

On the Lack of Trade Union Power in Kenya

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Article abstract

Le but de l'article précédent est de mettre au point un schéma permettant de préciser les différents facteurs qui déterminent un syndicat à décider de recourir à l'arbitrage pendant la durée d'une convention collective. L'objet de ce schéma est l'analyse des répercussions probables de changements qui seraient destinés à accélérer le processus de l'arbitrage, à en réduire le coût pour les syndicats et à faciliter le recours à la médiation avant l'arbitrage. L'auteur discute des conséquences de ces changements du point de vue de la direction, des syndicats et de l'État. L'article s'applique d'abord à l'Ontario, mais il vaut aussi pour les autres provinces canadiennes et plusieurs États Américains, car l'arbitrage exécutoire, en tant que stade ultime de la procédure de griefs, est obligatoire partout au Canada, sauf en Saskatchewan. On retrouve également un régime similaire dans la plupart des conventions collectives outre-frontière.

Cette généralisation de l'arbitrage exécutoire ne signifie pas qu'il soit exempt de critiques. On estime que les délais sont beaucoup trop longs, que l'enquête est conduite d'une manière beaucoup trop formelle, que les décisions sont trop souvent sujettes à révision par les cours civiles, que l'obligation pour les syndicats d'avoir généralement à en défrayer la moitié du coût empêche les plus faibles d'y recourir suffisamment.

Ceux qui désirent le maintien du régime actuel estiment qu'il est possible pour les intéressés de l'améliorer en établissant, à l'intérieur des conventions, leur propre système d'arbitrage. Ils considèrent aussi que toute tentative pour en réduire le coût se traduira par la multiplication des griefs déferés à des tiers.

L'auteur signale que, sous le présent régime, le syndicat, suivant les circonstances, a un triple choix: soumettre le grief à l'arbitrage, réserver la question pour règlement à la prochaine ronde de négociations ou, tout simplement, l'abandonner. Ce triple choix dépend de la situation de force dans laquelle se trouve le syndicat au moment du grief. Si le grief n'est pas abandonné, le syndicat pourra demander l'arbitrage, ce qui peut inciter la direction à le régler. Si la direction ne bouge pas et si l'on est à la veille d'entreprendre de nouvelles négociations, il se peut que le syndicat préfère tenter de trouver une solution au moment des conventions collectives.

L'auteur passe ensuite à l'analyse de la conception que les arbitres se font de leur rôle, les uns s'en tenant à l'interprétation stricte de la convention; d'autres, beaucoup moins nombreux, cherchant à jouer si possible le rôle d'un médiateur. D'une façon générale, l'arbitrage est généralement considéré comme un procès, les parties présentant une argumentation, s'appuyant sur une jurisprudence et citant des témoins.

La nature des griefs est aussi fort variée. Les uns portent sur des questions de fait précises; d'autres viennent s'insérer dans le processus même des négociations collectives. Il est rare que l'on soit en présence de conflits de droit pur. On est la plupart du temps en présence d'un conflit de droit auquel viennent s'ajouter des questions d'intérêts.

Il arrive également que l'on se trouve en présence de pseudo-conflits, c'est-à-dire que les conflits sont inexistantes, les parties ne se comprenant pas ou faisant mine de ne pas se comprendre.

En effet, les rapports entre des contractants assujettis à une convention collective sont de plusieurs types. Les uns sont en opposition marquée cherchant à séduire ou à affaiblir l'un et l'autre. D'autres adoptent une attitude d'agression mutuelle, mais l'un accepte l'existence légitime de l'autre. D'autres encore cherchent à s'accorder: ils ne vont pas jusqu'à travailler à se démolir, mais ne prêtent aucune assistance, gardant des rapports courts de stricte neutralité. Enfin, il y a ceux qui marchent la main dans la main en parfaite collusion.

L'existence de ces climats variés exerce, cela va de soi, une influence sur le type des conflits qui se produisent, sur la façon dont ils sont perçus et aussi sur les modes de règlements de griefs qu'on recherche.

À partir des observations précédentes, l'auteur simplifie les choses en estimant qu'il s'installe généralement deux types de climats: les uns, bons, où l'on s'efforce de coopérer, de s'accorder; les autres, mauvais, où l'on se défie sans cesse mutuellement.

Dans le premier cas, il y a peu de pseudo-conflits, puisque ceux-ci ont tendance à se résoudre entre les parties, c'est-à-dire que les problèmes se règlent aux divers stades de la procédure des griefs. Au contraire, si le climat de l'entreprise est mauvais, il y a de fortes chances que le mécanisme mis en place pour le règlement des griefs fonctionnera mal. Le syndicat devant choisir l'arbitrage, retenir le grief en vue de son règlement au moment de la négociation collective ou se résigner à le laisser tomber.

C'est ici qu'intervient le choix de la méthode à suivre. Par exemple, on sait que la procédure de règlement des griefs précède le recours à l'arbitrage. La décision du syndicat sera alors influencée par le moment où se soulève un grief. Si l'on est à la veille d'entamer de nouvelles négociations et que l'on sait que les délais seront longs avant d'obtenir une décision, le syndicat cherchera à régler le différend par le biais de la négociation collective, d'où l'on peut déduire que des considérations de temps jouent un rôle important dans la décision de porter ou non un grief à l'arbitrage. L'autre aspect, qui entre en ligne de compte, a trait aux gains que l'on peut obtenir. Parfois, quand il s'agit de problèmes relatifs aux salaires, il est possible d'évaluer les avantages qu'on pourra tirer d'une victoire, mais quand il s'agit des droits d'un individu, il est bien plus difficile de trouver une unité de mesure. Le syndicat tient également compte des dépenses qu'il aura à effectuer au cours d'un arbitrage comparativement aux gains qu'il escompte obtenir par la décision et également au risque qu'il court de ne pas avoir gain de cause.

Le schéma précédent permet d'étudier plusieurs possibilités de modifier les lois suivant lesquelles le système d'arbitrage avec décision exécutoire peut fonctionner. Ce schéma implique que, là où les relations sont bonnes, la plupart des griefs ne se rendront pas à l'arbitrage.

C'est pourquoi les adversaires de la modification du régime estiment que rendre l'arbitrage plus facile d'accès, c'est inviter les parties à ne pas faire tous les efforts voulus pour régler directement les conflits, mais on peut se demander aussi si un régime d'arbitrage moins dispendieux, moins long, moins formaliste ne serait pas un bon moyen de faciliter les négociations collectives.

La réduction du coût de l'arbitrage, de sa durée et de son formalisme aurait pour effet de débarrasser la négociation collective de nombreuses questions qui conduisent souvent à des impasses mais, cela accroîtrait le volume des griefs et forcerait aussi le syndicat à poursuivre des griefs qui ne sont pas sérieux.

L'auteur conclut son étude en disant que, étant donné le rôle important que joue l'arbitrage dans les relations de travail, il faudrait pousser plus loin les recherches dans ce domaine pour mieux connaître d'abord le fonctionnement du processus d'arbitrage et ensuite pour mieux comprendre les facteurs qui poussent les syndicats à y recourir, ce à quoi l'on peut arriver par l'étude plus poussée de la formation et du cheminement de beaucoup de griefs.

On the Lack of Trade Union Power in Kenya

John S. Henley

One or two British commentators have recently complained of the widespread neglect of social structural factors in analyses of industrial relations topics. Hill and Thurley, for example, contend that without adequate attention to social structure the subject is emasculated. This is particularly apparent in the field of cross-cultural comparisons.¹

Hyman and Brough warn of the ideological implications of not taking into account the wider political economy which shapes specific national systems of industrial relations and suggest that too often industrial relations 'problems' are examined from within the perspectives of those in positions of political and economic power.² With respect to labour relations in Kenya, it is tempting to either assume that the institutions of the labour market function in a broadly similar manner to those of an industrialised economy or to attack the labour unions for participating in an unholy alliance with employers to extort monopoly profits from the rural majority of the population. Both approaches assume some kind of equilibrium model of labour relations towards which Kenya is advancing, even if the current situation is far from a balance of power.

Muir and Brown in their writings on trade union power and strike behaviour in Kenya illustrate some of the weaknesses of imputing roles to trade unions, government agencies and employers without first locating their respective positions in the political economy.³ To be sure they assiduously record the lack of union financial resources — \$2.87 per member in 1972 — and the decline in strike activity — from an annual average of 211,700 man-days lost for the period 1963-65 down to 76,300 man-days lost annually for the period 1966-72. Yet they fail to explain how it is possible for a labour movement with a dues paying membership of some 40% of the total labour force to remain peaceful. While their real wages decline — 3% in 1973, 6% in 1974 and 8% in

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¹ Stephan HILL and Keith THURLEY, 'Sociology and Industrial Relations' *British Journal of Industrial Relations* Vol. XII, No. 2, 1974, pp. 147-170.

² Richard HYMAN and Ian BROUGH, «Social Values and Industrial Relations» Blackwell, » Oxford, 1975.

³ J. Douglas MUIR and John L. BROWN, «Trade Union Power and the Process of Economic Development: The Kenyan example» *Industrial Relations Industrielles*, Vol. 29, No. 3, 1974, pp. 474-496. J. Douglas MUIR and John L. BROWN, «Labour legislation and Industrial Disputes: The Kenyan Case» *British Journal of Industrial Relations*, Vol. XIII, No. 3, 1975, pp. 334-345.

1975.⁴ Admittedly, there was a brief show of solidarity in 1975 which persuaded the government to improve statutory minimum wages and civil service pay, but by 8% less than price increases.⁵ Furthermore, labour leaders did not protest when all strikes were made illegal by Presidential Decree in August, 1974. Even in the matter of election to the Central Organisation of Trade Unions and the writing of its constitution, the government holds a veto which it does exercise periodically.⁶ While it is entirely reasonable of Muir and Brown⁷ to conclude that the Kenyan labour movement has no choice but to stoically accept restrictions on its power, support for this conclusion is not provided by comparing the functioning of the Kenyan Industrial Court with those of New Zealand and Australia, without attention to Friedrich Fürstenberg's observations in his summing up of the deliberations of Section III of IIRA 3rd World Congress. He noted: — 'Potential and actual power are not solely derived from factors inherent in the organisational structure reflecting a given industrial relations system. They also reflect underlying social structures determining the motivation and ability for solidaristic action.'⁸

The other school of thought that favours some form of equilibrium model of the inter-relationship between the institutions of industrial relations, of course, is that of neoclassical economics. The most recent commentary on the Kenyan labour market in this vein is the 1975 World Bank Report.⁹ It follows the well established tradition of pointing to a positive correlation between high wages and a unionised labour force and drawing the inference — naturally highly qualified but nevertheless stated — that unions have, in some unspecified way a causal association with firms that pay higher than supply price wages. Such analyses usually fail to test whether unionisation represents a proxy for the presence of large firms using relatively capital intensive techniques of production with efficiency incentives for paying high wages.¹⁰

⁴ Government of Kenya, 'Economic Survey 1975', *Government Printers*, Nairobi, 1975, p. 45 and an estimate for 1975 by Ministry of Labour, Employment Promotion Division.

⁵ This consisted of a threat of a general strike unless the Government increased the minimum industrial wage to K.SL 400/- per month from K.SL 250/-. In the event, the President on 1st May 1975 announced an increase to 300/- p.m.

⁶ For example, in the election of Officers of COTU in 1975, the President chose to ratify the appointment of the loser in the contest for Deputy Secretary General, the new constitution for COTU was written in the Attorney General's Chambers in consultation with labour leaders, and the Ministry of Labour has an ex officio representative on COTU's governing Council.

⁷ *Ibid.* MUIR and BROWN pp. 340-344.

⁸ Friederick FÜRSTENBERG 'The Structure of Power in Trade Union Movements' *Report of Section III*, 3rd World Congress of International Industrial Relations Association, Geneva, 1973, pp. 15-16.

⁹ World Bank, 'Kenya: Into the Second Decade' (ed. John Burrows) *John Hopkins University Press*, Baltimore 1975 pp. 272-4.

¹⁰ See G. E. JOHNSON 'The Determination of Individual Hourly Earnings in Urban Kenya' *Institute for Development Studies* D. P. No. 115, Nairobi, 1971.

Recent work on segmentation of the American labour market suggests that large monopolistic corporations have good economic reasons for sharing most productivity increases with employees rather than with consumers.¹¹ Why the situation should be any different in a labour surplus economy is not explained.¹²

The ideological predilection of the World Bank Report is clear. Muir and Brown are more sympathetic to trade unions but imply they are legitimately constrained in the national interest — whatever that may be.¹³ Neither approach attempts to relate labour relations to the specific context of the political economy of contemporary Kenya.

Crucial to the interpretation of the significance of collective bargaining in the determination of terms and conditions of employment is an appreciation of the small size of the industrial labour force in a basically agricultural economy. Out of a total population of some thirteen million, approximately 610,000 were non-agricultural wage-earners in 1974. Most of these are concentrated in three urban centres, about a half of them in the vicinity of the capital alone. This gives rise to substantial imbalances in earnings-per-worker between different regions of the country which House attributes to differences of industry composition rather than to intra-industry differences and a consequence of regional concentration of industries (see Table 1).¹⁴

These imbalances in the industrial geography of Kenya are, in turn, reflected in variations in proportions of the population who are wage earners. For example, in 1970, the ratio of contributors to the National Social Security Fund to the dependent population under 15 years of age and over 60 years in Nairobi was 1:12, in Central Province it was 1:17 and in Western Province it was 1:128.¹⁵ When the ethnicity of the contributor is compared with whether the person's place of work was in the Province predominantly inhabited by the individual's ethnic

¹¹ See Richard C. EDWARDS, Michael REICH and David M. GORDON, 'Labour Market Segmentation' D. C. Heath, Lexington, Mass. 1975. It is perhaps fairer to point out that Michael L. WACHTER, in his paper 'Primary and Secondary Labour Markets: A Critique of the Dual Approach' Brookings Papers on Economic Activity, 3 1974 pp. 637-693, argues that much neo-classical labour market economics is over simple and often ignores efficiency considerations of individual employers but does not inherently deny labour market segmentation.

¹² *Ibid.*, World Bank Report p. 273 'The disparate earnings for similar skills across industries imply that productivity increases are being shared by employer and employee rather than employer and consumer, as would normally be expected in a labour surplus economy'.

¹³ *Ibid.*, MUIR and BROWN p. 493.

¹⁴ William J. HOUSE 'Earnings-per-Worker Differentials in the Provinces of Kenya, 1963-1970', *Journal of Developing Areas*, Vol. 9 No. 3, 1975, p. 359-376.

¹⁵ The data relating to contributions to the National Social Security Fund for 1970 is drawn from an unpublished M. A. Thesis by the current Director, A. D. MUYA University of Nairobi, 1974, pp. 126 & 131, All full-time, permanent employees are supposed to be members of the Fund.

group, the analysis suggests the extent of migration engendered by imbalances in the distribution of wage employment.

Only ten per cent of Luhya contributors worked in Western Province, nineteen per cent of the Kamba, Meru and Embu in Eastern Province, twenty-three per cent of the Luo, Kisii and Kuria in Nyanza and forty per cent of the Kikuyu in Central Province. Averaged over the total population there were fourteen persons under 15 years of age or over 60 years for every person in sufficiently formal wage employment to be contributing to the National Social Security Fund.

Industry is highly monopolistic in its structure as evidenced by a significant positive relationship between average industrial gross price-cost margins and monopoly power as measured by concentration.¹⁶ Perhaps surprisingly, given the government's policy of encouraging import 'reproduction', there does not seem to be any discernible independent influence of the capital requirements of entry into the economy, on price-cost margins. No doubt there are other non-economic barriers to entry.¹⁷

In summary, there is evidence to suggest that the participants in formal employment are an 'aristocracy' in the sense of a small minority but that they are also vulnerable to concerted employer or government action. In the next section we will explore the social-structural and political factors that contribute to the weakness of organised labour and which cast doubt on the assumption that unions have a significant role in collective bargaining in Kenya.

ORIENTATIONS TO WORK

Historically, employment relationships in Kenya have been highly instrumental in nature and based on differential access to better jobs depending on race. Above all, formal work organisations were introduced by a dominant minority whose techniques of labour management, at least initially, relied on coercion as much as persuasion and economic incentives.

While the Western superstructure of business and administration was progressively imposed on the medley of people that were living side by side, but separately, in pre-colonial Kenya, each ethnic group was encouraged to sustain its own language and culture. According to Furnival, in colonial society, even the worship of Mamon, the sole common deity, does not create consensus. For him, the typical plural society based on a racial hierarchy and ethnic diversity is a

¹⁶ William J. HOUSE, 'Market Structure and Industry Performance: The Case of Kenya' *Oxford Economic Papers*, November 1973. William J. HOUSE, 'Market Structure and Industry Performance: The Case of Kenya Revisited' *in press*, 1976.

¹⁷ See Colin LEYS, 'Underdevelopment in Kenya: The Political Economy of Neo-Colonialism', *University of California Press*, 1974.

TABLE 1

**Structural Features of Kenya's Provinces
(Percentage Distribution)**

<i>Province</i>	<i>All Provinces</i>			<i>Each Province</i>	
	<i>Population, 1969</i> (1)	<i>Modern Sector Wage Employment, 1970</i> (2)	<i>Modern Sector Agriculture, 1970</i> (3)	<i>Modern Sector Wage Employment, 1969</i> (4) ^a	<i>Urban Population</i> (5) ^b
Nairobi	5	25	3	100	100
Central	15	15	49	72	3
Nyanza	19	7	18	55	2
Western	12	3	18	30	1
Coast	9	13	13	85	30
Rift Valley	20	29	63	83	7
Eastern	17	6	27	32	2
North-Eastern	2	1	0	100	0
Kenya	100	100	32	71	10

Source: Kenya Population Census, 1969 (Nairobi: Ministry of Finance and Economic Planning, Statistics Division, 1971), vol. 2, and unpublished ministry data.

^a Wage employment no in the modern sector is defined to be in nonagricultural rural enterprises and small-scale farms.

^b People living in a town of more than 2,000.

business partnership held together by the colonial power. Above all, it has no common will.¹⁸

By the 1950's, there was a marked contrast in official policies towards rural labour employed in plantation agriculture¹⁹ and towards urban labour employed in industry and the public service.²⁰ The old coercive style was still defended by farming interests while urban employers argued for a new corporatist approach to encourage stabilisation of the labour force and to improve discipline through better wages and fringe benefits. This it was hoped would allow workers to sever their rural connections by bringing their families from the 'reserves' to live permanently in the towns and to become fully committed industrial workers. Undoubtedly the change in official policy was influenced by the Mau Mau Revolt and employers' desire to undermine any effort to mobilise workers' discontent behind the struggle for independence. Another factor was the change in colonial policy towards encouraging an expansion of manufacturing industry based on the importation of

TABLE 2

**Kenyan Earnings-per-Worker Relatives in Modern Sector Employment
and Weighted Coefficients of Variation (V of Earnings-
per-Worker Relatives by Province) 1963-70**

<i>Province</i>	1963	1964	1965	1966	1967	1968	1969 ^a	1970
Nairobi	175	181	187	184	192	185	181 (238)	172
Central	71	68	67	58	53	58	61 (66)	66
Nyanza	63	65	70	77	63	68	69 (58)	85
Western	85	81	80	83	68	79	85 (46)	85
Coast	121	117	112	121	120	120	124 (145)	130
Rift Valley	57	54	52	51	48	49	52 (60)	54
Eastern	69	67	64	67	56	66	66 (43)	66
North-Eastern	88	78	88	117	86	94	92 (121)	89
Kenya 100	100	100	100	100	100	100	100 (100)	100
V _w (%)	48.5	51.7	54.6	54.6	60.6	56.2	53.1 (72.3)	47.9

Source: Kenya Employment and Earnings 1963-1967 (Nairobi: Ministry of Finance and Economic Planning, Statistics Division, 1971), app. tables A. 12, A. 13, A. 21, A. 22, and for the years 1968-70, unpublished ministry data.

^a Figures in parentheses denote earnings-per-worker relatives in total regular wage employment, which includes the modern sector and nonagricultural rural enterprises and small-scale farms.

¹⁸ J. S. FURNIVALL, «Colonial Policy and Practice» *Cambridge University Press*, London 1948, p. 307ff.

¹⁹ See Colony and Protectorate of Kenya, 'Report of the Rural Wages Committee' Nairobi, 1955.

²⁰ See Colony and Protectorate of Kenya, 'Report of the Committee on African Wages' Nairobi, 1955.

new capital and managerial skills by subsidiaries of multi-national companies.²¹

The general improvement in modern sector wages from the end of the colonial period through independence until the onset of the economic problems, beginning in 1972, with the collapse of the Ugandan market in the wake of President Amin's 'economic war', has certainly had a marked impact on the stability of the labour force. A survey of 37 manufacturing concerns in 1972, in Nairobi, revealed an average labour turnover of only 11.2% from all causes of the permanent labour force in the preceding twelve months.²² Yet in spite of the reduction in turnover, there is little evidence to support the view that urban workers have cut their rural connections. Several studies testify to the strength of continuing links.²³ Weisner concluded that the most useful way of looking at typical families of town dwellers in Nairobi was to view them as «One family units, often extended in form with two or more households, one in Nairobi; and one on a rural farm».²⁴

The rural-urban connection is two way, in that the urban worker needs to maintain the link for his own benefit but also other members of the family will not let him forget his obligations to them. Retaining a landholding in the rural community of one's birth, quite apart from feelings of sentiment, is about the only security a worker holds against dismissal or retirement. For the majority of workers, it also provides a valuable supplement to the family income and a cheap place to bring up children away from overcrowded urban areas.²⁵ As a consequence of the small number of modern sector jobs, every person who is for-

²¹ Alice H. AMSDEN, 'International Firms and Labour in Kenya 1945-70', F. Cass, London 1971.

²² Shyam B. L. NIGAM and Stig ACKLUND, «Labour Turnover and Overtime Working in Kenya», I.L.O. unpublished, 1972.

²³ Walker ELKAN 'Is a Proletariat Emerging in Nairobi?' *Institute for Development Studies*, D. P. No 168 Nairobi 1973. In a study of supervisors in the Nyanza sugar belt of Western Kenya, it was found that only four out of a sample of forty-two supervisors did not own land and have at least part of their immediate family living on it, in spite of being provided with free company housing. (John S. HENLEY and Francis C. ODIT 'The Rural-Industrial Interface: A Study of Emerging Occupational Consciousness of Supervisors in a Nyanza Sugar Refinery' *Vierteljahrberichte-Probleme der Entwicklungsländer* No. 59, 1975, pp. 49-62.)

²⁴ Tom S. WEISNER 'One-Family-Two-Households: A Rural Urban Network, Model of Urbanism' *University of East Africa Social Science Council 5th Annual Conference*, Nairobi, 1969, p. 1016.

²⁵ Using the same method of calculation adopted by the 1955 Committee on African Wages, A. D. MUYA (*Ibid*, pp. 93-98) estimates that at 1970 prices, the basic minimum wage for a family unit should be K.Sh. 337 per month in Nairobi. The statutory minimum wage in 1970 was K.Sh. 200 per month. He quotes a survey of 1950 by the East under-estimated average food consumption and that K.Sh. 430 would represent a more under-estimated average food consumption and that K. S. 430 would represent a more accurate monthly minimum family wage. Average earnings in manufacturing industry was K.Sh. 315 per month for unskilled employees and K.Sh. 669 for all employees in 1970.

fortunate enough to have a regular cash income is subject to endless demands from relatives. While the majority of Kenyan peasants are able to feed themselves, the spread of the cash economy into the countryside has generated an insatiable demand for money, particularly for school fees.²⁶ Some fragmentary evidence suggests that a disproportionate number of first born sons have entered formal sector employment which probably adds a further twist to obligations to the extended family.²⁷

The underlying economic factors that force the rural population, who have relatives in formal sector employment, to make demands on them are graphically illustrated by the World Bank Report on Kenya. It estimates that present government policies result in manufacturing industry being subjected to an implicit subsidy of twenty-two per cent extracted from the agricultural sector of the economy. The implicit rate of subsidy to expatriated profits rises to a staggering fifty-two per cent. The Report comments on the transfer effects as follows: — «Since taxation of agriculture reduces the income of the poorest people, the process involves a transfer from the relatively poor to the rich and leads to a further widening in income distribution between urban areas..... What is observed is a system of multiple exchange rates the effects of which are to benefit the foreign capitalist most, then the local capitalist, then the wage earner in manufacturing, all at the expense of agricultural producers.»²⁸

In summary, the economic system and a work force primarily made up of first generation employees — from unskilled labour to directors — typically leads to a highly calculative attitude to work. Heavy monetary demands on income, the alien, historically coercive origins of work organisations and the absence of any established autonomous occupational culture encourage employees to perceive work as an opportunity for advancement as much in the world outside work as inside the organisation.²⁹

At the lowest levels, a regular income enables the ordinary worker, albeit at a very modest level, to sponsor other members of the family and so engender feelings of obligation in the recipients. As income and status rises so does the possible scope for patronage and — in parallel — the network of applicants. Private urban homes of managers and workers alike are constantly visited by people from 'home' or by

²⁶ Our study of supervisors suggested they spend between 8-15% of their annual income on school fees for their own children and other dependents (*Ibid.* HENLEY and ODIT p. 51).

²⁷ Michael J. GREAVES reports 46% of his sample of 179 Kenyan managers were the oldest boy in their family. (Unpublished Ph. D. Thesis, in preparation, Edinburgh) In our study, 40% of supervisors were so placed, *Ibid* HENLEY and ODIT p. 51.

²⁸ *Op. cit.*, World Bank pp. 282-3.

²⁹ See Terence JOHNSON 'Imperialism and the Professions: Notes on the Development of Professional Occupations in Britain's Colonies and New States' *Institute of Commonwealth Studies*, University of London, (MIMEO) for a fuller discussion.

referrals from other friends asking for one kind of assistance or another. Since the town dweller also is usually a country dweller, it is difficult to refuse help without risking 'loss of face' in the rural 'home'.

A consequence of the prevalence of instrumental attitudes to work is the lack of any moral commitment to organisations and a reluctance on the part of managers to deliberately foster such attitudes. For example the provision of company welfare benefits are often rigorously policed for malingerers using medical personnel, a practice hardly designed to develop any kind of 'life time commitment'. Yet the degree and consistency of application required of industrial workers cannot be guaranteed by overtly coercive managerial control. While fear of the economic and social consequences of dismissal may encourage servile acquiescence, it does not promote initiative or innovation. Obviously, simple technology requiring little in the way of skilled workmanship can be controlled effectively using authoritarian personal supervision. However, where technology becomes more complex or where management cadres are dominated by expatriates schooled in more indulgent styles, bureaucratization is more effective for regulating social relations of production. Authority is converted into impersonal rules as much as possible resolving the dilemma of the manager or supervisor faced with the problem of reconciling the highly structured and routinised demands of the modern factory system with traditional emphasis on social cohesion and avoidance of conflict learnt in the village communities of his and his subordinates' childhood. By stressing the rules, the superior can avoid feeling personally responsible for his actions appearing impersonal, therefore arbitrary and authoritarian, to his subordinates. By learning the rules, workers can also acquire a certain limited amount of independence within the rules and so escape from the most direct dependence relationship inherent in control by personal supervision.³⁰

Bureaucratisation of the system of managerial control avoids the problem of face-to-face dependence relationships across racial and ethnic cleavages, yet protects the rationality of collective action. By following the rules, a manager does not threaten the security of his subordinates but, by acting impersonally, he fails to share his privileges with his friends and relatives. His own security depends on his superior's behaviour and 'bon plaisir'³¹ but, unlike in France, peer group pressure is very much weaker unless it is coincidentally based on ethnic affinity. As a consequence of the weakness of this countervailing solidarity, much industrial conflict centres on whether a manager who is a member of a particular racial or ethnic group acted in an arbitrary way towards another ethnically defined group. For example, in one recent case, the African labour force went on strike in support of the African personnel

³⁰ See Michael CROZIER 'The Bureaucratic Phenomenon' *Tavistock Publications*, London 1964, pp. 220-4 for an extended discussion on the point with respect to France.

³¹ *Ibid.*, CROZIER p. 222, 'The Arbitrary Will of the Ruler'.

manager who was sacked by a predominantly expatriate management. The other African supervisors and managers tried to stay aloof from the conflict since they were unsure of their interests in either group of combatant's position.

THE STATUS OF TRADE UNIONS

From its' colonial origins, Kenya has been characterised by its cultural diversity and social cleavage. At independence, it adopted a universalistic constitution but this did not, of course, alter existing between the different ethnic segments which varied widely in size, wealth, institutions, social organisation and economic capacities. Whatever the formal gloss on the political system, in the absence of any strong cross-cutting loyalties, political power primarily developed from ethnically defined bases though with extensive popular support for the President and a few other ministers. Since electoral constituencies correspond closely with ethnic geography, universal suffrage and a predominantly rural electorate has tended to re-enforce particularism in representative institutions.³² However, as Smith argues, some central institutions nevertheless have to emerge in a pluralist society with superior authority and resources to prevent perpetual sectional conflict. Since the different subordinate sections are unlikely to accord equal value and legitimacy to the prevailing hierarchic pattern, the use of power and authority become crucial for maintaining and controlling the state.³³ The struggle for political power and influence largely precedes the accumulation of wealth since from it flows legitimacy for protecting the central institutions in the cause of national unity and needless to say, the position of the ruling clique. The distribution of the economic benefits available from the state in the form of loans, appointment to lucrative offices and so on then falls into the control of the same ruling group.

Bureaucratic systems of appointing office holders stress impersonality and assume that a common set of values of dispassionate public service emerge from the structural pre-requisites of the organisation. However, given the fact that the different ethnic groups from which these organisations draw their personnel, vary in number, territory and economic potential, there are inevitably considerable difficulties in establishing a balanced representation in positions of power quite apart from outside political influence. Some groups will feel relatively disadvantaged vis à vis other groups.

One way of consolidating a position in an organisation subjected to political control is to establish a patronage network that is vertically

³² Hilary NG'WENO 'The 1974 Elections' *Joe Election Review*, 1974 p. 8.

³³ M. G. SMITH 'The Plural Society in the British West Indies', *University of California Press*, 1965 and 'A Structural Approach to Comparative Politics' in David Easton, ed. 'Varieties of Political Theory' Prentice-Hall, 1966, pp. 113-128.

organised on the basis of kinship. Through patron-client relationships from the top to the bottom of an institution it is possible to undercut, or at least be forewarned of any threats to the chief patron within. The importance of a particular patronage network is naturally dependent on the amount of resources the patron controls and his own vulnerabilities to outside threats. Such a system of social organisation, Robert Tigre argues, was first introduced into Kenya by the British through the system of 'indirect rule' which relied on the appointment of 'chiefs' by the colonial administration. These chiefs were expected to collect taxes from their kinsmen for their colonial masters in exchange for guns and administrative indulgence for the means they adopted.³⁴

A major social consequence of clientelism, of considerable importance for industrial relations, is that it results in little lateral social contact at lower levels in patron-client networks. Economic and cultural contact is ironically much more widespread between competing patrons occupying key roles in government, the civil service, parastatal corporations, private companies and the army. Commenting on the factors inhibiting a working class consciousness developing in Kenya, Sandbrook observes: — 'Clientelism, emphasising vertical personal linkages, impedes the development of a consciousness of common interests on the part of an underlying strata. The underprivileged, who are nearly equally affected by a lack of self-esteem are unlikely to follow the onerous path of rebellion, a collective class-based act, when the possibility of individual advancement and protection still exists. Clientelism offers, or seems to offer, a personal solution to the generic problems of exploitation and oppression. To the extent that clientelism vitiates class-consciousness among the underprivileged and promotes intra-class rather than inter-class conflict, it is a support of the inegalitarian status quo.'³⁵

If Sandbrook is correct and clientelism is widespread in Kenya, it is yet one more factor contributing to economism and a calculative individualistic work philosophy. Conflict thus tends to occur between vertically organised factions within organisations and revolves around differential access to power, it rarely has major policy or ideological implications.

In so far as trade unions provide a rallying point for disaffected interests who feel relatively deprived in the distribution of political power, they pose a potential threat to the stability of the state by fostering sectional, but *not* class based, conflict. As Sandbrook points out, the labour movement is one of the few institutions in which non-Kikuyu have remained pre-eminent.³⁶ Rather than repress the labour movement completely, the government has pursued a policy of incorporation of

³⁴ Robert L. TIGNOR, 'Colonial Chiefs in Chiefless Societies' *Journal of Modern African Studies*, Vol. IX, No. 3, 1971 pp. 339-59.

³⁵ Richard SANDBROOK 'Proletarians and African Capitalism: The Kenyan Case, 1960-1972' *Cambridge University Press*, London 1975 p. 21.

³⁶ *Ibid.*, SANDBROOK, p. 94-120.

full-time officials within a web of state patronage provided by legislation that potentially guarantees their institutional and personal security. Most important is the encouragement of 'check-off' arrangements by which employers collect and remit membership dues to union headquarters, fifteen per cent of which is sent on to the Central Organisation of Trade Unions.³⁷

Sandbrook notes:

'Both stringent legislation restricting the possibility of internal union opposition and state supervision of the internal process of unions may be used to enhance the personal security of incumbent officials. If this strategy of isolating union leaders from rank-and-file pressures succeeds, it transforms leaders responsive to their members' aspirations into de facto public servants responsive to the 'public interest' as defined by the political authorities.'³⁸

The crucial patronage factor in legislation affecting industrial relations, naturally, hinges on the willingness of the authorities to enforce codes of practice. As might be expected, many unions are especially vulnerable to the requirements of the Registrar of Trade Unions for properly audited accounts.³⁹ At company level, there are also a range of indulgences that can be offered to trade union officials, many of which may seem trivial to well paid union staff but not to branch officials earning around \$75 a month.

Summarising our argument so far, it would appear that the social structure and political economy of Kenya is not conducive to the development of strong autonomous trade unions able to engage in meaningful collective bargaining. Vertical cleavages in Kenyan society are stronger than any cross-cutting occupational or class ties. Extreme disparities of wealth as a consequence tend to encourage particularistic behaviour in both managers and workers rather than class-based antagonism. Some in positions of comparative affluence have capitalised on the situation to establish personal networks of dependents who informally serve to protect their patrons interests. Security of regular employment is of over-riding importance, since from it flows the privileges on which to build personal networks but it can never be entirely guaranteed because there are few checks and balances at the top.⁴⁰

³⁷ The current Secretary-General of COTU draws at least three salaries: as Secretary-General of the dock workers union, as Secretary-General of COTU and as a Member of Parliament giving him a total annual salary of not less than \$20,000 excluding expense allowances.

³⁸ *Ibid*, SANDBROOK p. 26.

³⁹ Recently the Plantation and Agricultural Workers Union as threatened with prosecution for failing to pay the contributions of its staff to the National Social Security Fund even though the incumbent officials were trying to sue the previous Secretary-General for embezzling the money concerned.

⁴⁰ Respect for due process is not internalised to the same extent as in older industrialised societies though treatment of minorities, even in industrial societies, suggests selective respect for due process.

Muir and Brown's observation of the decline in strike activity in Kenya indicates to us a deepening of structural inequality and factionalism rather than wide acceptance of the system of compulsory arbitration. Times are good for organising trade union activity under conditions of cultural pluralism only when there is some over-riding group to be opposed. Immediately prior to and after Independence this was the case where management was exclusively expatriate. The 'unity of negation', as Smith argues, is a highly unsatisfactory basis for assuming the long run moral solidarity and cohesion of an aggregation of cultures.⁴¹ When management and government become Kenyanised, to make confusion more complete, many former labour leaders changed 'sides' to join management or government. Unity of the central organs of power soon became a pre-requisite of political stability at the expense of other potentially autonomous groups, in particular, trade unions. Most labour leaders have, therefore, chosen incorporation into the networks of the ruling elite and spend their time organising their own factions within the labour movement to protect their power base and share of the union's income.

Wage levels are set by management within government guidelines and formally ratified by national union leaders. Union activity at the level of the firm as a consequence is restricted to restraining arbitrary managerial behaviour that threatens job security, thereby bolstering the preferences of companies which wish to appear as 'good corporate citizens' for highly bureaucratised employment policies.

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⁴¹ M. G. SMITH 'Some Developments in the Analytic Framework of Pluralism' in 'Pluralism in Africa', Ed. Leo Kuper and M. G. Smith, *University of California Press*, 1969, p. 448.