

Advancement of Trade Unions in Kenya: Is the Prevailing Environment Conducive?

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ABSTRACT

Trade unions are entities operating within the confines of the law and are recognized as the formal outfits fronting and protecting workers fundamental rights and interests. They oversee labour – related matters and strive to ensure there is enhancement of workers living standards and wellbeing in the place of work. They achieve this through working with employers and government to create a better working environment, creation of harmonious industrial relations and as critical partners and citizens of society. Workers join trade unions for such benefits as higher wages, better benefits, job security, safer working conditions, improvement of their lot and the right to have input into workplace affairs. Conversely, trade unions require conducive environment for their operations and agitation, particularly when governments and policies threaten to weaken collective bargaining engagements. This paper therefore, examines the substantial strides that have been made towards the advancement of trade unions in Kenya over the years. It also analyzes the environment that trade unions in Kenya currently operate in. Though the labour movement in Kenya has developed significantly due to the opening up of the democratic space, this paper opines that, the environment under which the unions are operating is still not robust and conducive enough as it should be for the trade unions to fully thrive.

Keywords: Advancement, Trade unions, Prevailing, Environment, Conducive, Workers.

INTRODUCTION

Trade unions are popular in many countries and they represent the precursor of the working class interests against capitalist exploitation. They have been defined differently by researchers in various studies. Mathis and Jackson (2008) have postulated that trade unions are collective groups of employees who come together to safeguard the interests of their members through coordinated efforts. From Mathis and Jackson definition it is imperative that that trade unions have a duty to look into the welfare of the employees in the workplace through collective efforts to ensure that fair working conditions and remuneration for employees thrives. In workplaces, trade unions are recognized as necessary organizations that protect the interests and rights of employees from abuse and possible exploitation by management (Bhreshtha, 2012). Trade union activities include the negotiation of wages, collective bargaining agreements, workplace rules, grievance procedures and workplace policies among others (Thomas & Daryl, 2012). Additionally, Armstrong and Taylor (2014) have stated that trade unions are associations of employees and their main objective is to represent the employees' interests to the employers. Both definitions at a glance have advanced unionism as entities that strive to improve workers general welfare and to bring industrial harmony at the workplace.

According to Armstrong & Taylor (2014), a trade union is an association of employees and their main objective is to present employees' interests to employers. Its main purpose is to regulate relations between workers and employers or employers' associations. In terms of trade unions, this concept allows for a great deal of extraction from the definition. For instance, Opara (2014) indicates that trade unions exist on behalf of employees and they make agitations for new demands and social change in the work environment. On the other hand, the government is the policy and lawmaker as well as the regulator of industrial relations. It engages in direct or indirect contact with trade unions, employers, workers, management and the society at large through the enactment of laws or policies and the various agencies established to regulate industrial and labour relations. A major reason for the

establishment of trade unions is to re-establish the power balance between employers and employees, endowing employees with a “common voice” and also making their grievances (Mwathe, 2018).

The Kenya’s employment Act (2007), defines a trade union as “an association of employees whose principal purpose is to regulate relations between employees and employers and includes an employer’s organization”. Basically, this is what is acknowledged as trade unions in Kenya.

The general objective of a trade union under Kenya law is to regulate the relationship between: employees and other employees; employees and their trade unions; employees and employers; and employers and other employers (Owiti, 1990). More so, they are especially intended to fight for the interests of the people they represent. However, in order for trade unions to be active and play their role requires strong leadership, member’s commitment and conducive political, economic and legal environment for their operation (Rugeiyamu, et al, 2018). Additionally they need to establish an effective and fully functional organizing policy, strategy and team, consciously sensitizing their members through education and training on labour matters and pooling together relevant human and capital resources for effective running of the union operations (Owiti, 2024).

This paper additionally examines the prevailing context in which trade unions engage in Kenya today under the revised 2010 constitution. An evaluation of the general legal, socio-economic and political climate for the operation of trade unions in Kenya will also be undertaken in the study.

Kenya’s trade union movement and the independence struggle

Pre-independence Period

The first workers organizations in Kenya sprung of the 1890s. (Patel, 2006). Early trade unions included the Indian Trade Union which were formed in the towns of Mombasa and Nairobi in 1914 respectively, Workers Federation of British East Africa which was for European workers which was formed in 1919, and the Indian Employees Association formed in 1919 (Zarina, 2006). There was a period of a lull and trade unionism rejuvenated in the 1930s. Railways artisans formed a trade union in 1934. This was after they had sent petitions to the authorities with no avail after the railway authorities had reduced the position of most Indian artisans from ‘permanent grade’ to ‘temporary grade’(Zarina, 2006). The non-racial Labour Trade Union of Kenya (LTU) (later renamed LTUEA to include Tanganyika and Uganda) was launched in 1935 and its main objectives were to organize the workers in Kenya to defend their rights and struggle for anything in their interests Zarina, 1986). There was also agitation for taxes to be reduced, with no taxation to the poor. Trade unions enactment act by colonial government in 1937, and its amendment in 1940, resulted in a dash for the registration of workers’ unions in Kenya. (Nyaencha, 2014).

Further again in 1947, Kenyans became actively involved in trade unions, driven by the rising trend of workers’ rights violation. This violation culminated to a landmark strike in the port of Mombasa in 1947 leading to losses in terms of jobs as well as massive property destruction. The government in the same year then made an enquiry into the causes of the strike through a commission. After intensive inquiry, the government realized that there was urgent and critical need for a mechanism through which it could contact the workers through creation of a machinery for consultation and negotiation. This was the birth of trade unions in Kenya that led to the formation of the Kenya Federation of Labour (KFL) (Mboya, 1986, Owidhi, 2024).

The first real trade union movement in Kenya had started in Mombasa in 1947 where a general workers union was organized. It became strong in numbers, but it was an ‘omnibus’ union without real sense of direction in terms of collective bargaining and joint consultation. Matters came to a head that year when workers demanded increased wages and better working conditions. The demands could not be put to any particular employer and so they were presented as political demands to the government. There were riots and looting throughout Mombasa in the general strike which followed (Mboya, 1986). There were also other notable riots in Nairobi in 1950 when the Transport Workers union called a strike, and the Dock workers strike in March, 1955 where there were demands for increased wages and the expulsion of some supervisors.

Fred Kubai – in his foreword to “Kenya’s trade Union Movement to 1952” by Makhan Singh – states that – There was close association between trade unionism and politics thus: ‘where the people were in a situation such as the one Kenya was in under colonial rule, surely the only language the colonial rulers could understand was the only language the colonial rulers could understand was the language of unrest and economic instability brought about by civil strife, strikes and bloodshed.’ (Patel, 2006). The first strike was organized in the year 1900. The colonial administration tried to divide the working class by preventing the formation of non – racial trade unions. However, due mainly to the migratory nature of the workers, the hostility of employers and the colonial rulers and the absence of labour legislation, the earlier difficulties of sustaining the activities of a union persisted. It is observed that the absence of organized labour union was the main reason behind the total failure of the strikes held in 1931, and between 1933 and 1935 (Patel, 2006).

Post-Independence Period (1963 – 2010)

Immediately after independence the trade unions were expected to play a full part in the task of nation-building and even to make sacrifices in the process. This situation posed a challenge for the unions and the question which was to be constantly reconsidered was where you draw the line between identification with the nationalist movement or political parties and subordination to their political designs (Mboya, 1986). Notably before independence, those unions which failed to identify themselves with the nationalistic cause and instead only concentrated on industrial relations, ran the risk of being accused of becoming imperial agencies.

In September 1965, the government sought to reorganize the trade union movement. The reasons given were ‘to put an end to the bitter rivalries’ and to ‘foster economic development and strengthen the existing trade unions.’ This was done through a presidential committee that recommended for the formation of a central body for all the trade unions in Kenya. Since then, protection of workers’ rights has been spearheaded by COTU (K) in conjunction with its affiliate trade unions (Owithi, 2024). The Kenya Federation of Labour (KFL), the African Workers Congress and other similar bodies were deregistered, all existing external affiliations were cancelled and fresh elections were held for selecting officials of the new organization, the Central Organization of Trade Unions (COTU). This statute ensured government control of the trade union movement in independent Kenya (Zarina, 2006). Additionally, the COTU constitution gave the government the right to appoint the secretary general from a panel of three elected officials.

The transition from the chaotic relations of the period was a dramatic reversal of acrimonious labour relations in favour of what is today arguably one of the best institutionalized labour market governance systems in Africa. In other words, the employment relationship in Kenya evolved in the voluntary tradition, by which the government provides the legal framework within which the parties freely undertake to relate among themselves in a manner that promotes labour, peace and nation-building. It was this resolve to address the labour challenge in a constructive manner that inspired the government, employers and labour to agree on a joint commitment towards industrial harmony and peaceful relations for national development (Aluchio, 1998).

Prior to the formation of KFL, there was the Kenya Federation of Registered Trade Unions (KFRTU) which had been formed in 1950 with five main unions – the Transport and Allied Workers Union, the Domestic and Hotel Workers Union, the Building Workers Union, and the Night Watchmen and clerical Workers Union. In 1953 there were a total of seven registered unions, and by 1963 there were twenty-eight in the KFL (Mboya, 1986). They continued to grow both in numbers and in matters organization since the country attained independence, with a proper system of records keeping and maintenance of their books of accounts. The affiliation of the Kenya Federation of Labour to the western affiliated and controlled International Confederation of Free Trade Unions (ICFTU) resulted in a series of breakaways in the leadership. Continued ICFTU domination of the KFL led to a fresh and major split. This was in 1964. The new Federation was called the Kenya Federation of Progressive Trade Unions, and later renamed the Kenya African Workers Congress (Odinga, 1967).

In the trade union arena the new incumbents were unwilling to accommodate the old guard and generally there was a jockeying for power in a confused and uncertain situation. These were dark days in Kenya’s history as the ideals of the nationalists were being trampled into the dust (Patel, 2006).

Post Constitution Period 2010

A new era dawned on the citizenry in the country with the promulgation of the new constitution which was viewed as a panacea to the various problems that were facing the country on the political, social and legal arena. Workers trade unions welcomed this moment of change since their collective views and input was entrenched in the new document and they looked forward to engaging in union matters freely with all the players in the labour movement, unlike it was during the previous constitution.

The constitution of Kenya, lauded as the most progressive constitution in the world has an enhanced bill of rights which, among other rights, addresses labour relations. Article 41 (1), in chapter four of the constitution of Kenya, states that every person has the right to fair labour practices. This is followed by broad provision in section 2 which deals with (a) fair remuneration, (b) reasonable working conditions, (c) formation, joining and participation in trade union activities and programmes and (d) participation in strikes. Section 3 of the same article outlines the rights of employers with regard to (a) formation and/or joining of employers' organizations and (b) participation in the activities and programmes of an employers' organization. These provisions have been operationalized by the enabling legislation commonly referred to as labour laws of Kenya, 2007 (Tubey, 2015).

According to Nyaencha, (2014) it is emphasized that the types of trade unions in Kenya include: a) Sector or industry based, b) Craft trade unions, c) Closed shop trade unions, d) Blue-collar trade unions, and e) White – collar trade unions. The Main trade unions are sectoral-based unions. Closed shop trade unions are not legal in Kenya. In Kenya, both the white collar and blue – collar workers can form and join trade unions under the constitution of Kenya. Even before the new constitution was promulgated in 2010, it was possible for both types of workers to join a trade union. All Local government authority workers have been members of the Kenya Local Government Workers' Union (KLGWU). These workers are now working under county governments and are eligible to join the County Government Workers (Mwathe, 2018).

The Nation's Independence and the Challenges Posed to trade Unions

Kenya attained its independence and unshackled itself from the colonial rule of about 70 years in December, 1963. The ruling party Kenya African National Union (KANU), won majority seats, with Kenya African Democratic party (KADU) getting minority seats. The two parties had different political ideologies. KANU was in favour of immediate total independence, unitary government with a new constitution, while KADU preferred a continuation of the colonial political system with a quasi - federalism as its key tenet. This brought a moment of joy and happiness to citizens and workers in particular, who looked to independence with confidence. These celebrations and happiness were short-lived though. Odinga (1967) has postulated that the working people slowly started losing hope that this was a government for working people, and one in touch with their needs and grievances. The two independence parties merged in 1964.

Granted, Jomo Kenyatta, Kenya's first president, abhorred competitive politics and that is why he strategized very fast to dismantle KADU immediately after independence. He set the stage by personalizing politics and development in Kenya. Many supposedly apolitical bodies were politicized, such as trade unions, universities, co-operative societies, women organizations, police and the army (Njogu, 2013). This trend continued under Moi's government from 1978 to 2002. There was too much government in Kenyan society (Munene, 1997). A tradition of direct and indirect intimidation of constitutional dissent was maintained (Barkan, 1994).

Arguably, the government tactfully wanted to reduce or remove any resistance to its authority, since the power of the unions was well known from its activities in the colonial period during the agitation of the fight for independence. The unions were instrumental in rallying people to the call for independence by pitching themselves against colonialism. We aver that the power and ability to mobilize people and resources must have been viewed as a threat to the new establishment. In a nutshell, the new political players seemingly entrenched the colonial principle of divide-and-rule into the trade unions leadership. These events altered the KANU government's relationship with labor unions. We ardently maintain that the two entities' previous relationship steadily declined over time. We also argue that independence was the primary cause of the initial decline of labor union sovereignty.

On the initiative of the employer's organization – “Kenya Federation of Labour” (KFL) – the Trade disputes Act as passed in 1965 which, as a reaction against the relatively frequent strikes since 1960, changed the situation further to the disadvantage of the trade unions. They possessed a certain amount of autonomy in negotiations, but the minister of Labour could declare strikes to be illegal if the lengthy negotiations procedures, culminating in the ‘industrial Court’, the highest arbitration tribunal, had not been adhered to. As proceedings in this were often delayed and the panel of judges were appointed by the government, the trade unions had little they could do, than just to give in (Munene, 1997). The unions seemed able to commit themselves to strike action, for instance, only if the government agreed (Odinga, 1967).

Indeed, the Trade Unions Act gave the Registrar sweeping powers on the issue of the registration of trade unions. The general practice by the Registrar had been either to sit on the applications without response or to refuse registration. This trend of behavior was directly linked to situations where the president had directly and openly taken a stand as he did in the cases of USU and later UASU, Civil Servants Union (CSU), Kenya Medical Practitioners and Dentists Union (KMPDU) and the political party SAFINA (Swahili word for Noah's Ark). However, SAFINA was thereafter registered in late 1997 (Adar, 1999).

On the few occasions when COTU had announced a one-day general strike to obtain a rise in the minimum wage in times of political tensions, as in May 1975 or June 1982, a brief warning from the President was enough to make it abandon its plans (Oyugi, 1994). Additionally, the ‘Union of Kenya Civil Servants’, the largest and most powerful single union, was dissolved by presidential decree in 1982 because of its “militancy”. This was a reaction to the radical trade unionists who had called for reactivation of the trade unions i.e. more frequent trade union elections and a stronger political orientation (Oyugi, 1994). Also, the University Staff Union (USU) the precursor of UASU together was banned at the same time. President Moi, when issuing a ban on the unions in a public function, said that the government was “taking care of its employees well and therefore did not need unions (Munene, 1997).

We argue that the enactment of laws made within a short time after independence and the public pronouncements in the period thereafter by the establishment's leadership were the prerequisites and machinations of one party domination in Kenya under KANU. Kenya was declared a *de jure* one party state in 1982. Immediately thereafter, Moi's government showed an increasing determination to transform KANU into a monolithic national organization seeking to exert control over the national trade union confederation, COTU (Central Organization of Trade Unions), the national women's organization, *Maendeleo ya Wanawake* (Women for Development), university student unions, youth organizations, professional associations, and other elements of civil society (Barkan, 1995).

Today under the current multiparty arrangement, there is no direct control of unions by the government, however in periods of strikes such as the perennial doctors' strike, they incidences of highhandedness and occasionally dispersion of the protestors violently by the police pose clear indications of intolerance and disregard of the laws governing trade unionism. It has also been witnessed that agreements reached during collective bargaining negotiations have rarely been honoured by the employer and government. They are never implemented.

The financial crunch and trade unions resurgence

In Kenya there has been declining labour productivity in all sectors of the country's economy, increasing unit labour cost and low levels of competitiveness. Kenya's labour productivity growth has, for example, declined from 4 per cent in 2007 to 1.4 per cent in 2012 (Odhong, Were & Omolo, 2014). Favourable working environment, attractive salary package, participative management and regular promotion are the main factors influencing workers to exhibit high productivity (Olatunji, 2004 cited by Gichaba, 2013).

When KANU started on the path towards meaningful African socialism the trade unions were enthusiastic and ready to put the national interest foremost in their calculations, to make sacrifices if the conditions of the country demanded them. But when KANU and government showed no interest in the conditions of the workers and all evidence showed that the leaders of the country were looking after their own interests while the workers stood in the streets waiting for jobs, the workers got impatient and demanded a militant lead from the unions (Jaramogi, 1967).

In 1961 there were 615,000 in employment in Kenya; by 1965 the figure had dropped to 586,000. Africanization in industry has been painfully slow and artisan training schemes half-hearted. Workers would wait with patience for the fruits of *uhuru* to mature if they had confidence that this government was composed of leaders genuinely concerned with their future. But the history of trade union movement in Kenya is one of the attempts from external forces to infiltrate the unions and subsidize them to follow tame policies. Let us first look at a brief outline of the development of trade union movement since *uhuru*. (Jaramogi, 1967).

Trade unions can bargain for wage increases for their members, but public sector wages are limited by budgets and by public opinion (Shapiro, 1978; Mitchell, 1988; Kearney and Carnevale, 2001) as cited by Gichaba, (2013)

Evaluation and discussion of the conditions that allow trade unions to thrive

Industrial relations environment refers to the atmosphere, norms, attitudes and behaviours reflecting and underpinning how workers, unions and managers interact collectively with each other in the workplace, which in turn, affects workplace outcomes (Kersley *et al.*, 2006). According to Khan (2006), a stable industrial relations climate is therefore vitally important for the economic growth of any country. This observation is consistent with a study by Goolsarran (2006) which revealed that the climate of labour and industrial relations in any country has a direct impact on its economic and social development, which requires a favorable environment in which labour relations can be conducted in an orderly and responsible manner.

Legal environment

This section assesses the extent to which Kenya's existing legal environment promotes trade union activity. It includes an assessment of the following points: Legal limitations on trade union support activities and registration procedures

Right from independence, the legal and institutional framework for employment relations recognized freedom of association and the right to collective bargaining. In fact these rights are entrenched in Kenya's constitution and form part of the foundation of employment relations in the country. However, changing economic and political conditions had from time to time created conditions that tended to undermine these rights. For example, public policies of the 1990s led to the denial of labour rights in the industrial zones, while the right to collective bargaining remains unrealised in much of the public sector (Fashoyin. 2010)

Industrial relations in Kenya are legally and constitutionally supported. The labour sector is bound by a complex set of legislation, as well as constitutional provisions in the bill of rights that outline the requirements for healthy industrial relations. The constitution and laws work only if we and our government are committed to the ideals of tolerance, the rule of law, and the constitution (Adar, 1999).

The Registrar of trade unions in Kenya is a government office in the Ministry of Labour and Social Protection that registers and regulates the activities of trade unions across the country. Sections 12, 13 and 14 of the Labour Relations Act, 2007, Laws of Kenya, specifies the six-month process for registering a union.

The Labour Relations Act which came to being upon repeal of the Trade Unions Act, gives the Registrar powers on the issue of the registration of trade unions. The jurisdiction conferred on the Registrar of Trade Unions to register or not to register any trade union which applies for registration is set out in clauses 19 and 20. Under the single-party rule, as stated by Adar (1997), the Registrar had sweeping powers over registration of unions and his decision was mainly discretionary. The standard procedure was to either to sit on the applications without response or to refuse registration. This sequence of actions was highly linked to instances in which the president took a direct and open stand, for instance in the cases of the UASU, Civil Servants Union (CSU), Kenya Medical Practitioners and Dentists Union (KMPDU) and political party Safina ('The Ark').

However, after decades of unwilling actualization of labor rights for numerous types of workers, the government and social partners started a comprehensive reformulation of the labor code, resulting in the taking effect of five important laws in 2007 (Fashoyin, 2007). The new legal framework can be seen in many ways as a positive reaction to the realities of the labor market as they emerge, especially the way that the labour force and

employment structure are evolving. In particular, these realities dictated the critical need for greater social safety nets for the growing proportion of workers with inadequate or lack of social protection. Finding an equitable equilibrium between a socially responsive legal framework and the requisite flexibility required in the increasingly competitive global environment is a significant problem for the tripartite partners. Furthermore, several of the elements of the legislative framework continue to cause concern among labor market operators. (Fashoyin, 2007). The five laws enacted in 2007 included (a) the labour relations act, (b) the employment act, (c) the labour institutions act, (c) the work injury benefits act and (d) the occupation, safety and health act (Tubey et al., 2015).

The enactment of these laws have facilitated greatly the smooth running and general management of the trade union movement. However, Owithi (2014) has observed that among others, the main challenges facing trade unions in Kenya include the interference of the negotiation processes by the salaries and remuneration commission (SRC); Delays and backlog of cases in the ELRC; resistance from employers who are anti-trade unionism, low levels of enforcement of labour laws by the government. These notwithstanding, some unions have reported harassment of organizing teams by police especially on matters, strikes.

Considering these kinds of situations, Kenya's legal framework for trade union activities needs more redefining. Additionally, those in authority of trade union issues can utilize this strategy of redefining to make it hard for trade unions to run their businesses.

Economic environment

The economic environment and its effect on trade unions is analyzed in this section by assessing the main sources of funding which include dues from members, agency fee-collection, or levies.

Part VI, section 48 (2) of the Labour Relations Act, specifies about the funding of unions. Subsection (a) states that the employer shall “deduct union dues from the wages of its members.” This implicitly from the salaries of the employees. In as much as section 51 allows trade unions to collect levies from other sources other than trade union dues “for particular sources, purposes or objects approved by the minister,’ it takes lots of time to obtain such approvals. The same applies in the case of “agency paying” members who are not registered members of a trade union, but enjoying the benefits of collective bargaining. Rugeiyamu et al. (2018) have maintained that this sort of funding is inadequate for trade unions to carry out their fundamental mission of promoting and safeguarding the interests of their members, rendering it ineffective for the organizations long-term viability. Trade unions are expected to provide its members legal assistance, training, consultations, and other office amenities. Each of these needs finances, and the source specified makes it difficult to raise the money needed to carry out these responsibilities. .

The union dues so deducted as outlined under section 49, sub-section (b) clause (i), and such amounts are to be deposited “into a special account of the trade union” or “in specified proportions into specified accounts of a trade union and a federation of trade unions.” The problem is that most employers default in terms of remitting these monies on time, or sometimes never, derailing the activities and operations of the affected unions. We argue that deadlines for remittance of the same be introduced and strictly adhered to, failure to which, stringent measures be meted on the defaulting employers.

Political environment

Kenya is a highly political country and the currency that seems to drive daily most of the country's business is politics. It has permeated virtually all spheres of life. Anyango et al. (2013). Have discerned that political situations, decisions and actions have affected the way trade unions operate in the country. They have further observed that political interferences have had a considerable impact in the trade union movement. Most unions are grappling with the democratization of social and political arena besides government interference

This has been the situation from the time the country gained its independence up to toady. It's only the degree and the magnitude of interference that has changed with the changing political seasons.

In terms of the conduciveness of the environment which promotes trade union advocacy, efforts to create the same have not yielded much, since there are still instances in which trade unions are hindered from exercising their rights. For instance, when notifications of strike are issued by unions, in most cases fear is immediately imposed on the leadership by the establishment. In as much as freedoms to participate in union matters are enshrined in the constitution under the chapter 4 of the bill of rights, we argue that in reality, political leadership curtails these freedoms. Most leaders of unions have been sacked from employment, strikes have been violently dispersed by the police and other underhand tactics by the establishment have been employed. In other instances, agreements reached through collective bargaining processes are never honoured or implemented by the government mostly citing lame excuses like lack of finances, sustainability of the monetary aspects in the agreements CBAs, among other reasons. Kenyan doctors and medical practitioners, university staff and teachers, have been victims of these machinations.

Owithi (2014) has postulated that as unions carry out their mandate most members fear victimization by their employers for engaging in union matters. Most of the workers are as well ignorant about labour laws that protect their rights. He has also established that the rate and level of implementation of labour laws by the government has been very low causing a lot of hiccups in milestones that unions have made in improving the terms and conditions of employment. On the other hand, employers have continued to use anti-trade union policies that discourage trade unionism such as victimization, coercion, casualization, and outsourcing among other malpractices that deny workers the right to join or actively participate in trade union matters

RECOMMENDATIONS

Trade unions play a vital role in advancing the general well-being of workers, safeguarding their rights, and ensuring that organizations adhere to good corporate governance. Following sixty years of independence and the 2010 adoption of a new constitutional regime, trade unions have undergone significant turning moments that have shaped their operations and performance. To improve the performance of trade unions in Kenya, we propose the following recommendations:

We suggest that the provisions of the Kenyan constitution that stipulates clearly how unions are managed, be followed and be adhered to strictly. For instance section 41, (2), (c) states that every worker has the right to go on strike. Notably, most strike are violently handled by the security forces and occasionally fear is sold to workers by employers, and others victimized.

Secondly, an amendment to the Labour relations Act allowed employers to deduct 2% of the employee's wages and remit to a trade union's account. Since membership into a trade union is voluntary, the total amounts deducted from the membership are hardly enough to run the affairs of the union. Our recommendation is that this figure be raised to above 3%. Additionally, there is a provision in the labour relations act which allows unions to seek for the minister's consent if they wish to raise additional funds from other sources. We aver that this process is long and tedious. Our proposal is that the unions be allowed to generate additional funding from other sources, and notify the minister for ratification purposes only.

We also recommend that the main players in labour relations matters should confine themselves to their different lanes and work together mutually in order to advance a harmonious environment for all parties. Employers and political players should desist from interfering with union matters essentially decimating trade unions' capacity to improve the welfare of their members.

CONCLUSION

The role of trade unions in creating harmonious labour relations between the workers, the employers and the government is well known. The new Kenya's constitution 2010 has recognized the existence of the trade unions also defined the inalienable and fundamental rights which they should enjoy. All the same, there is still a lot to be done in terms of implementation of its various aspects towards ensuring there is a favourable operating environment. All players in the labour movement have a duty to put much prominence towards crafting an environment for dedicated and strong-minded trade unions.

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