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The nature of employment contracts and the kind of benefits that are enjoyed by security guards from Samburu community working in Nairobi

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Abstract

This study established the nature of employment contracts and the kind of benefits that are enjoyed by security guards from the Samburu community working in Nairobi. The study adopted a survey design, and data was collected through questionnaires, which were applied to 200 security guards who had been randomly selected from 5 administrative clusters in Nairobi. The findings indicated that security guards were not properly contracted with the right documentation, did not enjoy social security benefits, lacked information about trade unions, and were not enjoying their right to collective bargaining. The study focused on particular employee welfare issues to determine the extent to which their rights were granted. The issues were job contraction and employment benefits, as well as employee exposure to knowledge about trade unions. In examining these issues, the study looked at the following indicators, which provided evidence for granting or non-granting of employee rights: shelter, diet and investments made by the employees; existence of job contracts, insurance cover, retirement benefit plan and health cover as well as membership to a trade union. It recommended that the Government of Kenya should enforce a proper job contraction for security guards, as well as have them accorded all the employment benefits stipulated by labour laws; the trade union movement in Kenya should reach out to security guards; and that the parliament should come up with legislation which will prohibit engagement of security guards outside the employment of duly registered security companies.

Key words: Benefits, employee, employer, labour, labour unions, terms of employment.



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INTRODUCTION

In Kenya, the general law of contract and the principles of common law inform employment terms and conditions, which are mainly embodied in:

- The Employment Act (Cap. 226) and Regulation of Wages and Conditions of Employment Act (Cap. 229) both govern wages, leave, rest, health, safety and termination of employment.
- The Factories Act (Cap. 514) focuses on the safety, health, and welfare of factory workers.
- The Work Injury Benefits Act (Cap. 253) makes provision for compensation of employees who sustain injury in the line of duty.

The Employment Act (2007) stipulates that there must be an employment contract between the employee and the employer, stipulating the length and the nature of engagement, with the remuneration level matching the nature of the employee's engagement; the employee should be accorded sick leave, annual leave as well as other types of leave as situations may demand, during which the employee is entitled to full remuneration; the employer should provide for, either in substance or in monetary form, proper accommodation and feeding for the employee; a health care programme and an insurance plan should also be put in place by the employer. The Work Injuries Act (2007) obligates the employer to see to it that the employee is insured and registers and keeps records pertaining to his engagement; the employee has the right to compensation.

Kenya's labour relations are both informed and moderated by the Industrial Relations Charter (IRC), which was signed in 1962 by the Government of Kenya, and the Kenya Federation of Labour (KFL), which later transformed into the Central Organisation of Trade Unions (ILO, 2022). The Charter outlined the responsibilities and obligations of labour managers (employers) on one hand and trade unions on the other hand with regard to industrial relations. A joint Dispute Commission was set up to settle labour disputes. The Charter has since been revised twice (ILO, 2022), but its fundamental framework has been sustained. Within the framework of the Charter, the interests of employees are safeguarded by the Central Union of Trade Unions (COTU).

COTU is an umbrella body that covers trade unions that are specific to particular industries. It is an affiliate of the International Trade Union Confederation (ITUC), and it represents the local trade unions on the global front. Through COTU, industry-specific trade unions in Kenya come to operate in tandem with international conventions on labour relations and are empowered to champion employee rights. Therefore, for an employee to really benefit from the provisions of the Industrial Relations Charter, he needs to be a member of a trade union. Membership in a trade union has many advantages: members can bargain collectively for new employment conditions or improvement of the same, new wage rates and improvement in social benefit funds; they are represented by a trade union official in an employment-related hearing; they have access to vast information base about the industry of their employment from the trade union (Jepkorir, 2014).

The findings of this study will help the government of Kenya address the issue of observance of the rights of security guards from the Samburu Community working in Nairobi pertaining to their terms of employment and job conditions as enshrined in labour laws. Therefore, this study sought to establish the nature of employment contracts and the kind of benefits that are enjoyed by security guards from the Samburu community working in Nairobi.

LITERATURE REVIEW

Terms of Employment

Social security with regard to employee welfare is a requirement of labour laws, and employers are bound by international labour law, which is variously domesticated in different nations, to engage in a mechanism for the employees' social security. Swapna and Samuyelu (2011) carried out a study to compare the provisions and implementation of overall benefits of the employees with regard to their welfare. The study was conducted within one purposefully selected company, with the employee sample of 400 being selected randomly from five wings of the company. Questionnaires were used to collect data, which was processed through editing, coding, classification and tabulation. The study found that pertaining to the social security schemes, 79 per cent of the employees were satisfied, 19 per

cent moderately satisfied, and only 2 per cent were dissatisfied. Concerning the facilities provided under terminal benefits Cells, 39 per cent were satisfied, 32 per cent moderately satisfied, 20 per cent highly satisfied, and 9 per cent dissatisfied. The level of satisfaction of the employees and, therefore, productivity was found to be directly tied to the social security facilities provided for them. This study was conducted in only one company, and so bias in the findings resulting from characteristics inherent to the company was a great possibility: this would make universalisation of the findings impossible. The current study will cover this gap by covering workers from different companies with different working conditions and circumstances.

Golden et al. (2013) investigated the satisfaction level of employees with the welfare measures provided by their employer, with the aim of identifying the welfare measures with which the employees were most satisfied. The study adopted a stratified survey design, with the research sample being categorised in terms of gender, age and education level. The welfare measures considered were an employee provident fund, employee pension scheme, employee state insurance scheme, gratuity scheme, maturity benefits, women's compensation, vocational guidance and advanced training scheme. The research found that the employees were highly satisfied with the welfare measures, and their existence was one of the reasons they were attracted to their jobs. This research, however, was carried out on the basis of the assumption that welfare measures already existed, and so it proceeded to assess employee satisfaction with them. Therefore, it did not consider cases where such measures might be non-existent. To bridge this gap, the current study will establish the nature of employment contracts and the kind of benefits that are enjoyed by security guards from the Samburu community working in Nairobi.

Employee Exposure to Trade Unions

Knowledge about the trade union movement and the benefits of being a member is the key to the empowerment of employees towards collective bargaining. Saundry et al. (2018) examined the process and patterns of workplace representation of employees by fellow workers or trade union

members, and its effectiveness in securing the rights of workers who were either aggrieved or who faced disciplinary action. The study adopted a semi-structured interview design, which was conducted in eight sites. It found that there was ease in resolving disputes when workers were free to be accompanied by colleagues or other sympathetic parties, and informal solutions in a relaxed atmosphere were easier to work out. Those who were accompanied by trade union officials in dispute resolution hearings stood great advantage as managers gave broad latitude to the union officials in arguing cases for employees and also appreciated their presentations about employee rights. The study also found that there was a clear distinction in the exercise of the right to representation in dispute resolution between unionised and non-unionised employees: the unionised ones had their representatives (in this case, trade union officials) participate more in representing them than the non-unionised employees. The study confined itself to cases of individual workers who had grievances or who faced disciplinary action; it did not bring out other roles of trade unions in fighting for employee rights, such as bargaining for better pay. The current study will cover this gap by focusing on the multiple roles played by trade unions in enhancing employee welfare.

Wilshaw et al. (2013) carried out an investigation on labour issues in Unilever's Viet Nam's operations and supply chain with a focus on the level of compliance with labour laws and regulations and the rights granted to the employees. The study assessed the labour standards in Unilever's operations and wider supply chain with regard to international standards and local conditions in Viet Nam. It focused on four key issues: freedom of association and collective bargaining for the workers; the living wage, with regard to the effectiveness of the worker's take-home pay in meeting their basic needs; the duration over which the employees worked per day, with regard to adequate remuneration and consideration for the workers' need to rest; contract labour, with regard to reasons for insecure labour contracting and its effect on employee well-being. The study employed a survey design, with data being gathered through telephone interviews with 48 Vietnamese Unilever suppliers, out of whom three out of 48 were

purposefully selected as the core study sample due to their population-representative characteristics.

Workers and managers of the three suppliers were interviewed in the same format. It was found that although Unilever espoused the rights of workers in policy, in practice, labour rights were largely ignored. The workers largely lacked a mechanism for airing their grievances; the management, in some cases, suppressed the idea of the existence of such a mechanism; collective bargaining with the management for the workers was lacking because they did not have a mechanism to collectively raise issues with the management. Commitment to stable or regular employment for workers (for those in non-managerial engagements) was also lacking. Their study did not consider particular sections of employees who might have had peculiar characteristics that could affect their relationship issues at work.

METHODOLOGY

The research adopted a survey design to investigate the welfare of security guards from nomadic pastoralist communities working in Nairobi. The study was carried out within Nairobi City. Nairobi City is the capital city of the nation of Kenya, the economic powerhouse of the Eastern and Central African region. Nairobi Comity is the most populous city in East Africa, with a population of over three million people. It is located in the South-Central part of the country, at an altitude of 1680 m above sea level. It is 1.28330 South of the Equator and 36.81670 East of the Greenwich Meridian. The study involved all security guards from the Samburu community working in Nairobi as the population of study and individual security guards as the unit of analysis. Five areas of the city, that is, Westlands/Kabete, Lavington/Kangemi/Waithaka/Muthaiga/Thika Road, Karen/Lang'ata, South C/South B and Embakasi, were marked out as the places from which the study sample was taken from each of these areas. Thus, clustering was used as a prelude step in

selecting the study sample. The researcher initially carried out a reconnaissance visit to the study areas, listing all the security guards from nomadic pastoralist communities according to the five clusters of administrative areas described above. From these clusters, a sample of 200 security guards was selected through random sampling. Random sampling gives each individual in the study population an equal opportunity to be selected: this creates a situation where the sample is a true representation of the study population (Creswell & Creswell, 2022).

The data used in the study was both quantitative and qualitative. Quantitative data was gathered through questionnaires, which were constructed in such a way that they captured different kinds of information that would be required to address the objectives of the study. For that reason, both open-ended and closed questionnaires were used. A pilot study was carried out to assess the content-related validity of the questionnaires before the actual research was carried out. In this study, frequency distribution tables were used to analyse the data. The results were presented in tables of numbers and percentages of the sample interviewed, as well as on pie charts and column charts.

RESULTS AND DISCUSSIONS

Nature of Employment Contracts and Benefits that are Enjoyed by Security Guards

The objective of this study was to establish the nature of employment contracts and the kind of benefits that were enjoyed by security guards from the Samburu Community working in Nairobi. To establish this, the security guards were requested to respond to YES/NO interview questions which were deemed to bring to light job security issues, the existence of formal job contraction, medical cover and other insurance covers, retirement benefits and granting of annual leaves and allowance thereon, as well as engagement of the security guards in any kind of welfare programmes. Table 1 shows the record of the responses of the security guards:

Table 1: Employment Contraction and Benefits for Security Guards

Contraction & Benefits	YES	Percentage	NO	Percentage
Letter of employment	34	17%	166	83%
Insurance cover	14	7%	186	93%

Medical Insurance	14	7%	186	93%
Annual leave & and allowance	77	38.5%	123	61.5%
Retirement benefits	2	1%	198	99%
Job security	19	9.5%	181	90.5%
In welfare group	5	2.5%	195	97.5%
Employer pays for medical expenses	2	1%	198	99%

The results show that only 17 per cent of the security guards had letters of employment, while 83 per cent did not. Consequently, job security was low, with only 9.5 per cent of the security guards responding in the affirmative in this regard. Only 1 per cent of the security guards had their medical expenses met by their employer, while 99 per cent met their medical expenses from their salaries. Regarding medical insurance and other form of insurance cover, only 7 per cent of the security guards enjoyed such covers,

while 93 per cent went without any form of insurance cover. On the issue of annual leave, 38.5 per cent of the guards indicated that they enjoyed an annual leave with an allowance, while the bigger percentage of 61.5 per cent did not. Only 1 per cent indicated the existence of retirement benefits, and only 2.5 per cent were in any form of a welfare group. These results are captured in the column chart below:

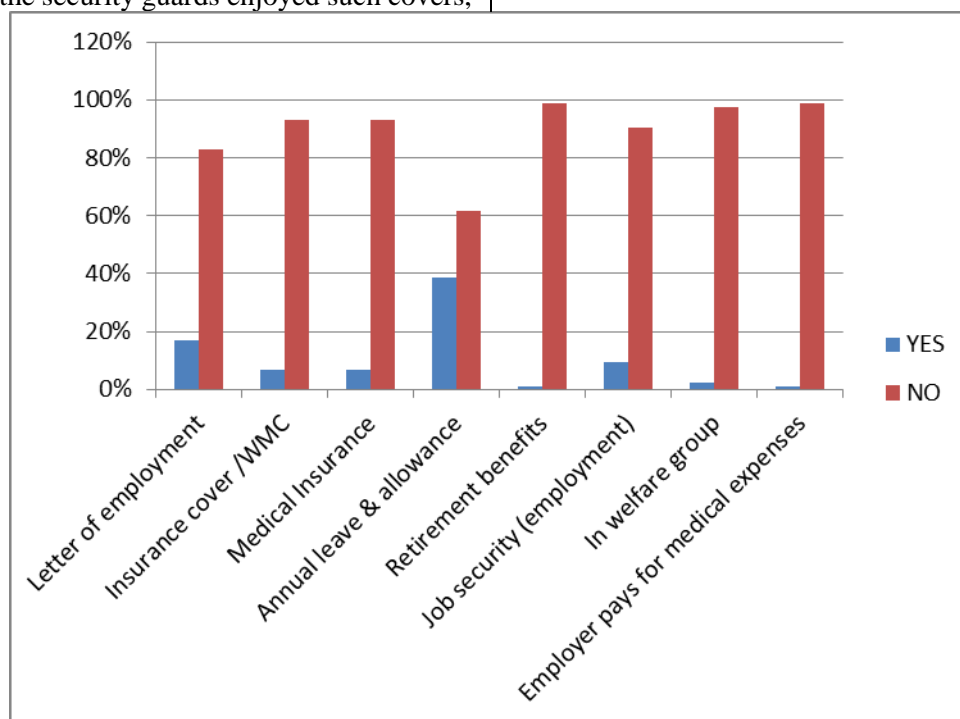


Chart 1: Employment Contraction and Benefits for Security Guards

Discussion

Nature of Employment Contracts and Benefits that are enjoyed by Security Guards

The findings of this study indicated a low level existence of letters of employment, at 17 per cent, for security guards, and an even lower level of job security, at 9.5 per cent. It follows that the majority of the security guards did not spend a night or a day being sure whether they were on the job, for lack of

formal documentation to that effect. With the prevalence of lack of security, which could engender from such documentation, the security guards kept on their job for lack of an alternative; this, in effect, undermined motivation and the existence of the risk of negligence or compromise in their surveillance responsibilities could be a major possibility. Only a few of the security guards enjoyed medical insurance and other insurance cover benefits (both at 7%), with 99 per cent taking care of their own medical

expenses; only 1 per cent of the security guards were assured of retirement benefits. This was a serious breach of both the Employment Act (Cap. 226) and the Regulation of Wages and Conditions of Employment Act (Cap. 229) of Kenya's labour laws, which underpin the responsibilities of employers to their employees with regard to wages, health and termination of employment. Again, 61.5 per cent of the security guards were not accorded annual leaves and leave allowance, and 97.5 per cent did not subscribe to any welfare group. According to Thuo and Wambugu (2022), the satisfaction level of employees and their productivity depends on the social security facilities available to them and the existence of welfare programmes that attract employees to their jobs (Golden et al., 2013). This implies that security guards are dissatisfied and have low productivity at their work as a result of the failure on the part of their employers to cater to their social security needs

CONCLUSIONS AND RECOMMENDATIONS

Conclusions: Security guards were not properly contracted with appropriate documentation and did not enjoy social security benefits such as medical and insurance cover, retirement benefits, house allowances and welfare association. As a result, they were dissatisfied and had low productivity at work. Security guards were not enjoying their right to collective bargaining through affiliation with trade unions; their grievances with regard to their working conditions and relations with their employers remained unaddressed.

Recommendations: The Government of Kenya should enforce proper job contraction for security guards and see to it that they are accorded all the employment benefits as stipulated in The Employment (Amendment) Bill (2022) and Work Injuries Act (2007). The trade union movement in Kenya should reach out to security guards to enrol them and register an organisation for them, which can effectively pursue the issues regarding their welfare at work.

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