



“THE NEXT FRONTIER FOR TRADE UNIONS IN KENYA ”

AN ECONOMIC PAPER FOR DECISION MAKING IN TRADE UNIONS IN KENYA

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1.0 INTRODUCTION

The Central Organization of Trade Unions, COTU (K) remains keen on its contributions to informed policy that leads to well-rounded workers in Kenya and beyond. COTU (K) is pertinent to policy issues in the labour market as it acts as a watchdog to foresee worker-friendly policy initiatives and decisions. These policy concerns are in line with COTU (K)'s mandate to protect, promote and uphold decent work in Kenya through constant review of employment situation and opportunities in Kenya; promoting effective and consultative Social Dialogue; Enhancing Social protection by closely monitoring and influencing the operations of NSSF and NHIF while ensuring that the fundamental rights and freedoms of workers are upheld.

In line with its mandate, COTU (K) continues to preach peaceful and harmonious coexistence amongst the workers in Kenya having passed through the hotly contested General elections on August 8th 2017. As such, COTU (K) focuses on seeing every worker embark on active engagement in economic and social activities that could spur economic growth and sustainability.

In this regard, this paper focuses on enhancing the capacity of trade unions in Kenya. The paper is an outcome of a sample survey of 15 trade union affiliates of COTU (K). Other institutions interviewed include research institutions, academic institutions, the Federation of Kenya Employers (FKE), the civil society as well as the leadership of Women and Youth Committees of COTU (K).

For purposes of the collective bargaining by the trade unions in Kenya, the paper kicks off by giving a brief analysis of the Consumer Price Indices and Inflation Rates for the month of July 2017 in section 2 and 3. The detailed analysis of the current state of trade unions in Kenya will be presented in section 4 while the conclusion and policy propositions are presented in section 5.

2.0 BRIEF ANALYSIS OF THE CONSUMER PRICE INDICES FOR THE PERIOD JUNE 2016 TO JULY 2017

The CPI decreased by 0.96 per cent from 185.39 points in June 2017 to 183.60 points in July 2017. It was observed that during the month of July 2017, prices of several food and non-food items dropped significantly due to improved weather conditions as well as government interventions to reduce prices of food especially maize flour. The government subsidized maize flour and marked retail prices. However, several whole sale and retail outlets defied the price control and sold the subsidized maize flour at very high prices up-to Kshs. 120 per 2kg of sifted maize flour instead of the recommended Kshs. 90. Such a black market was prompted by huge shortages of the commodity coupled with high domestic demand as people shopped in large quantities to keep enough food for use in case of any election violence in the recently concluded general elections

The Consumer Price Indices for the last 14 months are as shown in table 1 that follows (February 2009=100)

Table 1: CPIs for Kenya for the Period June 2016 - July 2017

Month	Consumer Price Indices						
	Kenya	% change from previous month	Nairobi Lower Income Group	Nairobi Middle Income Group	Nairobi Upper Income Group	Nairobi Combined	Rest of Urban Areas
June 2016	169.76	1.05	174.08	145.59	146.21	166.15	172.29
July 2016	170.84	0.64	174.51	146.18	146.94	166.64	173.78
Aug. 2016	170.97	0.08	174.40	146.76	148.33	166.75	173.92
Sept. 2016	171.56	0.34	174.60	147.19	148.71	167.01	174.74
Oct. 2016	172.62	0.62	176.05	147.22	148.68	168.06	175.82
Nov. 2016	173.85	0.71	177.67	147.61	149.23	169.35	177.01
Dec. 2016	175.18	0.77	178.10	148.37	149.68	169.85	178.91
Jan. 2017	176.93	1.00	179.78	150.25	150.19	171.54	180.70
Feb. 2017	179.98	1.72	183.80	151.94	150.99	174.88	183.55
Mar. 2017	182.98	1.67	188.07	153.20	151.28	178.27	186.28
April 2017	186.24	1.78	191.95	155.28	151.30	181.57	189.52
May 2017	187.64	0.75	192.75	155.81	151.51	182.28	191.38
June 2017	185.39	-1.2	189.69	154.29	150.94	179.69	189.38
July 2017	183.60	-0.96	181.78*	150.34*	149.82*	172.99*	181.25*

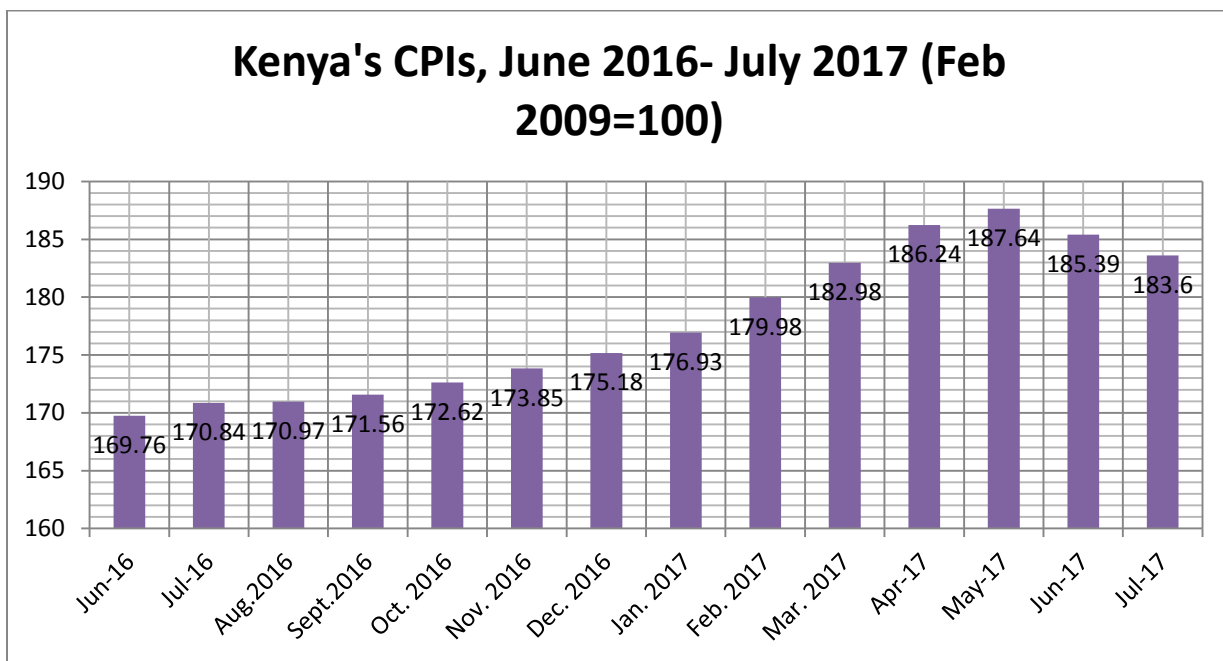
Source: KNBS

Notes: 1. * Authors' estimates based on average CPI

2. Nairobi Lower Income Group are households that spent less than Kshs. 23,670 in October 2005; Nairobi Middle Income Group are households that spent between Kshs. 23,671 to Kshs. 119,999 in October 2005 while Nairobi Upper Income Group are households that spent above Kshs. 120,000 in October 2005. The Rest of urban areas are Mombasa, Malindi, Machakos, Nyeri, Thika, Nakuru, Kisii, Kisumu, Eldoret, Nyahururu, Garissa and Bungoma.

The graphical representation of the CPI for the 14 months is shown in figure 1 that follows:

Figure 1: Graph of Kenya’s CPIs for the period June 2016 – July 2017



Source: Author’s construction based on KNBS data

The data presented on table 1 and figure 1 show a steady rise in CPIs from a low of 169.76 points in June 2016 to a high of 187.64 points in May 2017 before falling to 183.60 points in July 2017. The CPI for the last two months has been on a downward movement showing signs of

improvement in the cost of living. This notwithstanding, the cost of the purchasing power of the workers remain weak given the rigidity characterizes Kenya’s wages system.

3.0 BRIEF ANALYSIS OF THE INFLATION RATES FOR THE PERIOD JUNE 2016 TO JULY 2017

The overall inflation rate for July 2017 has been stated by KNBS as 7.47 per cent. This represents 18.89 per cent decline from the June 2017 inflation rate of 9.21 per cent.

The inflation rates for the last 14 months are as shown in table 2 that follows.

Table 2: Kenya’s Inflation rates for the period June 2016 – July 2017

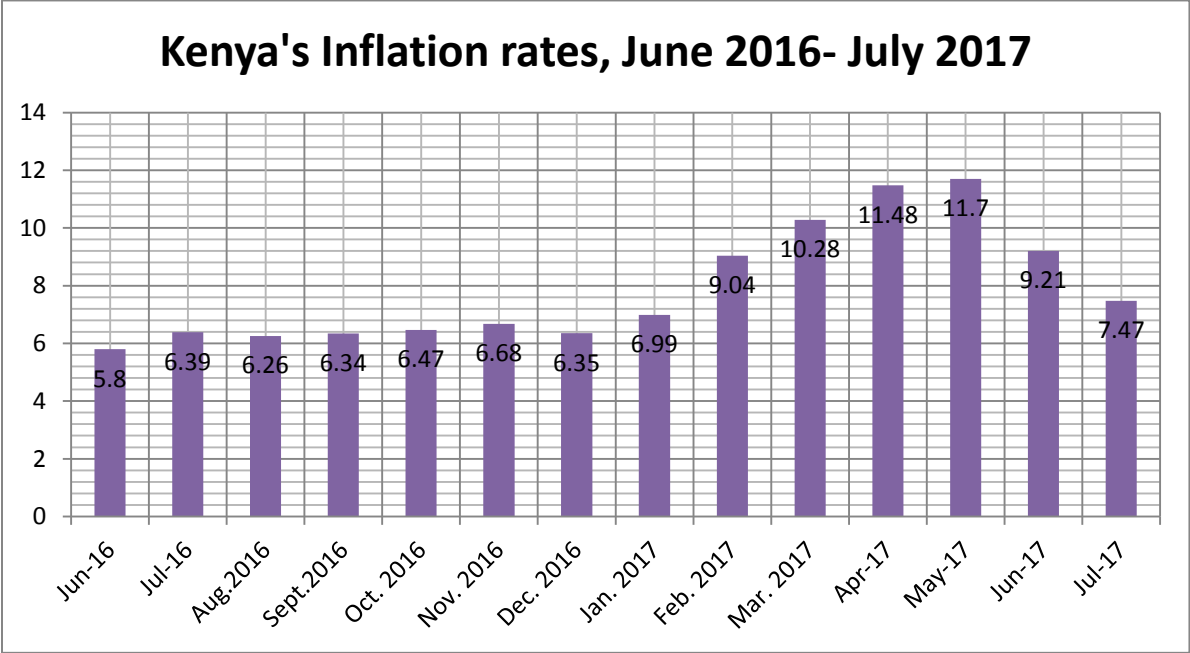
Month	Inflation Rates (%)						
	Kenya	% change from previous month	Nairobi Low Income Group	Nairobi Middle Income Group	Nairobi Upper Income Group	Nairobi Overall	Other Urban Areas
June 2016	5.80	16	7.15	3.48	5.00	6.28	5.48
July 2016	6.39	10.17	7.24	3.55	3.95	6.33	6.44
Aug. 2016	6.26	-2.03	7.14	3.60	3.35	6.24	6.27
Sept. 2016	6.34	1.28	7.03	3.62	3.74	6.17	6.45
Oct. 2016	6.47	2.05	7.18	3.73	3.93	6.32	6.57
Nov. 2016	6.68	3.25	7.02	4.13	4.58	6.32	6.92
Dec. 2016	6.35	-4.94	6.34	2.16	4.42	5.37	7.01
Jan. 2017	6.99	10.08	7.27	4.17	4.08	6.49	7.33
Feb. 2017	9.04	-29.33	9.81	5.97	4.72	8.81	9.19
March 2017	10.28	13.72	11.16	6.55	4.90	9.96	10.50
April 2017	11.48	11.67	12.34	7.86	3.91	11.10	11.73
May 2017	11.70	1.92	12.14	7.76	3.82	10.93	12.21
June 2017	9.21	-21.28	8.97	5.97	3.23	8.15	9.92
July 2017	7.47	-18.89	8.64*	4.92*	4.05*	6.85*	8.38*

Source: KNBS

*Author’s estimates based on average inflation

The graphical representation for the Inflation rates for the 14 months is shown in figure 2 that follows.

Figure 2: Kenya’s Inflation rates for the period June 2016 – July 2017



Source: Author’s construction based on KNBS data

The data presented on table 2 and figure 2 shows that inflation rose steadily from 5.8 per cent in July 2016 to 6.68 per cent in November 2017. This was followed by a small decline to 6.35 per cent in December 2017 and thereafter a sharp increase up-to the high of 11.70 per cent recorded in May 2017. The inflation rate then began to fall over the last two months, recording a low of 7.47 per cent in July 2017. The impact of such high inflation has been that workers’ purchasing power continue to shrink. There is therefore need for policy intervention to shield the workers from such heightened inflation.

4.0 TRADE UNION MOVEMENT IN KENYA TODAY

Kenya's industrial relation is based on a fairly elaborate institutional and legal framework anchored on a tripartite set up. The set up brings together the government, workers (represented by trade unions) and employers (represented by employers' organization). The legal framework is founded on relevant ILO Conventions ratified by the country, the country's Constitution, and domestic labour legislation.

On the other hand, the boundaries for trade union organization and recruitment, including guidelines on the categories of workers, who by nature of their work, qualify to join a trade union are defined by the Industrial Relations Charter of 1957 (revised in 1984).

Kenya has five sets of labour laws that govern industrial relations. These are the Employment Act (2007); the Labour Relations Act (2007); the Labour Institutions Act (2007); the Work Injury Benefits Act (2007); and the Occupational Safety and Health Act (2007). Other Acts that support effective industrial relations include the Employment and Labour Relations Court Act, 2011, the National Social Security Fund Act, No. 45 of 2013 and the National Hospital Insurance Fund Act, 1998 (Revised edition, 2012).

4.1 Trade Union Membership Density and Management in Kenya

Kenya has two federations, COTU (K) and TUC-Ke. There are about 50 registered trade unions, most of which (44) are affiliated to COTU (K). The sectors with the biggest trade unions include Agriculture; Whole Sale and Retail; Public Service. Among these unions, only 4 in the public sector are not affiliated to COTU (K). In terms of affiliation to international trade union bodies, COTU (K) is affiliated to EATUC, ITUC-Africa, ITUC- Brussels, TUFEA and OATUU

4.2 Membership Tracking and Record Management

The study established that COTU (K)'s membership tracking and management is done by the Accounts department. Every month, the accounts department receives the members' dues accompanied by the names of the members. This record is used to track membership growth. Out of the total labour force of 16.0 million in Kenya in 2016, COTU (K) has attracted a membership of over 2.5 million drawn from 44 trade union affiliates distributed across all sectors of the economy.

4.3 Human Resource Management among Trade Unions in Kenya

At COTU (K), the administrative department is entrusted with the management and administration of human resources at COTU (K). Other departments other than administration include departments of: Public Relations; Accounts; Legal and Industrial Relations; Economics and Research; Education and Programs; Security; Support Staff and the Maintenance department. These departments are critical in offering services to COTU (K) affiliates. COTU (K) has a Savings and Credit Cooperative Society for its workers and is in the process of initiating a Housing Facility.

4.4 Resource Mobilization and Financial Management among Trade Unions in Kenya

The study established that the main source of revenue for COTU (K) and its affiliate unions is the union dues. Such funds are used for administrative purposes as well as service delivery to the members. Other sources of finance include support from development partners mainly for projects. These development partners include the International Labour Organization, LO-FTF Denmark and LO-TCO Sweden. Other development partners at the national level are the Friedrich Ebert Stiftung (FES-Kenya) and the American Center for International Labour Solidarity (ACILS) that offer support for ad hoc programs.

The study showed union contributions form almost 99 per cent of total revenue.

It is worth noting that COTU (K) and all its affiliate trade unions conduct Annual Financial Audits as a requirement by the Registrar of trade unions

4.5 Organizing and Recruitment Strategies

COTU (K) has been keen in enhancing organizing skills for its affiliate unions. In this regard, several organizers are trained at the Tom Mboya Labour College to help in organizing at the affiliate level.

The strategy employed by the unions in organizing involves mapping out potential member companies; assembling relevant information; establishing key contact persons; meeting with the potential members especially during lunch time, evenings, week-ends or any other time that does not compromise their duties as employees; recruitment and signing of check off systems.

Upon recruiting 50 plus one per cent of the workers as required by the law, the union seeks for recognition by the company in question. Once the recognition agreement is signed, the union initiates CBA negotiations by developing a proposal that is followed by a counter proposal by the employer. The negotiations culminate into a signed CBA that covers the terms and conditions of employment of the workers covered. The signed CBA becomes legal and binding upon its registration with the Employment and Labour Relations Court.

For unionisable members who are not registered as members of the union, they are liable to pay AGENCY FEES to the union since they benefit from the negotiated CBA. The agency fees are paid subject to the gazetement by the Cabinet Secretary for East African Community, Labour and Social Protection in accordance to Section 49 of the Labour Relations Act 2007. The agency fees may however not be higher than the union dues.

4.6 Trade Union Services

The mission of COTU (K) is to foresee a holistic worker whose socio-economic and political welfare is enhanced and protected. This mission is achieved through effective service delivery. The study established that services offered COTU (K) include organizing and recruitment; grievance handling and dispute resolution; training and education; financial services and Sacco services; Negotiation of CBAs and legal services; Counseling; and General labour advisory services.

4.7 Trade Union Participation in Social Dialogue and Collective Bargaining

COTU (K), through its Industrial relations and the Economic and Research departments support its affiliates during collective bargaining processes.

The legal and institutional framework for social dialogue is tripartite in nature. It brings together the government, the employers and the trade unions to negotiate on terms and conditions of employment. Most of the unions have engaged in social dialogue through CBA negotiations as well as in dispute resolutions to enhance industrial harmony. Moreover, social dialogue campaigns focusing on social protection have as well been successful. However, the level of implementation of the legal provisions of collective bargaining continue to face bottlenecks as some employers and the government fail to comply with some of the clauses as laid down in the CBAs.

COTU (K) faces a major challenge from the Salaries and Remuneration Commission (SRC) that has greatly interfered with negotiation processes by increasing the duration of the CBAs from

two to four years as well as imposing several restrictions in the overall CBA negotiation processes.

4.8 Trade Union Involvement in Education, Training and Research

COTU (K) is fully involved in education of its members as well as the leaders. Through its existing education programs, COTU (K) educates its members using the Tom Mboya Labour College Curriculum. The curriculum details several training programs for the rank and file members, the shop stewards, the branch and national officials, educators, organisers as well as paralegals.

Meanwhile, through the support of the LO-FTF and the LO-TCO development partners, COTU (K) continuously train its members on trade unionism, social dialogue, organizing and recruitment, conflict resolution, HIV and AIDS, Gender Equality in the work place as well as regional integration. These programs aim to produce a holistic trade union member of the federation. Moreover, trade union research is carried out through the department of economics and research at COTU (K).

4.9 Communication, Networking and Alliance building among trade unions in Kenya

COTU (K) is constantly in touch with its affiliate unions as well as with its social partners. In this regard, COTU (K) uses letters, emails, phone calls, bill boards, social media, print media as well as electronic media to pass information to its members. The study established that the trade unions affiliates of COTU (K) mostly use letters, mails, notice boards as well as phone calls to communicate with their members and leaders..

COTU (K) has a wide network that includes social partners, that is, the employers and the government, development partners such as the LO-FTF and the LO-TCO as well as international linkages with EATUC, ITUC-Africa, ITUC-Brussels, OATUU and ILO..

4.10 Campaigns by Trade Unions

COTU (K) has been on the forefront sensitizing workers to join trade unions. The current major campaign being run by COTU (K) is through Bill Boards that are strategically placed along major highways in Nairobi sensitizing workers to join the trade union movement for the protection of their rights as well as for social protection. Other campaigns by COTU (K) have been through electronic media, social media, and print media as well as through tripartite workshops.

4.11 Involvement of Trade Unions in Industrial Actions

COTU (K) has never called for a nation-wide industrial action over the last five years. However, the trade union affiliates have often engaged in industrial actions whenever the available dispute resolution mechanisms fail to bear fruit.

5.0 ENHANCING TRADE UNION CAPACITY IN KENYA

This paper has clearly shown the current state of trade unions in Kenya. From the forgone analysis, it is worth noting that the following recommendations be adopted by all the trade unions in Kenya and spearheaded by COTU (K) under the able leadership of the Secretary General, Brother Francis Atwoli. The actualization of these policy propositions stands would thrust the trade union movement into efficiency that would further result into the achievement of COTU (K)'s vision as a premier trade union centre that enhances social, economic and political

welfare of its members through efficient and effective representation. The policy proposals are as follows:

1. Trade Union Unity

The study has shown that trade union solidarity in Kenya has been the reason for its strength in influencing social, economic and political spheres in Kenya. Trade union solidarity is critical in thwarting anti-union governments and employers who thrive well when trade unions are divided. Thus trade union splits and rivalry is dangerous to the trade union movement. As such inter and intra trade union conflicts should be effectively addressed. In this regard, COTU (K) should strengthen its mediation committee to effectively look into existing intra and inter trade union conflicts

2. Strategic Organising and Recruitment

The study established that Kenya's total work force in 2016 was 16.0 million. However, membership to the trade union movement at COTU (K) level is only over 2.5 million. This shows that many workers are not in trade unions. In fact, the informal sector that has about 13.3 million workers has very minimal trade union presence. Moreover, many multinational companies (MNCs) especially those owned by the Chinese and the Asians rarely allow their workers to join trade unions. In this regard, COTU (K) and the entire trade union fraternity should mount national campaigns aimed at organising and recruiting the non-unionised unionisable workers.

3. Trade union education and training

The study established that many workers that are not members of any trade union are ignorant about the benefits of trade unions. In several occasions, such workers only find trade unions necessary when they face conflicts in their work places. This notwithstanding, several members of trade unions are ignorant of their basic rights, fundamental freedoms and obligations as trade union members. In this regard, it is prudent that trade unions in Kenya led by COTU (K) invest heavily in workers education and training without excluding non-members.

4. Resource Mobilization

The study established that most trade unions in Kenya solely depend on trade union dues as the sole source of finance. In this regard, most of the operations and services of the trade unions are

not effectively carried out due to limited resources. In fact, Kenya has experienced cases where trade union activities are paralyzed when some employers stop remitting the dues whenever a dispute arose (the case of teachers' union).

This limitation calls for strategic resource mobilization techniques. For example, trade unions could consider mobilizing more funds from their development partners (this has been shrinking over time); organizing funds drives and rotaries; investment in property as well as conference and training infrastructure. Advocacy for the

5. Ratification of the ILO Convention 87 of 1948 on the Freedom of Association and Collective Bargaining

Since the study showed that Kenya has not yet ratified ILO Convention 87 on freedom of association and collective bargaining, it would be prudent that COTU (K) lobbies for its ratification. Such lobby should be supported by the Constitution of Kenya's Bill of Rights as well as the Labour Relations Act 2007 on Freedom of Association. The ratification of this Convention is ideal since Kenya is increasingly witnessing MNCs that blatantly deny workers the right to join and participate in trade union activities.

6.0 CONCLUSION

This paper has provided clear policy propositions and thoughts that could redefine Kenya's trade union movement. The propositions are as well applicable to other trade unions across the globe. The Central Organization of Trade Unions remains at the center in offering the lead among other African and Global trade union centers.

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