
A CRITICAL APPRAISAL OF THE FACTORS FUELING INDUSTRIAL UNREST IN THE KENYAN PUBLIC SERVICE

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ABSTRACT

The public sector in Kenya has experienced a surge in industrial disputes as manifested by frequent strike action by public servants. The reasons underlying this labour unrest remains to be conclusively determined. However, the current constitutional dispensation that fortifies the rights of the Kenyan worker and trade unionism play a critical role in fanning labour unrest. Upward review of salaries appears to be the main reason for strike action in the public sector in Kenya. However, the need for improved salaries by public servants should not be viewed in isolation. Rather, it should be considered as a reflection of inflationary pressures as indicated by declining purchasing power of the Kenyan public servant. The Salaries and Remuneration Commission (SRC) is a viable approach to streamline public sector earnings and align them to the economic realities in the country and thus effectively address the main driver of labour unrest in the public service. SRC has a significant role to play in addressing industrial unrest in Kenya. This notwithstanding, the Kenyan government needs to address other contentious issues pertaining to labour relations promptly through effective communication to forestall industrial action in the public service.

Keywords: Industrial Relation, Labour unrest, Strike, Public service, Kenya

INTRODUCTION

Industrial Unrest:

Industrial relations cover relations between individuals such as individual employer and employee, and between organized groups such as trade unions and employers. It also covers unorganized or informal relations and organized or formal relations (Behrend, 1963). On the other hand, industrial relations include all relations between workers and management or employers and between workers organizations or representatives and the representative of the employers or their association or federations (Behrend, 1963). Ideally, industrial harmony would

prevail when there is perfect synergy between workers on one hand and their employers on the other, which would then result in optimal realization of the aspirations of workers and the organization. However, this utopian state is hardly realized in real life industrial relations. Consequently, industrial unrest is a typical finding in most industrial relations.

Labour unrest manifested as strikes have occurred for thousands of years, notably during the construction of the pyramids in ancient Egypt (Budd, 2005). Since the 12th century BC, strikes were (and still often are) believed to be the only method by which employees could express discontent with their working environments and achieve desired outcomes (Osakede & Ijimakinwa, 2014). Despite the impressive advance in living standards in the western industrializing countries over the nineteenth century, including the enactment of selected social reform measures and the outpouring of new thinking and ideas on labour, labour unrest persists to date (Kaufman, 2004) and is common worldwide. Industrial action is inevitable in any organization – it is the logical outcome of the antagonistic needs between employers and employees that are bound to arise from time to time. Organizations typically comprise of employees and employers of different backgrounds and interest who have to interact in their collective efforts towards achieving set goals, these interactions inevitably lead to conflicts (Rennie, 2009).

Industrial action may be defined as all kinds of opposition or antagonistic interactions in, or among individuals, groups, and/or organizations (Sherlekar, 2001). On the other hand, industrial action may also be defined as a dispute, difference, or struggle between two parties that is indicated by open expression of hostility and/or intentional interference in the goal; achievement of opposing party (Fajana 2000). This interference may be in the form of mounting of active obstacles to prevent the opponent from achieving his goal or it may be just passive resistance such as; refusing to give necessary information or materials to the opponent (Fajana 2000). Moreover, Bloomsbury (2002) described industrial action as events occurring when two or more parties have opposing attitudes of approaches to a particular situation, issue, or person. From the foregoing, it can be inferred that conflict in industrial relations is not limited to strikes, although these events are the most obvious. Other manifestations of industrial conflicts include sabotage, absenteeism, walk-out, labour turnover, withdrawal of cooperation, go-slow and overtime ban (Adu-Poku, 2004). All of which have significant adverse effects on productivity of the individual and the organization. In summary, disputes in the workplace may manifest in subtle ways which may be difficult to discern or they may be obvious in the form of strikes. Both manifestations of industrial disputes are harmful to employees and the employers.

As stated earlier, striking which is the most overt manifestation of industrial unrest involves withdrawing services by employees in an organization to realize specific objectives. Flippo

(1984) identifies six forms of labour strikes. These are: recognition, economic, jurisdictional, wildcat, sit-in and sympathy strikes. In a recognition strike the employees try to force the employer to recognize and deal with the union. On the other hand, an economic strike is the typical strike based on a demand for better wages, hours of work and working conditions than the employer is willing to grant. Jurisdictional strikes occurs when two unions argue about which union has jurisdiction over the type of work and attempt to exert pressure upon the employer to allocate it to one or the other. Wildcat strikes are the quick, sudden and unauthorized types of work stoppages. Such strikes are not approved by the union leadership and are contrary to the existing labour agreements. In a Sit-in strike the workers strikes but remain at their jobs in the plant on the other hand, a sympathy strike is when one union strikes in support of the other involved in a dispute even though the first union has no disagreement with the employer (Daudhkhane, 2017, Flippo, 1984).

Striking is generally the last resort to solving a problem and occurs when the collective bargaining process is inadequate and the unions are not satisfied with management's offer to correct the situation (Fashoyin, 2008). As stated earlier, strikes are the most overt and the most significant aspect of industrial conflict. However, subtle indicators of labour discontent such as; absenteeism, walk-out, labour turnover and withdrawal of cooperation should be identified early and remedial action mounted to forestall the development of a full blown strike.

Profile of public sector labour unrest in Kenya:

The public sector in Kenya is composed of: the civil service, the teaching service, Parastatals and the local authorities (Ndegwa, 1991). The most recent estimate of public servants in Kenya indicates that there were about 650,000 employees in the public and semi- public sectors out of which about 487,500 were unionisable (UNDP 2007). Public servants provide critical services to the Kenyan economy and therefore, the effects of strikes in the public service is especially crippling to the socio-economic wellbeing of the country.

Kenya has witnesses an unprecedented increase in frequency of strikes that have affected several sectors of the public service including such critical areas as health, public universities, teaching service and the mainstream civil service. This agitation for workers rights is not a novel development in the country. However, the audacity of the current labour movement in championing of the rights of workers reflected in the frequency of contemporary industrial unrest is a new development that mirrors the enactment of a new legal regime governing labour relations in the country. One of the greatest landmark achievements Kenya has made since independence in 1963 was the enactment of the new Constitution in 2010. A cursory look at the Constitution reveals that Article 41 grants workers basic fundamental rights that cushion them from violations. For example, Article 41 (1) grants the worker the right to fair labour practices;

Article 41 (2a), the right to fair remuneration; Article 41(2b), reasonable working conditions; while Article 41(2c) confers the workers the right to form, join or participate in the programmes and activities of a trade union of choice. Similarly, Article 41(5) grants trade unions the right to engage in collective bargaining while Article 43 confers workers with social and economic rights, which include the right to social security (Kenya constitution 2010). From the foregoing strike action is a legally protected right of workers and thus, provides a basis for agitation for enhanced welfare for the workers. This in my view, is the single most important thrust for labour agitation as evidenced by the frequent clarion call of labour unionists - '*haki yetu*' translated to 'our rights'- in mobilizing their members to industrial action.

Factors promoting Industrial disharmony in Kenya:

Kenya has been experiencing industrial disputes since independence. However, recently there has been an upsurge of public sector strikes that are arguably linked to enhanced rights of workers as guaranteed in the current Constitution. Besides these enhanced rights, what else could be fueling this labour unrest in the Kenyan public service? Previous studies reveal that the foremost reasons for strikes is poor working conditions, wage and other incentives (Bloomsbury, 2002). Other reasons for striking include union rivalry and political interference.

Economic causes of industrial disputes relate to wages, bonuses, allowances, benefits, incentives, and working conditions. Historically, most of labour strikes are related to economic reasons. A recent study by Lugwe & Gichinga (2017) indicated that working conditions, rewards, leadership style and collective bargaining impasse collectively accounted for 74% of the industrial unrest at a hospital in the Kenyan Coast. Agitation for increased wages is arguably the foremost reason for labour unrest in Kenya. It is a logical reflection of inflationary pressures in the Kenyan economy that negatively impacts public servants just like everyone else. Inflation implies a reduction in the purchasing power per unit of money. Globally, the demand for wages has never been fully met because of continuously rising inflation and high cost of living. To cope with this declining purchasing power, most public servants increase their uptake of consumer loans to unsustainable levels in an attempt to weather inflationary pressures; this inevitably leads to declining monthly incomes which then drive agitation for increased wages. This scenario ultimately results in the never-ending employee demands for upward revision of wages as witnessed in various sectors of the Kenyan public service. In addition, the role of wage differentials in similarly qualified public workers in fueling discontent and consequently labour unrest needs to be examined closely.

Trade unions in Kenya are fanning labour unrest. There are at least 50 registered trade unions in Kenya most of which are affiliated to the Central Organization of Trade Unions-Kenya (COTU-K) while a few such as the Kenya National Union of Teachers (KNUT), Union of Kenya Civil Servants (UKCS), Universities Academic Staff Union (UASU) and the Kenya Universities Staff

Union (KUSU) are affiliated to the newly formed Trade Union Congress of Kenya (TUC- Ke). Mostly, the core mandate of these trade unions is agitating for increased wages for their members through mobilization of the membership to participate in strike action. The Kenyan public sector trade unions have been particularly successful in agitation for enhanced wages for their members. This is a consequence of the fact that almost all strikes in the public service have been resolved when the government agrees to revise wages upwards. This scenario is clearly untenable as it creates a 'knock-over' effect where resolution of one industrial dispute triggers another dispute in a different sub-sector of the public service which clearly is unsustainable.

One of the most frequently cited sources of friction and reason for embarking on strikes is the failure of employers, whether government or private, to adhere to the terms of negotiated wage agreements (Bankole, 2003, Animashaun & Shabi, 2003). Failure to honour collective bargaining agreements (CBA) by the government is a prominent factor in driving labour unrest in Kenya. Recently, Kenyan nurses engaged in a 5 month strike citing failure of the governments to abide with the contents of a memorandum of understanding between the governments and the health-care providers. Partial or shoddy implementation of these agreements as well as refusal by government to agree on minimum service level agreements is cited as one of the reasons for doctors, lecturers, nurses and teacher strikes in Kenya.

Impact of Public sector strike:

Protracted strike action is associated with labour attrition and higher labour turnover especially in the health and education sector, where the skilled manpower mobility is high. Consequently, this result in declining quality of services offered to the public. The common consequences of industrial disputes are loss of production, income, and employment and increase in inflation and cost of living (Daudkhane, 2017). For instance, the Kenyan public university lecturers strike has resulted in declining quality of teaching and research outputs. On the other hand, the public health sector that serves the majority of Kenya's 40 million people is basically moribund. This is a result of recent doctors and nurses strikes which have not been conclusively resolved. The Strike actions by doctors and nurses go beyond worsening the economy but raise ethical issues regarding the value of human life as well. In general, there is scant literature on quantifying the effects of public sector strikes in Kenya and therefore, the exact socio-economic impact of these incessant labour unrests in the public service remains to be determined.

Approaches to Minimize Labor Unrest in the Kenyan public Service

An understanding of the factors fueling labour unrest should help the government minimize the frequency of strikes in the public sector and hence mitigate the adverse impact of this industrial disharmony on the economy. Government can prevent the occurrence of industrial unrest by

creating a suitable industrial relations environment, which should then minimize the friction between labour and government by providing prompt and effective means of settling industrial disputes. Public servants like other employees within an organization carry out explicit and implicit assessment of their work environment so as to match their experience against such aspirations as they may have. These workers expect extrinsic rewards such as money, good working conditions, status and social satisfaction (Fox, 1971). Furthermore, the worker also expects intrinsic rewards such as job challenge, job interest; participation in decision-making and self actualization. A close approximation of these expectations should help minimize industrial unrest in the public sector.

A comprehensive evaluation of the factors fueling labour unrest indicates that salaries and other forms of compensation are the main reasons industrial action in the public service in Kenya. Furthermore, poor working conditions, inadequate staff, shift work, lack of consultation on decisions which affect employees, and employee grading are other topical reasons for labour unrest (Surujlal, 2014). To avoid industrial action, it is important for government to heed workers concerns and remedy the situation promptly. Thus, the role of effective communication in addressing workers concerns and thus, minimizing strike action in the public sector, cannot be overstated. Effective communication can address precursors of labour unrest such as lack of consultation on critical issues affecting the workers and thereby forestall a full blown strike action.

Salaries appear to be the main driver of most of the industrial actions in Kenya. In most instances, negotiations begin with high demands from unions and a low offer from the government that often results in a deadlock that lasts sometimes for several months. Realistic figures from both parties would reduce the negotiation period and ensure that workers are aware of the outcome sooner (Surujlal, 2014). In addition, the government can also play a significant role by structuring salaries in such a way that workers can see progressive increases over a period of time. Another way that the government can assist workers suffering from inflation-driven decline in purchasing power is by offering other benefits instead of a cash component such as food vouchers, electricity vouchers, or subsidised insurance; thereby, catering for the basic necessities of the workers (Surujlal, 2014).

The Kenyan government realized the central role of employee remuneration in fueling industrial unrest. For this reason, a statutory commission – the Salaries and Remuneration Commission (SRC) was mandated to streamline public sector wages. SRC is an innovative approach that may help stem the incessant agitation for higher wages by providing a structured and legally binding framework for review of wages in the public sector and consequently diminish the role of trade unions in agitating for higher wages through industrial action.

According to the SRC evaluation of the Kenyan public service, the wage setting mechanisms, including determination of wage awards exhibited inherent weaknesses, which included: Lack of clear instruments and accurate information to guide wage awards under collective bargaining agreements; Use of ad hoc commissions/committees to review and award public service wages; and lack of effective remuneration review framework to guide pay review in determination of awards at the national level. This resulted in wage awards to sub-sectors of the public service without regard to their implications on other sectors of the service, macroeconomic stability, external competitiveness; effectiveness of service delivery and affordability of such awards (SRC, 2017). Consequently, SRC strongly discourages review of wages on the basis of strike action.

In summary:

In recent times, the Kenyan public service has experienced industrial disharmony as manifested by frequent and prolonged strike action. The underlying causes of these strikes need to be determined conclusively. Several studies have indicated that most strikes are due to economic reasons – wages and other benefits and non-economic reasons – political, psychological and others. I have argued here that with respect to the Kenyan public service; the need for enhanced salaries is the major driver strikes. A hostile economic environment due to sustained inflation and wage adjustments that are not in tandem with the rate of inflation results in a decline in the purchasing power of the public servant. Consequently, the public servant would agitate for upward review of his wages through strike action. SRC is an innovative approach of streamlining public sector wages and thus, eliminating the need for frequent agitation for enhanced pay through strike action.

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