactions among members of an association and with their external environment can determine its sustainability.

Full and active participation by group members in matters affecting them can spill over and influence the external environment thereby positively affecting the outcome of these relationships. And, if members of informal associations build upon the strengths and accessibility of these extra-legal institutions, norms and procedures regulating activities and workers in the informal sector, they can be more "democratic" than those in the formal economy.

Participation in decision making by empowering these vulnerable informal sector workers and enlarging their choices especially in terms of representation and voice, such that they are able to articulate labour issues through their associations can lead to sustainable disputes resolution mechanisms. This in turn can influence the internal structures and leadership of these associations thereby according them official recognition as informal workers' voice.

Recognition of these associations as a platform for articulating various labour issues affecting informal workers can facilitate their transformation into institutions representing informal workers voices. This presents an opportunity to improve labour situation in the informal sector and give rise to benefits such as better terms of service; improvements in the work environment, reductions in employment uncertainties and occupational hazards.

The goal of human development is to create an enabling environment in which people's capabilities can be enhanced and their range of choices expanded not only in terms of income, but also in areas such as representation. It is therefore imperative that people and social groups, who are the beneficiaries of development efforts, take centre stage in formulating, implementing, monitoring and evaluating plans (UNDP, 2005).

The theoretical and conceptual frameworks used in this study find convergence in the possibility of creating an avenue for sustainable disputes resolution for informal workers. The influence inherent in collective action by these informal workers coupled with leadership skills and internal democratic structures that enhance participation in decision making within their Associations may in turn influence mechanisms for monitoring and enforcing rules.

When structures have been established, informal workers can therefore lobby for or influence favourable policies or administrative practice using their own informal associations as vehicles for agitating for their labour rights will ensure that their livelihoods are secure and their operations recognized and respected. Figure 5 below illustrates the convergence of the three theories where members' participation and leadership in the organization contribute to sustainable dispute resolution in the informal sector thereby giving the workers a voice.

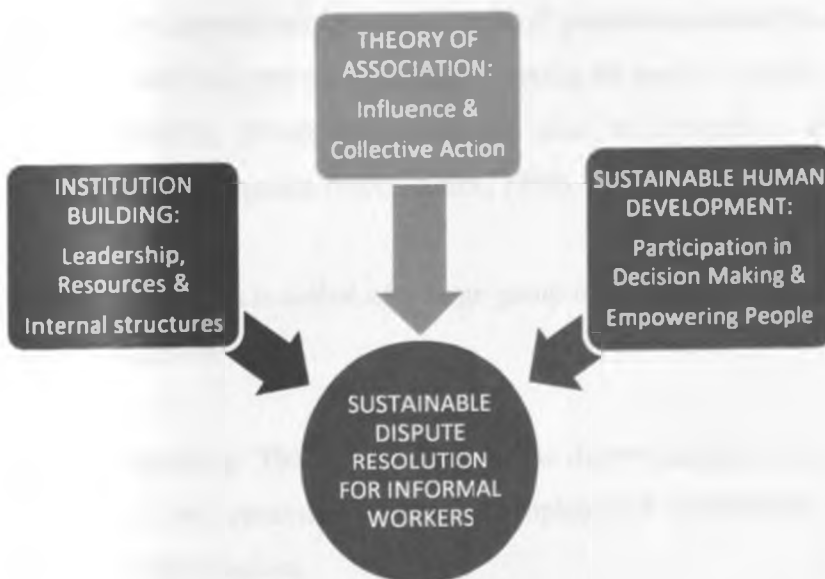


Figure 5: An illustration of theory convergence

2.5 Hypotheses of the Study

The following hypotheses guided this study:

1. The first hypothesis argues that channels and mechanisms used by informal sector workers to resolve emergent disputes vary with their labour characteristics. Age, gender and education and workers' employment category define how informal workers perceive dispute situations and determine how the disputes are resolved. The more disadvantaged the worker, the lower the awareness on channel to pursue to seek redress.
2. The second hypothesis argues that the effectiveness of the mechanisms used to resolve disputes is dependent on the active participation of workers in their own associations. Inherent in this second hypothesis is the fact that if well organized, informal workers' associations can act as reliable vehicles of advocacy for worker's labour rights. This can be achieved through systematic and constant involvement of members in associational activities based on their own terms, thereby giving them a voice.

2.6 Definition of Key Concepts

Association: An association refers to a group of people organized for a common purpose.

Cluster: A cluster is a group of producers making the same or similar things in close proximity to each other (OECD, 2004); a cluster can also be defined as a geographical and sectoral agglomeration of enterprises (McCormick, 1998).

Collective action: This is action of a large group of people who are responding in a similar way to an event or situation.

Collective bargaining: This is a process for the determination of an agreed set of rules to govern the substantive and procedural terms of employment relationship as well as the relationship between parties themselves.

Informal economy: The term will be used in this paper to encompass “all economic activities by workers and economic units that are, in law and in practice, not covered or insufficiently covered by formal arrangements e.g. wages, allowances, etc” (ILO, 2006).

Jua Kali: This is a Swahili word that literally means ‘hot sun’. The term is commonly used to refer to micro and small enterprises that not only lack a roof to shelter them from the tropical sun but also to any activity regarded as informal or casual (Kinyanjui, 1999).

Participation: There is no single universal operational definition of the term participation that is acceptable to all. The working definition of participation for this enquiry is “the organized efforts to increase control over resources and regulative institutions in given social institutions, on the part of groups and movements of those hitherto excluded from such control”⁷ (Cruz, 2009).

Representation security: This refers to the protection of collective voice in the labour market through independent trade unions and employers’ organizations and social dialogue institutions (ILO, 2002).

Social dialogue: This refers to the right of workers to engage in discussions with employers and authorities over matters bearing on work.

Tripartism: Refers to all types of negotiations, consultations or simply the exchange of information, usually between the representatives of government, employers and workers trio, on issues of common interest relating to economic and social policy.

Voice: Representation and participation of members in all aspects of decision-making in an institution (IMF/World Bank, 2007).

⁷ Pearse and Stifel, 1979 as cited by (Cruz, 2009)

3.0 RESEARCH DESIGN AND METHODOLOGY

3.1 Site Description

The field work for this study was carried out in Kamukunji *jua kali* cluster. The Kamukunji *Jua Kali* cluster is located on approximately 10 hectares of land approximately 2 kilometres from Nairobi's Central Business District (CBD) to the East of Nairobi Province. The area lies along Sakwa and Landhies Roads opposite the Muthurwa Hawkers Market and Muthurwa estate. It is adjacent to the Machakos Bus Station and Jogoo Road. Administratively, Kamukunji *Jua Kali* cluster lies within Kamukunji Location of Pumwani Division, Kamukunji District in Nairobi Province.



Figure 6: Part of the cluster located along Landhies Road. The expansion of the cluster has forced the traders to encroach on the roadside leading to frequent harassment by council workers as well as exposing them to exhaust fumes and the danger of being run over by motor vehicles.

The Kamukunji cluster has over 1,000 businesses with a population of about 4,500 wage and non-wage workers⁸. The predominant occupation is metal fabrication with a majority of the enterprises engaging in the production of various metal products such as agricultural implements which include wheelbarrows, rakes, feeding troughs, water troughs and *jembes*⁹; industrial goods

⁸ As cited by the Chairman of the Kamukunji *jua kali* Association

⁹ Hand held hoe

comprising of heavy duty *jikos*¹⁰, electrical appliances like food warmers, chips cutters and potato peelers; construction appliances such as trowels, door latches, hinges and household mostly kitchen equipment including cooking pots, frying pans and metal boxes.

The Kamukunji *jua kali* cluster's location is strategic, that is, its proximity to the CBD where formal activities freely coexist with those deemed to be informal thus providing an alternative source of industrial goods at competitive prices with those stocked by enterprises in the formal economy. Proximity to the main bus termini plying upcountry and intracity routes namely Machakos Bus Park and Muthurwa respectively provides a lucrative ground for customers going in all directions from the city and beyond to access their products.



Figure 7: A variety of finished *jua kali* products on display. The items are hanged inside and outside the sheds to save on space.

Most of the enterprises at the Kamukunji *jua kali* cluster have been around since the 1980's with some workers having been engaged there to date. The enterprises are clustered under 3 main shades divided into 37 units. Originally, construction of these shades was instigated by the former President Moi's visit to the site on his way from the nearby City Stadium. As this was taking place, certain changes were being undertaken by the Government which included the publication of the Sessional Paper No.1 of 1986 on *Economic Development and Renewed Growth* and the review of the school curriculum (to the 8-4-4 system) to incorporate vocational, scientific and technological development. This was the first step of recognition of the informal sector as an economic entity in the country.

¹⁰ Stove that uses charcoal or wood

Each unit originally accommodated 9-10 entrepreneurs but the population has since grown to approximately 30 entrepreneurs per unit. Three additional shades have since been added and are divided into 39, 40 and 41 units respectively. This addition was facilitated by the Kamukunji Constituency Development Funds (CDF) in collaboration with the Kamukunji *Jua Kali* Workers' Association, NGOs and annual development funds¹¹ set aside by the Central Government for the development of *jua kali* sites countrywide. Figure 8 below illustrates the *jua kali* sheds



Figure 8: More *Jua kali* products on display and in the caged sheds which offer very little security and have not been able to accommodate the workers as most sit outside.

This expansion has attracted more entrepreneurs from other parts of the country and led to congestion of the shades beyond their intended capacity. This expansion has also encouraged subletting by several owners to some workers. As indicated by one respondent, the cluster also acts as a steppingstone for individuals opting for a career in the metal fabrication subsector. Many apprentices undergo training before venturing on their own to other *jua kali* areas. The increased population stemming from entrepreneurs from across the country has stimulated formation of

¹¹ Currently, in the national budget, the Minister for Finance allocates a minimum of Kshs. 1 million for the development of *jua kali* sites in all Constituencies annually.

social networks many of which are ethnic based. In turn, to increase unity and better coordination, a representative body was formed to assist in organizing business matters of mutual benefit to all engaging within the cluster.



Figure 9: *Karai's* and shallow pans made from used oil drums whose paint is removed manually by gradually rubbing coarse sand and a rag.

3.2 Methodology

This study was based on both primary and secondary data and the method of data collection commenced with a scoping exercise that resulted in qualitative in-depth interviews with ten case studies of workers and five key informants. The interviews were conducted using checklist and observations (see Appendix II-VII). A case study is an effective method of study in depth (Kothari, 2004). The face to face interviews with the case studies sought to assess the processes that take place and their interrelationship. The case studies and key informants guided in the identification of emergent labour disputes in the *jua kali* sector, the process of resolving them and the sustainability of such processes.

In-depth interviews with 5 purposively selected key informants based on their technical, administrative, social and legal expertise on informal workers was also undertaken. Key informants consisted of officials representing the Ministry of Labour, Provincial Administration, COTU, Kenya National Federation of *Jua Kali* Workers Association, and FKE. These checklists acted as a guide to systematically extract information from the interviewees. A single comprehensive checklist (see Appendix II) was used for the ten (10) case studies while checklists (see appendix III-VII) for key informants were designed to capture unique information from each interviewee.

Checklists were deemed to be useful for the case studies in order to facilitate a discursive environment unlike the survey questionnaire used during the scoping exercise. Some of the advantages of using this approach were the flexibility of the process where the researcher was able to “control” the line of questioning and could easily clarify questions to the respondents (Creswell, 1994). Non-verbal behaviour and the general outlook of the workplace could also be observed to aid in assessing reliability and validity of answers from the respondents.

The choice for this area was purposive because first, a lot has been written regarding this cluster. Secondly, the area is home to various MSMEs where formal and informal activities complement each other. Thirdly, since the ILO study of the informal sector in 1972 and Kenneth King’s study of the *jua kali* sector in Kenya, enterprises in the informal sector have continued to thrive. According to King’s (1996) observation, none seemed to have graduated to completely modernized industrial areas. The existence of MSMEs within this cluster within the period of King’s two studies was an indicator of resilience or stability of these MSME including the individual enterprises within the cluster.

3.3 Data Collection

This initially entailed the interviewing of fifty (50) randomly selected enterprises within Kamukunji *Jua Kali* cluster who finally gave way to indepth interviews with the ten (10) case studies. Key informants were also deemed to be vital in this study to buttress and enrich the information from the final study sample. Purposefully selected Government Ministries and

departments dealing with labour related issues, human resource development that constantly interact with the informal sector workers and deemed appropriate for this study were selected thus:

- a) A *jua kali* association's official was deemed relevant for establishing the associations' recruitment policy and workers response to the role of the association in the emerging labour market.
- b) A Ministry of Labour official: Relevant for establishing the trends in the employment sector and how the Ministry is coping with increasing labour related issues despite policy directions.
- c) Provincial Administration acts as the grassroots law enforcement machinery. Their relevance in this study was to give an insight on the government's response to daily social problems afflicting informal workers and the sustainability of the intervention mechanisms.
- d) A Central Organization of Trade Unions (COTU) official: Relevant for establishing the emergent role of the trade union body vis a vis a rapidly informalizing labour force.
- e) A Federation of Kenya Employers official: Relevant for establishing their role in assessing informal sector employers in accordance with international conventions on labour.

In total, fifteen (15) purposefully selected respondents were finally interviewed.

3.3.1 Scoping

The data collection process went through different phases which included a scoping exercise that took place on diverse dates from the 6th-16th February 2009 followed later by in-depth interviews with the selected case studies as well as interviews with the key informants.

Kamukunji *jua kali* cluster has over 1,000 business enterprises with about 4,500 wage and non-wage workers engaging in heterogeneous economic activities. Using the simple random sampling technique, fifty (50) enterprises located within the cluster were selected. When there are very large populations, it is often difficult or impossible to identify every member of the population. Therefore a simple random sample is the purest form of probability sampling where each member

of the population has an equal and known chance of being selected (Mickkelsen, 2005). The selection criteria considered the following:

3.4 Unit of Analysis

In this study, the unit of analysis is the individual worker. Data was gathered from ten workers in the MSMEs within Kamukunji *jua kali* cluster who have different labour characteristics, skills and specializations.

The dependent variable was workers' voice while the independent variables were job histories, knowledge and perceptions of their working conditions, and labour relations within and among firms including relations of employees with their employers. Information on whether workers' social/welfare and any other associations influence the workers' voices was also sought.

3.5 Case Studies Selection

The selection of the case studies was based on stratified random sampling technique on data collected through the scoping exercise. The goal of stratified random sampling is to achieve desired representation from various sub-groups in the population (Mugenda & Mugenda, 2003).

Out of the sample population of fifty enterprises, and considering the type of trade, number of years the enterprise has been in operation, number of employees and years worked including affiliation to any association, twenty-three (23) of sampled MSMEs suited these criteria. The final ten case studies for in-depth study were thus purposively selected from the twenty three having considered the age and gender.

3.6 Lessons Learnt from using this Methodology

The use of scoping methodology was very informative in bringing out an array of issues concerning the Kamukunji cluster which included change and development that was slowly transforming the cluster that was useful in further shaping the study.



Figure 10: Kamukunji *Jua Kali* Association office (upstairs) and ablution (downstairs) block. The block also has a boardroom/hall where various associations affiliated to the KJKWA meet.

During my fact finding visits to the cluster in the early 2008, the *jua kali* office was a temporary double storey structure made of iron sheets with no toilet facilities for the workers. The next visit in early 2009 observed several changes. The Ministry of Labour and Human Resource Development during the 2007/2008 financial year funded the construction of a permanent office block for Kamukunji *jua kali* workers. The new building, complete with a boardroom and several offices currently houses the Kamukunji *jua kali* workers' association offices and the ground floor serves as an ablution block.

Figure 10 above shows the Kamukunji *Jua Kali* Association office premises constructed with the assistance from the Ministry of Labour and Human Resource Development. It was officially opened in May 2010 by the Minister for Labour, Honourable John Munyes. The block also has a boardroom/hall where various associations affiliated to the KJKWA meet. Workers at the cluster also use the hall for prayers at lunchtime.

Another visit on the 2nd of February 2009 realized further changes; I noticed that the association office had pinned lists of registered members on the walls for all workers scrutiny. Many workers complained that their names had been omitted yet they were paying members' subscription fees. This also gave an outlook of improved communication in the cluster and could have changed a few statistics on the membership that had not been captured earlier.

It also emerged that the monies collected from membership subscriptions and use of toilet facility went towards supporting the payment of utilities for the cluster i.e. water and electricity bills. This was a phenomenon that emerged after the scoping exercise.

The above indicate the transformation of the work environment at the Kamukunji *jua kali* cluster and report from the scoping exercise was essential in helping to review the checklists to capture some emerging issues for the purpose of shaping the study.

4.0 LABOUR ISSUES AT THE KAMUKUNJI *JUA KALI* CLUSTER

4.1 Introduction

This chapter addresses the first research objective that sought to identify labour related issues currently being experienced by informal sector workers in Kamukunji *jua kali* cluster. It gives a summary of the demographic characteristics of the case studies focusing on the labour characteristics that contribute to deficits of decent work tenets.

Nairobi sprung as a railway depot in colonial Kenya and later became the administrative and economic base for the imperial government. The 688 square kilometres area consisted of segregated residential zones and service provision was based on racial basis. The European settlement areas were located in the North, North West and West, while the Eastern part consisted of the African Reserves where all Africans were squashed with minimal services.

The Kamukunji *jua kali* cluster is located in the Eastern part of Nairobi synonymous with informal settlements, idle youth and crime. Many rural-urban immigrants prefer Eastlands, as the area is popularly known, as their first stop because life is deemed to be cheaper in terms of housing. Having been an African Reserve with minimal formal development, land use was not planned and most land lay fallow. Such areas attracted entrepreneurs to start their small industries, mostly within the precincts of their informal settlements. Such workers mainly consisted of former railway and factory workers who had basic skills in manufacturing. The cluster experienced an influx of immigrant workers in the 1980's and as the population and competition increased, resources began to diminish.

The original sheds had been allocated to some 375 *jua kali* workers who were given Title Deeds as instructed by the former President Moi. However, due to the growth of employment in the sector, some owners opted to either sell and venture into other areas or subdivide their spaces and either sell or rent to *jua kali* workers.

To improve the conditions under which they operate, *jua kali* businesses have banded together and formed their own associations. These associations have acted as collective action entities and many such sights have experienced dramatic transformation. The Kamukunji *jua kali* association has more than 1800 members and its main mandate apart from seeking to improve the work environment and workers welfare, is to identify common problems and propose solutions for them in collaboration with the local government and private institutions.

The Kenya National *Jua Kali* Federation was formed in 1992 (King, 1996). It was formed as a result of the emergence of various *jua kali* associations based on trade, location or street and for the purpose of coordinating *jua kali* activities and funds received from the central government.

4.2 Socio-Economic Background of Workers

Various push and pull factors determine an individual's entry, sustenance and exit from the informal job market. These factors range from, education, skills, age, gender and other social dynamics like family situation, ethnicity and disability. The informal sector has been deemed to be a receptor of all the lowest and most disadvantaged people in society often deemed to be underachievers as opposed to their counterparts in the formal employment.

Prior to conducting the indepth interviews, it was essential to have an overview of the general situation of work and workers at the Kamukunji *jua kali* cluster. A scoping exercise was therefore conducted and after sifting through the data of sampled enterprises, the following revelations of direct relevance to the study on workers and their employment situation in the enterprises emerged:

4.2.1 Age

A total of 39 were male and 11 female respondents were randomly sampled as represented by 76 per cent and 22 per cent respectively as represented in the frequency table below.

At the time of the study, the average age of the respondents was 35.4 years with the oldest respondent aged 58 and youngest aged 17 years. For female respondents, the average age was

36.8 years with the oldest aged 52 and youngest respondent aged 23 years. The average age for male respondents, was 35 years with the oldest male respondent aged 58 and youngest aged 17 years. The youngest male respondent was 17 years, while the youngest female respondent was 23 years. It can thus be deduced that men begin working earlier in life than their female counterparts at the Kamukunji cluster.

4.2.2 Gender

It was established that the respondents were predominantly male at 78 per cent while female respondents were 22 per cent. This is commensurate with previous studies that indicate the dominance of men in the metal subsector as opposed to women who studies show are more engaged in textile and food processing.

Table 1: Categories of Informal Sector Workers by Gender

No.	Nature of Employment	Gender		Frequency	%
		Male	Female		
1	Owner/operators of informal enterprises	13	5	18	36%
2	Self-employed	13	2	15	30%
3	Part-time Family Worker	0	1	1	2%
4	Full-time Family Worker	0	1	1	2%
5	Partnership	1	1	2	4%
6	Contract Worker	6	1	7	14%
7	Part-Time Worker	3	0	3	6%
8	Casual Worker	2	0	2	4%
9	Contract Worker/Apprentice	1	0	1	2%
	Total	39	11	50	100%

Source: Field Data from Scoping, 2009

4.2.3 Education

The study shows that the highest level of education was a college education as reported by 4 per cent of the respondents all of whom were male. 30 per cent of the respondents had completed secondary education at the rate of 80 per cent for males and 20 per cent for females. 12 per cent of the respondents had not completed secondary school with males represented by 83.3 per cent and females by 16.6 per cent. 36 per cent of the respondents had completed primary school with the

males at 72.2 per cent and females at 27.7 per cent. 12 per cent of the respondents had not completed primary education the highest being males at 83.3 per cent and females at 16.6 per cent. From the total number of respondents 6 per cent had not acquired any formal education all of whom were unmarried as represented by 66.6 per cent males and 33.3 per cent females.

4.2.4 Marital Status

From the sample population, 74 per cent of the respondents were married with the males at 86.4 per cent and females at 13.5 per cent. Out of the married population, only 3.1 per cent of the male respondents were in a polygamous relationship while 96.8 per cent of the married male respondents were in a monogamous marriage. No female respondent was in a polygamous relationship. From these statistics 22 per cent of the respondents were not married and unmarried males were represented by 63.6 per cent while 36.4 per cent of the female respondents were unmarried. 4 per cent of the respondents were widowed all of whom were females.



Figure 11: One of the sales shops at the cluster.

4.2.5 Areas of Specialization

For most of the Kamukunji *jua kali* workers, a combination of activities takes place in each enterprise. To have a representative sample of the various trade activities and establish diversity of workers' skills within the cluster e.g. light manufacturing and service provision, the type of trade activities were also sampled. From the statistics, 84 per cent were involved in the production and sale of assorted metal fabricated products while 16 per cent engaged in the sales of finished products. Figure 11 above illustrates one of the sales shops at the cluster many

4.2.6 Category of Workers

Non-wage workers constituted 74 per cent of the total sample with 72.9 per cent male and 27 per cent female. Table 2 below summarizes the category of non-wage workers at the Kamukunji *Jua Kali* cluster:

Table 2: Non-wage Workers

No.	Nature of Employment	Gender		Frequency
		Male	Female	
1.	Owner/operators of informal enterprises	13	5	18
2.	Self-employed	13	2	15
3.	Part-time Family Worker	0	1	1
4.	Full-time Family Worker	0	1	1
5.	Partnership	1	1	2
	Total	27	10	37

Source: Field Data from Scoping, 2009

Wage workers constituted 26 per cent of the respondents engaged in some form of employment in the informal enterprises within the cluster with majority being males at 92.3 per cent and females at 7.6 per cent. The table below summarizes the category of wage workers at the Kamukunji *Jua Kali* cluster:

Table 3: Wage Workers

No.	Nature of Employment	Gender		Frequency
		Male	Female	
1.	Contract Worker	6	1	7
2.	Part-Time Worker	3	0	3
3.	Casual Worker	2	0	3
4.	Contract Worker/Apprentice	1	0	1
	Total	12	1	13

Source: Field Data from Scoping, 2009

4.2.7 Employment History

Only 14 per cent of the respondents had worked elsewhere before joining their current places of work. Reasons given for leaving was the pursuit for greener pastures (57.1%), company liquidation (28.5%) and 14.3 per cent gave no reason for leaving their employers. The average years in employment within the cluster for the entire study sample were 7.9 years. The average years in employment for non-wage workers was 9.3 years with the longest having served for 30 years while the shortest period served was 7 months. The average years in employment for wage workers was 4.5 years with the longest having worked for 11 years, while the shortest period served was 1 year. It is worth noting that some of these workers survive by subcontracting their services to anyone in need of extra help. Further probe deduced that such workers have no permanent shed to conduct their activities and sublet space whenever they enter into a contract with a perceived employer who has no obligation to engage them permanently.

4.2.8 Disputes at the Workplace

56 per cent of the total sample experienced disputes at their places of work while 44 per cent responded that they did not. While 42 per cent of the non-wage workers experienced various kinds of disputes at their work place with the male at 71.4 per cent and females at 28.5 per cent, 30 per cent of the no-wage workers did not experience any kind of disputes at their workplace with the male at 80 per cent and females at 20 per cent. Only 14 per cent of wage workers experienced various kinds of disputes at their work place all of whom were male respondents. On the other hand, 14 per cent of wage workers did not experience any kinds of disputes at their work

place with the male at 71.4 per cent and females at 28.5 per cent. The table below shows some of the disputes experienced at the cluster.

Table 4: Types of Disputes Experienced at the Cluster

No.	Kind of Dispute	Frequency
1	Theft by servant	15
2	Inability to meet deadlines	4
3	Pricing malpractices	4
4	Wasting/spoiling of materials	5
5	Loss of owners' property	5
6	Salary increase demand	2
	Total	35

Source: Field Data from Scoping, 2009

4.2.9 Dispute Resolution

Depending on the gravity of the situation, various resolution mechanisms are pursued to restore the status quo. All respondents, especially regarding petty offences, essentially pursued dialogue. This was true as represented by 18.75 per cent of the respondents. In instances where a worker is under suspicion to have stolen from their employer, and where dialogue is not a solution, assistance is sought from the Kamukunji *Jua Kali* Association officials where a mode of compensation is worked out. This was true as represented by 31.25 per cent of the respondents.

Table 5: Dispute Resolution Mechanisms Employed

No.	Dispute Resolution Mechanisms	%
1	Dialogue/bargaining amongst themselves	18.75%
2	Dialogue with <i>jua kali</i> association officials	31.25%
3	Reporting to the police	12.5%
4	Reporting to the chief's office	12.5%
5	Sacking	12.5%
6	Surcharging	6.25%
7	Taking no action	6.5%
8	External assistant from COTU	0
	Total	100

Source: Field Data from Scoping, 2009

The statistics also indicated that 12.5 per cent of the employers reported their cases to the chief. A similar percentage also involved the police especially where the officials could not reconcile the disputing parties in light of glaring misconduct. Some employers resolved to surcharge the responsible employee as represented by 6.25 per cent of the respondents.

While 12.5 per cent of the employers admitted to sacking their employees after several warnings, some employers intimated that dismissal of offending workers comes as a last resort. 6.25 per cent of the respondents however, admitted to taking no action.

4.2.10 Associational Life

To assess whether these informal workers at Kamukunji *jua kali* cluster had some form of collective action vehicle through which they might articulate any issue affecting them, the study sought to establish whether these workers were members in any association/organization. The study shows that all respondents were affiliated to a solidarity group categorized into business and social groupings. These included *jua kali* association at 38 per cent, welfare association at 26 per cent, Rotating Savings and Credit Association (ROSCA) popularly referred to as merry-go-round at 16 per cent, clan association 12 per cent, and youth group at 4 per cent. Also 46 per cent of the respondents belonged to more than one organization/association, 52 per cent of who were female and 48 per cent male.

4.2.11 Years in operation

Number of years the enterprise has been in operation to establish the stability of the enterprise as most MSMEs have a life span of about 3 years. Results from the scoping exercise indicated that on average, the enterprises at the Kamukunji *jua kali* cluster had been in existence for about 10.3 years with the newest being 1 year and the oldest enterprise having existed for nearly thirty (30) years.

4.2.12 Enterprise Size

To determine the size of the enterprise (whether micro, small or medium), the number of employees/workers engaged in the enterprise was sampled. Out of the fifty (50) sampled enterprises, twenty-three (23) had at least two workers; while twenty-seven (27) were owners/operators of their enterprises albeit with assistance from contracted workers depending on the workload.

4.2.13 Informal Workers Duration in Employment

Number of years they have worked in the particular enterprises; to assess the nature of labour transition and turnover as well as assess the level of income security. Scoping results indicated that twenty-five of the sampled enterprises had workers who had been employed for over 2 years.

The deductions above give a synopsis of the dynamic characteristics of the various categories of workers at the cluster. The information was very useful in laying the foundation for selecting case studies for the indepth interviews.

4.3. Age, Gender and Marital Status of Case Studies

A study conducted by McCormick et. al (2003) noted that *jua kali* entrepreneurs ages varied between 18 years and 69 years with the mean age of 35 years for both male and female. From the sample covered the average age of the respondents was 37.2 years with the youngest respondent at 24 years and the oldest being 56 years of age. The average age of female respondents was 40 years while that of males was 36.5 years. The oldest sampled male was 56 years and the oldest female was 52 years. The youngest male respondent was 24 years while the youngest female was 28 years. From the data, the average age of seeking to earn a living was noted as 25 years with female respondents beginning at age 29 and their male counterparts at age 24.

At the cluster, very few women directly engage in the production of these *jua kali* products. The woman shown in Figure 12 below (sitting second left) owns the space but has sublet to the gentleman who also produces the tin lamps for her to sell. They are not however related.



Figure 12: Sheds producing and displaying different products. Note the size of the aisle and the mask worn by only one worker (sitting right).

From the scoping exercise that determined this sample, only 5 out of the 50 randomly sampled respondents were female. These statistics are attributed to the fact that in the informal sector men constitute a clear majority of metalworkers and wood processors while women dominate food processing. Two female respondents were therefore deemed to be representative of the requisite sample for the final study. The ratio of the male to female respondents was 8:2 respectively.

According to the 1999 MSE Sample Baseline Survey of MSEs in Kenya there were 612,848 women in MSEs with over 60 per cent being employed in the microenterprises sub-sector. The survey indicated that in general, women tended to operate smaller enterprises than men. This was also the case at the cluster as most of the sampled enterprises were operated by men and those owned by women tended to be smaller in size. The study did not however delve into analyzing the value of the stock but merely assessed the physical size of the stall and the visible stock.

The baseline survey of 1999 indicated that, in women-owner/managed MSEs, about 86 per cent of the workers were women owner/managers. The scoping exercise revealed that from 50 MSEs, 72.2 per cent were owned or operated by men and 27.7 were operated by women. The women sampled in this study were also the sole owners of the enterprises.

Majority of the respondents were married as represented by 8 out of 10, one of whom was polygamous as represented by one female and 7 male respondents. One of the female respondents was widowed and one male respondent was still single.

4.4 Education, Training and Income

The goal of human development is to create an enabling environment in which people's capabilities can be enhanced and their range of choices expanded not only in terms of income, but also in areas such as health, education, technology, the environment and employment (UNDP, 2003). Education and skills acquired over time transforms human capital by increasing productivity and thereby income.

The Kamukunji *jua kali* cluster has entrepreneurs of varying academic qualifications. Findings from the case studies show that two respondents had attained education up to tertiary level, the two were qualified artisans with one having also attended a business management course and both were male. Four respondents had attained secondary education; three had completed primary school and only one had not completed primary school. Both female respondents had only completed primary school. Eight out of the ten respondents attained their current skills through apprenticeship while the remaining two got their training from formal tertiary institutions and were awarded certificates.

On income, the respondents made Kshs. 18,300 per month with the least making a maximum of Kshs. 10,000 per month and the highest making Kshs. 25,000 per month. The male respondents who had undergone both artisanship and business courses made a maximum of Kshs. 25,000. The two respondents were also owner/operator of their business and had employed several workers. The male respondent earning the least had not completed primary education and had been engaged in the cluster for only 3 years.

While the average income from the female respondents was Kshs. 20,000 per month the average income for male respondents was Kshs. 17,875 per month, which was less than the average income made by all the respondents. Most of the women were virtually engaged in sales and marketing of raw materials and finished *jua kali* products, some of them were mobile food peddlers.

Both female respondents were co-owner/managers of their businesses trading in finished products from the cluster. Apart from managing sales in her shop, the oldest female respondent also owned a shed and had employed workers to prefabricate metal products. Most workshops, however only employed men to fabricate the metals. From observation, it was noted that workshops owned by women tended to be smaller than those owned by the men. This led to the conclusion that self employed respondents tended to earn slightly higher wages than the employed/contracted workers. Also, lack of sufficient education and training has an effect on the capacity to contribute optimally in order to attract higher wages.

4.5 Duration in Business and Record Keeping

The average duration in the cluster was 11.7 years with the longest at 27 years and the least at 3 years. These findings imply that these informal sector enterprises at the Kamukunji *jua kali* cluster have had a longer lifeline compared to other studies indicating that the rate of MSE survival is pegged at around 3 years. King's (1996) study of *jua kali* Kenya in the 1990's concluded that these MSEs were capable of surviving for longer periods as many were deemed to be family businesses and were handed over from generation to generation.

Whereas all the respondents meticulously kept financial records of their business activities, labour contracts within the cluster were purely based on trust as intimated by all the respondents. Whenever work necessitated subcontracting extra labour services, the relationship was still based on trust. This also applied to pooling of financial resources to facilitate discounted bulk buying of materials for their businesses. An individual would be entrusted with money contributed by a group and they were expected to deliver as verbally agreed.

4.6 Wage Determination and Working Hours

Wage determination was dependent on three key factors: per piece work, on commission or based on the prevailing market prices. On average, price variation for finished products was very minimal and the final price was determined on how hard a customer bargains.

Piece work pay also varied. Workers dealing with higher density metal were paid slightly more than those working with metal pieces of a lower density. For instance, those hammering *karais*¹² made from used fuel drums of high density were paid slightly higher than those making tin lamps or small *jikos* that required light duty metal. From observation, it took more time and even more effort for an individual worker to form the depression on the *karai* as opposed to shearing, bending and soldering the light sheet metal to make buckets or tin lamps. Figures 13 and 14 below shows the various *jua kali* products made by informal workers



Figure 13: *Jua Kali* Workers bending metal with bare hands and where most workers are paid per piece produced.

¹² Deep or shallow pan used in the house for frying or by construction workers for carrying plastering materials.



Figure 14: *Jua kali* metal workers risk injuries as inappropriate equipment are used.

Payment on commission was also dependent on the types of goods traded and the average sales per month. This, however was distinguished from brokering which had been prohibited in the cluster. While some household and construction products attracted lower commissions, products for industrial use such as multiple burners and food warmers used in institutional kitchens attracted higher commissions.

The outcome of a job contract determined whether the informal workers wages were deducted or not. Seven respondents admitted to having a certain amount of their wages deducted in compensation for poor utilization of raw materials leading to wastages that raise operation costs. Three respondents did not have any deductions in their earnings one of whom was female. The two male respondents were self-employed hence having no such experience.

The findings further show that although none of the respondents contribute to any retirement benefits scheme, they belong to welfare groups which help them to save for a rainy day. However, due to the limitation of this study, it did not investigate the amount of money contributed by

respondents to their specific groups or seek to find out whether the informal workers were getting extra income from other sources and saving or reinvesting within the cluster.

The Kamukunji *Jua Kali* Association had made efforts to mobilize *jua kali* workers to join the association. Membership subscription fees would contribute to form a Savings and Credit Cooperative (SACCO). These activities intensified in the year 2008 with the support of the Ministry of Cooperative Development. The association is awaiting assistance from the government, donors and other philanthropists to inject capital that will jumpstart the SACCOs operations. Several *jua kali* workers' representatives had attended sensitization seminars¹³ towards this end.

On average, the workers were engaged for about 9.6 hours per day with the earliest arriving at 6am in the morning and the latest departing after 6pm in the evening. The two female respondents worked for only 8 hours per day as opposed to male respondents who work longer hours. Most of the interviewees however intimated that, given a choice, they would continue up to 8pm and that lack of cheap and reliable supply of electricity and poor lighting at the cluster was a big challenge.

Initially, there were numerous illegal connections in the cluster from transformers along the road and the adjacent houses done especially by welders. A crackdown by the Kenya Power and Lighting Company on illegal connections drastically reduced the income of workers whose livelihoods were dependent on electricity. However, subsequent upgrading of electricity supply into the cluster from 1 to 3 phases at a cost of Kshs. 1.5 million by the government had led to some improvement, although other sections still do not have electricity.

4.7 Work Environment and Perceived Health Hazards

Most urban informal sector workplaces are afflicted by environmental hazards as well as poor social infrastructure. Environmental hazards include the locations where these activities take place e.g. on road reserves, vacant plots within the city, along dry riverbeds, drying up wetlands or sewer lines. Since no property rights exist among the workforce engaging in economic activities

¹³ Seminar held at the Meridian Hotel, Nakuru on 16th October, 2008 according to the Chairman

in such areas, these sites are often characterized by congestion and poor sanitation. Due to other urban challenges and priorities, such areas are often neither serviceable nor planned for development of amenities by the local authorities leading to illegal hazardous water and electricity connections. These factors contribute to an array of occupational health and safety issues that may lead to frequent illnesses, chronic ailments, permanent disability or even death.

The Kamukunji *Jua Kali* Workers Association does not pay land rates to the City Council of Nairobi as the government had given *jua kali* workers the grounds to help them earn a living. However, traders pay the usual trade licence fees to the local authority. This has contributed to the poor development and maintenance of facilities such as water, electricity and access roads within the cluster.

Many *jua kali* workers do not pay rent for their respective sheds most of whom are original allottees acquired their plots in the 1980's with some having been handed over from one generation to another. However, some original owners relocated to their rural homes and while some sold their portions, others subdivided and leased them out to various informal workers. Many sheds now have multiple owners and users, some of which give rise to conflict over space.

Despite the *jua kali* association's official census of workers, it was noted that there exists unregistered/unaccounted for workers within the Kamukunji *jua kali* cluster. This came to my knowledge during the scoping exercise from single 23 year old self-employed male respondent who was not a registered member of the Kamukunji *Jua Kali* Association but is a member of a welfare group back in his home village. The respondent had been operating in the cluster for more than two years at a corner in one of the sheds that had been sublet to him. He parted with rent of Kshs. 500 per month for his working space, hardly big enough to accommodate a normal coffee table. He was obligated to pay this sum without delay even though his daily income was less than Kshs. 50 a day. The young entrepreneurs' case might not be unique since the sample was limited, however, one would question the fate of workers like him in cases of forced evictions in light of the magnitude of investment in the business.

All the sampled workers were aware of the occupation health and safety hazards within their work environment but had to continue earning a living despite the dangers they are exposed to. For instance, metal re-fabrication is a tedious venture and the processes produce very loud noise. Some of the sites have over 100 workers shaping metal of various types and sizes at the same time. The respondents all agreed that the noise had affected their hearing as they were now used to very loud sounds. One of the respondents revealed that a former worker, related to him, who had retired to his rural village, had eventually lost his hearing due to the damage the loud bangs caused.

Another respondent had undergone training on 'Occupational Health and Safety' sponsored by an NGO that had been initiated a project to equip all workers with free safety gears. Some of the ear plugs and gloves donated eventually wore off and workers were asked to buy their own new supplies. This project eventually collapsed due to lack of support as the venture became too costly for the workers to sustain. Figure 14 above shows the inappropriate equipment used by informal workers. Note the woollen sock worn on the left hand by the metal cutter (foreground) and the inappropriate shoes worn by the *karai* makers. Efforts to assist these workers get safety equipment have not been sustainable as most safety gear like heavy duty gloves and goggles are expensive.

Facilities were also perceived to be inadequate by all the respondents. Hazards observed included congested work stations that had led to the construction of some work spaces on top of drainages spewing raw sewerage and emitting a strong foul smell. Some welding stations were located under electrical poles despite the looming danger especially in the event of a fire outbreak. One poorly maintained toilet facility in need of a sustainable source of water was used by approximately 5,000 workers and other visitors to the cluster who have to part with Kshs. 3 to use the amenities. Amidst all these, food handlers were peddling their wares to the workers who were sharing unwashed utensils. Such practices are hazardous and might be disastrous in cases of contagious diseases like tuberculosis or cholera.

Most of the workshops are open and while walking around the cluster, only few caged stalls which offer minimal security were observed. These two tiered cages are mostly used for storage

and act as shops. The KJKWA was in the process of laying down rules to improve security. The association's chairman had indicated that criminal elements could often be found loitering in the cluster many of whom posed as brokers and would swindle unsuspecting customers by luring them deep inside the cluster then disappearing with their money. Informal workers who had stayed at the cluster longer were selected as the security heads assisted by younger informal workers to ensure security was maintained and that customers did not shy from venturing deeper into the cluster to buy goods.

4.4 Chapter Conclusions

This chapter addresses the first research objective and focuses on labour characteristics of the Kamukunji *jua kali* workers. An analysis of the findings shows the disparities informal sector workers have with their counterparts in the formal sector in terms of employment contract/status, employment benefits, regulated wages and working hours and work environment.

The findings also indicate that although the disparities between wages, gender and education are relatively small, a higher level of education, training and experience has an effect on income. The employment situation whether self-employed or on contract also has an impact on earnings and financial security.

5.0 CHANNELS AND MECHANISMS FOR SETTLEMENT OF LABOUR ISSUES

This chapter addresses the second research objective that sought to identify the channels and mechanisms used for settlement of emergent labour issues. As postulated by the first hypothesis, channels and mechanisms used by informal sector workers to resolve emergent disputes vary with their labour characteristics which define how these informal workers perceive dispute situations and determine how the disputes are to be resolved. It analyses the nature of labour disputes and processes of arbitration including the appeal system regarding those disputes and the perception of the workers on their preferred system of dispute resolution.

For the purpose of dispute resolution in Kenya, the following Acts of Parliament form the labour legislation some of which have had a few amendments while some have been totally reviewed: the Constitution of Kenya 2010; Employment Act (Cap. 226); Regulation of Wages and Conditions of Employment Act (Cap. 229); Industrial Training Act (Cap. 237); Workmen's Compensation Act (Cap. 236); Shop Hours Act (Cap. 231); Mombasa Shop Hours Act (Cap. 232); Factories Act (Cap. 514); Trade Unions Act (Cap. 233); Trade Disputes Act (Cap. 234); Companies Act (Cap. 486); Bankruptcy Act (Cap. 53); Merchant Shipping Act (Cap. 389); Export Processing Zone's Act (Cap. 547); Immigration Act (Cap. 172); Pension Act (Cap. 189); Retirement Benefits Act (No. 3 of 1997); National Social Security Fund Act (Cap. 258); National Hospital Insurance Act (Cap. 255); Provident Fund Act (Cap. 191); Public Health Act (Cap. 242).

Employment in the formal sector is guided by sector specific written codes of conduct: these laws have served workers in formal employment well albeit in a cumbersome and bureaucratic manner leading to protracted court cases detrimental to the employees. These legislations have, however not been applicable to the informal sector due to the employment characteristics and circumstances of such workers.

5.1 Nature of Disputes

From the scoping exercise, it emerged that informal workers experience disputes at their work places that may be brought about by certain factors including those indicated in the frequency table below:

Table 6: Type of Conflict and Frequency

No.	Conflict Type	Respondents										Frequency
		1	2	3	4	5	6	7	8	9	10	
1	Encroachment	√		√		√	√					4
2	Poor contract management		√			√		√	√			4
3	Payment		√	√	√			√		√	√	6
4	Theft				√		√		√	√	√	5
5	Illegal broking	√										1

Source: Field Data from Scoping, 2009

The relationship of workers at the cluster was good as indicated by all the respondents. However, the work environment was not devoid of disputes. On average, conflict mostly involving the artisans themselves occurred at least once a week.

Whenever the disputing parties did not agree between or among themselves, an arbiter was always sought. The first arbiter sought was cited as any elected official or representative of the Kamukunji *Jua Kali* Workers Association.

5.2 Arbitration Mechanisms

Kamukunji *Jua Kali* Workers Association is an umbrella body with about 1,800 registered members as at February 2009. The association has both active and inactive members drawn from other welfare groups namely: Yamo Oloko, Sosiki, Mount Kenya etc including several ROSCAs and welfare groups. A chairman heads the association assisted by 13 other elected officials who are eligible for elections every year. A trustee from the Ministry of Labour is an ex-officio member. In total, the association's managing committee comprises of 15 members.

The committee is charged with the day to day issues including mobilizing resources from various stakeholders for the development of the cluster and conflict resolution is an important aspect for the officials. The Chairman and/or Secretary General of the Kamukunji *jua kali* workers association are often the preferred arbiters. The nature of the cases handled by the association officials is always considered before determination and further referral to other offices. The associations' official revealed that every fortnight, a *jua kali* worker is arrested by the police over

a work related issues and the office is always ready to assist the suspects as long as their cases have no criminal incline. Whenever they feel they have no jurisdiction over the case they are handling, for instance, criminal cases associated with theft by servants or assault, the Kamukunji Location chief's office was cited by many as the next option considered by the officials

Data from the scoping exercise revealed the following summary concerning channels and mechanisms for settlement. This is dependent on the gravity of the situation and the resolution mechanisms are pursued to restore the status quo as shown in the text box below:

Box 1: Disputes Resolution Mechanisms

- All respondents, especially regarding petty offences, essentially pursued dialogue as represented by 18.75 per cent of the respondents.
- In instances where a worker is under suspicion to have stolen from their employer, and where dialogue is not a solution, assistance is sought from the Kamukunji *Jua Kali* Association officials where a mode of compensation is worked out. This was true as represented by 31.25 per cent of the respondents.
- 12.5 per cent of the employers reported their cases to the Kamukunji Location chief. A similar percentage also involved the police especially where the association's officials are unable to reconcile the disputing parties in light of glaring misconduct.
- Some employers resolved to surcharge the responsible employee as represented by 6.25 per cent of the respondents.
- For some employers, dismissal of offending workers comes as a last resort as noted by 12.5 per cent of the employers who admitted to sacking their employees after several warnings.
- 6.5 per cent of the respondents however admitted to taking no action.

Source: Field Data from Scoping, 2009

As seen above, apart from the workers association officials, the police and chief were cited as key role players in the arbitration process whenever a case required assistance beyond the Kamukunji *Jua Kali* Workers Association officials. Enquiries from one of the key informants also revealed that certain cases from the cluster have been occasionally, forwarded to the Makadara law courts by aggrieved individuals. Such cases involved theft and the offended parties felt too aggrieved to pursue any other form of justice outside the courts; while others involved issues related to assault and causing grievous bodily harm.

From the case studies, all respondents have at a particular time have reported to the police as indicated by the ten respondents; six have reported to the Chief representing Provincial Administration, one of whom was female; and only three reported to have intervened through a relative. These three were represented by one male and two female respondents as shown in the table below.

Table 7: Sources of External Assistance

No.	External Assistance Sources	Respondents										Frequency
		1	2	3	4	5	6	7	8	9	10	
1	Police	√	√	√	√	√	√	√	√	√	√	10
2	Provincial Administration	√		√		√	√			√	√	6
3	Relative	√					√		√			3

Source: Field Data, 2009

From the study's findings, there is a protocol followed by the artisans in the process of reporting disputes and how they are resolved. However, several variations exist. Whenever a dispute occurred, the parties involved argue it out until they agree on a solution. Failure to agree necessitates intervention from an arbitrator. In such a situation, the party that feels most aggrieved by the incident forwards the complaint to the KJKWA officials. Thereafter, a date or hour for hearing the petition is set as soon as possible. This is often decided on the spot and the disputing parties avail themselves for hearing. After the parties have agreed, payment is done for service rendered. On further clarification from the chairman and the Secretary General on this issue, both agreed that, that was the practice and that the fee was a token for disrupting their usual work routine.

While the nature of the cases handled by the association officials is always considered before determination, the official admitted that in some instances, the office lacked the capacity to compel compliance and an administrative solution was often sought hence the referral of certain cases to the Kamukunji chief's office. The most common cases forwarded to the chief's office were those dealing with monetary compensation.

During one of the interview sessions with the association chairman, a young man interjected and I witnessed money changing hands before his exit. The official volunteered information that the previous day he had met the young man and one of his workers arguing at around 6.30 pm and on further enquiry was told that the worker had stolen Kshs. 5,000 from his employer, a statement the latter denied. The official then demanded for the money from the accused which was handed over but not before paying the accused his contracted daily dues of Kshs. 300. The enterprise owner was then phoned and asked to collect his money from the association office.

The official also revealed that for every case handled by the office a Kshs. 500 fee is deducted. The charging of fees for cases forwarded to the associations' office was later corroborated by another respondent who cited the fee as too exorbitant hence avoiding mediation from the association office. This interview established that cases are also heard irrespective of the complainants' affiliation/membership to the Kamukunji *jua kali* workers' association.

On another occasion, I had the privileged of sitting through a case where a former contracted worker had been arrested for conducting illegal broking of another trader's wares at the cluster. The man had been arrested by members of the 'security group' within the cluster whose mandate was to flush out criminals, idlers and brokers from the cluster.

The 'security group' was a new phenomenon introduced by the new office bearers to help check illegal activities that were attracting complaints about *jua kali* workers based in the cluster at various police stations. The chairman indicated that he was often called upon to intervene on behalf of the alleged informal worker and the trend was becoming rampant therefore necessitating a concrete and final solution to the problem.

According to one key informant, the police perceived disputes from the *jua kali* sector as social rather than criminal offences hence the referrals to the area administrator for arbitration. In cases where the disputing parties managed to drag each other to court, the parties were often referred to the local administration by the judge or magistrate. The Provincial Commissioner on receiving the court's ruling delegates the matter to the Kamukunji Location chief through the prescribed

hierarchy of Provincial Administration beginning with the Provincial Commissioner, District Commissioner to District Officers before reaching the Chief.

Variations however exist on the choice of arbiter in the informal sector as cited by a key informant. Occasionally, some employers in the *jua kali* sector seek some advice from the FKE although none of the sampled respondents at Kamukunji had had any contact with the FKE officials. The FKE official was of the opinion that only when perceived 'employers' in the informal sector are made aware of their obligations by the Ministry of Labour inspectors do they make enquiries to FKE on what to do. The key informant noted that it is often difficult to give a concrete solution to their problem as employment structures in the informal sector are unregulated.

5.3 Institutions for Representation

To adequately address the challenges addressed in this paper, social capital is very essential. According to Porritt (2005), social capital takes the form of structures, networks, institutions and relationships which enable individuals to maintain and develop their human capital in partnership with others when working together. These include families, communities, businesses, trade unions, voluntary organizations, legal/political systems and education and health bodies.

Issues pertaining to welfare and/or hygiene in the informal sector like: income insecurity, long working hours without corresponding compensation, handling of hazardous chemicals without protective gear worsened by poor work organization such as an absence of work benefits (like medical, leave, uniform and other allowances); and other related problems affecting informal sector workers may be solved through these social capital groupings if they are well organized.

From the study findings, the Kamukunji *jua kali* workers get a lot of support from entities outside the cluster in settling disputes at work. For workers in the informal sector, the formal judicial system is lofty, expensive and takes a very long time to arbitrate cases. On many occasions the court advises disputing parties to settle such civil cases outside court. Entities such as Land Tribunals and Land Boards are examples of successful grassroots institutions assisting the formal

legal system to arbitrate in land matters/cases. The sessions are often chaired by the Provincial Administration hierarchy assisted by nominated village elders. Cases from the informal workers that have found their way to the law courts are no exception.

The chairman of the workers association confirmed that on several occasions, the magistrate at the Makadara Law Courts has referred disputing parties operating at the cluster back to their association through the Kamukunji Location chief. The Chief acknowledged that on several occasions he had received cases from the site many of which were resolved. The chief also cited the Kenya National Federation of *Jua Kali* Associations (KNFJKA) including the many *jua kali* associations and NGO's as institutions for representing informal sector workers, but indicated that none of them is active in creating total awareness. Due to its erratic history, the artisans had since lost confidence in the KNFJKA and the umbrella association's members hardly forward their cases.

According to a key informant from the Ministry of Labour, ideally a channel of representing informal workers does exist in Kenya. When a dispute occurs in case the workers (apprentice, casual or undergoing training) are not unionized, they report to the nearest labour office/officer. The worker must come up with a claim for unpaid labour, leave, salaries etc. A summoning letter is then sent to the employer. If the disputing parties cannot agree, the issue is forwarded to the local court. However, the case has to have built up through several correspondences between the Labour Officer, the worker and the employer.

None of the informal workers at the cluster had taken this option because the channel was deemed to be out of their league due to the anticipated expenses including protocols that are time consuming and detrimental to income generation especially for piece-work payments. Most of the informal workers are also not aware of the existence of such channels.

COTU is officially recognized worldwide as the representative of workers voices in Kenya however, the key informant from the organization pointed out that informal sector workers are not well organized even though they represent majority of workers in Kenya. The informant pointed out that COTU can help organize workers in the informal sector, like has happened in Ghana with street traders for instance. COTU however, lacks the capacity since this approach requires

enormous financial resources and technical assistance to build the capacity of all emerging categories of informal sector workers.

Interviewed officials indicated that the only contact *jua kali* workers have with COTU is during Labour Day celebrations where they are normally asked to showcase *jua kali* products. Some respondents were of the opinion that more information on COTU's activities was necessary for a better understanding of the role of the workers' union in the *jua kali* sector.

A Kamukunji *Jua Kali* Association official indicated that the workers body has some contact with the Federation of Kenya Employers (FKE) offices especially on matters pertaining to workers' occupation health and safety. However, in spite of attempting to create awareness of occupational hazards at the workplace, FKE's presence and influence has hardly gained ground at the cluster. This was confirmed by the key informant from FKE who added that several attempts to engage the informal sector on labour issue were futile as employers in the informal sector, just like the employees, are not well organized to have a voice despite their numbers. They largely remain informal due to the nature of their work and struggle to earn a living. Interventions by FKE have been difficult over the years as any attempt to assist them is viewed by the informal sector workers as a strategy to formalize them and rope them in for various forms of direct taxation by the KRA.

5.4 Chapter Conclusions

Although the nature of disputes at the cluster cannot be classified as exclusively labour related but more of managerial, there was evidence to conclude that disputes do occur within the cluster and efforts are immediately sought to return to the status quo. The findings indicate that a third party is always called upon to intervene in the disputes occurring within the cluster whenever the disputing parties fail to agree.

Discussions with the case studies indicate that institutions for representing informal workers do exist, they are however informal in nature and do follow their own preferred sequence. The arbitration process often results in some form of compensation either through redoing the work

according to required specifications, repaying the money taken irregularly, surcharging or dissociating from the offender altogether. This is also done in an informal non-contractual setting where the decisions made are binding although no formal decree is given.

From the scoping exercise, it was established that the Kamukunji *jua kali* association is a key institution in the overall development of the cluster as nearly all respondents made reference to the (association) office. However, on scrutinizing the Constitution and Rules of the Kamukunji *jua kali* association, I observed that no mention is made in regard to disputes or how they are resolved yet the society is managing close to 2,000 registered members and anticipating growth in their membership base. However, the respondents seemed to have adopted a pattern of agreeable dispute settlement mechanisms.

6.0 EFFECTIVENESS OF MECHANISMS EMPLOYED IN DISPUTE SETTLEMENT

This chapter focuses on the third research objective that sought to examine the effectiveness of the mechanisms employed by workers in Kamukunji *jua kali* cluster in resolving emerging disputes. It was hypothesized that, mechanisms employed are dependent on the workers participation in their associations. Thus the various categories of workers have varying reasons for choosing their course of action. The chapter gives a summary of the sustainability of institutions established by informal workers in resolving their disputes within the cluster.

6.1 Associational Life of *Jua Kali* Workers

For informal workers, social capital is very essential in addressing some of the challenges discussed in this paper. According to Porritt (2005), social capital takes the form of structures, networks, institutions and relationships which enable individuals to maintain and develop their human capital in partnership with others when working together. These include families, communities, businesses, trade unions, voluntary organizations, legal/political systems and education and health bodies.

Issues pertaining to welfare and/or hygiene in the informal sector like: income insecurity, long working hours without corresponding compensation, handling of hazardous chemicals without protective gear worsened by poor work organization such as an absence of work benefits (like medical, leave, uniform and other allowances); and other related problems affecting informal sector workers may be solved through these social capital groupings if they are well organized.

Organizing *jua kali* workers is a concept that found footing following former President Moi's visit to the cluster in late 1985. This was accomplished through the then Ministry of Research, Technical Training and Applied Technology's Provincial and District Applied Technology Training officers' countrywide (McCormick et al, 2003). Many of them registered as local self-help groups with the Ministry of Culture and Social Services, some of which were-location specific while others trade-specific (King, 1996). Kamukunji *Jua Kali* Workers Association was one of the pioneer associations that were formed following this call.



Figure 15: Kamukunji *Jua Kali* Workers Association offices where workers access services from officials.

A study on associations conducted in 2003 by McCormick et al. shows that almost 90 per cent of micro and small enterprises belong to at least one association. Intense discussions with the respondents revealed that none of the respondents belong to a workers union agitating for labour rights. However, all respondents belong to welfare oriented groups or associations. Six of the respondents are members of the Kamukunji *Jua Kali* Workers Association, one of whom is also an official (Secretary General); two respondents belong to welfare groups while only one was a member of a clan association. Two respondents were members of ROSCAs both of whom were female. However one of the female respondents was also a member of both the KJKWA as well as the ROSCA. The frequency table below shows the types of associations at the Kamukunji *jua kali* cluster:

Table 8: Organization/Association Life

No.		Respondents										Frequency
		1	2	3	4	5	6	7	8	9	10	
1	KJKWA		√		√	√		√	√	√		6
2	Welfare Group	√									√	2
3	Clan Association			√								1
4	ROSCA						√		√			2

Source: Field Data from Scoping, 2009

6.2 Challenges of Organization

When they are organized, informal workers can win rights and improve their work and social conditions through collective negotiations. However, according to WIEGO, unlike unionized formal workers, informal workers generally do not have permanent and recognized negotiating forums. From the study's findings, all the respondents experience several challenges, inherent in their nature of work and working and some of these challenges contributed to their inability to organize themselves into lobbying entities. These challenges range from issues of participation by members to issues pertaining leadership and governance.

6.2.1 Membership Participation

According to Mikkelsen (2005), participation is the voluntary involvement of people in self determined change, that is, involvement of people's development of themselves, their lives and their environment. Limited time to meet and discuss labour matters was cited as a challenge especially since wages are payable on piecework basis.

A 2006 case study on informal economy organizations in Africa indicated that it was difficult to organize workers in the informal economy because they are scattered and generally do not have time for meetings since their survival is dependent on sales of their wares on a daily basis. StreetNet Ghana Alliance (SGA) research deduced that only workshops with compensation for days lost attract informal workers. Such ventures can thus be very costly.

6.2.2 Communication

The challenge of effective and efficient communication also arises especially when workers are scattered all over the place. This inhibits full participation of members to enable them give voice to matters affecting them. On the 2nd of February 2009, the association office had pinned lists of registered members on the walls for all workers scrutiny. Many workers complained that their names had been omitted yet they were paying members' subscription fees. However, it was difficult to decipher whether all informal workers at the cluster could get to the office in time to

confirm their details. Placing the posters at various sections in the cluster would have been more effective in achieving the desired results.

6.2.3 Awareness on Labour Rights

Despite awareness by all respondents on the existence of several legislations dealing with labour related issues, none of the workers has attempted to know how these laws apply to them in the *jua kali* sector. However a key informant from the Ministry of Labour and Human Development indicated that labour officers' are posted in all administrative districts and are expected to educate informal workers on labour legislations. This has not been successful due to the socio-economic attributes of informal labour discussed in earlier in this paper. The media, especially through radio programmes can propagate such issues since they can reach a wider audience without necessarily uprooting these workers from their places of work.

6.2.4 Workers' Rights and Obligations

Informal workers ignorance on their rights and obligations as workers also contributes to their inability to contribute to the deliberations since many informal workers when oppressed, lack knowledge as to whom or where to take their complaints.

Also as welfare matters precede other issues in their lives, many informal workers are often concerned about their personal welfare as individual contributors as opposed to decipher the benefits of negotiated outcomes supported by those contributions. Tangible evidence of what their money is doing is often demanded of officials and lack of accountability and transparency has greatly contributed to members withholding support. It was noted by the association's chairman that many workers had arrears well amounting to thousands of unpaid dues to the association.

Lack of legitimacy as regards property rights over spaces used to eke a living is also a challenge to these workers as many are not aware of whom or where to channel their complaints especially when two or more government ministries or departments are involved.

6.2.5 Weak Organizational Structures

UNDP (2000) argues that the crisis of Human Development has occurred because governance structures have failed to be participatory, transparent and accountable in the management of Kenya's human resources. Failure in governance structures of most informal groupings like the struggling KNFJKA has been attributed to poor leadership and wrangles that are mainly based on personalities and politics. Poor democratic practice associated with these pseudo-political entities casts aspersions on these institutions deemed to be representing vulnerable workers.

Representative participation is one of the perspectives on community participation, which results from the fact that not everyone is disposed to be involved and is sufficiently literate or familiar with what is always everywhere a bureaucratic practice. This therefore follows that informal workers need representatives whom they can rely on.

During the scoping exercise, it was observed that scheduled elections for the KJKWA office bearers had been called off in early 2008. This was because the informal workers at the cluster were as polarized as the rest of Kenya following the disputed Presidential results of 2007's General elections. There was a likelihood of conflict erupting at the cluster due to this political polarization. When things cooled off later in the year, a new committee was in place. The chairman was however re-elected while other offices got new occupants.

From the scoping exercise, it was established that the Kamukunji *Jua Kali* Association is a key institution in the overall development of the cluster as nearly all respondents made reference to the office. However, on scrutinizing the Constitution and Rules of the association document, I observed that the no mention is made in regard to disputes or how they are resolved yet the society is managing close to 2,000 registered members and anticipating growth in their membership base.

The introduction of various activities that are beneficial to all informal workers has been intensified by the KJKWA; these included sourcing for devolved funds like the Constituency Development Fund (CDF), Local Authorities Transfer Funds (LATF) including partnering with

other stakeholders to upgrade the facilities for common usage. The *jua kali* officials noted that the response to benefits of being members of the association was still low since many associated the Kamukunji *Jua Kali Workers' Association* with the defunct Kenya National Federation of *Jua Kali Associations*. The *jua kali* official however expressed optimism in increased membership recruitment once the workers realize the benefits of joining the SACCO.

Although none of the respondents were members of COTU despite their knowledge of the workers union's mandate and their erratic association with the informal sector, the respondents all felt that COTU only exploited the informal sector workers when the outcome is deemed to be beneficial to COTU. This was expressed by sentiments that association with COTU only comes annually in form of invitation to participate in Labour Day celebrations by showcasing *jua kali* products and this was not sufficient in ensuring that both benefit from one another's strengths.

The informal workers also expressed fears on the sustainability of paying the mandatory fee payable by unionized workers. These fears ranged from lack of accountability by union officials to uncertainty over whether COTU will sufficiently represent informal workers should they be convinced to join. COTU's constitution however, requires that membership is maintained by means of membership fees and monthly contribution through the various sector specific affiliates. As an effective "workers voices" institution, COTU has had minimal success in harnessing and engaging certain categories of informal sector workers. Indeed, studies have postulated that despite the presence of COTU headquarters in the sprawling Gikomba market, it is highly probable that none of the MSME traders surrounding the COTU headquarters are even members of the workers union. Some respondents admitted that more information on COTU's activities was necessary.

Kinyanjui (1999) notes that institutions found in the labour market are generally weak. There is need to create workers organizations, which will lobby for informal workers' welfare and match those of entrepreneurs such as the Kenya Private Sector Alliance (KEPSA) or the Kenya Association of Manufacturers (KAM). However, despite holding sentiments that an informal workers union was necessary, all respondents felt that *jua kali* workers should only be assisted with information on how to better organize themselves so that they can deal with their own labour

related disputes. Kamukunji being one of the oldest associations of informal workers can benefit from such experiences with collaborative training by Ministry of Labour and Manpower Development, Ministry of Industrialization, Kenya Federation of *Jua Kali* Workers Association, COTU and NGO's.

The sampled population all seemed to agree that education/sensitization was a prerequisite to better organization. Training on technology, leadership, anticorruption and workers rights were cited by the respondents as a likely remedy to the listed problems. This was also synonymous with the responses from key informants.

6.3 Sustainability of Dispute Settling Mechanisms Employed

Even though some respondents went to arbitrators outside the cluster (police and chief), a solution regarding the conflict was always found as indicated by all the respondents. The system employed to reach an amiable solution seemed to work for these workers in the cluster.

One of the ten case studies was the Secretary General of the KJKWA. During my visits to the study site, the association was in the process of establishing rules of engagement within the cluster with a special emphasis on how to manage conflict in the long term.

Box 2: New Rules of Engagement in the Cluster

- Registration of all workers within the cluster including those deemed to be temporary or on 'contract'.
- Commitment to membership by giving monthly contributions on time and attending a minimal number of meetings.
- Prior warning to 'non-members' that their cases will no longer be considered for arbitration.
- Appointment of security officers per shed with special identity cards and letters of introduction. This was to help flush out criminals posing as potential workers including brokers.
- An appeal to the police to allow Kamukunji *jua kali* workers to assist them on issues of security in the cluster. The request was asking the police to allow the association to implement their agreed and preferred 'security' arrangements.

Source: Field Data, 2009 The rules indicated in Box 2 above signify the ability of informal sector workers to re-organize themselves into a legitimate entity. With some further training from various stakeholders on how to conduct their affairs (legal, security, technological and financial), it is possible for the informal sector workers to legitimize their preferred kind of resolutions to their problems by using their own systems within the cluster as every conflict situation varies in terms of actors and preferred solutions. This was also cited by the key informants as a likely solution of reducing conflict in the informal sector.

6.4 Chapter Conclusions

From the above observations and insights, it is evident that the element of collective action exists at the Kamukunji *Jua Kali* cluster and that some workers are aware of their existence and has exploited them over time. However, a substantial number of workers are still not aware of their labour rights yet benefit from the resultant bargaining processes. To harness this support, the Association has constantly been trying to encourage members to be proactive by participating in associational matters.

The findings show that although the workers belong to various welfare groups, efforts have been made by the KJKWA to accommodate them under their umbrella and to make the work environment at the cluster favourable through collective action. The findings also indicate that efforts were being made to ensure that all informal workers participate in these activities, albeit through coercion i.e. demanding that in future, those who are not registered with the association would be somehow disadvantaged by the planned development agenda.

The study findings support the hypothesis that effectiveness of the mechanisms used to resolve disputes is dependent on the active participation of workers in their own associations which in turn can influence the strength and sustainability of informal workers organizations.

It was not established, however, whether the number of employees per enterprise influences voice. However, it is certain that by being in a cluster, interactions that contribute to the smooth conduct of business through shared relations based on trust and cooperation can lead to a spill

over effect of social cohesion at the workplace which can influence the ability to amicably resolve problems between employees and their employers.

7.0 SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

7.1 Summary of Findings

The following summarizes the general findings of this study:

Labour Related Issues Experienced by Informal Workers at the Cluster

Employment relationships exhibited in the cluster were purely based on trust. All contracts were verbal and no agreements were signed prior to any engagement. Despite the fact that some workers had been engaged in making products for more than one employer over a long period of time, none of the contracted workers seemed to demand for the status as a fulltime worker, complete with a salary and other accruing employment benefits.

Payment of wages was done daily and mostly based on piecework. For some workers however, payment was subject to the type of metal density¹⁴ used. Metal deemed to be of a higher quality attracted slightly higher pay than those deemed ordinary. Workers were also surcharged for misusing the material provided, especially if the misuse amounted to poor quality finishes. Adherence to agreed on deadlines per job order determined the speed of payment. Delays in completing the job consequently led to staggered payment of wages.

None of the workers contribute to any social security fund or insurance scheme and the only deduction on their wages was due to surcharging based on the agreed terms and conditions. Even though such contracts are verbal, both parties often consent to the deductions.

Visible occupational hazards associated with working at the cluster included excessive noise pollution from the hammering of metal pieces to shape them into finished products, and welding of metal pieces. Toxic fumes from paints, burning and metals and smoke was also cited as hazardous. The place was congested with inadequate working space; poorly lit with narrow

¹⁴ Heavy gauge of the used oil drums used for prefabricating *jua kali* products

pathways obstructed by the finished products displayed for sale. This arrangement may limit safe passage in case of a fire outbreak.

Some welding workstations were located under electrical poles despite the looming danger while some were based on top of drainages spewing raw sewerage and emitting a strong foul smell. Amidst all these, food handlers were peddling their wares to the workers who were sharing unwashed utensils. One ablution block in need of a sustainable source of water was used by approximately 5,000 workers and other visitors to the cluster who have to part with Kshs. 3 to use the amenities.

Channels and Mechanisms for Settlement of Emergent Labour Issues

Frequent disputes involved the workers within the cluster themselves and revolved around poor contract management leading to delays in executing the contract and the resultant payment issues. Theft by colleagues/workers after selling products in the absence of the owner was also cited as grounds for dispute. Encroachment on spaces allocated to individuals also gave rise to a conflict situation. Once in a while a customer would complain about unfulfilled obligations by the contracted worker.

An arbiter was selected by the disputing parties if they failed to reach an amicable settlement on their own terms. The arbiter was either a relative or a Kamukunji *Jua Kali* Workers Association official. In disputes that were criminal in nature or where the parties could not reach a compromise, the cases were forwarded to the area chief mostly after referrals from the police.

Effectiveness of Mechanisms Employed in Resolving Disputes

The level of satisfaction derived from the interventions sought by these informal workers was often appreciated and complied with by the disputing parties. According to the case studies, the appeals hardly fails and it was the opinion of the interviewees that the informal sector workers be left to handle their disputes on their own with a little sensitization from other entities like the government and non-governmental organizations.

Workers' Voices in Employment Relations

Informal sector workers belong to welfare groups that assist them in attending to personal matters like paying hospital bills, school fees and for acquisition of personal property. Despite the homogeneity of their members' engagement in the informal sector, none of these welfare groups articulate labour related issues as an objective of formation even though most of them are aware of labour legislation and institutions protecting all workers. It is essential therefore to

Workers through the Kamukunji *Jua Kali* Workers Association are in contact with government ministries and departments especially for infrastructural development. In the financial year 2006/2007, the Kamukunji CDF committee allocated Kshs. 1.5 million for the replacement of dilapidated roofing materials for the various sheds. Also, through the Nairobi Provincial Commissioner's office, the workers were able to upgrade electricity supply into the cluster from one to three phases at a cost of Kshs. 1.5 million. The Ministry Of Labour And Human Resource Development during the 2007/2008 financial year also funded the construction of a permanent office structure for Kamukunji *jua kali* workers. These Government funds totalling to over Kshs. 3 million is an indication of the potential of the workers association to organize and lobby stakeholders for a worthy cause.

7.2 Study Conclusions

This study concludes as follows:

Labour Related Issues Experienced by Informal Workers at the Cluster

From the study's findings, it is evident that informal sector workers do experience many challenges at their workplace. These challenges range from environmental to demographic factors and include unregulated wages and lack of employment benefits like extraneous, medical and leave allowances; unfavourable work conditions since many take place in poorly ventilated areas that are sometimes inaccessible and lack utilities like safe potable water and electricity supply.

Safety gear and protective clothing are also scarce if any. Also, working hours in the informal sector do not have any defined pattern as compared to those in the formal sector.

These challenges give rise to disputes such as encroachment into other workers' spaces due to congestion. The sheds serve as both workshops and exhibition areas where goods are displayed to attract customers thereby limiting even access. Disputes on payment of wages also occur for various reasons, for instance poor contract management as discussed earlier leads to conflict as the delays may lead to cancellation of orders by clients; this in turn leads to losses on the entrepreneurs as the losses have to be shared by both the owner/operator and the contracted worker. Theft by employees also contributes to conflict in the cluster as stated by the respondents. Illegal broking of other workers products sometimes occurs from rent seeking idlers posing often as owners of sheds and/or finished *jua kali* products.

Channels and Mechanisms for Settlement of Emergent Labour Issues

Since labour relations in this sector are based on trust, it is sometimes difficult to give sanctions when an offence occurs and there is often no guarantee of achieving the desired outcome especially in a conflict situation. This uncertainty is protected by social capital inherent in workers organizations, many of which are informal in nature.

Findings indicate that informal processes of arbitration in disputes are adopted by these informal workers and follow a particular pattern. Appeal systems and preferred system of resolving disputes also exist and are dependent on the gravity of the offences. These mechanisms for dispute resolution have since been institutionalized. This is evident from the fact that there is a referral system that is respected without too much antagonism mostly through practice by the officials of the Kamukunji *Jua Kali* Workers Association, Kamukunji Location Chief and the Police.

How to make the Mechanisms Effective in Resolving Disputes

The association has attempted to reorganize and strengthen its mandate over time by introducing rules of engagement that are binding to all workers including those who are not yet registered with the association. The constant need of the association to encourage participation of informal workers in the cluster on issues affecting them whether welfare or business related has triggered action among the informal workers themselves, this is evident especially from the desire of the informal workers at Kamukunji *jua kali* cluster to elect effective leadership to represent their overall needs.

Indeed, with proper coordination among the members of the association themselves and a strong committed leadership, such an informal organization can act as a platform to agitate for recognition of informal workers as legitimate workers in dire need of protection and help promote decent work. This can only be possible if the policy making processes of matters affecting the informal sector encourages participation of all stakeholders, specially the vulnerable informal workers.

The choice of the theoretical and conceptual frameworks used in this study is relevant in explaining the relationships in the variables. That is, the sustainability of dispute resolution mechanisms in the informal sector is dependent on the strength of the workers association whose internal structures allow participation of its members in decision making. Meaningful participation by these workers when considered over time builds structures that stimulate the spirit of collective action resulting in demand for better working conditions commensurate with decent work. The foregoing culminates to the improvement of the workers' quality of life thereby enlarging their choices for sustainable development.

This study concludes that, workers in the informal sector have a voice. However, this voice needs to be strengthened by giving the informal workers training on leadership skills to enable them articulate their labour issues through their own organizations.

7.3 Recommendations

Based on its findings and conclusions, this study makes the following recommendations:

There should be greater involvement i.e. actual and active participation of informal sector workers in the policy making processes at the grassroots level where the members are accorded a chance to meaningfully contribute in the deliberations that add to policy formulation. Meaningful contributions entail the incorporation of the workers voices on their employment relations in the informal sector. Through this, workers can develop a consciousness for constantly engaging with policymakers and get feedback on how to approach issues affecting them at work as they emerge.

There is need to strengthen institutional capacity of informal workers' associations and this requires the contribution of relevant Government Ministries, COTU, CBOs and NGOs based on their comparative advantage. Institutions like COTU for instance should assist the KNFJKA, which is the umbrella body for informal associations with skills on how to harness the various *jua kali* associations to form a corporate body and eventually transform itself into an informal sector workers union as this has succeeded elsewhere in Ghana, South Africa and Asia.

7.4 Policy Interventions

Although not investigated in depth, this study recognizes the importance of transforming the urban informal work environment to facilitate decent work. This can only be realized through concerted efforts by policy makers and the informal sector actors.

Improve Infrastructure and Provide Basic Services

As the Kenya Revenue Authority (KRA) slogan goes, *kulipa ushuru ni kujitegemea*,¹⁵ awareness creation on the benefits of having a reliable supply of water and electricity in the informal sector is very important. This will help decrease incidences of e.g. power outages or protracted shortages that interfere with the expected output of the workers e.g. welders. Subsequently, provision of

¹⁵ "Paying taxes is self reliance". This began in earnest from early 2003 when KRA introduced measures of collecting revenue even from the informal sector. The experience was improved infrastructure from road construction to rural electrification countrywide.

subsidized water and electricity rates in the informal working sites to stem illegal hazardous connections that deprive the service providers of revenue should be stepped up by KRA and other service providers like the Kenya Power and Lighting Company and the Nairobi Water and Sewerage Company.

A system of participatory management of services undertaken by governments to uplift the status of disadvantaged groups like slum upgrading programmes in some informal settlements has born fruits. Such ventures are encouraged to facilitate sustainability and allow all users to have a voice in the implementation processes. For the Kamukunji *jua kali* cluster, the Local Authority, i.e. the Nairobi City Council should give incentives to the Kamukunji *jua kali* association or individual entrepreneurs who are willing to support calls for paying some highly subsidized rates on construction, installation and maintenance of amenities at the cluster.

There is also need to provide safety gear and equipment like fire extinguishers, sound mufflers or earplugs at subsidized rates to these informal workers to ensure that they do not eventually end up with chronic ailments or permanent disabilities that will cut short their ability to earn a living. Frequent inspections of informal work environments should be conducted to sensitize the workers on health and safety obligations and assistance given in adverse cases.

It is therefore prudent for the Government to initiate pro-poor policies targeting informal work environments in urban areas. This can in turn contribute to the promotion of decent work, growth of businesses and improve labour productivity in the urban informal sector.

REFERENCES

- Alila, P.O. and W. V. Mitullah (2000) *Enhancing Lobbying Capacity of Women Street Vendors: The Challenges in the Kenya Policy Environment*. Nairobi: University of Nairobi, Institute for Development Studies Publications.
- Alila, P.O and P.O Pedersen (eds) (2001) *Negotiating Social Space*. New Jersey: Africa World Press
- Alila, P.O. and M. Omosa (1999) *Rural Development in Kenya*. In Ngethe, N and W. Owino (1999). *From Sessional Paper No.10 To Structural Adjustments: Towards Indigenizing The Policy Debate*. Nairobi: Institute for Development Studies Publications.
- Bailey, K. D (1978) *Methods of Social Research*. New York: The Free Press
- Creswell, J. W (1994) *Research Design: Qualitative and Quantitative Approaches*. London: Sage Publications Inc.
- Cruz, A. (2009) *Sustainable Development through People's Participation in Resource Management* UN Research Institute for Social Development CH-1211 Geneva: Switzerland.
- Eaton, J. W. (1972) *Institution Building and Development: From Concepts to Application*. London: SAGE Publications
- Gallin, Dan (2000) *Trade Unions and NGOs in Social Development: A Necessary Partnership* Research Institute for Social Science. ILO: Geneva
- Guido Möllering on *Rational, Institutional and Active Trust: Just Do It!?*(pp 17-36) in Bijlmas-Frankema, K and R. Klein Woolthuis (eds) (2005) *Trust Under Pressure: Empirical Investigations of Trust and Trust Building in Uncertain Circumstances*. Edward Elgar Publishing Ltd. Cheltenham: UK

Hall, R. H. (1969) *Occupation and the Social Structure*. New Jersey: Prentice Hall Inc.

ILO (1972) *Employment, Income and Equality: A Strategy for Increasing Productive Employment in Kenya*. Geneva: International Labour Organization.

ILO (1999) "*Trade Unions and the Informal Sector: Towards a Comprehensive Strategy*" Geneva: International Labour Organization.

ILO (1991) *The Dilemma of the Informal Sector*. Report of the Director General, International Labour Conference, 78th Session Geneva: ILO.

ILO (2000a) *ABC of Women Workers' Rights and Gender Equality*. Geneva: International Labour Organization.

ILO (2000b) *Your Say in Labour: Global Report on the Follow-up of the ILO Declaration of the Fundamental Labour Principles and Rights*. Geneva: International Labour Organization.

ILO (2002a) *Workers in the Informal Economy: Platform of Issues*. Geneva: International Labour Organization.

ILO (2002b) *Decent Work and the Informal Economy: Report VI, Sixth Item on the Agenda*. Geneva: International Labour Organization.

Kenya, Republic of, (2010) *2009 Kenya Population and Housing Census*. Nairobi: Government Printer/National Bureau of Statistics.

Kenya, Republic of, (2009) *Economic Survey 2009*. Nairobi: Government Printer/National Bureau of Statistics.

Kenya, Republic of, (2008) *Economic Survey 2008*. Nairobi: Government Printer/National Bureau of Statistics.

Kenya, Republic of, (2007a) *Statistical Abstracts 2007*. Nairobi: Government Printer/National Bureau of Statistics.

Kenya, Republic of, (2007b) *Economic Survey 2007*. Nairobi: Government Printer.

Kenya, Republic of, (2005) *Sessional Paper No. 2 of 2005 on Development of Micro and Small Enterprises for Wealth and Employment Creation for Poverty Reduction*. Nairobi: Government Printer.

Kenya, Republic of, (1986) *Sessional Paper No.1 of 1986 on Economic Development and Renewed Growth*. Nairobi: Government Printer.

King, Kenneth (1996) *Jua Kali Kenya: Change and Development in an Informal Economy 1970-1995*. Nairobi: East African Education Publishers, Ohio: University Press.

Kayizzi-Mugerwa, S. (Ed) (2003) *Reforming Africa's Institutions: Ownership, Incentives and Capabilities* United Nations University Press: New York

Kinyanjui, M. N. (2006a) *Governance and its Implications for Gender Inequalities in the Jua Kali Economy in Nairobi* Nairobi: University of Nairobi Publications

Kinyanjui, M. N. (2006b) *Institutions and Creativity in Jua Kali Enterprise Clusters in Kenya: The Case of Ziwani and Kigandaini*. IPAR Discussion Paper No.082/2006 Nairobi: Institute of Policy Analysis and Research

Kinyanjui, M. N. (1999) *Employees in Small Enterprises in Nairobi: Job Search and Career Patterns* IDS WP No. 528 Nairobi: University of Nairobi Publications

Kombo, R (1976) *The Role of Trade Unions and Employers' Organizations in Economic Development and Employment Promotion in Kenya*. Lusaka: Institute for Labour Studies

Kothari, C. R. (2004) *Research Methodology: Methods and Techniques*. New Delhi: New Age International (P) Limited.

Lubembe, C. K. (1968) *The Inside of The Labour Movement in Kenya*. Nairobi: Equatorial Publishers.

Macharia, K (2007). *Jua Kali Associations: Whom do they serve and what should be their Role in the Future of the Informal Economy?* Draft Paper for Presentation at the Conference on "Informalizing Economies and New Organizing Strategies in Africa. Nordic Africa Institute, Sweden 20-22nd April, 2007.

Mickelsen, B (2005) *Methods for Development Work and Research: A New Guide to Practitioners*. New Delhi: Sage Publications.

Mickelsen, B (1987) *Formation of an Industrial Labour Force in Kenya: Experiences of Labour Training in the Manufacturing Industry*. Occasional Paper No.49 Nairobi: IDS Publications.

McCormick, D and C. W. Muguku (2007) *Micro and Small Enterprise Labour: Job Quality in Garment and Metal Enterprises in Nairobi*. African journal of Business and Economic Research 2 (1): 12-39

McCormick, D; W.V. Mitullah and M.N .Kinyanjui (2003) *How to Collaborate: Associations and the Other Community Based Organizations among Kenyan Micro and Small-Scale Enterprises*. IDS Occasional Paper No.70 Nairobi: University of Nairobi Publications

McCormick, D (1998) *Enterprise Clusters in Africa: On the Way to Industrialization?* Discussion Paper No. 518. Nairobi: IDS Publications.

Mitullah, W.V. (2006) *Challenges of Protecting Labour Rights in an informalizing Kenyan Economy*. Thematic survey paper on Labour Rights for the High Level Commission on Legal Empowerment of the Poor

Mitullah, W.V and I.N. Wachira (2003) *Informal Labour in the Construction Industry in Kenya: A Case Study of Nairobi*. Geneva: ILO.

Mugenda, A. G. (2008) *Social Science Research: Theory and Principles*. Nairobi: Applied Research and Training Services.

Mugenda, O. M and A. G. Mugenda (1999) *Research Methods: Quantitative and Qualitative Approaches*. Nairobi: Acts Press

OECD (2004) *Networks, Partnerships, Clusters and Intellectual Property Rights: Opportunities and Challenges for Innovative SMEs in a Global Economy*. Paper presented at the 2nd OECD Conference of Ministers Responsible for Small and Medium-Sized Enterprises (SMEs) on *Promoting Entrepreneurship and Innovative SMEs in a Global Economy: Towards a More Responsible and Inclusive Globalization*. Istanbul, Turkey 3-5 June 2004. Paris: Organisation for Economic Co-Operation and Development Publications

Omari, C. K (1999) *The Informal Sector: The Missing Link in Entrepreneurship Research in Kinunda-Rutashobya*, L and D.R. Olomi. (eds) (1999) *African Entrepreneurship and Small Business Development* Dar es Salaam: DUP 1996 Ltd

North D. C. (1990) *Institutions, Institutional Change and Economic Performance*. Cambridge: Cambridge University Press

Porritt, J. (2005) *Capitalism as if the World Matters* London, Sterling, VA: Earth Scan,

Rowbotham, S and S. Mitter (editors) (1994) *Dignity and Daily Bread: New Forms of Economic Organizing among Poor Women in the Third World and the First*. London and New York: Routledge

Roy, K. C. and J Sideras (editors) (2006) *Institutions, Globalization and Empowerment*. Cheltenham, UK and Northampton, MA, USA: Edward Elgar Publishing Limited

Sen, Amartya (1975) *Employment, Technology and Development*. Oxford: Clarendon Press.

Shiraz, Durrani (2009) *Trade Union Movement Leads the Way in Kenya* in *Information, Society and Justice* Vol. 2 No. June 2009: pp 197-204 ISSN 1756-1078

Singh, M (1969) *History of Kenya's Trade Union Movement to 1952*. Nairobi: East Africa Publishing House

United Nations, Department of Economic and Social Affairs, Population Division (2009) *World Urbanization Prospects: The 2009 Revision File 3: Urban Population by Major Area, Region and Country, 1950-2050* POP/DB/WUP/Rev.2009/1/F3

UNDP (2005) *Fourth Kenya Human Development Report: Linking Industrialization with Human Development*. New York: Oxford University Press

UNDP (2003) *Third Kenya Human Development Report: Participatory Governance for Human Development*. New York: Oxford University Press

UNDP (2000) *Human Development Report 2000: Human Rights and Human Development*. New York: Oxford University Press.

Willems, W (ed) (2007) *Time for a New Deal: Social Dialogue and the Informal Economy in Zambia*. London: Soliodar

Willems, W (ed) (2006) *Forces for Change: Informal Economy Organizations in Africa*. London: Solidar

Internet Sources:

<http://kenya.smetoolkit.org/kenya/en/content/en/6159/Important-information-regarding-labor-law-in-Kenya>

<http://www.cotu-kenya.org/>

<http://www.ilo.org/publns>

http://www.globallabour.info/en/2006/12/trade_unions_and_ngos_in_socia.html

http://www.unescap.org/pdd/publications/poverty_and_development/participatory_rural.pdf

**UNIVERSITY OF NAIROBI
INSTITUTE FOR DEVELOPMENT STUDIES
SCOPING SURVEY QUESTIONNAIRE**

My name is Linda Okola; I am a student of the University of Nairobi, Institute for Development Studies. In partial fulfilment of my Master of Arts in Development Studies requirements, I am conducting a study on, Informal Sector Labour Organization: Workers' Voices in Employment Terms and Conditions within Kamukunji *Jua Kali* Cluster, Nairobi. Information provided in this questionnaire will be treated with **utmost confidentiality**. Please answer the following questions.

1	Name of enterprise	
2	Physical location of enterprise	
3	Interviewee name/code	
4	Interviewee contact information	

SECTION A: DEMOGRAPHIC DATA (kindly tick as appropriate)

1	Gender	Male	[]	Female	[]
2	Age				
3	Marital Status				
4	Highest Level of Education				
5	Are you an employer?	Yes	[]	No	[] If yes, go to section C
6	Are you an employee?	Yes	[]	No	[] If yes, go to section B

SECTION B: TO BE FILLED BY EMPLOYEES

1. What is the nature of your employment?

Apprentice	[]	Casual Worker	[]	Self-Employed	[]
Partnership	[]	Part-Time Worker	[]	Temporary Worker	[]
Home Worker	[]	Industrial Worker	[]	Contract Worker	[]
Domestic Worker	[]	Part-time Family Worker	[]	Full-time Family Worker	[]

Others (Specify) _____

2. What is your area of specialization? _____

3. How long have you been employed in this enterprise? _____

4. a) Is this your first job? Yes [] No []

b) If no, where had you worked before? _____

c) How long had you worked there before moving here? _____

d) Kindly give reason(s) for leaving? _____

5. a) Do you experience disputes at your place of work? Yes [] No []

- b) If yes, what kinds of disputes are they? _____
c) How are they resolved? _____

6. a) Are you a member of any organization/association? Yes [] No []
b) If yes, which one is it? _____
7. a) Would you be kind enough to participate in this study by being interviewed at a later date? Yes []
No []
b) If yes, please provide your mobile phone number _____

SECTION C: TO BE FILLED BY EMPLOYERS

1. a) Are you the sole owner of this business? Yes [] No []
b) If no, how many other people own the business? _____
2. How long have you been in this business? _____
3. a) Do you have any employees? Yes [] No []
b) If yes, how many? _____
c) How long has each employee worked for you?
i) Employee 1 _____ iv) Employee 4 _____
ii) Employee 2 _____ v) Employee 5 _____
iii) Employee 3 _____ vi) Employee 6 _____
4. a) Are you engaged in any other business apart from this one? Yes [] No []
b) If yes, what kind of business is it? _____
c) Where is it located and how long has it been in operation? _____
d) Does the business have employees? Yes [] No []
f) If yes, how many are they and how long have they worked for you? _____

5. a) Do you experience disputes at your place of work? Yes [] No []
b) If yes, what kinds of disputes? _____
c) How are they resolved? _____
6. a) Would you be kind enough to participate in this study by being interviewed at a later date?
Yes [] No []
b) If yes, please provide your mobile phone number _____

Thank you for participating in the above exercise. The findings of this survey will help me identify potential interviewees for my project.

APPENDIX II

UNIVERSITY OF NAIROBI

INSTITUTE FOR DEVELOPMENT STUDIES

Informal Sector Labour Organization: Workers' Voices in Employment Terms and Conditions within Kamukunji *Jua Kali* Cluster, Nairobi.

CHECKLIST FOR MSE WORKERS

My name is Linda Okola; I am a student of the University of Nairobi, Institute for Development Studies. In partial fulfilment of my Master of Arts in Development Studies requirements, I have been conducting a series of interviews with *jua kali* workers as well as other stakeholders in the *jua kali* sector on arbitration in labour disputes. As a follow up, I would also like to discuss a few issues in relation to that. Your individual responses will be kept absolutely **confidential**. Please answer the following questions:

SECTION I: DEMOGRAPHIC INFORMATION

Gender

Designation

Highest Level of Education.....

Age

Marital status

SECTION II: WORKING RELATIONSHIP WITH THE INFORMAL SECTOR

a) Labour Characteristics

1. Describe your working environment
2. Adequacy of facilities adequate in ensuring workers comfort at work
3. Describe health risks encountered at work.
4. Training on your specialization
5. Existence of monitoring records on income, sales and expenses
6. Years in your current employment
7. Agreements signed with your employer before taking up job
8. Briefly describe the provisions of the agreement.
9. Adherence to the agreement
10. Hours per day spent working

11. Average income per month
12. Wage determination
13. Process of negotiating before agreement on the payment etc
14. Consistency and timeliness of paying wages
15. Wage deductions (How much and for what purpose)
16. Contribute to any social security scheme (How much)
17. Benefits/allowances received as an employee (How much)

SECTION II: CHANNELS AND MECHANISMS FOR SETTLEMENT OF EMERGING LABOUR ISSUES

b) Nature of disputes

18. Describe your relationship with other *jua kali* workers around you
19. Nature of labour disputes occurring within your work environment
20. Whom the disputes involve and how often they occur

c) Arbitration

21. Who arbitrates in such cases?
22. How and who decides on the person(s) to arbitrate?
23. How are the disputes resolved?
24. Give a brief account of the process of arbitration.
25. What happens when the disputing parties cannot reach a compromise?
26. Are there systems of appeal?
27. Whom do the disputing parties appeal to?
28. What is usually the outcome of the appeal?
29. What happens when the appeal fails?
30. Is this a common practice? What are the variations? Any unique cases?

d) Institutions for Representation

31. Assistance in settling disputes at work from any entity outside your work environment
32. Which office/institution?
33. Kind of assistance received
34. How often assistance is sought
35. Is the assistance received satisfactory in addressing issues raised/complaints?
36. How best would you like to be assisted by those agents outside your work environment in resolving emergent labour disputes?
37. In your opinion, which organizations/institutions should be involved in assisting to settle these disputes?

SECTION III: JUA KALI/MSE WORKERS VOICES IN LABOUR MATTERS.

e) Organizational/Associational Life

38. Membership in any organization
39. Type of organization
40. Does your organization/association articulate any labour related issues?
41. Has the association/organization achieved this objective?
42. Did you purposefully join it because of the ability to deal with labour related issues?
43. Discuss a particular case of successful arbitration. Any documentation to support.
44. Strategy used to accomplish this capacity to lobby

f) Challenges of Organization

45. Labour challenges members in your organization face
46. Briefly discuss how members overcome these challenges.
47. Awareness of laws providing for workers rights in the *jua kali* sector
48. How would you like to get information on laws governing workers' rights?
49. How can *jua kali* workers be assisted to lobby for their rights at work?
50. Which institutions should be involved?

g) COTU

51. Knowledge of COTU and its role in the sector
52. Membership of informal sector in COTU
53. Opinion on COTU mitigating labour issues affecting *jua kali* workers
54. Potential role of COTU in working with informal sector
55. Potential of informal workers organizing to agitate for their rights at work
56. General recommendations on how the work environment of the informal sector workers can be improved

THANK YOU VERY MUCH FOR YOUR COOPERATION

UNIVERSITY OF NAIROBI

INSTITUTE FOR DEVELOPMENT STUDIES

Informal Sector Labour Organization: Workers' Voices in Employment Terms and Conditions within Kamukunji *Jua Kali* Cluster, Nairobi.

CHECKLIST FOR MINISTRY OF LABOUR

My name is Linda Okola; I am a student of the University of Nairobi, Institute for Development Studies. In partial fulfilment of my Master of Arts in Development Studies requirements, I have been conducting a series of interviews with *jua kali* workers as well as other stakeholders in the *jua kali* sector on arbitration in labour disputes. As a follow up, I would also like to discuss a few issues in relation to that. Your individual responses will be kept absolutely **confidential**. Please answer the following questions:

SECTION I: DEMOGRAPHIC INFORMATION

- Name of respondent.....
- Gender
- Designation
- Educational background
- Years of service.....

SECTION II: WORKING RELATIONSHIP WITH THE INFORMAL SECTOR

Labour Disputes and Arbitration

1. Views on the policy environment under which *jua kali* workers make a living
2. Level of awareness among *jua kali* workers of their rights at work
3. Main services the ministry provides to *jua kali* workers
4. Any arbitration initiatives on labour matters in the *jua kali* sector
5. Frequency of such assistance to *jua kali* workers
6. Common characteristics of those disputes
7. Briefly share an account of any *jua kali* workers' dispute arbitration incident you have dealt with in the past.
8. Any record of such proceedings
9. Channels of appeal for *jua kali* workers beyond your office
10. In your opinion, how should the government protect *jua kali* workers?

Institutions for Representation

11. What should be done to increase the capacity of the *jua kali* workers to deal with emerging labour issues?
12. What should be done to encourage informal sector workers participation in negotiating their employment terms and conditions?
13. In your opinion, are there any institutions lobbying for informal sector workers' rights?
14. Do you think these institutions have sufficiently represented informal sector workers?
15. What challenges do these institutions face in attempting to advocate for informal sector workers?
16. Has the government attempted to assist in addressing these challenges? How?
17. Kindly suggest ways through which informal sector workers can increase their voice in negotiating their terms and conditions of work.
18. General recommendations on how the work environment of the informal sector workers can be improved.

THANK YOU VERY MUCH FOR YOUR COOPERATION

APPENDIX IV

UNIVERSITY OF NAIROBI

INSTITUTE FOR DEVELOPMENT STUDIES

Informal Sector Labour Organization: Workers' Voices in Employment Terms and Conditions within Kamukunji *Jua Kali* Cluster, Nairobi.

CHECKLIST FOR PROVINCIAL ADMINISTRATION

My name is Linda Okola; I am a student of the University of Nairobi, Institute for Development Studies. In partial fulfilment of my Master of Arts in Development Studies requirements, I have been conducting a series of interviews with *jua kali* workers as well as other stakeholders in the *jua kali* sector on arbitration in labour disputes. As a follow up, I would also like to discuss a few issues in relation to that. Your individual responses will be kept absolutely **confidential**. Please answer the following questions:

SECTION I: DEMOGRAPHIC INFORMATION

Name of respondent.....
Gender
Designation
Educational background
Years of service.....

SECTION II: WORKING RELATIONSHIP WITH THE INFORMAL SECTOR

Arbitration in Labour Matters

1. Government policy on the informal sector
2. Views on the conditions under which *jua kali* workers make a living
3. Opinion on level of awareness among *jua kali* workers of their rights at work
4. Frequency of *jua kali* workers seeking assistance in arbitrating labour related matters
5. Common characteristics of those disputes
6. Solutions offered and recommendations. Are these solutions generally accepted?
7. Do the parties have a forum for appeal in case of dissatisfaction with the resolutions?

Institutions for Representation

8. In your opinion, are there any institutions lobbying for informal sector workers' rights?
9. Effectiveness of these institutions to represent informal sector workers
10. Challenges faced by such institutions
11. What has the government done to assist in addressing these challenges?
12. Opinion on how the government should protect *jua kali* workers
13. What should be done to encourage informal sector workers participation in negotiating their employment terms and conditions?
14. Kindly suggest ways through which informal sector workers can increase their voice in negotiating their terms and conditions of work.
15. General recommendations on how the work environment of the informal sector workers can be improved.

THANK YOU VERY MUCH FOR YOUR COOPERATION

APPENDIX V

UNIVERSITY OF NAIROBI

INSTITUTE FOR DEVELOPMENT STUDIES

Informal Sector Labour Organization: Workers' Voices in Employment Terms and Conditions within Kamukunji *Jua Kali* Cluster, Nairobi.

CHECKLIST FOR CENTRAL ORGANIZATION OF TRADE UNIONS

My name is Linda Okola; I am a student of the University of Nairobi, Institute for Development Studies. In partial fulfilment of my Master of Arts in Development Studies requirements, I have been conducting a series of interviews with *jua kali* workers as well as other stakeholders in the *jua kali* sector on arbitration in labour disputes. As a follow up, I would also like to discuss a few issues in relation to that. Your individual responses will be kept absolutely **confidential**. Please answer the following questions:

SECTION I: DEMOGRAPHIC INFORMATION

Name of respondent.....
Gender
Designation
Educational background
Years of service.....

SECTION II: RELATIONSHIP WITH THE INFORMAL SECTOR WORKERS

Arbitration in Labour Matters

19. COTU policy provision on informal sector workers
20. Opinion on the organizational capacity of *jua kali* workers on rights at work
21. Current services COTU providing to the *jua kali* workers
22. What do you consider to be major employment issues in the informal sector?
23. How and by whom can these issues be addressed?
24. Any mechanisms for appeal in cases where there is dissatisfaction with resolutions?

Institutions for Representation

25. In your opinion, are there any recognized institutions lobbying for informal sector labour rights?
26. Have these institutions sufficiently represented informal sector workers?
27. Challenges faced by such institutions in advocating for *jua kali* labour rights
16. What has the government done to assist in addressing these challenges?
28. Opinion on how the government should protect *jua kali* workers
29. How can COTU assist the informal sector workers to organize in agitating for their labour rights?
30. What is the prospect of COTU recruiting informal workers into the workers union?
31. General recommendations on how the work environment of the informal sector workers can be improved.

THANK YOU VERY MUCH FOR YOUR COOPERATION

UNIVERSITY OF NAIROBI

INSTITUTE FOR DEVELOPMENT STUDIES

Informal Sector Labour Organization: Workers' Voices in Employment Terms and Conditions within Kamukunji *Jua Kali* Cluster, Nairobi.

CHECKLIST FOR KENYA NATIONAL FEDERATION OF JUA KALI WORKERS ASSOCIATION

My name is Linda Okola; I am a student of the University of Nairobi, Institute for Development Studies. In partial fulfilment of my Master of Arts in Development Studies requirements, I have been conducting a series of interviews with *jua kali* workers as well as other stakeholders in the *jua kali* sector on arbitration in labour disputes. As a follow up, I would also like to discuss a few issues in relation to that. Your individual responses will be kept absolutely **confidential**. Please answer the following questions:

SECTION I: DEMOGRAPHIC INFORMATION

- Name of respondent.....
- Gender
- Designation
- Educational background
- Years of service.....

SECTION II: OVERALL RELATIONSHIP WITH THE INFORMAL SECTOR

Arbitration in Labour Matters

1. Current services the organization is providing to the *jua kali* workers
2. What do you consider to be major employment issues in the informal sector?
3. How and by whom can these issues be addressed?
4. Briefly share an account of any *jua kali* workers' dispute arbitration incident you have handled in the past and how they were resolved.
5. Any record of such proceedings
6. Any mechanisms for appeal in cases where there is dissatisfaction with resolutions?

Institutions for Representation

7. In your opinion, which institutions should lobby for informal sector workers' rights?
8. Do you think these institutions have sufficiently represented informal sector workers?
9. What challenges do these institutions face in attempting to advocate for informal sector workers?
10. Has the government attempted to assist in addressing these challenges? How?
11. What should be done to encourage informal sector workers participation in negotiating their employment terms and conditions?
12. In your opinion what is the biggest hindrance to the association in attempting to recruit and organize *jua kali* workers in Kamukunji? In other *jua kali* sites in Kenya?
13. How should the association increase its capacity to lobby for favourable labour policies on behalf of *jua kali* workers?
14. What is the relationship between your association and the following entities:
 - a. Other informal workers' associations
 - b. Labour unions
 - c. Formal associations
 - d. Informal workers
15. General recommendations on how the work environment of the informal sector workers can be improved.

THANK YOU VERY MUCH FOR YOUR COOPERATION

APPENDIX VII

UNIVERSITY OF NAIROBI INSTITUTE FOR DEVELOPMENT STUDIES

Informal Sector Labour Organization: Workers' Voices in Employment Terms and Conditions within Kamukunji *Jua Kali* Cluster, Nairobi.

CHECKLIST FOR FEDERATION OF KENYA EMPLOYERS

My name is Linda Okola; I am a student of the University of Nairobi, Institute for Development Studies. In partial fulfilment of my Master of Arts in Development Studies requirements, I have been conducting a series of interviews with *jua kali* workers as well as other stakeholders in the *jua kali* sector on arbitration in labour disputes. As a follow up, I would also like to discuss a few issues in relation to that. Your individual responses will be kept absolutely **confidential**. Please answer the following questions:

SECTION I: DEMOGRAPHIC INFORMATION

Name of respondent.....
Gender
Designation
Educational background
Years of service.....

SECTION II: WORKING RELATIONSHIP WITH THE INFORMAL SECTOR

Arbitration in Labour Matters

1. Requirements expected from employers intending to join your federation
2. How does your organization relate with the *jua kali* sector?
3. Do you have actors in the *jua kali* sector as your members?
4. Federation's participation in arbitration of labour disputes between employers and employees in the informal sector
5. Common characteristics of such disputes
6. Any documentation of such proceedings?
7. How has the *jua kali* sector responded to any kind of assistance or arbitration in labour matters from you?
8. Do the parties have a forum for appeal in case of dissatisfaction with the resolutions?

Institutions for Representation

9. In your opinion, are there any institutions lobbying for informal sector workers' rights?
10. Have these institutions sufficiently represented informal sector workers?
11. Challenges faced by these institutions in attempting to advocate for informal sector workers' rights
12. In your opinion, how can COTU assist the informal sector workers to organize in agitating for their rights at work?
13. How can your federation assist workers and employers in the informal sector to tackle labour matters?
14. What is the prospect of your federation recruiting members from the informal sector?
15. What would you recommend for labour standards improvement in the informal sector to the:
 - a) Government?
 - b) Local Government?
 - c) Employers?
 - d) Informal Sector Workers?
16. General recommendations on how the work environment of the informal sector workers can be improved.

THANK YOU VERY MUCH FOR YOUR COOPERATION