

# The Emergence of Trade Unionism in the Asian-Owned Sugar Plantations in Kisumu County, Kenya, 1953-1963

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## Abstract

The paper examines the emergence of trade unionism in the Asian-owned sugar plantations in Kisumu County of Kenya. The sugar industry has continued to be a major player in the county's economy to date. The article traces the nascent labour protests and strikes in these sugar plantations and the impact of these protests and strikes. The working conditions in the Asian-owned sugar plantations were generally poor. However, African labourers never accepted the poor working conditions as *a fait accompli*. Rather, from the outset they made concerted attempts to ameliorate their working conditions through various methods such as desertion, evasion of harsh employers, strikes and later the formation of trade unions. Material for the article is derived from archival research, oral interviews and analysis of existing works on socio-economic history in general and the labour movement in particular. It was through the establishment of colonial rule that Kisumu County was incorporated into the World Capitalist System. The paper affirms that labour consciousness in the sugar plantations emerged later compared to the urban workers ostensibly because of the unskilled and unstabilized nature of the labour force. The article concludes that the emergence of the Kenya Union of Sugar Plantation Workers (KUSPW) to some extent led to the improvement of the working conditions. The paper contributes to Kenya's labour historiography.

**Key words:** Labour protests; migrant labour; plantation; sugar industry; trade unionism.

## 1.1 Introduction

This article traces the emergence and growth of trade unionism in the Asian-owned sugar plantations in Kisumu County in Kenya from 1953 to 1963. It also provides a background to the colonial government's policies towards trade unionism as well as the Asian employers' attitude to a labour movement. In addition, the paper highlights key achievements and limitations of the Kenya Union of Sugar Plantation Workers (KUSPW). Furthermore, it examines the emergence and the functions of the Industrial Relations Machinery in the sugar industry is examined. The Miwani Sugar Mills is used as a case study to show how the works councils operated as a form of industrial relations machinery.

The article also discusses the negotiation machinery between the Kenya Union of Sugar Plantation Workers and the Kenya Sugar Employers Union. The machinery to some extent improved the employee-employer relations in the sugar industry.

## 1.2 Labour Protests in the Sugar Plantations, 1940-55

From the 1940s African labourers in the Asian sugar plantations adopted various strategies in their struggles to ameliorate their working conditions African labourers. These strategies included refusal to work, sabotage, poor workmanship, complaining to the Labour Department and small scale strikes (Osamba, 1996).

Desertion was one of the earliest strategies used by African labourers to show their discontent with conditions of wage labour. This method continued in the sugar plantations, especially in the Miwani Sugar Mills, up to as late as mid-1950s (KNA/Lab 9/256). The major cause for labour desertion included low wages, poor rations, poor working conditions and ill-treatment (Wesonga., 2011: Osamba, 1996). In the early 1950s the desertion rate was so high in the Miwani Sugar Estate that security guards were deployed to be on the lookout for potential deserters. Some security guards were stationed at the nearby Miwani railway station to ensure that no deserter boarded the trains. However, such measures did not curtail desertion. The majority of the labour deserters were Kisii, Kuria and Luo from the then South Nyanza District who had been fraudulently engaged by private labour recruiters (KNA/Lab 9/256). For example, in 1950 out of 1,412 recruits, 28% did not complete the six months' contract, while in 1951, 499 (50%) of the recruits absconded (KNA/Lab 9/256).

According to the police and the District Labour Inspector, the causes for such desertion were two fold (KNA/Lab 9/256). On the one hand, the contracts provided these labourers with opportunity for free transport paid for by the Labour agent to or near Kisumu town, where they could get better terms of employment. Secondly, other Asian farmers nearby decoyed or influenced some of these labourers to join their employment by promising them better working conditions.

The preponderance of migrant labour in the sugar plantations made it difficult for the labourers to organize effectively and collectively bargain for better working conditions (Wesonga, 2011; Osamba, 1996). In such a situation, the collective protests in the sugar Estates in the 1940s and early 1950s were spontaneous with no articulate leadership or long term objectives. Such protests and strikes were mostly "wild cat" strikes involving a small number of labourers. For example, in July 1942, about 50 labourers in an Asian plantation near Miwani went on a three day strike in demand for increased wage (KNA/Lab 9/256). This strike was a breach of the Defence Regulations which outlawed any strike in an essential undertaking during the war period. However, the Asian employer rejected the labourers' demands and they returned to work under the old wage rates.

In 1947 there were two strikes at the Miwani Sugar Estate caused by the new administrative policies introduced by the new Asian owners to prevent the pilfering of sugar by the labourers (KNA/ KDAR/1947). Furthermore, in 1950 there was another strike in the Miwani Sugar Mills involving 570 labourers, who demanded better wages and working conditions (KNA/ KDAR/1950). The demands were rejected and the labourers resumed work under the old rates. In 1952, casual labourers of the Miwani Sugar Mills boycotted work demanding wage increase from three shillings to five shillings per day (KNA/Lab 9/2132). The Company lorries that had been sent to collect the labourers only managed to pick very few labourers. However, after about a week the boycott fizzled out and the labourers returned to work at the old wage rate.

The most widespread strike in the Asian sugar plantations occurred on 7 - 8th December, 1959(KNA/ Lab 9/2132). This was a two day strike which paralysed the Miwani Sugar Mills and the nearby Asian sugar estates. The strike was intended to show solidarity with the Kenya railway workers. The labourers had expected a general strike in the country. However, the issue which could have led to the general strike had been settled by the Railway Workers Union and the Railway management on 28th November, 1959. The fact that the sugar plantation workers went on strike was an indication of a nascent class and labour consciousness among them. According to oral information, the 1950s and the 1960s witnessed many strikes in the sugar plantations and especially at the Miwani Sugar Mills (Osamba, 1996). It is estimated that strikes were occurring at the rate of at least one every two months. The causes of these strikes mainly related to the poor working conditions.

These examples show that the early strikes organized by the labourers in the sugar plantations could not paralyse plantations' work. This was because of the presence of a large reserve of unemployed Africans who acted as strike breakers. Thus strikers were very often summarily dismissed. However, as Van Onselm (1976:227) points out, the unarticulated, spontaneous protests by labourers should not be dismissed since they were a nascent form of labour consciousness.

### **1.3 Background to Trade Union Organization in the Sugar Industry**

Wage labour in Kenya to a large extent was a colonial creation (Clayton & Savage, 1979). Labour was required by both the public and the private sectors. The system of wage labour uprooted a significant number of Africans from their traditional milieu into new environments in towns and plantations, away from their homes. This resulted in the concentration of a large number of people from different backgrounds at the work places. As a result, the labourers realised that they needed some form of labour organization to protect their interests and articulate their collective grievances hence, the formation of nascent labour organizations (Lubembe, 1968).

The colonial government, prior to the 1940s was hostile to the formation of African trade unions. Both the government and the settlers argued that African trade unionism should be discouraged especially in the agricultural industry which was described as the mainstay of the country's economy (Clayton & Savage, 1979; Singh, 1969; Lubembe, 1968).

Sidney and Beatrice Webb (cited in Sandbrook, 1975: 144) define a trade union as "a continuous association of wage earners for the purpose of maintaining or improving the conditions of their employment." The Kenya Trade Unions Act of 1937 (chapter 233) defines a trade union as "an association or combination of more than six persons (other than a staff Association, employees Association not deemed to be a trade union) whose principal aims are the regulation of the relations between employees and employers or between employees and employees or between employer and employer" (GoK, 1984:6). Trade unions are formed as attempts by workers to organize themselves in order to ameliorate their conditions so as to contain the contradiction between capital and labour.

As early as the 1930s the Labour government in Britain had pointed out that the trade unions were the appropriate method of protecting colonial workers from abuses and exploitation by employers (Phelan, 2011). However, once the Labour government fell from power the policy of encouraging trade unions was shelved

until the 1940s. It was the general feeling from the 1940s in the British political circles that regardless of the existing labour situation in any of her colonies, trade unions should be encouraged. Thus, in 1940, under the Colonial Development and Welfare Act, grants or funds could only be provided to a colony on condition that there was a freely functioning trade union movement (McWilliams, 1986: 279).

Workers' organizations emerged earlier in the urban areas than in the agricultural sector in Kenya. This was because of the concentration of workers in close proximity and good communication networks in the urban settings (Lubembe, 1968). Furthermore, a big percentage of the workers in the urban areas were literate or semi-literate. Such workers were easier to organize for collective labour action. On the other hand, the prevalence of casual and unstabilized labour in the agricultural sector inhibited the early emergence of worker organizations which could effectively bargain for better terms of service (Shivji, 1986).

The migrant labour system which characterized the plantations in Kenya was an obstacle to the emergence of collective worker consciousness, and organization. As Sandbrook and Cohen (1975: 157) point out, before the 1950s, African resistance was not highly developed in terms of scale and organization. Thus, labour protests were unorganized and spontaneous. Moreover, the labourers in the plantations were under close surveillance by the employers and supervisors. This tended to hold back any labour action by the labourers.

All the early trade unions in Kenya were formed on racial lines. The first trade union in Kenya which can be said to have been multi-racial was the Labour Trade Union of Kenya (LTUK) which was formed by Makhan Singh (1969) in 1935. However, the majority of its members were Asians. The Union opened a small office in Miwani in 1937 which catered mainly for the Asian workers. Before 1937 there was no legislation in Kenya on the formation of trade unions. Moreover, the colonial government discouraged the formation of African trade unions. The colonial government officials argued that the nascent trade unions were political associations formed by agitators. In an attempt to control such labour organizations, the colonial government enacted the 1937 Trade Unions Ordinance.

The Ordinance made it mandatory for any organization purporting to be a trade union to apply for registration or cease operation. The white settlers' controlled press in Kenya such as *The East African Standard* backed the government clampdown on the nascent African trade unions (Singh, 1969). The paper referred to African trade unionists as irresponsible agitators who should be controlled. The employers also thwarted attempts by workers to organize themselves. They used various obstacles such as, ordering the arrest of the union leaders or victimizing them by sacking.

Due to pressure from the British government and the British Trade Union Congress (TUC), the colonial government restructured the Labour Department in Kenya in 1945 (Singh, 1969). For instance, the post of a trade union officer was created. One of the officer's duties was to offer guidance on the formation of trade unions so that they followed the right track acceptable to the colonial government. In other words, the trade unions were to concentrate on labour matters and not engage in political activities.

It is worth noting that in 1945 the Orde-Browne Report on labour conditions in East Africa had stated that the prevailing conditions in East Africa, characterized by unstable and illiterate labour were not conducive to proper trade unionism. The Report thus called for the appointment of trade union advisors to guide the leaders of the nascent trade unions, thereby putting them on the right track on trade union practice. In the 1940s the TUC seconded some of its former officials to the British Labour Party government. These trade unionists were appointed as Labour Officers and were despatched to the British colonies. They were expected to nurture the growth of "responsible" trade unions in the colonies. Against this background, one of these trade unionists, Scottish born, James Patrick was sent to Kenya in April 1947 to take up the post of Trade Union Labour Officer (Clayton & Savage, 1979). His duties were to advise the colonial government, the employers and workers on issues pertaining to trade unionism.

In September 1947, F.W. Carpenter, the then acting Labour Commissioner stated that Africans would only be allowed to form trade unions after they had grasped the tenets, purposes and organization of trade unions. At the same time he stressed that only industry based trade unions would be accepted by the government (Singh, 1969). Patrick asserted that he would not sanction the formation of trade unions by uneducated workers who still lacked good qualities of leadership and organization. Furthermore, he claimed that the mushrooming of trade unions could provide opportunity for agitators to create political unrest in the country (Clayton & Savage, 1979). The settlers were also opposed to the formation of trade unions especially in the agricultural sector

arguing that it was premature and would only lead to agitating. However, Patrick assured them that because of mass illiteracy the agricultural workers would be the last to engage in trade unionism.

The colonial government through the Trade Union Labour Officer wanted to foster the development of the so-called "responsible" trade unions which would concentrate on labour issues and not political activities (Sandbrook, 2008). In 1947 the African Workers Federation (AWF) was formed in Mombasa under the leadership of Chege Kibachia. The Union organized the 1947 Mombasa general strike. Kibachia wanted to establish AWF branches in other parts of Kenya. However the colonial government arrested him and he was deported and restricted to Baringo District (Stichter, 1982).

During the 1940s the colonial government in Kenya was hesitant to register trade unions for fear that they were political organizations masquerading as trade unions. As the Labour Commissioner pointed out in his 1948 annual report:

Considerable difficulty has arisen over the misconception in the mind of the African of the true purpose of a trade union, partly due to a growing political consciousness. On this part action has therefore had to be taken to guide certain African associations chiefly formed from political motives, but calling themselves trade unions, into a more formal channel of Trade union practice (Clayton & Savage, 1979: 324).

As late as 1951 the colonial government believed that Africans were not ready for trade unionism. This was shown in the Labour Commissioner's annual report which stated:

It has been found advisable to exercise a great deal of more supervision over the existing trade unions and nascent organizations of employees... owing to the almost complete lack of understanding of the primary purposes of trade union by the vast majority of African workers in East Africa, and their susceptibility to the influence of educated persons, who may have ambition of a political nature (Clayton & Savage, 1979: 324).

As such, the 1952 Trade Unions Ordinance was enacted with the aim of controlling the trade unions more stringently than hitherto. It provided for strict control of union funds by the Registrar of Trade Unions. It also stated that a union could be deregistered if it engaged in activities not within its constitution. The legislation further stipulated that all union officials except the General Secretary had to be employees of the industries represented by the union. This was because the General Secretary was supposed to be literate in English or Kiswahili so that he would be able to maintain union records and other correspondences. As Clayton and Savage (1979: 373) point out, the measure led to the emergence of trade union leaders from the clerical rather than the labouring rank. This was because the clerks usually had better education and tended to stay longer in employment compared to the manual labourers.

In 1954 the International Conference of Free Trade Unions (IFTU) sent J.M. Bury as its representative in Nairobi (Clayton & Savage, 1979). Bury worked together with Tom Mboya, the then Secretary General of the Kenya Federation of Registered Trade Unions (KFRTU), to orientate African trade unionists on the practises and organization of trade unions. Mboya, through the influence of Bury and the support of the Kenya Labour Department, favoured the formation of industrial rather than craft unions (Clayton & Savage, 1979: 382). A craft union is a union which draws its membership from professional workers in different areas. An industrial union refers to a workers' organization that recruits members from specific and related work places. On the other hand, a general trade union refers to a worker organization that recruits members doing different jobs in different firms.

The emphasis on the formation of industry based trade unions was an attempt to forestall the emergence of general trade unions (omnibus unions) and small, shaky and fragmented unions. Thus industry based unions would be assured of large membership which in turn would make them financially and administratively stable. By 1955 there were nine registered trade unions in the country which were members of the Kenya Federation of Registered Trade Unions (Goldsworthy, 1981). All these unions were urban based. No agricultural union had emerged by then.

### **1.3 The Emergence of Trade Unionism in the Asian-owned Sugar Plantations**

The largest percentage of the labour force in colonial Kenya was employed in the agricultural sector (Stichter, 1982). Yet, until the late 1950s no trade union for the agricultural labourers had emerged. This state of affairs

was the result of a number of factors. These included the unstable nature of the labour force and the high rate of illiteracy among the labourers. In addition, agricultural labourers also tended to oscillate between wage labour and the peasant economy. Lastly, there was strong employer opposition towards the formation of unions. For example, the Nyanza Indian Farmers Association, the Kibos Farmers Association and the Agricultural Production Sub-committees of the Kibos, Miwani, Kibigori and Chemelil-Muhoroni areas were opposed to the emergence of agricultural trade unions among their labour force (Osamba, 1996; KNA/ Lab 10/273).

In October 1952 the Colonial Government declared a state of Emergency in Kenya in an attempt to put down the *Mau Mau* uprising. Under the Emergency regulations, movements of Africans, especially the Kikuyu, the Embu and the Meru, who were regarded by the Government as *Mau Mau* supporters were restricted (Mboya, 1986; Stichter, 1982). Thus, attempts by Africans to organize unions were constrained. The colonial government also arrested some officials of the urban based trade unions and the umbrella labour movement, the Kenya Federation of Registered Trade Unions, later renamed the Kenya Federation of Labour (KFL). These trade unionists were thought to be sympathetic to the *Mau Mau* struggle (Zezeza, 1990; Lubembe, 1968).

The colonial government favoured the establishment of the so-called "responsible" trade unions which did not engage in political activities. The Kenyan trade unionists, however, believed that there was no dichotomy between trade unionism and politics. During the period of the Emergency, when all African political activities were outlawed it was the urban based Trade Union Movement which was in the forefront in articulating African grievances both locally and internationally (Goldsworthy, 1981; Mboya, 1980).

In 1953 the colonial Government appointed a committee under the chairmanship of F.W. Carpenter, then Labour Commissioner to examine the wage structures of African labourers (The Carpenter Report, 1954; Kitching, 1981; Swainson, 1980). The Committee, it was hoped, would make recommendations that would increase African labour productivity and stability. The setting up of the committee was one of the measures undertaken by the Government then to reform the colonial structure which had been disturbed by the *Mau Mau* uprising.

The Carpenter Committee issued its Report in 1954. It pointed out that labour stability would only be achieved if labourers were offered minimum family wage rates, which could enable them support families in the place of work (Clayton & Savage, 1979; Mboya, 1986). This would bring to an end the tendency of the labourers to move to and fro between wage employment and the peasant economy. The Report had calculated that £10 a month was an adequate wage. It therefore recommended that the minimum family wage rate of £10 should be implemented by 1958. This amount was two and a half times the bachelor wage rates. However, such minimum family wage rates were not meant to be extended to labourers in the agricultural sector.

The Committee had noted that such wage fixing in the agricultural sector was impracticable because of the diversity in type and hours of work and the provision of housing and rations (KNA/ Lab 10/237). As such, the report called for the setting up of the Rural Wages Committee to deal with the issue of wages in the Agricultural sector. Furthermore, the Committee advised the colonial government to look into the possibilities of the formation of trade unions in the agricultural sector (KNA/Lab 10/237).

The Colonial government promised to study the recommendations with the view to implementing them. However, both suggestions were strongly opposed by the white settlers. By the 1950s many employers still believed that "the African" was a "target" worker and that therefore higher wages would encourage "him" to desert work earlier. Thus, by 1955 wages in the plantations were still not regulated by the government (KNA/ Lab 10/237).

In 1955, the ICFTU Agricultural Research Officer in Kenya, Hannington Gaya, was commissioned by his organization to make a report on the working conditions, wages, housing and social services of the agricultural labourers in Kenya (KNA/ Lab 10/237). Gaya visited Nakuru, Kericho and Miwani, among other places in July 1955 consulting labourers and employers while conducting the research on the working conditions of the plantation labourers. In his subsequent report to the Kenya Federation of Labour (KFL), Gaya pointed out that the plantation employers were very hostile to the idea of trade unionism. As such, access for trade unionists to such plantations could not be guaranteed.

The report thus confirmed the view held by employers that in paternalistic relations, which were supposedly a characteristic of the plantation sector, independent trade unions were regarded by employers as inimical since they interfered with business harmony (Hodgkin, 1957). In 1955 the colonial Government declared its

commitment to the creation of the so-called "responsible" African trade unions (Mboya, 1986; *East African Standard*, 13<sup>th</sup> March 1956).

Tom Mboya emerged in the 1950s as the most influential trade unionist in Kenya (Kempe, 2013; Sandbrook, 2008; Goldsworthy, 1981). His rise followed the government clampdown on militant trade unionists such as Makhan Singh, Bildad Kaggia and Chege Kibachia. In 1951 Aggrey Minya of the Transport Workers Union decided to co-operate with the Labour Department. This was aimed at sidelining the militant trade unionists. The government accepted the formation of an umbrella trade union movement, the Kenya Federation of Registered Trade Unions (KFRTU) under the leadership of Minya in 1952(KNA/ Lab 10/273). It excluded the militant Labour Trade Union led by Makhan Singh. Tom Mboya first joined the Trade Union Movement in 1951 when he was elected the vice chairman of the African Local Government Workers Association. In October 1953, Tom Mboya became the General Secretary of the KFRTU, whose name was changed in 1955 to the Kenya Federation of Labour (KFL).

The objectives of the KFL were as follows:

First, to generally improve the economic and social conditions of all workers in all parts of Kenya and to render them assistance. Secondly, to affiliate with and assist other organizations with similar objects. Thirdly, to assist in the complete organization of workers eligible for membership in Trade Union Movement. Fourthly, to settle disputes between members of such organization and their employer, between such organizations and other bodies and within the organizations themselves (*East African Standard*, 25<sup>th</sup> May, 1956).

The KFL was affiliated to the International Confederation of Free Trade Unions (ICFTU). The ICFTU could assist the KFL in three ways (Goldsworthy, 1981; Lubembe, 1968; KNA Lab 10/273). First, it provided an international forum through which the Federation could air the grievances of the Kenyan workers. Secondly, through it there was prospect of access to American money and patronage and lastly, there was the possibility of gaining political support from an international organisation which was opposed to colonialism.

In 1956, Tom Mboya, then Secretary General of the KFL, caused uproar within the Colonial Government circles when he talked on a wide range of political issues on Kenya while in London. Mboya spoke against colour bar, the White Highlands Order and the Lyttelton Constitution of 1954. He also demanded the lifting of the State of Emergency, the release of political detainees, the sanctioning of nation-wide political movements and African representation in the Legislative Council. The colonial government's reaction was fast in coming. It warned the KFL to concentrate on trade union affairs and leave out politics (*The Sunday Post*, 18<sup>th</sup> March, 1956; KNA Lab 10/273).

The then Kenya's Registrar of Trade Unions, R.H. Munro wrote to the acting Secretary General of KFL, Arthur Ochwada, asking him to give a written undertaking that the Federation would not engage in political activities. It further called on the KFL to confine its activities to labour matters such as labour legislation, trade disputes, wages, housing, hours of work and related matters arising directly from conditions of labour and from employer-employee relations. However, the KFL insisted that there was no dichotomy between politics and trade unionism since any political question affected the members. It stated that "every political issue affects the economic or social conditions of the worker and is the legitimate concern of the Federation" (*East African Standard*, 13<sup>th</sup> March, 1956).

Ochwada challenged the government to "give us a clear line of demarcation between political matters, industrial and economic matters" (*East African Standard*, 20<sup>th</sup> February, 1956). High tension continued for six weeks between the Colonial Government and the KFL as a banning threat hung over the KFL. Sir Vincent Tewson of the British Trade Union Congress came to Kenya to intervene in the dispute (Mboya, 1986; Goldsworthy, 1981). He managed to convince the colonial government not to carry out its threat to ban the KFL. It was feared in British Labour circles that such a ban might lead to the ostracizing of Kenya's colonial government by the International Labour Organization (ILO) and the ICFTU.

By and large, during the 1950s, the trade unions came under the control of moderate African unionists such as Tom Mboya, Aggrey Minya and Arthur Ochwada who were not ready to confront the government as was the case with the militant unionists of the pre-Emergency period (Sandbrook, 2008; Zeleza, 1982; Goldsworthy, 1980). During the 1950s there was an upsurge of trade union activities in the country despite the government's displeasure. There were two major factors which inhibited the government from clamping down on trade union activities. On the one hand, were external factors in the form of the British Trade Union Congress and the ICFTU and on the other hand there was the nationalist movement in the country.

Besides, in the mid-1950s some private employers in Kenya especially the foreign firms such as the British Tobacco Company had recognized the need of setting up some form of collective bargaining system in the country (Stichter, 1982; Amsden, 1972). This culminated in the formation of the Association of Commercial and Industrial Employers (ACIE), which in 1959 became the Federation of Kenya Employers (FKE). The organization aimed at inculcating cooperation and good relations with African trade unions for the benefit of each industry. In May 1955, the representatives of the KFL attended an ICFTU Conference in Brussels and called for the urgent need to improve the working conditions of the agricultural workers in Kenya (Clayton & Savage, 1979).

From 1957 the ICFTU and the Plantation Workers International Federation (PWIF) took an active interest in the formation of agricultural unions in Kenya (Clayton & Savage, 1979). They embarked on programmes to assist the KFL achieve the objective of unionizing the agricultural workers. The ICFTU offered the KFL a grant of £1,500. According to the ICFTU, the formation of a trade union had to be a decision of the rank and file of the labouring lot rather than that of the leadership. However, Mboya held the view that in Kenya the development of a trade union could only be from top to bottom. He argued that since the majority of the workers were illiterate and not yet conversant with the practice and organization of trade unions, it was the duty of the few enlightened ones to lead the less articulate labouring groups (Goldsworthy, 1981).

The Director of organization of the PWIF, Tom Bavin came to Kenya in 1957 and met the representatives of the ACIE with whom he discussed the modalities of forming agricultural unions (Clayton & Savage, 1979; Amsden, 1972). They agreed that separate unions should be formed for each agricultural sector starting with the coffee industry. In order to win over the ACIE, Bavin had used propaganda, warning the ACIE that communist influence was infiltrating African trade unions. He argued that if the PWIF was not allowed to organize the agricultural workers, the communist dominated WFTU might seize that opportunity to gain a foothold in the agricultural sector. Bavin then proposed to the ACIE that his Federation would help the KFL to organize a single union for all agricultural workers in Kenya.

In 1958, David Burret a representative of the PWIF who had organized the sisal workers in Tanganyika came to Kenya to help in the establishment of an agricultural union (Sandbrook, 2008; Clayton & Savage, 1979). The ACIE, however, was strongly opposed to the formation of a single union for agricultural workers for fear of a possible large scale strike action organized by such a union. Thus, the ACIE insisted that it would only recognize separate unions for each of the agricultural sectors namely mixed farming, coffee, tea, sisal and sugar. In 1958, the KFL accepted the ACIE demands while hoping to circumvent them in the future (Amsden, 1972). As such, the Tea Plantation Workers Union, the Coffee Plantation Workers Union and the Sisal Plantation Workers Union were formed in 1959. This was followed with the formation of the Kenya Union of Sugar Plantation Workers (KUSPW) in 1960.

The KFL, the PWIF and the ICFTU played an important role in the emergence of trade unionism in the agricultural sector. As early as 1955 the KFL had recommended the establishment of such unions. In 1957 the KFL had assigned its then organising secretary, John Baptista Abuoga, to organise the agricultural workers. This task was in 1958 given to Jesse Gachago then newly elected organising secretary of the KFL. These KFL officials were assisted by representatives of the PWIF and the ICFTU in drafting a model constitution which was later adopted by all the agricultural unions in Kenya. Furthermore, the PWIF and the ICFTU provided the technical know-how and finances to support the agricultural unions.

#### **1.4 The Formation and Growth of the Kenya Union of Sugar Plantation Workers (KUSPW)**

The Kenya Union of Sugar Plantation Workers (KUSPW) representing the manual, skilled and semi-skilled workers in the sugar industry was founded and registered in 1960 (Office of the Attorney General, 1960). The first national officials of the union were:

James Sia Angonga, Chairman, Aila Ogema, Vice chairman, Jacob Ongundha, General Secretary, Orinda Omolo, Assistant General Secretary, William Otieno, Treasurer, Ogola Gumbo, Assistant treasurer and Onyango Okech, Trustee.

All the first national officials were members of the Luo ethnic group. This was because the Luo formed the bulk of the labour force in the sugar plantations and they were in the forefront in the creation of the union. However, in the subsequent union elections held in 1961 about half the new national officials were non-Luo. These included the following: Dominico Gothaita, vice chairman, Kikuyu, Zablon Kadenge, Assistant General

Secretary, Luyia, George Wanjara, Treasurer, Gusii, and Zakaria Malezi, Auditor, Luyia, The rest of the Officials were Luo. These were: John Orwa, Chairman, Oliech Ongundha, General Secretary, Albert Onyango, Assistant Treasurer, and Onyango Okech, Trustee.

Prior to the formation of the Union the labourers in the Asian sugar plantations in Kisumu County had no organization to articulate their grievances. However, the Nyanza Region KFL representatives, Opar Mboya and Oliech Ongundha often presented the problems of sugar cane labourers to the senior Labour Officer of Nyanza and to the KFL Headquarters in Nairobi (Osamba, 1996). The KFL Nyanza Region office had been established in 1959 by Oliech Ongundha and Opar Mboya. Ongundha and his colleagues such as Daniel Chinja, Yogo Ondiala, James Sia and William Otieno were supported by Tom Mboya in their attempts to organize the sugar plantation workers.

Ongundha was born near Kibigori Township near Miwani in 1936. After completing his intermediate primary school education at Nyakoko Government school near Kisumu town in 1952 he went to Nairobi to seek wage employment. Ongundha trained as a typist and took up a job with Gailey and Roberts Company. Later in 1954 he was employed as a clerk by the East African Marketing Company in Nairobi. Ongundha joined the Kenya Commercial Food and Allied Workers Union and was appointed one of the Shop stewards at his place of work. In 1958 he was elected the national Treasurer of the union. Ongundha was a close political ally of the then Secretary General of KFL, Tom Mboya. In 1959 Ongundha was sent by the KFL to Kisumu town to establish the KFL Nyanza Regional office. In 1960 Ongundha recruited 30 members from the Asian sugar plantations secretly before forwarding the list to the Registrar of Trade Unions as *bona fide* members of the proposed Kenya Union of Sugar Plantations Workers (Osamba, 1996; KNA/Lab 9/1895).

The objectives of the Union were:

First, to regulate and improve relations between employees and employers and determine conditions of conduct of any trade or other business within the scope of the union and provision of benefits to members. Secondly, to organise all employees in the sugar Industry. Thirdly, to assist all its members through a collective bargaining system to obtain fair remuneration for their labour and to establish and maintain satisfactory conditions of employment in the sugar industry. Fourthly, to negotiate and promote the settlement of disputes arising between employees and employers by conciliations and arbitration, provide facilities to members to obtain further training in their trades both theoretically and practically and to assist them in carrying out their duties efficiently. Lastly, to collect and circulate among its members statistical and other information on all matters affecting the industry in which they were employed (KUSPW Constitution, 1960).

After the registration of the Union, the Union officials most of whom were working in the sugar plantations in Kisumu County embarked on recruitment of more members. They first organized the workers of the Miwani Sugar Mills where a branch office was established in 1960 (Osamba, 1996). Miwani became the first target of the Union recruiters because it employed a large number of labourers who could be reached easily. Thereafter, the Union turned to the labourers in the other Asian sugar plantations in the County. By the end of 1960 the Union had a total membership of 2,125 from among the Asian sugar plantations' labourers (Lubembe, 1968:142). About 50% of the Asian artisans at Miwani also joined the KUSPW within the first year of its existence (Osamba, 1996). The Union membership fee was five shillings whilst the monthly subscription was two shillings. Membership was voluntary.

Initially workers did not show a lot of enthusiasm to join the Union (Osamba, 1996). The largely illiterate labourers were apparently suspicious regarding the real intentions of the union. For example, some labourers believed that the trade union officials were only interested in collecting money from them before disappearing to the urban areas. Their fear was exacerbated by some of the employers' propaganda against the union. These employers referred to the trade unionists as *commen(wakora)* (Osamba, 1996). Thus, it required patience and endurance on the part of the Union officials to win the loyalty of the workers. Recruitment of members to the Union was thus slow and laborious.

By the end of 1960 the Union membership of 2,125 was just under 18% of a potential membership of 12,000 (Osamba, 1996; Lubembe, 1968:142; KNA/Lab 9/256; Lab 9/1895). There were two main reasons for this lethargy. On the one hand the membership fee was a deterrent since the labour wages were low. On the other hand, the few Union collectors could not visit all the members after pay day to receive members' contributions.



The first KUSPW officials faced a lot of difficulties in their attempts to organize the Union and put it on a strong footing (Osamba, 1996). Some of the Asian cane growers in Kisumu County were not willing to recognize the Union which they regarded as an organization interfering with the smooth running of their plantations. The Asian sugar estates were largely self-contained and self-sufficient communities and the fact that the employees were housed in private property made it easier for the employers to regulate passage of outsiders to the plantations. Thus, before negotiation of access agreements were signed between the union and the sugar employers the union organisers found it difficult to approach the workers, even outside working hours. Asian farmers declared the KUSPW officials trespassers whenever they entered their premises to recruit members or to collect union dues.

For example, in 1961 the Secretary General, Ongundha was arrested and accused by the Miwani sugar mills of trespass when he entered its premises to meet union officials (Osamba, 1996; KNA/Lab 9/1895). He was prosecuted and jailed for two years. The sentence, however, was quashed by the High Court on appeal. Furthermore, some Asian plantation owners tried to dissuade their employees from joining the union through the "carrot and stick" policy. They made promises of promotion as well as threats of dismissal as the case dictated.

The Union had financial difficulties during the first years of its existence (Osamba, 1996; Sandbrook, 1975; KNA/Lab 9/1895). For example, it lacked funds to cover the union's administrative and other expenses. The lack of funds was due to the negligible membership and apathy by the members who often did not pay the two shillings monthly subscription. Due to the Union's precarious financial position, the KFL came to its assistance. The KFL provided the Union with office equipment and a vehicle for use at its headquarters in Kisumu. As was the case with the other nascent trade unions, the KUSPW membership fluctuated seasonally because of the continued tendency of the labourers to move back to their homes during planting and harvesting periods. Such unstable labour militated against the emergence of a regular dues paying membership (Mboya, 1986).

The problems of the Union were compounded by the lack of skilled, competent and literate leaders especially in the Kibos and Chemelil branches and estates (Osamba, 1996). The skilled and literate labourers feared that they would be victimized by the employers if they took up union leadership. Information derived from informants showed that most of the skilled and literate labourers were comfortable enough compared to the unskilled labourers not to see the need to fight for the others. However, the labourers became more enthusiastic about the union after 1961 because in that year it won a wage increment for the labourers through collective bargaining with the Kenya Sugar Employers Union (KSEU) in 1962 (Osamba, 1996).

The KSEU was formed in April 1960 for the purpose of promoting the interests of the sugar industry in general and negotiating employment conditions with the employees' union in particular. It was composed of both European and Asian sugar cane planters mostly in Nyanza Province. The following were the first national officials of the union: E.R. Dawson, chairman, A. J. Kotak, Vice-chairman, and R. O. Doenhoff, Executive officer. The committee members were: C.T.O. Turton, Jagir Singh, S. B. Marcantonatos, Maganbhai Patel, Bhanji Valji, V. Dandeker, R. R. Patel, Durbhlah Devi, Indu Kumar Manilal, Balbir Singh, J. Kotak, and Chagalal Dhanji Natwani (Registrar-Gen Annual Report, 1961).

In the 1960s the sugar plantation labourers became more politically conscious as the dawn of independence approached. This was due to the activities of Tom Mboya and Oginga Odinga, both of whom organized political rallies in Miwani (Osamba, 1996; Goldsworthy, 1981). The KUSPW national officials such as Oliech Ongundha also became actively involved in political activities such as addressing political rallies in the area. Later he was elected Councillor for Miwani location. Indeed, such political activities in the area caused apprehension among some of the Asian farmers, who became ready to cooperate with the KUSPW officials. Thus, the membership of the Union rose from 2,125 in 1961 to 4,500 in 1964 (Registrar-Gen. Annual Reports, 1960-68). In addition, the Union's total annual income increased from 11,695 shillings in 1961/62 to 84,048 shillings in 1963/64 (Sandbrook, 1975: 64).

Despite initial difficulties, the Union to a large extent achieved its objectives. For instance, it managed to improve the socio-economic conditions of its members through collective bargaining. This led to improved working conditions and higher wages for the labourers than hitherto. For example, in 1963 the minimum wages for unskilled labourers was pegged at 85 shillings per month (Osamba, 1996). This was 35 shillings more than the 1960 wage rate. In addition, the wage was to be paid at the end of each calendar month and not after the completion of a 30 day ticket as was the practise before.

In 1961 the union threatened to call a strike at the Miwani Sugar Mills unless the housing conditions were improved (Osamba, 1996). The Company was therefore forced to embark on the construction of permanent housing estates for the employees at *Dunga* and *New Landies*, to replace the dilapidated grass thatched houses. The company also agreed to ensure that the *rondavels* in the other estates were repaired regularly. Furthermore, the constant mistreatment and beating of employees by Asian clerks and supervisors abated because of the fear of union action.

By 1963 the Union had five branches at Miwani, Kibos, Muhoroni, Chemelil and Ramisi at the Coast (Registrar-Gen Annual Report, Vol. 3, 1963). Each branch had its own officials elected by members annually. District branches dealt mainly with local problems affecting the members but referred broader issues to the national office in Kisumu town. A member belonged to a particular branch. Members could participate in all deliberations of the branch, and bring up any issue pertaining to terms and conditions of employment or union affairs for discussion. The general control of the union rested on the Central Council in the period between each annual conference. It was responsible for the direction of the committee and officers to whom the daily management of the Union was committed.

The Central Council consisted of all the national officials and representatives from each branch which ranged from one to three depending on the size of the branch. The Council was expected to meet once every two months though it could be summoned to a special meeting to discuss any urgent business. It had the power to suspend or dismiss any official for negligence of duty, dishonesty, incompetency or for any other cause.

The highest policy making body of the Union was the Executive Committee, comprising all the national officials and six other representatives elected from among the members of the Central Council. The national officials were Chairman, Vice-Chairman, General Secretary, Assistant General Secretary, Treasurer-General, Assistant Treasurer-General and two Trustees. The national officials were elected annually during a national conference of delegates from all the branches. The national executive committee implemented policy decisions made by the delegates. The business of the annual conference was to receive reports from its Central Committee, the past work of the union and planning future tasks, to consider all matters on the conference agenda and to elect the national officials and the Central Committee.

The Union was affiliated to the Kenya Federation of Labour, later renamed the Central Organization of Trade Unions (COTU) and the Plantation Workers International Federation (PWIF) later renamed the International Federation of Plantation, Agricultural and Allied Workers (IFPAAW). Through these affiliations the union received funds to purchase office equipment, build union offices, organise seminars and courses for union officials as well as scholarships to the union officials (Osamba, 1996). For example, in 1962 the incumbent Chairman and General Secretary of the union attended a three months' course at the ICFTU Labour College in Kampala.

### **5.5 The Rise of the Industrial Relations Machinery in the Sugar Plantations**

Industrial relations are primarily and basically a matter of relations between management and employees, its own employees. Bakke (1946) summarises a satisfactory industrial relations in four major principles. The first objective of industrial relations, like that of every function of management, is the economic welfare of the particular company. Industrial relations arrangement must leave unimpaired management's prerogatives and freedom essential to the meeting of management's responsibilities. All parties to industrial relations should be business-like and responsible (Kanyinga, 2014; Kempe, 2013; Amsden, 1972).

In Kenya, the government under the Trade Unions and Trade Disputes Act of 1952 conferred legal protection to unions and also defined the rights and duties of both the employer and the employees (Sandbrook, 2008; Gacoka, 1981). Through the industrial relations machinery, negotiations are conducted between the representatives of the workers and employers. During the colonial period, the plantation industry in Kenya was characterized by poor labour management relations due to "unenlightened management, weak or non-existent trade unions and the failure of protective labour laws to cover plantation workers" (Taha, 1946: 81).

In 1949 the Labour Department's annual report stated that the Africans were not yet ready to engage in trade union activities (Murunga & Nasongo, 2012; Sandbrook, 1975; Singh, 1969). This was the result of factors such as illiteracy among the labourers and lack of skills on trade union practices. Thus, it pointed out that emphasis should be placed on the formation of staff associations or Whitley Councils where both sides in the industry would learn the art of consultation. The following year, E.M. Hyde-Clark, the Labour Commissioner argued that collective bargaining was still impossible in Kenya.

The Regulation of Wages and Conditions of Employment Bill of 1950 approved the formation of Staff Associations and Whitley Councils for government departments and industries respectively (Sandbrook, 2008; Singh, 1969; Lubembe, 1968). These organizations were to consist of people employed only by one employer. Thus, they were internal negotiating bodies for each firm. These councils had none of the rights of a trade union. For example, they could not call a strike or collect money from the employees.

The colonial Government as late as the 1950s favoured Staff Associations and Works Councils rather than Trade Unions (Sandbrook, 2008). This was because it was easier for the government to manipulate and deal with the staff associations and Works Councils since these organizations had no effective negotiation machinery. They were restricted to individual firms or public bodies and had no full time paid officials. According to oral information, workers tended to ignore the Works Councils because they viewed them as under the control of the employer. As Elkan (cited in Scott, 1964: 43) points out, "the works committee would exercise no sanction against the employer hence an aura of paternalism was always present."

In 1952 the Miwani Sugar Mills, which had the largest labour force in the Asian sugar plantations in Kisumu County formed a Works Council (KNA/Lab 10/156). The idea of forming the Council had been suggested to the company management by then Senior Labour Officer of Nyanza, E. Mason. He arranged for some of the senior management staff of the Miwani Sugar Mills to visit a Tea Estate in Kericho to orientate themselves with the operations of the Works Council. The management staff were impressed and they decided to establish such a council, whose first meeting was held on the 21<sup>st</sup> of August, 1952. On the management side the meeting was attended by the following: L.D. Hindocha, a Director of the Company, J.G. Reyvadera, the General Manager, V.K. Hindocha, the Welfare Officer, and S.R. Ochieng, the Secretary of the Works Council.

The representatives of the employees were: Eli Obala, Wairomia Mtende and Unapapati Chuma, representing the Factory Camp, Auko Ogendi of Section 1, Alois Yogo and Mwita Waigare of Section 2, Gemaliel Ahenda and Mwashe Chacha of Section 3. These representatives were appointed by the company management though in later years the employees elected them.

The constitution of the Miwani Works Council was approved by the Nyanza Provincial Labour Officer and was signed by the representatives of the company and the employees on the 7<sup>th</sup> of August, 1958 (KNA/Lab 10/156). The stated aims of the Works Council were:  
To provide a recognized means of consultation between the management and the employees; to give employees a wider interest in and greater responsibility for the conditions under which they worked, and to prevent friction and misunderstanding between the employer and the employees.

The Council dealt with matters and issues related to distribution of working hours, discussion and examination of disputes and any problem which might create discontent and dissatisfaction between the employees and the management. In addition, the Council tackled issues pertaining to holidays and leave arrangements, discipline and the general conduct of such matter between the management and the employees. It also, dealt with questions such as training of apprentices and learners, all matters affecting the physical welfare and lastly, entertainment and sports.

The Council consisted of five representatives of management and 10 representatives of the employees elected on the following basis: One representative of each of the three production shifts in the factory, two representatives from each of the three sections or estates, and one representative of the loco-shed, tractor garage, motor garage and railway maintenance gang. An official of the Labour Department could attend the meeting of the council in an advisory capacity. Employees' representatives held office for one year and could seek re-election. Each member of the Council could appoint a proxy approved by the group he represented to attend the council's meetings.

Meetings of the Council were held monthly during normal working hours. However, a special meeting could be called within three days following a request from either side. The agenda of the meeting was to be submitted six days in advance except in case of a special meeting. The Chairman of the meeting was appointed by the management from the five management representatives. Each side appointed its secretary.

The recommended procedure of solving a dispute through the Works Council was as follows (Osamba, 1996; KNA Lab 10/156). The aggrieved employee reported first to his or her supervisor. If no solution was found then the employee forwarded the matter to the section's representative who took it up with the management official of the section concerned. If there was a stalemate at that stage, then the Section's

representative reported to the employees' secretary of the council, who attempted to settle the matter by approaching the management. At that stage if no solution was forthcoming, then the secretary consulted with the other employees' representatives who decided whether or not to include the problem in the agenda of the next council meeting.

On the whole, issues which could cause discontent or create disputes affecting a group of employees had to be referred to the secretary of the appropriate side, who in consultation with other representatives of his side, decided whether to include them in the agenda. In addition, only matters of importance which could not be solved outside the employees' Council could be submitted for discussion by the Works Council. But in all cases where negotiation in the Works Council failed, the matter was reported to the Senior Labour Officer of Nyanza. Decisions were to be arrived at only by mutual agreement between both sides following negotiation, subject in all cases to the final approval of the General Manager.

Quorum for the meetings of the Council was three members of the management side and five members of the employees' side. However, the Council could not discuss wages because they were, according to the employees, supposedly the prerogative of management. Furthermore, the General Manager had the power to veto any decision of the council. Thus, the Works Council could not act as a real negotiation machinery for the employees.

To a large extent, the industrial relations machinery was not well developed in Kenya until the late 1950s with the formation of the ACIE, later renamed the FKE in 1959. The ACIE spearheaded the use of voluntary collective bargaining and dispute settlement. This move was a deliberate attempt to forestall the colonial government's arbitrary awards to employees, which might be disadvantageous to the employers (Sandbrook, 2008; Amsden, 1972). Thus, the ACIE members held the view that through collective bargaining, the employers would be in a better position to determine the rise in labour cost, profitability of an enterprise and other variables before making any wage adjustment. Furthermore, they pointed out that wage increase in the public sector tended to make the workers in the private sector expect a pay rise. As such, if wages were reviewed in annual collective bargaining then labour agitation would be minimized.

The process by which agreements between a trade union and an employer are negotiated, administered and enforced is referred to as "collective bargaining". This term indicates that the agreement is negotiated on behalf of a group of workers. The workers present a united front to their employer and the terms of the bargain apply uniformly to all members of the group. On the other hand, different employers may also come together for the purpose of negotiating an agreement with a union. From the unions' stand point, the object of collective bargaining is to forestall arbitrary action by the employers. This is achieved by requiring the employer to sign a contract fixing conditions of employment for a specific period. Collective bargaining therefore, is an employer regulating device, a method of guaranteeing certain rights and immunities to the workers by limiting the employer's freedom of action.

The ACIE appealed to its members to create Works Councils to facilitate voluntary collective negotiations (Amsden, 1972). Thus, in industries where trade unions were non-existent, the function of the Works Council was two-fold. On the one hand, they operated as consultation committees and on the other, they acted as negotiating bodies. The ACIE emphasized that only "responsible" trade unions would be recognized by the employers. Such unions had to meet certain conditions. For example, paid up membership was not to be less than 40% of the employees involved.

Furthermore, the Union's scope was not to overlap with that of any other recognized union in the same industry. The unions had to be organized on industrial basis and lastly, they were not to operate the "closed shop" policy. In other words, it was not to claim that only members of the union would be employed in the industry concerned. In addition, the Association called on its members to encourage the development of trade unions on industry wide basis. At the same time it recommended the formation of Joint Industrial Councils (JIC), in which employees were represented by their unions and the employers represented either individually or by their Employer Association.

The ACIE adopted a positive approach on the issue of collective bargaining. Thus in 1956 the ACIE and the KFL met under the chairmanship of the Minister for Labour to thrash out their differences (KNA/ Lab 9/237). They agreed that Works Councils would not be replaced by trade unions. Furthermore, the ACIE rescinded its previous stated position on union recognition. Thus a union would gain recognition once it was legally set up

regardless of its total membership. Tom Mboya had pointed out that it was impossible for a union to be representative until it obtained recognition by the employer.

However, the differences between the KFL and the ACIE on the check-off system were not reconciled until the 1960s(Amsden, 1972).. The ACIE rejected the adoption of the check-off system in collecting union dues claiming that it would interfere with the employers' accounting system as well as giving them some unnecessary extra work. Nonetheless, the reason for their rejection seems to have been the fear that the system would create financial stability for the unions thereby making them stronger and aggressive in their demands.

According to Mboya (1986) the check-off system was better compared to using Union officials to collect Union dues as was the practise in Britain, for three main reasons. First, the check-off system would make a union financially and organizationally strong, therefore attracting skilled leadership. Secondly, if a Union had no regular or adequate funds, then its leaders could be vulnerable to bribery by the employers and other interested parties. And lastly, lack of adequate funds might make Union leaders seek assistance from external sources with possible negative ramifications.

Both the ACIE and the KFL favoured the organization of trade unions on industry wide basis(Sandbrook, 2008; Amsden, 1972).The former argued that such unions would ensure that negotiators were conversant with the operations of the industry, including its difficulties and ability to pay. In addition, the employer would deal with a single union, thus wage rates negotiated would cover several categories of employees within one industry. Furthermore, they pointed out that industry wide unions would be strong enough and responsible. Thereafter, the ACIE organized the employers of the private sector into 30 categories, each constituting an Employer Association. In 1959 the ACIE merged with the Coastal Employers Association to form the Federation of Kenya Employers (FKE). The Kenya Sugar Employers Union (KSEU) was formed in 1960(Registrar-General Annual Report, 1960-68) and it became a member of the FKE.

Following the earlier agreement between the KFL and the FKE on the formation of agricultural unions, the KSEU formally recognized the KUSPW in 1961 as the sole representative of all the employees in the sugar industry(Osamba, 1996; ARO, 1964). Out of the 80 Asian sugar cane farmers in Kisumu County, 54 (68%) were members of the KSEU(Registrar-General Annual Report, 1960-68;KNA /Lab 10/13). This included the Miwani sugar mills which had a labour force of over 4,000. However, employers who were not members of the KSEU were not bound by any agreement the KSEU and the KUSPW entered into through collective negotiation.

In the 1961 recognition agreement between the KSEU and the KUSPW, three types of committees were created. These were, the Estate, Branch and the Standing Joint Council (SJC)(Osamba, 1996; ARO, 1964). The SJC dealt with matters which the other two organs were unable to solve. It consisted of six members from each party. An official from the District Labour office could attend its meetings on an advisory capacity. The chairman of the Council was elected annually, alternating annually from employer to union nominees. Nonetheless, the chairman of the branch committee had to come from the employers' side. The Estate and Joint Branch Committee (JBC) handled grievances at the primary stage. The JBCs were established in areas where the KUSPW had a branch and where the local sugar planters were members of the KSEU.

The Joint Industrial Council (JIC) was the supreme body. It comprised three representatives of the employees elected by employees and one member representing the management, who in all cases was the chairman of the council. When the JIC reached a stalemate on any issue, then the matter was reported to the Labour Commissioner for conciliation. But if the Commissioner was unable to solve the dispute then the matter was forwarded to an independent arbitrator acceptable to both parties. If no solution was reached at that stage, then the matter was reported to the Minister for Labour to settle under Section 5 of the Trade Disputes Ordinance(Mboya, 1986; Lubembe, 1968). During the period of arbitration a strike or lock-out was prohibited.

It is clear that this grievance settling procedure in the sugar industry was not effective as the arbitrator remarked in 1963, " Negotiation machinery existed but, throughout, it appeared that such a machinery was not treated seriously at its various stages and that more lip service was given to it than practical application"(ARO, 1964:14-15).In 1961 the KFL and the FKE set up a National Joint Consultation Council (JCC) to promote consultation and co-operation between the employers and employees(Sandbrook, 2008; Lubembe, 1968; ARO, 1964). The JCC could settle disputes and also determine the terms and conditions of service.

In 1962 the representatives of the government, the labour movement and employers signed the Industrial Relations Charter. The objective of the charter was to ensure industrial peace in the country. According to the

charter, employees could go on a legal strike only after following the laid down procedure, which was long and laborious. Under the charter a Joint Disputes Commission was created to which all the parties could refer disputes if negotiations broke down. This Commission later became the Kenya Industrial Court in 1964.

By 1963 there was no legal instrument in Kenya which regulated wages in the sugar industry (Osamba, 1996; ARO, 1964). Hence the voluntary negotiation machinery was always used since 1961 when the KSEU recognized the KUSPW. Both adopted a negotiation procedure. The agreement between the two parties was signed with the aim of achieving the following objectives; regulate relations between the two parties, ensure quick and impartial settlement of real or imagined disputes and lastly, to set up joint committees on National, Branch and Estate level for discussion and settlement of any problem that could arise.

Following a stalemate in negotiations between the KUSPW and the KSEU in 1962, the Minister for Labour appointed a Board of Inquiry to look into the sugar industry's wages and conditions of service (Osamba, 1996; ARO, 1964). The recommendations of the Board led to the signing of an agreement between the two Parties on 20<sup>th</sup> December, 1962. It improved the terms and conditions of service of the employees by increasing the wage rates for all categories of workers in the sugar industry.

In 1963 the KUSPW and the KSEU referred their dispute to an Arbitration Tribunal which published its award on 30<sup>th</sup> November, 1963 (ARO, 1964; KNA/ Lab 10/13). It established new rates of pay and conditions of service. For example, it introduced the check off system and discontinued the ticket system of work by introducing payment of wages at the end of the calendar month. Workers were granted 18 days paid annual leave. It also provided for three months unpaid maternity leave for women employees and a total of 30 days paid sick leave for all employees. However, the request by the union for 40 hours work-week was rejected by the Tribunal which instituted 46 hours week instead of the 45 hours week then in practise.

The two awards supplemented the already existing voluntary negotiation machinery in the sugar industry. Thus, to a large extent, after 1961 employment conditions in the sugar industry were determined by collective bargaining.

## 1.6 Conclusion

The article has traced the emergence and growth of trade unionism in the Asian-owned sugar plantations in Kisumu County. It has pointed out that before the 1950s the local people preferred to work in the plantations as daily paid casuals. This was because of economic and social reasons. However, in the 1950s the number of contract labourers who resided in the plantations had increased.

Labour exploitation was rampant in the Asian sugar plantations and this was manifested in the form of low wages and poor working conditions. However, the labourers never accepted their poor working conditions as *a fait accompli*, they attempted to organize themselves in order to negotiate or force the amelioration of their working conditions. They organized protests and small scale strikes. Most of these strikes, however, were spontaneous and poorly organized. As such protests and strikes failed to achieve their objectives. However, they marked the emergence of labour consciousness which later became entrenched into a strong labour movement in the sugar plantations.

It has observed that prior to the 1950s no trade union had emerged in the agricultural sector. Both the colonial government and the employers in the agricultural industry were opposed to the formation of such unions. This was because of the fear that the unions might create industrial unrest in the agricultural sector which was the mainstay of Kenya's economy. The Kenya Union of Sugar Plantation Workers was formed in 1960. The unstable and mostly illiterate nature of labour in the sugar plantations was a drawback to the early emergence of organized labour movement. The ICFTU and the PWIF played an important role in the unionization of the agricultural labourers in Kenya.

Another noteworthy development in this period was that of the formation of the industrial relations machinery in the sugar industry. The Miwani Sugar Mills provide a good case study to show how the works' councils operated. The negotiation machinery between the Kenya Union of Sugar Employers and the Kenya Union of Sugar Plantation Workers to some extent led to the improvement of the working conditions in the sugar plantations.

The emergence and growth of trade unionism in the 1940s shows that labour consciousness had sprung up among this mostly unskilled and illiterate sugar plantation labourers. This was evident in the boycotts and

strikes which characterized the sugar plantations. The sugar plantation labourers had started to agitate for the improvement of their working conditions. The local and migrant labourers had realized that they could only ameliorate their conditions through collective actions. However, as with other agricultural undertakings, labour consciousness in the sugar plantations emerged later compared to the urban workers. This was because of the unskilled and unstabilized nature of the labour force. Consequently, early labour protests in the sugar plantations took individualized forms such as desertion.

Nonetheless, from the 1930s labourers tended to organize labour protests with the aim of obtaining some concessions from the employers. As the number of migrant labourers increased, the nascent labour organizations started to emerge especially in the Miwani Sugar Mills, which by the 1940s employed over 3,000 labourers. The majority of the early strikes were spontaneous and did not have any long term aims. They only had short term objectives such as wage increase and lessening of daily tasks among other grievances.

In the 1950s as the labourers became more stabilized, they became more labour conscious and militant. More strikes occurred in the 1950s than before. This was because of the unfolding social, economic and political changes in the country. For example, the most widespread strike in the Miwani Sugar Mills and in the other nearby Asian plantations occurred in 1959. This was a two day strike which was intended to show solidarity with the railway workers. This was an indication of class and labour consciousness.

The Asian employers like their European counterparts were strongly opposed to the emergence of trade unionism among the sugar workers. However, in 1960 the Kenya Union of Sugar Plantation Workers (KUSPW), representing all the cadres of employees in the sugar plantations emerged. And by 1963 the union had entrenched itself and had won the loyalty of the sugar workers. It had obtained some benefits from the employers through collective bargaining. Consequently, the Asian farmers found it necessary to form an employers' union to face the possible challenges of the KUSPW. Thus, they formed the Kenya Sugar Employers Union (KSEU) which henceforth negotiated with the KUSPW on the terms and conditions of service of the sugar plantation workers. The emergence of KUSPW therefore to some extent led to the improvement of the working conditions.

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