Re-thinking Industrial Relations for Enhanced Organizational Performance in Kenya

Emily Odhong, Susan Were and Jacob Omolo

Abstract-Kenya has in the past had cases of industrial strikes covering virtually all sectors of the country's economy. In the year 2011, for example, a total of 21 industrial strikes were reported involving 13,499 employees with up to 175,329 man-days lost. The scenario was not any different in 2012. The nationwide strikes by teachers and health workers in 2013 brought paralysis in the social sectors of education and health, while the March 2014 strikes by teaching and non-teaching staff of the public universities undoubtedly aggravated wastage to the nation's valuable human capital. Industrial strikes have negative effects on organizational productivity, enterprise competiveness, economic growth and overall achievement of the aspirations of the Kenya Vision 2030. The system and practice of industrial relations in a country has an important bearing on the state of industrial harmony. The system of industrial relations affects four elements in innovation: motive, content, process and outcome. The industrial relations framework as practiced in Kenya tends to be top-down and reactive rather than consultative, participatory and proactive. This does not promote innovation. Employees are seeking more meaningful work along with a voice in the decisions that affect them. Accordingly, corporate managers must re-invent themselves to meet the demand of these new challenges. The paper explores the scope of modern industrial relations and the paradigm shift required in industrial relations practice to promote organizational productivity and competitiveness. The conceptual foundation of this paper is anchored on political theories of pluralism, unitarism and economistic theory of trade unions. Non-experimental research design and evaluative techniques of analysis have been employed. The paper advocates for adoption of modern industrial relations system, which integrates employee participation and involvement in decision making. It also roots for building of trust and confidence among employees and managers, and social dialogue at enterprise, organizational and national levels.

***Keywords*:** industrial relations, innovation, strikes.

I. STUDY CONTEXT

Kenya Vision 2030 aims to create a globally competitive and adaptive human resource base to meet the requirements of a middle-income economy by the year 2030 [1]. The country's economic blueprint recognizes the critical role of an efficient, motivated, productive and adaptive human resource base in meeting the challenges of the globalizing economy. It also recognizes the importance of a sound system and practice of industrial relations in promoting industrial harmony, organizational productivity and competitiveness, and enhanced economic growth.

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Industrial relations system in Kenya is anchored on the International Labour Organization's Convention No. 150 of 178 on Labour Administration. This is domesticated through the Industrial Relations Charter (1984) and the Labour Relations Act (2007). The system provides for consultation between representatives of employees, employers and government within a tripartite framework on issues affecting workers and employers. The consultation is expected to be undertaken through joint industrial councils. The system envisages that such consultations start at the shop floor levels, cascading to the national levels. Kenya also has a host of institutions of social dialogue. These include the National Labour Board, National Council for Occupational Safety and Health, Wage Councils and the Industrial Court. The role of these institutions is to promote social dialogue and industrial harmony [2].

The practice of industrial relations in Kenya has, however, seen minimal consultation, representation and involvement of workers in the decision-making processes. Most employers particularly in the public sector have continued to ignore the basic tenets of industrial relations practice of negotiations and collectivism in favour of managerial discretion and unilateral decision-making. The Ministry in charge of labour matters, which is the institutional custodian of industrial relations system and practice, tripartism and collective bargaining, has over the period suffered from weak and deteriorating capacity [3]. The Ministry's budgetary allocation has remained dismal at about 0.26 per cent of the national budget since 2002/2003 financial year. The staffing levels of the Ministry stood at about 37 per cent of authorized establishment by 2013 with majority of staff being aged. Specifically, the labour inspectorate staff who constitute a key pillar of industrial relations by ensuring that greatest possible number of industrial disputes is resolved at the workplace have witnessed high levels of attrition. Consequently, the labour inspectorrate staff-employment ratio has declined from a vantage point of one labour inspectorate staff for every 37,284 employees in

1996 to one inspectorate staff for every 141,524 employees in 2012. This is against the international benchmark of one labour inspectorate staff for every 40,000 employees. The low labour inspectorate staff-employment ratio provides incentives for a shift from the more effective programmatic inspections to the less effective and corruption prone worker-initiated inspections [3].

The effect of industrial relations system and practice is manifested in the increase in the spate of industrial strikes and attendant man-days lost. The number of man-days lost due to industrial strikes almost doubled from 14,806 man-days in 2008 to 25,504 man-days in 2010. This, however, increased tremendously by about sevenfold to 175,329 in 2011. Other effects are seen in 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.

A rethinking of industrial relations is expected to play a critical role in reducing unwarranted loss in man-days and productivity. This will contribute to achievement of economic growth rate targets from 6.1 per cent in 2013 to 10.1 per cent in 2017, enhance employment elasticity from 0.43 in 2012 to the desired level of 0.7 by 2017 and ensure attainment of the formal-informal sector employment mix of 40:60 per cent by 2017 from the 12:88 per cent level in 2012 as projected in the Medium Term Plan II (2013-2017) of the *Kenya Vision 2030* [2]. This paper explores the scope of modern industrial relations and the paradigm shift required in industrial relations practice to promote organizational productivity and competitiveness.

II. METHODOLOGY

The conceptual underpinning of the paper is the political theories of unitarism and pluralism, and the economistic theory of trade unions as reported in [4]. The analysis is based on non-experimental research design and evaluative methodologies. The political theory of unitarism regards workplace as a unitary organization. It considers all the ideas, perceptions and actions of management or government as being legitimate and rational while all the ideas, perceptions and actions of workers that conflict with the command of the management or government are perceived to be illegitimate and irrational. The political theory of pluralism is anchored on the desire by management to safeguard existing production relations and power structure. It considers workplace as a coalition of individuals and groups with sectional interests and distinct perception of the social structure. The economistic theory of trade unions looks at trade unions as organizations that are purely concerned with the employment relations. It confines the responsibility of the union to be sectional to the interest of the workers. According to this theory, workers and trade unions should only be concerned with negotiable employment issues such as wage increases and improvement in working conditions but not any decisions regarding employment, workflow and other elements focused on organizational performance.

The three theories aptly describe the industrial relations system and practice in Kenya. The theories view industrial relations as being top-down with power imbalance in favour of management to the disadvantage of workers and trade unions. The theories consider the role of management as that of setting the rules to which workers are expected to cooperate in complying with, thus supporting the right-to-manage model as practiced in Kenya. Under the right-to-manage framework, the workers and unions jointly negotiate with the management on wages and other terms and conditions of employment but the management reserves the right and discretion to unilaterally decide on the optimal level of employment, and the mix of employment and deployment that is consistent with the negotiated terms and conditions of employment.

The theories do not recognize the essence of a dynamic and proactive industrial relations system that pre-empts existence of industrial discontent or dispute nor the role of government in being pro-active to intervene before an industrial dispute escalates to a strike. All these are reflective of the industrial relations practice in Kenya, which is reactive and where the industrial relations machinery is only invoked when there is already stalemate between the parties and industrial strike is imminent.

III. ANALYSIS AND FINDINGS

This study used evaluative analysis technique. It used the number of man days lost due to industrial disputes as a proxy for the nature of industrial relations system and practice. In this context, the higher the number of man days lost due to industrial disputes, the less proactive and non-responsive the industrial relations system and practice is. Organizational performance was measured using unit labour costs and changes in labour productivity, which are measures of production and labour efficiency, respectively. Organizational performance was considered to impact on national competitiveness through national productivity and economic growth. Thus, the country's industrial relations system and practice would have an influence on production and labour efficiency, which ultimately affects the country's level of productivity and competitiveness through economic growth.

The implication is that subdued levels of economic growth are partial outcomes of the country's industrial relations system and practice. This is because industrial relations being one of the key elements in the system of labour administration is an essential predictor of organizational performance and competitiveness hence economic growth. The paper used data for the period 2008 to 2012, which was the period of implementation of the First Medium Term Plan of the *Kenya Vision 2030* [1]. Table 1 gives a summary of the indicator of the nature of industrial relations system and practice, and organizational performance.

Table 1: Indicators of Industrial Relations System and Practice

Indicator/Year		2008	2009	2010	2011	2012
Man-days lost (Number)		14,806	25,504	25,504	175,329	
Unit Labour Costs (Ratio)		0.515	0.538	0.540	0.559	0.578
Change in Labour Productivity (%)		-0.41	-0.02	2.90	3.13	1.40
Labour Productivity (%)		0.70	0.70	0.70	0.70	0.70
Economic Growth (%)	Actual	1.5	2.7	5.8	4.4	4.6
	Target	6.2	8.3	9.1	9.4	10

Source of Data: [2], [5], Authors' own computations

The data presented in Table 1 shows that the number of man-days lost due to industrial disputes increased by more than tenfold from 14,806 man-days in 2008 to 175,329 man-days in 2011. This shows that the nature of the country's industrial relations system and practice continued to be less proactive and non-responsive to the changing dynamics of the workplace.

A number of factors explain the high levels of industrial disputes. Key among them is that the current system and practice of industrial relations in Kenya is designed for action to be taken only when industrial dispute erupts. It is, therefore, not pre-emptive to allow intervention at the earliest opportunity before the dispute escalates. Also the parties to industrial disputes generally have weak negotiation skills, which dampen any prospects for speedy settlement of disputes. In addition, the non-cooperative nature of the parties and the weak labour-management partnership aggravates mis-trust and lack of confidence among parties to industrial disputes. All these manifest ineffective industrial relations system and practice.

Modern industrial relations system and practice requires recognition of the dignity of the individual, respect to fundamental principles and rights at work inclusive of the right of the employees and trade unions to personal freedom and equality of opportunity. This entails involvement and inclusion of employee views in decision-making. Such framework would enhance workplace dialogue, and limit industrial disputes and disruptions to production.

Consistent with the increase in the number of man-days lost due to industrial disputes, the data presented also shows that the country's production efficiency declined from 0.515 in 2008 to 0.578 in 2012. The implication is that while in 2008 labour cost constituted 51.5 per cent of the unit value of output, this increased to 57.8 per cent in 2012, signifying deterioration in production efficiency. Similarly, labour efficiency as measured by changes in labour productivity moved marginally from negative 0.41 per cent in 2008 to 1.4 per cent in 2012. Overall, the country's labour productivity remained constant at 0.7 between 2008 and 2012, which is less than unity. This implies stagnating performance and national competitiveness.

The worsening of the country's production and labour efficiency is rationalized on grounds that industrial disputes disrupt the flow of production. It also causes mistrust, anxiety and lack of confidence amongst workers and managers in the workplace. All these have the potential of increasing the cost of production while decreasing the level of output. This is more so when considered within the context that in Kenya industrial disputes take long to resolve, stretching even up to 12 months [2]. The average time taken to resolve industrial disputes was reduced from 12 to 3 months between 2008 and 2012 [2], [6]. However, such duration still constitute a fairly long period for an industrial stalemate. The effect of prolonged industrial dispute is that besides the known effects, they also involve productivity-dampening adjustment costs that remain long even after the dispute has been resolved.

The effect of the country's non-proactive and less responsive industrial relations system and practice, leading to high number of man-days lost due to industrial disputes and low production and labour efficiencies is reflected in the subdued economic growth rates. The First Medium Term Plan (2008-2012) had, for example, targeted that the country's economy would grow by 6.2 per cent in 2008 and that this would be enhanced to reach a sustained level of 10 per cent by 2012. However, as shown in Table 1, the economy grew by 1.5 per cent in 2008 and 2.7 in 2009. These rates of growth were 4.7 and 5.6 percentage points below the Medium Term Plan target for 2008 and 2009, respectively. In 2010, the economy's performance missed the Medium Term Plan target by 3.3 percentage points. The set Medium Term Plan's growth targets were missed by 5 and 5.4 percentage points in 2011 and 2012, respectively [2], [6].

IV. CONCLUSIONS AND RECOMMENDATIONS

Modern industrial relations system and practice requires recognition of the dignity of the individual and respect to fundamental principles and rights at work. Such a proactive and responsive industrial relations framework would enhance workplace dialogue, pre-empt existence of industrial discontent and put in place mutually beneficial mechanisms that limit industrial disputes and disruptions to production. Kenya's industrial relations system and practice appears reactive and based on the traditional models of industrial relations, which looks at the workplace relationship as one with power imbalance in favour of the employer. This system and practice of industrial relations is out of step with the modern workplace where employees are seeking more meaningful work along with a voice in the decisions that affect them. Such a reactive and non-responsive industrial relations system is a breeding ground for industrial disputes, and production and labour inefficiencies. It leads to weak levels of organizational competitiveness, which is inconsistent with the needs and aspirations of an economy such as Kenya that seeks to attain middle income and globally competitive country status by the year 2030.

The industrial relations system and practice in Kenya can be improved if parties promote social dialogue as a mechanism for promoting industrial peace and harmony, and guaranteeing the social and economic rights of workers and employers. The parties could also acquire negotiation skills and knowledge in labour relations to promote voluntary and speedy dispute resolution. A modern industrial relations system, which is proactive and responsive in nature would reduce the cost of providing and accessing justice, enhance confidence of parties to the industrial disputes in the settlement procedures, and promote compliance and mutuality between the parties. It is a sure way of preventing and minimizing interruptions to businesses and production due to industrial action as it targets improvement in labour-management relationships and organizational effectiveness. A modern industrial relations system proactively engages the parties at the earliest possible moment and helps them resolve their differences cooperatively and with innovative joint solutions. Such a mechanism provides the parties with most effective tools for achieving productivity, and innovation and competitiveness, which are the central ingredients for growing the economy.

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