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## RESEARCH ARTICLE

### EMPLOYMENT RELATIONSHIP IN A CHANGING WORLD OF WORK: CHALLENGES AND PRAGMATIC SOLUTIONS

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#### ABSTRACT

The world, including the world of work is increasingly getting diverse, with constant changes which has the potential to intensify in future. There is no predetermined future for the world of work but labour market actors including policy makers have to continue to anticipate what future holds. The general objective is to analyse employment relationship in a changing world of work: challenges and recommend pragmatic solutions. The paper adopted Labour Process Theory, Change Theory and Industrial relations theory to explain the employment relationship and the changing world of work. The paper adopted pragmatic and interpretive research philosophy. Desk review was conducted. Secondary data was used to analyse the various types of employment relationship and changing patterns in the world of work. The paper explains that there are two forms of employment relationship: standard employment and non-standard employment relationship. The paper identifies globalisation, and technological advancement as the mainstay for change, and COVID 19 pandemic as a catalyst of change. The paper concludes that there is no one size-fit-all approach in managing employment relationship and suggest adoption of integrated approaches in identifying pragmatic solutions. These includes: rights-based approach, needs based approach, market-based approach and human centered approaches.

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## INTRODUCTION

The world, including the world of work is increasingly getting diverse, with constant changes which has the potential to intensify in future. There is no predetermined future for the world of work but labour market actors including policy makers have to continue to anticipate what future holds. A discussion of the future of work, imperatively has to reflect on employment relationships particularly how it has evolved overtime to the present while focusing on the future. The employment relationship refers to the relationship between employee and the employer, describes how employers and employees work together, focusing on both individuals and collective workplace relationship (Suff, 2020). Employment relationship has gone through a lot of transformation with the changes being attributed to labour market dynamics, with globalization as the mainstay. Polanyi (1944), argued that labour is a fictitious commodity. While the International Labour Organisation (2017) maintains that "labour is not a commodity". This helps to explain three phases of employment relationships.

The first phase of employment relationship occurred during the 19<sup>th</sup> Century, where in some countries there was expansion of industrialization with commoditization of labour. The second, took place during the 20<sup>th</sup> Century, when there was a shift towards the regulation of labour's commodity status in order to restrict the impact of market forces. The third is manifested in the deregulation, in which labour is governed by market rules that become more and more influential...market economy'. However, Webster (2020) argues that the new technological advancement has led to a disconnect between labour legislation and the emerging realities of 21<sup>st</sup> labour market.

*"Considering the impact of marketization (market forces), do trade unions need a system of new mechanisms? or it is simply to rediscover existing mechanisms to enhance employment relationship and link: work, consumption, social welfare, workers representation and the environment as a strategy in a changing world of work"*

The gradual changes in employment relationship has been experienced in many organisations. The Public Service Commission of Kenya, for example, intends to shift appointment of public servants from the longstanding permanent and pensionable terms of service to contract terms in the hope that such a shift will help address some of the

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human resource challenges faced in the public sector. The situation in the private sector organization is not different with such employment strategies having been practiced for a long time. The private sector organisation's argument for the shift to such employment relationship is that, they seek to address challenges such as diminishing levels of productivity, low levels of creativity and innovation, complex and inefficient tenure system. In addition, it is an opportunity to address inequality in the world of work and to remain relevant in a globalized and liberalized labour market. Some employers in both public and private sector, however, resort to these forms of employment to reduce labour costs, avoid unionization and shift the burden of access to and promotion of the fundamental principles and rights at work to the employee. According to Federation of Kenya Employers (FKE) survey report released in September 2020 in which respondents were drawn from 122 companies - 51 per cent were planning to reduce staff costs over the next six months and reducing staff recruitment by 27 per cent.

In addition, some organisations are also considering change of employment relation as measure for cost-cutting. For instance, the case of wage bill trend in the public sector. According to the Public Service Commission, Kenya's wage bill stood at Ksh.795 billion for the year ending June 2019, with about 800,000 public servants (Public Service Commission, 2020). Despite the increase in cost of wages and salaries paid to workers, many organisations, have not achieved the gender equity in pay. The ILO (2019) data shows that the gender pay gap (women paid less than men in management positions), in Uganda the gap stood at 36 per cent and 32 per cent in Rwanda, while, globally women are paid 20 per cent less than men, and this potentially affects employment relationship. Equileap data also revealed that 88 per cent of firms globally do not publish information on their pay gap. Failure to publish the gender pay gap data widens the gap due to lack of information for informed decision making (Equileap, 2019).

**LEGAL FRAMEWORK:** Labour laws exist to regulate employment relationship between an employer and a worker; an employer and workers; employer(s) and trade union representing workers; employers' organization, and trade unions and, the state, employers, workers, trade unions and employer organizations. Employment relationship is regulated by the employment contract. Some of the international legislations that regulates employment relationship includes: ILO Convention 144: Tripartite Consultation – Promoting International Labour Standards; ILO Employment Relationship Recommendation 2006(No. 198), and ILO Part-time work Convention 1994 No. 175. In Kenya, there exist Constitution of Kenya (2010); Employment Act 2007 – (specifically Part III on employment relationship) and Labour Relations Act 2007; and Industrial Relations Charter 1962, 1980 (Revised in 1984), among others legislations. These legal sources are interpreted by the Employment and Labour Relations Court.

**GENERAL OBJECTIVE:** The general objective is to analyse employment relationship in a changing world of work: challenges and recommend pragmatic solutions.

## UNDERPINNING THEORIES

**Labour Process Theory:** The paper discusses changing patterns in employment relationship and takes into consideration, the management of employment relationship during crisis such as COVID 19 a shock in management arena

in 2020. Therefore, one of the tributaries of critical management approaches is labour process theory. The theory was formulated by Braverman's in 1974 explored the way in which capitalism acquires labour as a commodity and uses it to produce other commodities to the benefit of the capital owners. It describes the classic critique of the degradation of labour in a capitalist work organization. Theory as defined by Braverman (1974), states that the application of modern management techniques in combination with mechanization and automation, secures the real subordination of labour and de-skilling of work in office as well as shop floor. Braverman attempted to restore confidence in the potential of the working class to fulfill its Marxist destiny to lead a revolutionary transformation of society by discussing a variety of issues such as redesign of jobs, the position of women, the management of labour and the impact of new technology, hence this justifies its relevance to the study. Webster (2020) explained that through the framework of labour process theory, the capitalist identify the sources of antagonism in the app-mediated model of work organisation

**Theory of Change:** Theory of Change formulated by Donald Kirkpatrick's in 1950s was explained by Dhillon and Vaca, (2018) as the hypothesis about the way a program brings about its effect. Ideally, it is an organization hypothesis that changes will occur as it is utilizing its strategies and activities to achieve its mission. This supports the changing nature of employment relationship. The theory supports the study since it emphasizes on discursive change and attitudinal change required currently due to the labour market dynamics. Serrat, (2017) explained that discursive change – a change in the narrative(s) that actors hold about a concern, problem or issue, the attitudinal – a change in the way actors think about a concern and behavioural – a change in the way actors behave in the context of formal and informal changes in discourse, procedure, content or attitudes that affect employment relationship.

**Industrial Relations Systems Theory:** Dunlop's Industrial Relations Systems Theory, formulated in 1958, analysed the industrial relations systems as a subsystem of society, and argued that industrial relations system at any one time in its development comprises certain actors, certain context, an ideology which binds the industrial relations systems together and a body of rules created to govern the actors at the workplace and work community (Joy,2015). The theory is relevant to this study since links the labour market actors with the labour market environment while taking into consideration technological advancement, the power influence in policy dialogue and ideological perspective. This kind of relationship can be expressed as:

$IR = f(a,t,m,p,i)$ , where:

a – actors: employers, workers, workers representatives and government

t = technological context

m = market context

p= power context

i = ideological context that helps bind them together.

## METHODOLOGY

Desk review was conducted. The paper adopts pragmatic and integrative research philosophy which accepts concepts to be relevant only if they support appropriate action. In addition, the approach recognizes that there are many different ways of

interpreting issues and no single point of view can ever give the entire picture and that there are various approaches (Saunders, Lewis and Thornhill, 2012). Integrative research philosophy on the other hand attempts to connect views, ideas, data and explain the different situation, reasons, causes, effects and suggest pragmatic solutions with a trade union perspective. Secondary data was used to analyse, explain and understand the existing situation, and suggest solution. The various approaches adopted in identifying pragmatic solutions are rights-based approach, needs based approach, market-based approach and human centered approaches in managing employment relationship in the changing world of work.

## FORMS OF EMPLOYMENT RELATIONSHIP

The cornerstone of employment relationship, is the employment contract. Since 1963, appointments in employment in Kenya, specifically in Public Service has been on permanent, contract and casual, just like in many private sector organizations. To date, employment relationship has evolved, employers and employees engaging in various forms of employment relationship. There exist two forms of employment relationship. These are Standard Employment (SE) and Non-Standard Employment (NSE).

**Standard Employment:** The concept of SE refers to work performed in the framework of full-time, formal and open-ended (non-time-bound) arrangements in a subordinate employment relationship. In this relationship, the employer has power to direct employees in their work. They have the power to control their work by monitoring and measuring their performance. Various types of SE are described below:

**Open ended contracts:** Open ended contracts are also known as permanent and pensionable contract of service. These kinds of employment relationship reflect some elements of job security than fixed term contracts. The changes observed is that a number of organisations are currently considering fixed term contracts instead of permanent and pensionable contract of service.

**Non -Standard Employment:** The NSE is a term used to describe the various types of employment that deviates from the standard employment (ILO, 2016). The NSE affects both labour demand and supply and poses challenges for the operation of the regulatory frameworks and are sometimes described as precarious work since the work is low paid, and insecure with minimal worker control. The worker cannot determine the working condition, wage, the pace of work, no social protection and are unprotected by law. These NSE practices includes: a) temporary employment, b) temporary agency work and other work involving multiple parties; c) dependent self-employment, d) disguised employment relationship and e) part-time employment. Temporary employment relationship includes: fixed term contract, seasonal work, casual work. Part time is characterized by marginal type of work, marginal part time employment on call work or zero hour and piece work/piece rate. Temporary agency work includes: dispatch work; labour brokerage; labour hire, sub-contracts and outsourcing. Others includes, ambiguous employment relationship – some relationships can be ambiguous when the rights and obligations of the parties concerned are not clear, or when there are “grey areas” in the contract or the law, and disguised employment and dependent

employment are not considered to be part of employment relationship (ILO, 2016). The various types of NSE relationship are described below:

**Fixed Term Employment:** Kenyan Labour law allows hiring fixed term contract works for task of permanent nature. The persons employed on contractual terms have similar rights as those on permanent and pensionable terms of service. They all have a right to fair labour practices as stipulated in Section 41 of Kenya’s Constitution. Fixed term contracts may not renewable automatically, and therefore, extension or renewal of the contracts are made based on meeting the set performance standards ethically and upon having the approved job requirement. In this case the employer shall within three months before expiry of the contract inform employee in writing of the intention to renew the contract or not.

**Part-time employment:** Part time work is one of the traditional forms of non-standard employment. The ILO Part-time work Convention 1994 No. 175) defines the term part-time worker, as an employed person whose normal hours of work are fewer than those of comparable full-time workers. Therefore, for comparative statistical purposes, part-time work is usually considered as working fewer than 35 hours or 30 hours per week. Part time employment has also witnessed a diversification of its forms, which include: substantial part time (21-34 hours per week); short part time (20 hours or less), and the on-call work comes under different contractual forms depending on the country and includes the zero hours contracts while some have not predictable hours.

**Casual employment:** Casual employee means a person the terms of whose engagement provide for his payment at the end of each day and who is not engaged for a longer period than twenty-four hours at a time (Employment Act, 2007).

**Piece work:** Piece work or piece-rating as commonly referred is one of the forms of part-time work. Section 2 of the Employment Act (2007) defines piece work as any work the pay for which is ascertained by the amount of work performed irrespective of the time occupied in its performance.

**Temporary agency work:** Temporary agency work is defined as a relationship whereby workers are hired out by an agency to perform work at a different firm, called a user firm, under the supervision of that firm. The urgency receives payment from the user firm and pays the wages and social benefits of the worker (ILO, 2018). The ILO Private Employment Agencies Convention 1997 (No. 181) and its accompanying Recommendation No. (188), seek to allow the operation of private employment agencies whilst ensuring protection using their services. However, not many employers adhere to this regulation.

**Multiparty employment relationship:** Multi-party employment is a contractual arrangement involving multiple parties: a worker, an economic unit for which the work is performed, and a third party. This means a type of contract where workers are not directly employed by the company to which they provide their services. Such relationships are referred to a triangular relationship which involves, temporary agency work, outsourced employees, and labour sub-contracting. The multi-party relationship also includes arrangement involving workers employed for profit, such as dependent contractors (ILO, 2018).

**Outsourcing:** Outsourcing can be described as a business practice of hiring a party outside a company to perform services and create goods that initially were performed within the company by their own staff of employees. While some organizations adopt outsourcing to meet the objectives of efficiency, focus on core competencies and cost-cutting, others adopt it so as to avoid the legal mandates and costs associated with employment, including minimizing their responsibilities.

**Subcontracting:** Subcontracting can be defined as an agreement between two entrepreneurs upon execution of certain work for a fixed price. The main difference with temporary agency work is that the subcontractor hires out not the worker but the service and will typically oversee the execution of the work and management of the workforce (ILO, 2018).

**Dependent self-employment** - this applies where the worker performs services for a business under a contract different from a contract of employment but depends on one or a small number of clients for their income and may receive direction regarding how the work is to be done. This kind of employment relationship have increased with the rise of the “*gig or on demand*” economy in recent years.

**Probationary contract:** According to Employment Act 2007, probationary contract means a contract of employment, which is of not more than twelve months duration or part thereof, is in writing and expressly states that it is for a probationary period.

**Apprenticeship contracts:** Kenyan Labour law recognizes apprentice as an employee. An employee means a person employed for wages or a salary and includes an apprentice and indentured learner (Employment Act 2007). Hence Apprenticeship contracts that primarily intend to train young people in a profession are considered contracts of employment. The apprentice therefore enjoys all the rights and the obligations of an employee, subject to the terms of the contract, hence there exist employment relationship.

## SELECTED CHANGING PATTERNS IN THE WORLD OF WORK

Work is currently beyond the office lifestyle with technological advancement and in times of COVID 19, the impact is seen in the changing employment relationship. The adoption of online meetings, collaborative ways of doing things - Kenyans adopting the new normal as coping strategy, teleworking/remote work, clocking in system by cards are replaced by apps, use of artificial intelligence such as robots, workers monitored through online surveillance and expected to perform, while others opted to freelancing among others. Some of the notable sectoral changes in the world of work includes: The retail sector has quickly responded with e-commerce and door to door delivery services, others have considered permanent closure of the branches due to COVID 19 shock. Sharing economy is also emerging, and it is shaking the retail sector globally. The sharing economy is the peer to peer activity of obtaining, giving or sharing access to goods and services.

According to data provided by the Brookings Institute, the sharing economy is expected to grow from \$14 billion in 2014 to \$ 335 billion by 2025. The report indicates that private

vehicles go unused for 95 per cent of their life time, and cab be utilized by others. In the hospitality industry, the situation is not different. Many hotels have started home delivery services, uber eats services accessed through uber app, mobile restaurants commonly referred to food truck restaurants providing ‘*take away*’ ready meal. The sector is also facing stiff competition from sharing economy - the Airbnb services/homestays. The Airbnb rates are between 30 and 65 per cent cheaper than hotel rates around the world. The Airbnb’s cost advantage over hotel space as homeowners make use of the spare bedrooms. (Niam and Shamika, 2017). Hence, the sharing economy will intensively affect both the retail and hospitality industry, creating environment for unfair competition and affecting business startups or local company growth. All these are experienced due to market liberalization, hence affecting employment relationship.

In the banking sector, mobile banking technology options has transformed the banking sector and changed the way work is done. This has led to change of employment relationship and massive redundancies in the industry. With the adoption of apps and Voice User Interface (VUI) considered to improve customer engagement, conversations and insights, expect more job losses in the banking sector. In the education sector, higher learning institutions have shifted to online teaching, through virtual systems with a focus of offering sustainable blended teaching and learning approaches in the time of COVID 19 and beyond. Noted massive job losses - where the part-time lecturers are the most affected. Pay-cut (s) measures, change of employment relationship from permanent to fixed term employment have been experienced in the sector.

In home care and domestic work, many workers have lost their jobs too. For example, many households shifting to laundry services and exploring the use of washing machines. This means that those offering residential laundry services - (*mama fua*), will find their services obsolete in the near future. The employers are also shifting to on call work, piece work and this implies possible limited opportunities for full-time home care and domestic work, hence no job security. In the health sector, most health service providers are adopting telemedicine, teleconsultation, pharmacies delivering human medicine in which all orders are placed online. People are now able to identify the best service provider and medical doctors online. Many health care professionals also make up home healthcare workforce, namely - nurses, physical therapists, physicians and home health aides among others (National Academy of Sciences, 2015).

In addition, counselling services provided online. These changes influence employment relationship, but with COVID 19, the situation has intensified. The sectoral discussions have shown that the negative impact of the pandemic is seen in the number of job losses due to redundancies, job insecurity, frustrated employment contracts, illegal pay cuts, increased work demands, and cases of unpaid overtime among others. Similarly, in the Banking sector: Co-operative Bank announced a job cut of 350 and close 18 branches as reported by BBC on 25<sup>th</sup> /8/2020. While in Airline Industry: Kenya Airways laid off 650 employees and was set to lay-off 207 out 414 pilots as reported by Business daily Africa of 24<sup>th</sup> August 2020. By April 2020, other sectors had significantly experienced a higher percentage of reduction of cash flows.

**Table 1. Unemployment Rate**

Indicator	Quarter 2, 2019 April – June 2019	Quarter 1, 2020 Jan-March 2020	Quarter 2, 2020 April-June 2020
Unemployment rate (LU1)(%)	4.7	5.2	10.4
Unemployed	2,329,176	2,944,724	4,637,164
Labour under utilization (%)	8.6	8.3	17.2

\* Labour underutilization combines the time-related underemployed and the unemployed.

Source: KNBS, 2020

**Table 2. Status of cases file, disposed of and pending by 30<sup>th</sup> June 2019**

Year	Status of Cases	Employment and Labour Relations Court
2014/15	Filed	3,436
	Disposed of	1,129 (32.9%)
	Pending	9,042
2015/16	Filed	6,159
	Disposed of	3,892(63.2%)
	Pending	11,309
2016/17	Filed	6,082
	Disposed of	3,663(60.2%)
	Pending	13,723
2017/18	Filed	5,645
	Disposed of	3,661(64.9%)
	Pending	15,707
2018/19*	Filed	2,672
	Disposed of	4,228(158.2%)
	Pending	14,151

Source : KNBS, 2019

**Table 3. Work-days lost**

Industrial Group	2013	2014	2015	2016	2017	2018
Private Sector	1,326,678	9,783	833,920	8,965	4,825	51,640
Public Sector	19,469,156	204,586	70	12,300	3,615,366	5,394,944
Total	20,795,834	214,369	833,990	21,265	3,620,191	5,446,584
Number of strikes	20	16	32	16	12	8
Number of workers involved	524,134	27,308	17,099	9,737	27,405	9883
GDP	5.9	5.4	5.7	5.9	4.9	6.3

Source: KNBS (2019).

For instance, tourism experienced 92 per cent, logistics 74 per cent and retail 63 per cent. The retail sector also experienced a decline in sales by 55.9 per cent as reported by EABC (2020).

While many sectors continue to face challenges and now trying to make a comeback to the market, the Kitchen and Birth Industry counted good business in the midst of COVID 19. Yale Home appliances indicated that they sold freezers between 70 and 80 in one day in the early days of the pandemic. Washing machines dryers and dishwashers were moving very quickly that they could have two weeks queue (Koehler, 2020). This trend may reduce job opportunities for the domestic workers.

## CHALLENGES

Challenges in employment relationships arises due to failure to respect worker rights and to explore various approaches towards promoting harmonious employment relationship. Hence, the need to identify these challenges and address them.

**Breach of Contract:** In many instances, the breach of contract affects employment relationship since it violates worker rights. This has been seen happening before and during the COVID pandemic. Since March 2020, many employers have taken measures such as redundancies; pay cut; piece work; withdrawal of benefits; unpaid leave; change of working hours; unplanned transfers and relocations. Some organisations have taken these measures without consultation with workers and unions hence this can be considered as breach of contract and knee jerk decisions made by management.

It can lead to both economic and rights disputes. Section 10(5) of the Employment Act 2007 states that where any matter stipulated in the employment contract changes, the employer shall, in consultation with the employee, revise the contract to reflect the change and notify the employee of the change in writing. Any unilateral variation of the employment contract without the employees' consent is unlawful and amounts to a breach of contract (Koki, 2020). In addition, breach of psychological contracts affects employees' attitudes and behaviors. Breach of contracts is unfair labour practice and requires a right based and human centered approach in decision making.

**Unemployment:** Unemployment is a perennial issue globally, and many employees have been declared redundant since March 2020. According to Kenya National Bureau of Statistics, Kenya's unemployment rate increased to 10.4 per cent in the Second Quarter (April-June 2020), compared to 5.2 per cent recorded in the First Quarter (Jan-March 2020) as shown in Table 1. The report further shows that 4,637,164 are unemployed by June 2020 (RoK, 2020). High unemployment rate leads to labour underutilization. High rate of unemployment has influence on employment relationship, since it leads to desperation amongst workers and provides ground for some employers to engage in unfair labour practices which undermines the established employment relationship. Addressing unemployment requires understanding the labour market forces, and thus will mostly depend on the market-based approaches.

**Unresolved workplace disputes:** Unresolved labour disputes affect employment relationship, employee health and wellbeing and enterprise development. It strains industrial relations, undermines productivity and organizational competitiveness thereby affecting employment creation and economic growth. Table 2 shows that 32.9 per cent of the cases in 2014/15 were disposed of and a major improvement shown in 2018/19 where 158.2 per cent of the cases were disposed of. However, the number of pending cases remained higher than filed cases from 2014 to 2019.

**Work days lost:** Industrial unrest is a reflection of a strained employment relationship, work in many cases are due to violation of worker rights. Table 3 shows that the total number of man days lost remained high in the public sector at 5,394,944 as compared to private sector at 51,640 in 2018. This implies that there exist more challenges in employment relationship in the public sector than private sector. The number of strikes reduced to 8 in 2018 and the number of workers involved in strikes reduced from 27,405 in 2017 to 9,883 in 2018. This is reflected on country's GDP which increased from 4.9 in 2017 to 6.3 in 2018. This is a fair progress towards achieving harmonious employment relationship.

**Unpaid care and Domestic work:** Unpaid care and domestic work is one of the major hindrances to women's rights to decent and productive work and this affects their employment relationship. The higher the gender gaps in distribution of responsibilities, the higher the gender gaps in labour force participation. Unpaid care and domestic work is against efforts being made by Nations to achieve Sustainable Development Goal 5: Gender Equality with specific focus on Target 3, which seeks to recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and promotion of shared responsibility within the household and the family as nationally appropriate (UNDP, 2020). The survey report by KNBS on socioeconomic impact of COVID-19, in which 15,840 respondents who were absent from work due to COVID issues, indicated that 64.5 per cent of women spent more time on unpaid care and domestic work as compared to men at 45.3 per cent (RoK, 2020). The United Nations Women report also indicated that globally, women on average do three times as much unpaid care and domestic work as men, with long-term consequences for their economic security (UN Women, 2020). This is consistent with (ILO,2019,) findings, that women still perform three-quarters of all unpaid care work.

**Gender Based Violence and Harassment:** Violence and harassment in the world of work deprives people of their dignity, is incompatible with decent work, and a threat to equal opportunities and to safe, healthy, and productive working environments (ILO, 2020). According to the data provided by KNBS 23.6 per cent of Kenyans have witnessed cases of domestic violence since the introduction of COVID 19 containment measures. In addition, the national gender base violence hotline (1195) received 646 cases in August compared to 740 cases in July 2020 showing a decline of 20 per cent, with Nairobi County leading with 132 cases (UNOCHA, 2020). The challenge in ending Gender Based Violence (GBV) and harassment in the workplaces, is due to lack of anti-violence and sexual harassment policies in most organisations and access to justice. Gender-based violence and harassment are rampant in the informal sector than the formal

sector, affect employment relationship and employees productivity. A survey conducted by Equileap globally, found that 58 per cent of 3,519 companies interviewed do not have anti-sexual harassment policy, the situation may not be different locally.

**Other challenges include:** In formalization of labour –there has been challenges involved in discussing informality due to societal change, automation, the gig economy, demographic and labour migration changes. There is also an erosion of labour relations in the workplaces and a trend towards individualization being practiced by modern organization. Individualism weakens trade union representation. In addition, Climate change is a trade union issue and can potentially affect employment relationship. Lastly, Workforce composition: challenges in managing workforce of different generations.

## PRAGMATIC SOLUTIONS

There is no one-size-fit all approaching in addressing the challenges affecting employment relationship, the key actors in the labour market have to work together and adopt an integrated approach in identifying and implementing impactful interventions. The paper suggests integration of rights based, needs based, market based and human centered approaches in promoting harmonious industrial relations.

**Breach of contract:** First, it is vital for both employers and employees to understand the existing agreement. Second, communicating the situation officially on the need, extent or scope of change that can/will/may affect the employment relationship and that SHALL affect the existing employment relationship/contract. Third, both parties should appreciate the need to consult, negotiate and communicate regularly through social dialogue, including making individual notification on the intended changes. Fourth, Employers should be aware that it is not wrong to re-write the contract to reflect changes due to circumstances, through consultation and seeking consent. Lastly, considering Supplementary Agreements/Memorandum of Understanding where applicable – *Note:* this should be explored only in unavoidable circumstances for example in crisis management. Supplementary bargaining or re-negotiation needs to be clearly and firmly restricted to “*special reasons*”. Be clear and agree on which section of a contract must be expounded upon. Respect for worker rights, is very vital.

**Unemployment:** First, adoption of Labour market policies which includes: Job creation - put more emphasis to quality jobs, considering wage subsidies, employee retention schemes and strategies for employee well-being, capacity building, coaching, and mentoring to enhance employability of the workers are very vital and enhanced retirement package – to encourage early voluntary retirement. Employers to review and change their workplace policies to reflect the best practices in managing today's workforce. Strengthening communication policy; gender equality in employment, health safety, anti-sexual and harassment policies and social media policies; among other policies. Second, strengthening policy interventions by the government include: Enhanced social protection floors, Universal Health Care - enhanced and accessible medical health care is critical for the vulnerable groups; social insurance programs such as disability pension schemes, Unemployment Insurance (UI) schemes – as temporary employee relief schemes during crisis management

like in the case of COVID 19. In addition, economic relief measures: which includes fiscal measures – tax relief as well as increasing Social Safety Nets – Cash Transfer to make up for losses vertically and horizontally. Investing in infrastructure - technological advancements, along with the greening of economies will also create millions of jobs – if new opportunities are seized. In regard to reducing non-standard forms of employment, legal approaches and market-based approaches have to be explored by labour market actors. The employment relationship lies at the intersection of the economic organization and the legal regulation of work (ILO, 2016). One possible solution to workers is ‘living wage’ as opposed to just advocating for minimum wage. The question is whether it is economically affordable, socially just and politically feasible at the country level.

**Workplace disputes:** The bipartite partners should consider employment relationship and workplace conflict resolution as a strategic agenda. Promoting social dialogue, is a key tool for promoting harmonious employment relationship. Workers needs environment where employers consider their views. Working with recognized unions and employee representatives is vital now than ever. Respect for worker rights, promoting fairness and consistency while embracing employee voice is the mainstay. Exploring Alternative Dispute Resolution (ADR) mechanisms such as mediation and neutral evaluation and considering in-house conflict resolution and mediation team which comprises workers representative and employers at the organizational level is key. Trade unions needs to strengthen existence of institutions of collective consultation, reinforced by ensuring effective industry level bargaining and putting more emphasis on public policy partnership. Trade Unions to complement their negotiating skills with much wider competencies such as consultation, surveying – focus on research so as to get feedback from members and interpreting workers attitudes.

**Unpaid care and domestic work:** Addressing issues of unpaid care and domestic work requires a four-fold objective. Adopt 4R model which includes: first, Recognition: - recognition of care as a need and a job that has social and economic value, Second, Reduction: reduction of complex forms of care work and dependency and increase people’s autonomy to care for themselves. Third, Redistribution: redistribution of care giving tasks around different actor in households (women and men), state, private sector and community. Lastly, representation: of care workers, persons of care dependency and women’s organizations in the process of decision-making. In addition, considering two key strategies which promote care public policies and interventions.

**Collective Bargaining:** Trade unions to envision an inclusive collective agreement that is shaped and informed by the needs of the workers taking into account the following variables: the different needs, roles (there are roles that requires critical skills), diversity/identities of workers in the changing workplace. Negotiators should put more focus on knowing the best alternative. The Know your Best Alternative to a Negotiated Agreement (BATNA) for discussions. For example, trade unions should advance the scope of the demand proposals and include both intrinsic and extrinsic rewards. Go beyond pay demand, and demand good working conditions, free from violence and harassment, health and safety - in regard to high risk jobs/roles and considering living wage as trade union bargaining agenda.

**New forms of trade union organizing:** Trade unions have to think of new organizing strategies. The following proposed approaches can be adopted. First is bargaining agenda for workers in the informal sector as an organizing strategy. Second, organizing from the informal association. Third, partnership model (union-informal sector association labour movement. Third, participation and involvement in public policy. Fourth, affordable and flexible paid-up membership. Fifth, advocating for well standardized designated business centres with state of the art and customer-oriented plan. Sixth, clean business environment, provision of affordable and universal health care services; and Finally, fair and flexible business licensing charges.

**Addressing inequality – gender pay gap:** Addressing gender pay gap requires effort of all the labour market actors and that there is no one size fit all approach. The approaches include: first, equal pay for work of equal value, which can be achieved through effective job evaluation. Second, company certification on equal pay should be considered as labour market policy that can be enforced by the government. Third, publishing the gender pay gap data, both at global, regional and local country level as well as organizational level data. The specific occupational/position level data such as board level, management level, business operation level can provide more evidence based and informed decisions for effective gender responsive policy responses towards bridging the gender pay gap.

**Ending gender-based violence and harassment in the world of work:** The adoption of ILO Convention No. 190 and Recommendation No. 206 and ratification of the Convention, recognizes the right of everyone to a world of work free from violence and harassment. Hence, organizations have to institutionalize the Convention by implementing the Anti-gender-based violence and harassment policy, occupational safety, health and environment policies and effective communication policy. The organisations are also required to adhere to the code of practices and guidelines to support the implementations of C190 as well as strengthening the existing country regulation and collective bargaining as a key instrument in eliminating gender-based violence in the world of work.

**Regulatory Acupuncture:** Employment relationship requires regulatory acupuncture, where labour market actors work strongly together. Trade unions and the government actors such as judges, labour inspectors, health and safety and research institute inspectors to act as a clear bridge in creating innovative solution in solving employment relationship challenges. Trade unions to push for strengthening labour market legislations with respect to human right and rights of workers at the workplace.

**Human Centered Approach:** Investing in people’ capabilities, institutions of work and in decent and sustainable work is vital. Among the ten ILO recommendations includes: a universal labour guarantee that protects worker rights; an adequate living wage; limits on hours of work; safe and healthy workplace; guaranteed social protection from birth to old age that supports people’s needs over the life cycle; a universal entitlement to lifelong learning that enables people to skill, re-skill and up-skill; Managing technological change to boost decent work, including an international governance system for digital labor platforms; greater investment in care,



green and rural economies; a transformative and measurable agenda for gender equality and reshaping business incentives to encourage long-term investments (ILO, 2019).

## CONCLUSION

Key to addressing employment relationship issues is identifying and implementing integrated approaches which includes: the rights based; needs based; market based and Human-centered approaches. By understanding these approaches, the trade unions play a key role in identifying the right approach, interpreting to the workers how the approach work for their benefit, informing them about the strength or expected outcome of the approach adopted. In addressing the issues the gender equity elements such as, equal opportunity; empowerment, capabilities and vulnerability) should be considered.

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