TEACHER TRADE UNIONS SPRINTERISM. A GOVERNMENTS STRATEGY TO DERAIL THE UNIONS ACHIEVEMENTS IN KENYA

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Definitions of trade unions

Trade union is a voluntary organisation of workers formed to protect and promote their interests through collective action. It may be formed on plant basis, industry basis, firm basis, regional basis or national basis. Different writers and thinkers have defined the trade union differently.

A few definitions are given below

1. Trade union is a “continuous association of wage earners for the purpose of maintaining and improving the conditions of their working lives.”
   —Web
2. “A trade union means an association of workers in one or more occupation—an association carried on mainly, for the purpose of protecting and advancing the members’ economic interests in connection with their daily work’.
   —G.D.H. Gole
3. “A trade union is an association of employees designed primarily to maintain or improve the conditions of employment of its members.”
   —Lester
4. A trade union is a continuous association of persons in industry, whether employers, employees or independent workers—formed primarily for the purpose of the pursuit of the interest of its members and of the trade they represent.
   —The Trade Union Act 1926

“Any combination, whether temporary or permanent, formed primarily for the purpose of regulating the relations between workmen and employers, or between workmen and workmen, or between employers and employers, and for imposing restrictive conditions on the conduct of any trade or business and includes any federation of two or more trade unions.” A trade union is formed with the object of improving the conditions of employment for its members. The term trade union is restricted here only to mean the association of workers. According to Edwin B. Flippo “a labour union or trade union is an organisation of workers formed to promote, protect and improve, through collective action the social, economic, and political interests of its members.” The economic aspect relates to wages, hours of work, working conditions, etc
Most trade unions are independent of any employer. However, trade unions try to develop close working relationships with employers. This can sometimes take the form of a partnership agreement between the employer and the trade union which identifies their common interests and objectives.

Trade unions:

- negotiate agreements with employers on pay and conditions
- discuss major changes to the workplace such as large scale redundancy
- discuss members' concerns with employers
- accompany members in disciplinary and grievance meetings
- provide members with legal and financial advice
- provide education facilities and certain consumer benefits such as discounted insurance

**Definition of Splinter**

A splinter is a sharp, slender piece, as of wood, bone, glass, or metal, split or broken off from a main body; as regards to association or a trade union as in this case; its to discontinue an association or relation and go different ways; a group or faction broken away from a parent body.

The thesaurus words that go together with a splinter are secede, break, break away, break up, part, split, split up, separate, carve up, dissever, divide, fragment, shatter, fracture, shiver and disintegrate.
INTRODUCTION

Emergence of trade unions

Trade unions emerged during industrialisation in Europe in the second half of the 19th century. From trade organizations of highly qualified skilled workers (e.g. printers) they later developed into more comprehensive organisations of the rapidly growing industrial proletariat, mainly in the big industry. Not so in colonial Africa. Apart from a few exceptions (e.g. Tunisia, South Africa and the British colonies of Sierra Leone and The Gambia), the formation of trade unions of indigenous African workers only started during and especially after the second world war, when the colonial administrations both in British and French Africa put in place the legal prerequisites for the creation of indigenous labour organisations.

In the absence of a significant manufacturing sector, African trade unions emerged mainly in the public service and the public transport sector, mostly for teachers, railway and port workers. Trade unions were also formed in the export enclaves of the mining industry (e.g. in Zambia, the then Northern Rhodesia), and, to a lesser extent, in the plantation economy of East Africa. African labour unions are dominated by civil servants. They represent population groups which, according to their income levels and as employees in the modern or formal sector, do not automatically belong to the poorest strata in African societies. In relation to the number of employees in the formal economy, unionisation rates are average to high (in Southern Africa more than 40%) by international standards. However, if one takes the economically active population as a reference, union density levels become extremely low (1-5%), with the exception of South Africa.

In the founding phase after 1945, the setting-up of African trade unions took place with the blessing and, very often, open support of the colonial administration which saw in it a means of keeping social peace. British and French trade unionists acted as development workers, and introduced their respective models of trade unionism. Following the example of the ‘metropole’, competing communist, socialist and Christian trade unions with distinct political orientations were formed in the French colonies, clearly dominated by the communist CGT. In contrast, the “British trade union type” was characterized by the splitting into craft, industrial and general
trade unions, in-house trade unions and staff associations. With the emerging resistance against colonial rule, African trade unions rather quickly emancipated from their European centres. As the most important African mass organisations of that time, unions very often had a decisive share in the national liberation struggle. Only very rarely, however, did they represent a real autonomous political factor in this struggle. Their actions usually occurred under the auspices of the national liberation movements, even though in many cases the unions had to be credited for accelerating change via protest actions and political strikes.

Ironically, the achievement of national independence, in general, resulted in a loss of trade union independence. Everywhere, single-party regimes were formed formally or factually, leaving little or no room for free and independent labour unions. Starting in Ghana under Nkrumah, a period of unification and political submission set in, during which they degenerated - voluntarily or through ‘persuasion’ - to official state labour organisations or transmission belts of the ruling party. In exchange for the loss or surrender of trade union rights and freedoms (e.g. freedom of association, the right to bargain collectively, the right to strike) governments introduced minimum wages, far-reaching job security and created new jobs by bloating the public sector. The financial power of trade unions was strengthened by the introduction of the “check-off system” (automatic deduction and transfer of trade union membership dues) while the often politically imposed trade union leadership was granted lucrative posts and opportunities in the party, in government or in parastatals. Finally, in a number of countries, all employees automatically became paid-up union members (whereby yet a formal right to terminate the automatic membership did mostly exist.).

The close relationship between state power and organised labour only started to unwind in the eighties. This was triggered by structural adjustment programmes, which, at the time, most African governments were forced to apply in reaction to the debt crisis. These programmes in particular affected the traditional trade union constituency. Expenditure and staff reductions in the public service, the closing or selling off of loss-making state-owned enterprises plus import liberalisation led to massive job losses and – in combination with ongoing high inflation – to the decline of real wages in the formal sector. As a result, this did not only undermine the legitimacy of the political regimes with their previous beneficiaries in the urban areas. It also led to unrest
within the ranks of the unions now shaken by heavy membership losses, as their leaders proofed
to be unable or unwilling to resist job losses and reduction in standards or to find strategic
answers to halt or even reverse this decline. At the same time, this contributed to the loosening of
the ties between ruling parties and labour unions.

Since then it has been argued, particularly by market anarchists, that government intervention in
the economy has been decidedly anti-union, even in economies like the United States or the
European Union. Kevin Carson maintains that the most effective union tactics are either
criminalized or displaced by state policy in most countries. Trade unions established themselves
through sitdown strikes, sympathy strikes, secondary boycotts, and hot cargo agreements; these
tactics are all illegal in most industrialized countries. Similarly, the original unions doubled as
social welfare organization, using union funds to provide healthcare and pensions to workers and
welfare to the unemployed. By adopting various welfare-state measures, governments made the
populace less dependent on unions

As a result many attempts to reduce the effects of trade unions by the government have been
made which include union busting by private companies or state action including governments of
authoritarian regimes such as in Adolf Hitler's Nazi Germany and Burma's military dictator, Ne
Win. Many democratic governments have also attempted to limit the effects of unions, although
success has been mixed. A number of countries, especially countries run by Communist parties,
while still having unions in name, do not allow for independent trade unions, just as they rarely
allow for independent businesses. These state-run trade unions do not function in the same way
as independent trade unions and generally do not hold any kind of collective bargaining power,
acting to ensure the smooth running of Government industry
History of Teachers unionism in Kenya

The teachers of this country were subjected to different terms and conditions of service by the many employers they belonged to. The employers who included missionaries and local councils never allowed them to meet and exchange views. This kept them totally ignorant as regards to their rights and therefore were seriously exploited by their masters. Despite the fact that they were kept in the dark, they slowly learned the need to form organizations still based on religious sect organized to the highest at provincial level.

However by 1934 the first teachers organization known as Kenya African Teachers Union (KATU) was formed. This union eventually fizzled away under the pressure of powers of the time and further compounded by the communication problems. It was not until the early fifties, when Makerere and Kagumo Colleges produced a higher caliber of teachers, who after training and learnt of the diversity of their terms and conditions of service. They began by forming sectional or regional Teachers Organizations based on denominations or Provinces. E.g.:

(i) Nyanza African Teachers Union (NATU);
(ii) Catholic African Teachers Association (CATA) both in Nyanza Province;
(iii) Rift Valley African Teachers Association (RATA);
(iv) Coast African Teachers Union (CATU);
(v) Central Province African Teachers Union called Kikuyu Teachers Union (KTU)

Still, there was no way teachers could correspond with their counterparts in other Provinces. In 1955, one of the teacher's leaders from Rift Valley Hon. Daniel T. Moi now the retired President of the Republic of Kenya was elected to the Legislative Council (Leg.co.) now called National Assembly. He later successfully moved a freelance motion in the house in 1957 that the Government should help the teachers of this country to form one national body. The Government accepted the motion. This made the then Minister for Education Mr. W.F. Coutts to invite all leaders to a meeting in December 1957 at Pumwani D.E.B. School. At this meeting, one teachers’ organization called Kenya National Union of Teachers (KNUT) was born. An Interim Central Executive Committee was set up Soon.
After setting up offices, the Central Executive Committee, which later became the National Executive Council, met and issued the first policy demands, which included:

(a) A single Employer for all teachers.
(b) Unified Terms and Conditions of Service.
(c) Free Pension for all teachers.
(d) Provision for negotiating machinery.
(e) Pay rise for all teachers in all grades.
(f) Responsibility allowance for all posts of responsibility.
(g) Abolition of the Colonial Code of Discipline.

The government responded by appointing the Lawrence Sagini Commission to look into the demands of KNUT. After prolonged negotiations, KNUT rejected the recommendations of this Commission. The government then appointed another body called the Teachers Salaries Commission. Whose recommendations were not very different from the Lawrence commission. Here, the KNUT resolved to stage strikes. Since then there have been several very successful strikes which yielded many achievements for the teachers of this county till a rival body was encouraged and helped to register by the government in 1997 after the then government realized how powerful KNUT had grown to be.

Registration of KUPPET and the illegality surrounding it

When the Registrar of Societies declined to register a parallel union to represent post-primary school teachers in 1993, it was on the premise that doing so would be unconstitutional. The Trade Unions Act disallowed the registration of more than one union to represent members of one trade, unless there is clear evidence that the existing one is not representative or effective.

In the case of teachers, a 1968 Recognition Agreement between the Teachers Service Commission and the Kenya National Union of Teachers (KNUT) recognised KNUT as the sole representative of teachers. It was therefore surprising that the Kenya National Union of Post-Primary Teachers was registered and gazetted by the then Labour Minister Joseph Ngutu despite the constitutional provisions.
The new union was a ploy by the government to undermine and eventually weaken the giant union, whose crusade for teachers’ right had puts it a cut above all other unions. The move was also seen as a diversionary measure to dissipate KNUT's energies and deny it the drive to push for the implementation of the higher salaries negotiated for teachers in 1997. The new union (KUPPET) on its part accused KNUT of letting down secondary school teachers, though it recognized that KNUT succeeded in negotiating the salary increases in 1997 that benefited all teachers.

The education sector has been going through trying moments as enrolment triple with the free primary education, dropout rate rising, and the quality of education waning. This gives a reason for teachers to take a common stand. Whereas teachers have a right of association at every level, the process of achieving that right should be based on legality. Nobody should be allowed to take short-cuts. The main concern was with the observance of the law coupled with a collaboration between the Registrar and the labour minister to flout the rules and give KUPPET the mantle of legality. This by itself showed the government’s hand in weakening the legitimate teachers’ union which was a clear case of divide and rule.

THE PROBLEM

Achieving the trade union objectives largely hinges on unity and solidarity. Unity and solidarity are the key imperatives that must exist in trade organizations in order for unions to adequately address the concerns of their members and effectively engage in national policy dialogue and implementation. Splinterism detracts the strength and influence the ability of trade unions to achieve their objectives. According to the International Labour Organization (2010), workers ability to negotiate, promote and defend their rights largely depends on their ability to act collectively. Splinterism weaken workers’ position in front of their employers and diminish the possibility that trade unions will represent workers’ interests in an optimal way, both at the level of the enterprise or professional sector or within the framework of the socioeconomic institutions of the country.
According to the ILO (2010), one of the major weaknesses of the African trade union movement is the lack of union unity. In most countries, proliferation and splinterism of trade unions have been rife. In most cases, the relationship among these unions is characterized by competition and acrimony. These excessive forms of proliferation are rarely inspired by the principles of freedom of association and trade union pluralism. The indiscriminate formation of unrepresentative and ineffective unions has become the source of division, confusion and abuse on the trade union in the world (ILO, 2010). In the last three decades, trade union unity in Africa has been under savage attack. A document by the ILO (2010) regrets the proliferation of trade union organizations in Africa, particularly in French-speaking Africa. This proliferation is spreading in all directions and the signs are that English-speaking African countries, which had hitherto enjoyed greater trade union unity, are starting to go down the same road (ibid). The wave of labour legislation reforms that blew across most parts of the continent in the 1990s and early 2000s introduced trade union pluralism. The combination of this and other factors opened the flood gates for splinterism of trade unions on the continent.

In Benin for example, trade union rights are guaranteed by law. These rights include freedom of association. However, the right to freedom of association appears to have become an albatross on trade union unity in Benin. It is estimated that there are not less than one hundred (100) trade unions in the education sector alone in the country. Ironically, the growth in number of trade unions has not occurred with membership growth. Amoussou (2012) broached that Benin is witnessing an explosion in number of unions even as membership dwindles. In Kenya, seven or more workers in an enterprise are permitted by law to form or join trade unions. This legal provision, combined with the right to freedom of association, has adversely affected trade union unity and solidarity particularly at the sectorial level. In the education sector, for instance, the Education Sector Report (2012) identifies the Kenya National Union of Teachers (KNUT), Kenya Union of Post Primary Education Teachers (KUPPET) and the University Academic Staff Union (UASU) among other trade unions and associations as stakeholders in the education sector. The Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA) also organizes non-teaching staff of educational institutions in Kenya. Union unity and solidarity are affected by a number of factors which include representation, leadership struggles as well as status or class struggles among the various categories or levels of
teachers. The relationship between these education section unions is sometimes characterized by rivalry and competition. This does not inure to the benefit of all stakeholders in the sector.

Unity and solidarity is paramount for effective trade unionism. Multiplicity of unions presents real challenges to industrial relations. As expected, industrial relations practice have been burdened by the union splinterism. This study argues that the biggest losers as a result of the current union splinterism are the unions themselves. Union splinterism has engendered and intensified the competition for membership among these organizations. The membership struggles have detracted from the strength and effectiveness of the unions. Instead of concentrating fully on workers and their welfare, some considerable efforts and resources are expended in poaching or attracting already organized members of other unions while vast majority of workers remain unorganized.
LITERATURE REVIEW

Prior to what has been described by many economists and social scientists as “Africa’s lost decade” – 1970s – the labour movement on the continent wielded significant power. The implementation of the various economic recovery and structural adjustment programmes in the 1980s and into 1990s almost across Africa, among other effects, significantly eroded the power and relevance of trade unions on the continent. Legal and institutional reforms on the continent including employment and industrial relations reforms, contributed significantly to the waning of trade union power. The introduction of union pluralism by these legal reforms promoted proliferation of unions on the continent. In addition, legal reforms promoting freedom of association has, instead of strengthening trade union, contributed to disunity.

The current state of trade union splinterism in the country does not inure to the benefit of the unions themselves and the members they purport to represent. In the education sector, industrial relations and the general functioning of the sector is burdened by trade union splinterism. In some cases, the relationship among the unions is characterized by competition and acrimony. The situation is said to cast doubt on the relevance of unions and their ability to meet the needs and aspirations of their members as well as their future sustainability (Amoussou, 2012).

The past few decades have seen a series of neoliberal policy reforms take place in the developing world which attempted to make markets work more “freely” and “efficiently.” Increasing the flexibility of the labor market was among the most central objectives of these reforms. Government policies regarding the collective representation of labor underwent substantial changes in this context. The nature of the change in question has not been uniform, however. Although taming the power of unions so as to decrease resistance to market reforms and increase labor market flexibility remained a somewhat common objective to the neoliberal agenda across all nations, governments employed different strategies and means to achieve these ends. Identifying the differences in the ways governments dealt with unions in the context of neoliberal reforms constitutes an important step towards understanding the varying courses of change that nations’ union movements have undergone.
The early literature on globalization and neoliberal reforms in the 1980s and early 1990s embraced the idea that governments all over the world were in the process of abandoning their distinctive institutions and policies, and embarking on a set of common strategies in an attempt to adapt to the various pressures imposed upon them by the global markets. Flexible labor markets unencumbered by strong unions were seen as among the key elements of the predicted “neoliberal convergence” across nations, along with the minimalist welfare state, reduced taxation and limited business regulation (Campbell & Pedersen 2001: 5, 271).

To be clear, the anticipation of national capitalisms converging around a set of objectives and policies was not unfounded at all. Employers and policymakers across the world had indeed employed reform rhetoric that remained strikingly similar (Thelen & Kume 1999). Nevertheless, the evidence that has accumulated over the past few decades has shown that in their quest to become globally-integrated market economies, nations have prioritized different policy objectives or have taken different routes to achieving similar outcomes. Whereas the earlier studies of globalization and market reforms had talked about homogenous change culminating in the “erosion of national capitalisms” (Weiss 2003), more recent research has highlighted the differences in the national histories, institutional structures, social relations, interests, and ideas that have caused the process and outcome of reforms to vary in different national contexts (Campbell & Pedersen 2001; Fligstein 2001; Fourcade-Gourinchas & Babb 2002; Swank 2003; Prasad 2006).

Theoretical construct
The maxim “divide and conquer” (divide et impera) is frequently invoked in legal theory and the social sciences. The maxim is a placeholder for a complex of ideas related by a family resemblance, but differing in their details, mechanisms and implications. Economists typically interpret divide and conquer in terms of a specific class of theoretical models whose main feature, roughly speaking, is that a single actor exploits coordination problems among a group by making discriminatory offers or discriminatory threats. Political scientists, historians and lawyers, however, sometimes use the term in the economists’ sense, sometimes in other senses.
Two conditions are essential to any divide and conquer mechanism. (1) A unitary actor bargains with or competes against a set of multiple actors. (2) The unitary actor follows an intentional strategy of exploiting problems of coordination or collective action among the multiple actors.

The motivation for condition (1) is that divide and conquer is not a well-defined idea where a unitary actor faces another unitary actor, or where a set of multiple actors faces another such set. However, the stipulation that a “unitary actor” is necessary does not literally require that the actor be a single natural person. Any group that has itself overcome its internal collective action problems, at least to the point where it is capable of pursuing a unified strategy vis-à-vis an external competitor, can be treated as a unitary actor for present purposes. History has shown that the rate of union membership corresponds to the rise and decline in the level of class struggle. If the current balance of class forces can only be reversed through a revival of class struggle, then the key challenge facing union activists is how to transform their unions into fighting organizations. For Marxists, this necessarily entails, step by step, strengthening the fighting capacity of workers in general, and union workers in particular.

One problem is evidentiary; writers frequently attribute a divide and conquer strategy to the beneficiary just because there is a beneficiary, without concrete evidence of intentional strategy on the beneficiary’s part. For example, it has been argued that Tocqueville slipped into this error by attributing to the French monarchy an intentional strategy to divide the French nobility from the third estate, through discriminatory tax exemptions in favor of the former. Although in the medium run the monarchy did benefit from the resulting divisions between nobles and bourgeoisie, the exemption was originally created simply because the monarchy originally lacked the political power to force taxation on the nobles, not as part of a deliberate divide and conquer strategy (Elster 2009). As far as possible, the researcher will attempt to avoid this evidentiary slippage in the applications to be discussed.

Another set of problems is both conceptual and taxonomic. There is a class of cases, intermediate between divide and conquer and tertius gaudens, in which one party declines to act because he knows that by so doing he will benefit from divisions between or among his adversaries, yet without taking any intentional action to create or exacerbate he division. In Mommsen’s account,
Tiberius adopted a defensive stance in Germany partly because he realized that an aggressive Roman policy encouraged the German tribes to unify against a common enemy, whereas if left unmolested the tribes would fall to fighting among themselves.

Finally, there is yet another important class of cases in which a divide and conquer strategy is used in an indirect form, as when a constitutional designer creates structural conditions that make it difficult to organize groups whose activities will reduce overall welfare. In such cases, later generations who do not have to cope with such groups benefit from the constitutional designers’ intentional strategy, but do not themselves divide and conquer any opposition; if the designer’s plan has worked well, the opposition may not even exist.

This study therefore stems on the presumption that the emerging trade unions are a governments diversionary tactic to divide the workers and therefore loose the bargaining power in presenting their members.

CONCLUSION

The importance of unity and solidarity in the promotion of union goals and the welfare of members cannot be gainsaid. Particularly, in the education sector, where the different categories of workers may have different concerns and aspirations, it is imperative that efforts are made to ensure union unity and solidarity in order that all efforts are effectively geared towards promoting the economic and social interests of the workers in the sector. Trade union splinterism presents real challenges to industrial relations, implementation of educational policies, which in turn, do not inure to the advantage of the unions. The welfare of education sector workers is sometimes compromised by the prevailing disunity.

Given the effects of splinterism on unions and their members, it is imperative that significant efforts be made towards promoting unity and solidarity among trade unions in Africa. On the basis of the forgoing, the paper makes the following observations:

- Given the significant effect of internal union management and democratic deficits on splinterism, it is important for trade unions improve internal management practices and
promote democracy. The structures and rules of trade unions be allowed to work in order to prevent disenchantment and frustration which breed splinterism in unions.

- The unions have to fix the leadership question in the unions. Equal opportunities must be given to all eligible union members in leadership position. It is also important that union leaders do not entrench themselves in union positions.

- One of the most important factors explaining union splinterism in Africa is the lack of representation. While admitting that representation which employs different categories of workers could be challenging, it is nevertheless important that trade unions work towards ensuring that the various categories of workers are adequately represented in both the structures of the unions as well as in the issues presented or articulated by the unions.
REFERENCES


