

**AN INVESTIGATION INTO THE LABOUR RIGHTS OF
WOMEN WORKING IN THE INFORMAL SECTOR OF Gikomba
Market Nairobi**

NAME: NAJMA HASSAN

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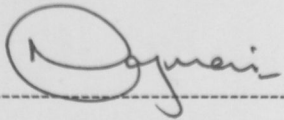


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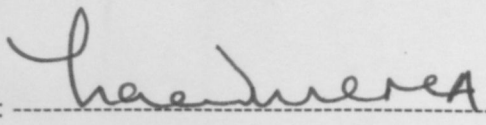
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DECLARATION

I declare that this project is my original work and has not been submitted for any degree in any other University.

Signature:  Date: 16/11/2010

The research project has been submitted with my approval as the university supervisor.

Supervisor:  Date: 16.11.2010

Mr. Issac. A. Were

DEDICATION

This work is dedicated to my lecturer, Mr. Isaac Were, without whose support it would not have been possible, and to my parents, who passed on a love of reading and respect for education.

ACKNOWLEDGEMENTS

I wish to thank the members of the committee for their support, patience and good humor. Their gentle but firm direction has been most appreciated, Dr. Onyango Ouma was particularly very helpful in guiding me toward a methodology and interest in sense of competence was the impetus for my proposal. Finally, I would like to thank my lecturer, Mr. Isaac Were from the beginning he had the confidence in my abilities to not only complete a degree, but to complete it with excellence.

I have found my course work throughout the Curriculum and Instruction program to be stimulating and thoughtful, providing me with the tools with which to explore both past and present ideas and issues.

LIST OF ABBREVIATIONS

APEC- Asia-Pacific Economic Cooperation

CEDAW -Convention on the Elimination of all Forms of Discrimination against Women

ILO - International Labour Organization GOK- Government of Kenya

ICCPR -International Covenants on Civil and Political Rights

ICESCR - International Covenants on Economic, Social and Cultural Rights

MDG -Millennium Development Goals

MSEs –Macro and Small enterprises

NAFTA - North American Free Trade Association

SAHRC- South African Human Rights Commission

UDHR - Universal Declaration of Human Rights

UN – United Nations

ABSTRACT

The purpose of the study is to investigate the effect of female labor rights in the Informal sector (Jua Kali) of Nairobi Gikomba Market.

The study was carried out in Nairobi province chosen due to convenience of time allowed and financial resources.

From the research finding the female workers at the Gikomba market spent years of work with their current employer without promotions. The kind of harassments or violence they experienced included Sexual harassment and assaults.

According to the study majority of the respondents were not aware of their legal rights as employees

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CHAPTER ONE

INTRODUCTION

1.0 BACKGROUND OF THE STUDY

This section will outline the conceptual and contextual introduction to the research. It will cover an introductory background to the concept of Informal sector and female labour rights and its Emergence in Kenya and the Statement of the study Problem.

1.1 INTRODUCTION

Non-discrimination and promoting equality have been fundamental principles underpinning the work of the International Labour Organization (ILO) since its creation in 1919. These principles are also an integral component of the ILO's Decent Work Agenda: promoting decent and productive work in conditions of freedom, equity, security and human dignity. All workers have the right to decent work, not only those working in the formal economy, but also the self-employed, casual and informal economy workers, as well as those, predominantly women, working in the care economy and private households.

International Labour Standards (Conventions and Recommendations) are one of the ILO's primary means of action to improve working and living conditions of women and men, and promote equality in the workplace for all workers. ILO standards apply equally to women and men, with some exceptions, in particular those standards addressing issues relating to maternity and women's reproductive role. However, there continues to be a gap between the rights set out in national and international standards and the real situation of workers. These rights must be made effective in practice. A major obstacle preventing workers from exercising their rights is a lack of awareness of their existence. Dissemination of information about these rights is, therefore, a vital instrument for improving gender equality.

While progress has been achieved in the ratification of the fundamental standards promoting equality between women and men and their translation into national law,

gender issues also need to be taken into account in the application of other ILO standards. Gender mainstreaming in the application of International Labour Standards:

- helps to ensure that women and men have equal access to benefits derived from these standards;
- recognizes the needs, experiences and interests of both women and men;
- enables stakeholders to manage change;
- demonstrates a willingness to undertake differential measures to respond to the needs and interests of men and women; and
- Advocates equality brought about by the implementation of Conventions. (ILO, 2006: iii)

The Informal Economy

Since it was ‘discovered’ in Africa in the early 1970s, the informal economy has continued to prove useful as a concept to many policy makers, activists, and researchers because the reality it seeks to capture – the large share of economic units and workers that remain outside the world of regulated economic activities and protected employment relationships – is so large and significant. Although interest in the informal economy has waxed and waned over the past three decades, today there is renewed interest in the informal economy worldwide. This re-convergence of interest stems from two basic facts. First, despite early predictions of its eventual demise, the informal economy has not only grown worldwide but also emerged in new guises and unexpected places. Second, despite continuing debates about its defining features, the informal economy is increasingly recognised as a key to promoting growth and/or reducing poverty.

The International Labour Organization mounted a series of large, multi-disciplinary ‘employment missions’ to various developing countries. The first of these was to Kenya in 1972. The Kenya employment mission, through its fieldwork and in its official report, recognised that the traditional sector had not just persisted but had expanded to include profitable and efficient enterprises as well as marginal activities (ILO 1972). To highlight this fact, the mission chose to use the term ‘informal sector’ rather than ‘traditional sector’ for the range of small-scale and unregistered economic activities. This term had

been coined the previous year by a British economist, Keith Hart, in his 1971 study of economic activities in urban Ghana (Hart 1973).

During the 1990s, globalisation of the economy contributed to the informalisation of the workforce in many industries and countries (Standing, 1999). Whereas globalisation generates new jobs and new markets, available evidence suggests that not all the jobs are 'good' jobs and that the most disadvantaged producers have not been able to seize new market opportunities. This is because global competition tends to erode employment relations by encouraging formal firms to hire workers at low wages with few benefits or to sub-contract the production of goods and services (Rodrik, 1997). Global integration also reduces the competitiveness of many informal firms or self-employed producers.

While the vast majority of the poor work, few are able to work their way out of poverty. This is because poor people working in the informal economy face lower incomes, greater financial risks, lower standards of human development and greater social exclusion compared to better-off workers, especially those who work in the formal economy. **Chen et al (2004)**

There is a *significant overlap* between being a woman, working in the informal economy and being poor. Available evidence suggests that, in most regions, women are more likely than men to work in the informal economy; women in poor households are more likely to work in the informal economy than men in poor households or women in non-poor households; and the average wages or earnings of women in the informal economy are lower than those of men in the informal economy. One of the important reasons why women in the informal economy are likely to be poorer than men is because they are less likely to be micro-entrepreneurs who hire others (who often enjoy relatively high earnings) and more likely to be homeworkers (who typically earn extremely low piece rates). Also, even within specific categories of informal employment, women are likely to earn less than men. Chen et al (2004)

1.2 STATEMENT OF THE PROBLEM

Although the concept of the informal sector or informal economy has been debated since its 'discovery' in Africa in the early 1970s, it has continued to be used by many policy-makers, labour advocates and researchers because the reality it seeks to capture the large share of the global workforce that is not covered by labour legislation or social protection continues to be important and has been expanding over time. At present, there is renewed interest in the informal economy. This stems from the fact that informal work arrangements have not only persisted and expanded but have also emerged in new guises and in unexpected places, leaving the majority of the global workforce outside the world of full-time, stable and protected employment. Most observers now accept that informal employment is a feature of modern capitalist development, not just a residual feature of traditional economies. Chen (2004)

The informal sector is an important and growing part of the overall economy in most developing countries. The informal sector in Kenya has been growing faster than the formal sector, and consequently providing more opportunities for employment. In 1999, the sector comprised 1,289,012 micro and small enterprises (MSEs) contributing 18.4 per cent to GDP and involving up to 3.7 million persons (GOK, 1999). The number of persons involved in the informal sector rose to 4.2 million in the year 2000 representing an annual growth rate of 11 per cent. In aggregate terms, the urban areas absorb the greatest number of MSE workers, representing nearly two-thirds of total MSE sector employment (GOK, Economic Survey, 2001). Nairobi alone accounted for nearly a quarter (24.06 per cent) of total employment in the sector.

The informal sector of the economy is traditionally held to have a number of distinct characteristics, such as ease of entry, the predominance of self employment, labour intensive production methods, low levels of organization, low productivity and income (ILO 1972; ROK et al, 1999; Wells, 2000). Individuals working within the sector work in an environment of uncertainty. However, unlike the formal economy, the sector is highly flexible, and entrepreneurs can quickly change their activities to respond to particular market needs

The assumption that there are no restrictions, rules, requirements or regulations to entry into the sector may, to some extent, be due to ignorance of the dynamics of the sector. Since the beginning of the 1990s, studies focusing on both social capital and institutions have shown that the informal economy has its own regulations and dynamics, including norms and rules of behaviour and operation. Firms operating within the informal sector have their own self-regulatory mechanisms, albeit informal (Mitulla and Wachira, 2003:5-6)

There are marked increases in female employment in the public, self employed and unpaid family worker's sectors, but there is minimal increase in the private sector. Family work continues to be unrecognized, unpaid, undervalued and largely ignored by society. Because of this, most women who perform unpaid family work do not consider themselves economically active.

Factors that have led to women's participation in the industrial sector are mechanization, rapid urbanization, marginalization of the agricultural sector, shrinking family income, international division of labour and trade liberalization. The introduction of new technologies has undermined subsistence farming, displacing women from agricultural economic activity and increasing their migration to urban areas and to the industrial sector. In the manufacturing sector, women are concentrated in less skilled, monotonous jobs with lower wages; they are threatened with replacement more easily than men. (Royal Netherlands embassy Nairobi, 1994:12-13)

While increased access to employment in the informal sector has provided new economic and social opportunities for poor women, the jobs they occupy remain unregulated and unstable. Women workers are systematically denied their rights to regular pay and regular working hours; equal pay for equal work; permanent contracts; safe and non-hazardous work environments; and freedom of association. Sexual harassment in the workplace, and workplace-related sexual violence, is a particularly egregious and widespread form of discrimination against women. Forced sexual relations and pregnancy tests, which become a pre-condition for employment, significantly reduce a woman's ability to demand a living wage and break out of poverty. Organizing against

such abuse is also particularly difficult for women, because of the highly gendered nature of subcontracting and other forms of flexible work.

Women have different needs in terms of employment and training at different stages of their lives (Bullock, 1994:20). However they continue to suffer in neglect especially in the male dominated industries such as informal sector where very little concern is given to them. Despite the existence of various constitutional and legal provisions safeguarding women's employment, a large number of women workers particularly in the informal sector suffer from various disadvantages relating to their working lives as well as their homes. The coverage of labour laws have not benefited these women workers in many crucial areas especially health, maternity and social security. With the changing social and economic conditions, women's productive roles have assumed new significance but without backup support and services a healthy combination of women's productive and reproductive roles cannot be sustained. (ILO, 2001).

The issue of gender representation in Kenya's informal sector industry is wanting, as women issues have not been given priority. (Summerville et al, 1993:11). It is also of concern that significant jobs in sector are earmarked as male territory, whose characteristics are gender biased in terms of working conditions and work environment, job hazards, job opportunities and satisfaction as well as financial gains. The need to investigate why there's discrimination of women in the sector, and especially among the casual workers, must be created if gender equality in this sector is to be achieved. Nevertheless there's substantial evidence that women continue to lose or face difficulties even as gender issues gain more campaign. (Creed, 1997)

This study is intended to establish the difficulties and challenges that effect female labour rights in informal Nairobi. In attempts to establish the lot of disadvantaged female workers with the intention of providing an enabling environment fits these women to enjoy the fruits of their labour. Secondly, according the tenets of economic development, the servers at the bottom of the chain make the most impact on the economy. Thus their needs are best looked into. Female labour rights have economic, social and political consequences for individuals, business and government and therefore must be addressed.

It places restriction on women's choices, opportunity and participation thus lowering their social economic status and their households and the nation at large.

1.3 Purpose of the study

The purpose of this study is to investigate the effect of female labour rights in the informal sector (Jua Kali) of Nairobi Gikomba Market. The researcher hopes to show that the informal sector in Nairobi has witnessed a spurt of growth because of female participation, by examining the impact of the informal sector on female societal status in Nairobi and their standard of living in terms of health, nutrition, wages, and education at job satisfaction.

The researcher will seek to explain the link between International Labour Organization (ILO) core standards and globalization and relate these to female labor rights in the informal sector.

1.4 Objectives of the study

The general objective of this study is to investigate the effect of female labour rights in the informal sector of Nairobi Gikomba Market

Specific objectives

1. To analyze the extent to which women enjoy their labour rights in the informal sector.
2. To establish the extent to which women are denied their labour rights in the informal sector.
3. To determine the extent to which female labor rights in informal sector Nairobi in line with ILO Standards.
4. To find out if women in the informal sector of Nairobi are aware of their labor rights.

1.5 Research Questions:

1. To what extent has female participation boosted growth in the informal sector?.
2. What benefits do women working in informal Nairobi have?.
3. Are female labour rights in informal Nairobi in line with ILO Standards?.
4. Are women in the informal Nairobi aware of their labour rights?.

1.6 Justification of the study

The research will be of use especially to the Informal sector economy in Kenya; to understand the importance of adopting gender equity in the sector.

It will be of use to the government especially the ministries of gender, youth and national development in understanding how its policies have affected women in their quest to achieve equity in employment. This is important especially the application in the rural areas where poverty is rampant.

To the policymakers, the study will act as guide for establishing the best policies to affect on female workers so as to enable the growth of the Kenyan economy.

The research will also help to highlight and enlighten the readers on matters concerning the fundamental gender rights; therefore develop ideas on how both sexes can help each other.

To the academicians; the study will shed some light into field of gender labour laws. It will also give an appreciation of the level of participation by females in the informal sector.

This study is helpful as it will contribute to further growth of literature in the informal sector economy. The study will also create awareness on female labour rights in the informal sector and hence suggesting improvement measures in accordance with ILO standards.

Female labour rights are fundamental to gender equality, since they increase women's labor market attachment, financial independence and life choices, all of which are expressed government policy.

For business, labour rights can result not only a more committed workforce but also better utilization of women's participation in the labour market.

1.7 Definitions of Key Terms and Abbreviations:

Globalization

It is the integration of local and national markets in the global market.

Gender

A classification that societies construct to exaggerate the differences between females and males

Jua Kali

Literary under the hot sun it is indicative of the severe conditions under which micro-entrepreneurs and their employees labour.

Labour rights

It is the Promotion of decent and productive work in conditions of freedom, equity, security and human dignity.

Sex

A classification of people based on human biology. Biological sex depends on a person's chromosomes and is expressed in the person's genitals, internal reproductive organs and hormones

Work the activities that produce a good or service, such as mowing a lawn, and selling goods.

1.8 Scope of Study

The study will be carried out in Nairobi province at Gikomba Market, which has a high concentration of the target population; Nairobi has been chosen for the study due to convenience of time allowed, and financial resources available to the researcher, It is important to note that this does not minimize the importance of other areas, which may be able to produce similar results, especially seeing that Kenya's perception of women is unified and sometimes worse in rural areas.

1.9 Study Limitations

There is likely to be a general unwillingness among the interviewees to offer information. This is due to suspicion and fear. They may feel that the researcher is out to investigate them. Currently, there are rumours circulating that the Government intends to evict some of the artisans in the area. This might make it very difficult for the researcher to obtain some of the information which is necessary for the study especially questions related to income.

The original questions will be drafted in English but will have to be translated into Kiswahili during the interview. In the process of translation some questions may lose their original meaning and therefore wrong answers might be given in a few instances. This is likely to distort the outcomes of the responses.

CHAPTER TWO:

LITERATURE REVIEW

2.0 Literature review

2.0 Introduction

This section reviews theoretical and empirical literature of various studies carried out. It comprises of the following sections: A general Overview of the Kenyan economy, Legal framework of labour laws in Kenya, Links between Informal Employment, Poverty and Gender and a theoretical framework.

2.1 Overview of the Kenyan economy

Most African countries have experienced poor economic growth, especially since the beginning of the 1980s. In Kenya, the economy has experienced four discernable phases of mixed performance since independence: a rapid growth phase from 1963 to 1973, an era of external shocks from 1974 to 1979 characterized by the oil price shocks and a coffee boom, a period of stabilization in the 1980s and an era of liberalization and reduced donor inflows from 1990 to the present (GOK, 2002).

The increasing poverty is paralleled by high rates of unemployment due to the disproportionate growth in the labour force and limited opportunities for employment in the modern sector of the economy. The current Development Plan notes that between 1997 and 2001 modern sector employment in Kenya grew by 1.8 per annum while the labour force was growing at a rate of 3.5 per cent (Statistical Abstract, 2008:242). Impediments to the growth of employment in the modern sector include: increased competition for Kenyan producers and high investment and production costs which have led to a contraction of the manufacturing sector. Another factor is rationalization of the public sector. (Mitulla and Wachira, 2003:1-2)

2.2 Legal framework of labour laws in Kenya

Kenya joined the ILO in 1949. As of 4 June 2004, it had ratified 49 ILO Conventions, of which 43 were in force in the country. Employment relations in Kenya are regulated by a

number of sources: constitutional rights, statutory rights, as set out in statutes and regulations; rights set by collective agreements and extension orders of collective agreements; and individual labour contracts.

International standards, especially ILO Conventions ratified by Kenya are used by the government and courts as guidelines, even though they are not binding.

The following Acts of Parliament form the labour legislation framework for the country:

- Employment Act (Cap. 226);
- Regulation of Wages and Conditions of Employment Act (Cap. 229)
- Companies Act (Cap. 486);
- Bankruptcy Act (Cap. 53);
- Merchant Shipping Act (Cap. 389);
- Export Processing Zone's Act (Cap. 547);
- Immigration Act (Cap. 172);
- Pension Act (Cap. 189);
- Retirement Benefits Act (No. 3 of 1997);
- National Social Security Fund Act (Cap. 258);
- National Hospital Insurance Act (Cap. 255);
- Provident Fund Act (Cap. 191);
- Public Health Act (Cap. 242).

Gender Equality

The Constitution guarantees the right to equality in Art 82(3): "the expression 'discriminatory' means affording different treatment to different persons attributable wholly or mainly to their respective descriptions by race, tribe, place of origin or residence or other local connection, political opinions, color, creed or sex whereby persons of one such description are subjected to disabilities or restrictions to which persons of another such description are not made subject or are accorded privileges or advantages which are not accorded to persons of another such description". (Sommer, 2003: 2-11)

The Constitution specifies this commitment for the public sector in sub-section 5 which reads: "Nothing contained in any law shall be held to be inconsistent with or in contravention of subsection (1) to the extent that it makes provision with respect to standards or qualifications (not being standards or qualifications specifically relating to race, tribe, place of origin or residence or other local connection, political opinion, colour or creed) to be required of a person who is appointed to an office in the public service, in a disciplined force, in the service of a local government authority or in a body corporate established by any law for public purposes."

However, this anti-discriminatory right is directly pointed towards the public authority only, and does not provide any legal entitlement among private subjects. Even though the Constitution recognises historical disparities between men and women, there is no obligation on employers neither to realize equality in the workplace, nor to implement affirmative action measures to advance women's participation more rapidly. (*Sommer, 2003: 2-11*)

By contrast, the Draft Constitution adopted by the National Constitutional Conference in March 2004, in its chapter named the Bill of Rights, contains general provisions concerning equality, freedom from discrimination and gender. It stipulates that "The State shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth." The following paragraph indicates that this provision is not restricted to the State, but also applies to private persons. Another section on gender states that "Women and men have the right to equal treatment including the right to equal opportunities in political, economic, cultural and social activities." (*Sommer, 2003: 2-11*)

In the tripartite Industrial Relations Charter (1980) the parties agree on abolishing all discrimination among workers on the grounds of race, colour, sex, belief, tribal association or trade union affiliation including discrimination in respect of: (a) Admission to Public or private employment; (b) Labour legislation and agreements which shall afford equitable economic treatment to all those lawfully resident or working in the country; (c) Conditions of engagement and promotions; (d) Opportunities for vocational

training; (e) Conditions of work; (f) Health, safety and welfare measures; (g) Discipline; (h) Participation in the negotiation of collective agreements; (i) Wage rates; which shall be fixed according to the principle of equal pay for work of equal value in the same operation and undertaking.

Yet, the Employment Act, Part IV imposes similar restrictions to the employment of women and the employment of juveniles. Under section 28 women must not be employed in any industrial undertaking at night (the time from six-thirty p.m. to six-thirty a.m.) except in cases of emergencies, and in cases where their work is connected with raw materials which are subject to rapid deterioration, and their work is necessary to preserve the material. Another exception exists for women in responsible positions of managerial and technical nature, or employed in health and welfare services, and not normally employed in manual work. The latter categories of women employees can even be employed on underground work, like women in course of their studies and women who have to enter the underground parts of a mine for any other reason than manual work. (*Sommer, 2003: 2-11*)

The Industrial Charter imposes at least some moral obligations on the parties who are signatories to the agreement and their membership. In reality though, the world of work in Kenya remains far from substantively equal in gender terms.

The above-mentioned draft Employment Act stipulates that "Every employer shall pay men and women equal remuneration for work of equal value". The section on discrimination of employment contained in this act domesticates ILO Equal Remuneration Convention, 1951 (No. 100), ratified by Kenya in May 2001. Moreover, a draft Equality Bill is pending at the Cabinet level. The Bill introduces the implementation of an Equality Board and Tribunal, and recognises equality rights in employment, education, health services, profession, and many other areas of private and social life.

Sexual harassment

The above-mentioned draft Employment Act contains provisions on sexual harassment, but does not define sexual harassment as an offence, as existing provisions of the penal code were deemed sufficient. This is a new phenomenon in Kenya's employment scene

and the country's cultural diversities and beliefs have to be taken into consideration. (ILO, 2001)

Maternity leave and maternity protection

Under section 7 (2) of the Employment Act, maternity leave is two months with full pay, provided that a women who has taken two months maternity leave forfeits her annual leave in that year. The Regulation of Wages (General) Order, subsidiary to the Regulations of Wages and Conditions of Employment Act, specifies the provision under paragraph 13 (ii) and (iii) which read: (ii) child birth (...) shall not be deemed to be sickness as provided for under paragraph 12, and the employer shall not be inquired to meet medical costs incurred thereon;

(iii) A female employee who takes maternity leave shall not incur any loss of privileges during such period. (ILO, 2001)

2.3 Links between Informal Employment, Poverty and Gender

It is through work that people can expand their choices to a better quality of life. It is through work that wealth is created, distributed and accumulated. It is through work that people find a dignified way out of poverty. ... Poverty elimination is impossible unless the economy generates opportunities for investment, entrepreneurship, job creation and sustainable livelihoods" (ILO, 2003: 3 and 7).

Since a growing majority of the global workforce is engaged in informal employment, the informal economy will need to be a focus of efforts to alleviate poverty. To illustrate this point, a recent report by the Special Group on Targeting Ten Million Employment Opportunities per year over the Tenth Plan period in India emphasized the policy relevance of the informal economy in that country. The task force concluded that it is necessary to target the informal economy what India calls the unorganized sector in order to generate new jobs and to improve the vast majority of existing jobs (Government of India, 2001 as cited in Sastry, 2004). Essential to such planning is understanding the relationship between informal employment, poverty and gender.

Similarly, the Task Force on Gender Equality of the UN Millennium Project has given strategic priority to low-income women and efforts to make them economically more secure. Reflecting this priority, the Task Force has highlighted the need for improved

data on informal employment and the gender wage gap as indicators for planning and programming in pursuit of the Millennium Development Goals (Millennium Project Task Force on Education and Gender Equality, 2004). Some of the key assumptions regarding the linkages between informality, gender and poverty may be summarized as follows:

The poor are more likely to work in the informal than in the formal economy.

More poor women than non-poor women work in the informal economy.

Average earnings are lower in the informal than in the formal economy.

Workers in the informal economy are more likely than workers in the formal economy to earn less than the minimum wage.

There is a gender gap in wages/earnings in the informal economy with women earning less on average than men.

Additional insight on the links between informal employment and poverty can be seen by considering the wages or earnings of different categories of informal workers and by seeing how they compare to those in formal employment. Available evidence confirms that there are pervasive gender gaps in earnings/wages within the informal economy. A study of the urban informal economy in five countries in Central America found that one of the strongest patterns in each of the data sets is a much larger difference between male and female earnings in the informal sector than in the formal sector (Funkhouser, 1996: 1744). In Peru, within the urban informal economy, women earn 87 per cent of what men earn among employees of informal enterprises. A 1994 UNICEF study in Haiti also found a gender gap in earnings among those who worked in the informal sector, with 87 per cent of women but only 69 per cent of men clustered in the lowest third of the income distribution (UNICEF, 1994).

In Egypt, national labour force data for 1998 show that female informal workers were consistently paid less than their male counterparts across all education levels (El-Mahdi and Amer, 2003). In South Africa, the 2000 Labour Force Survey found that female informal workers were also consistently paid less than their male counterparts, except in mining and in domestic work where they were paid roughly the same. Among informal

workers, the lowest discrepancy between male and female workers was among transport workers followed closely by construction and manufacturing. From this studies it is indicative that women generally comprised the bulk of the workforce in the informal sector and whose earnings are low compared to their male counterparts.

2.4 Evolution of women's work and the challenges they have faced overtime

It development of capitalism and industrial work led work to be seen as paid activities. As more people became engaged in paid work, the terms unpaid work, non market work and domestic work came to refer to the plain old fashioned, unpaid work that people had always done, (Barbara, 1994:1-8).

Women were not left out in engaging in economic activities that were classified as the labour force. Paid employment became an increasingly important form of activity for women in the postwar world, and the large i.e. increase in women's employment is undoubtedly important form of activity for women in post war world, and the large scale increase in women employment is undoubtedly a long term trend.(Veronica, 1987:1-6) capitalist forms of labor process tended to marginalize women in that women were cheap labour, unskilled workers and as a potential disposable industrial reserve. The women's wage was generally marginalized with women earning far below men.(Veronica, 1987:4) Most feminist concern about work in the early seventies focused on questions of equal pay and women's working conditions. A number of strikes for equal pay occurred in the late 1960's and early 1970's. Other concerns included equal education and opportunity, and free contraception and abortion on demand, (Veronica, 1987:4)

In the 1970's women in most developed countries organized women's groups in a number of industries and workplaces to provide support for men who worked in them and press for gender opportunities (Veronica, 1987:4)

In the mid seventies, there was a general agreement among the feminists that women worked in family as well as in the labour market. It was agreed that a woman's position in the labour market was somehow a product of her position in the family (Veronica, 1987:4)

In the 1980's more and more women were engaged in paid employment. Analysis which foregrounds gender and gender ideology had been greatly strengthened by the empirical

studies of women's employment produce in 1980's. These studies showed that gender affects organization of work in variety of ways, which include;

- In the definition of skill
- Distinction between skilled and unskilled work
- In defining a job as being either male or female
- In constructing definition of job as either full time or part time
- Influence on men's and women's hours of work (Veronica,1987:4-10)

In the case of Kenya and other African countries women played and continue to play an important role in agriculture. They produce family food supply in many African states. They also made significant contribution to small and medium sized farms, where they sow, weed, and market crops and select seeds for the next season, (Gloria, world bank, 1979).

Women's roles were clearly defined in most areas e.g. in Senegal women complete control of swamp rice, whereas in Sierra Leone this activity is male prerogative. (Gloria, world bank 1979)

However during the 1980's, agriculture sector began to experience decrease in employment, due to mechanization, competition that led to farmers abandoning agricultural activities, and structural changes in the economy that adversely affected agricultural produce. Informal sector on the other hand began to grow and became a major employer to the unemployed. With high levels of unemployment and rapidly increasing labour force, upgrading the productivity of informal sector was imperative. A common form of such activities was handicrafts. Unfortunately, these too, often were not considered serious and productive ventures. Women were often taught to make articles for which the market was non-existent, limited or short lived. (Veronica,1987:4-10).

In the 80's the World Bank took measures to ensure that women benefited from development projects, and that investments were not wasted or their benefits limited by failure to involve women sufficiently. Their findings emphasized the need to seek information on the role of women, their opportunities and handicaps as early as possible

in the project cycle so that the information can be incorporated properly in project design. (Veronica, 1987:4-10)

2.5 Relationship between gender, sex and work

Although many people use the term sex and gender as synonyms, they have different meanings

We use the term sex for a classification of people based on human biology. Biological sex depends on a person's chromosomes and is expressed in the person's genitals, internal reproductive organs and hormones, (Barbara et al, 1994:2).

Classification of people into categories based on sex is called sex differentiation. All societies recognize the existence of different sexes and group people by their sex. Because of *the* importance society attach to, sex differentiation begins at birth. Each baby is assigned one of the two sexes on the basis of one indicator, the appearance of the external genitalia (Barbara, 1994:3).

Gender on the other hand refers to a classification that societies construct to exaggerate the differences between females and males and maintain sex inequality,(Barbara et al,1994:3). According to Feldman (1999), gender is one's sense of maleness or femaleness, which is culturally determined by a society's perception of roles which men and men are expected to perform.

Gender relations are social relations referring to ways in which the social categories of men and women, male and female, relate over the whole range of social organization, not just interactions between individual men and women in the sphere of personal relationship or in terms of biological reproduction, (Barbara et al, 1994:3-4). Gender differentiation refers to the social process that exaggerate the difference between females and males and create new ones where no natural difference exist (West; Zimmerman 1987:187). Gender differentiation also distinguishes activities as male or female.

Together sex and gender differentiation ensure that females differ from in easy to spot ways such as clothing. Example is clothing fashions which enhance the breadth of men's

shoulders or a woman's hips and it has therefore called attention to women's and men's characteristics. Distinguishing males and females is necessary in order to treat them differently.

Construction of gender is the process of transforming male and females who differ rather minimally in biological terms into groups that differ noticeably in appearance and opportunities, (Barbara et al, 1994:4).

Over the past two and a half decades of active gender debate, there have been major shifts in conceptual language which have led to a growing practice of using the term gender as a substitution for the word woman. Gender does not refer to women or men as is usually misconceived. On the contrary, the concept of gender refers to the relationship between men and women, the ways in which the roles of men and women are socially constructed and to the cultural interpretations of the biological differences between men and women. (Suda, 2002 p302)

2.6 Gender participation in the informal sector

The total number of people employed in all sectors of the Kenyan economy increased marginally from 4.7 million in 1997 to 5.1 in 1998. Most of the jobs were in the expanding informal sector. Employment in the informal sector expanded from about 2.2 million people in 1995 to 3.4 million in 1998. This expansion points to the significant role that the informal sector has continued to play in job creation, particularly at a time when formal sector employment is steadily decelerating due mainly to the ongoing public sector reforms.

One of the problems with data on the informal sector employment is that they are not disaggregated by gender. However, about 52% of the workers in the informal sector were self-employed female entrepreneurs who had set up their own business enterprises in the rural and urban areas. A further 66.5% of the women in the sector were engaged as unpaid family workers compared to 33.5% of their male counterparts.

The over-representation of women in the informal sector is variously explained by the inability of the formal sector to generate enough jobs to absorb a large and increasing labour force, the use of simple technologies, women's inadequate education and skills training, ease of entry and exist, low capital investment and the relative compatibility between informal sector employment and household work, among other factors.

Although the informal sector has a tremendous potential for employment creation and have some businesses which have been developed into sustainable private enterprises, most female workers in the sector continue to experience (Suda, 2002 p313)

Gender disparities in employment opportunities and economic investment patterns in Kenya have continued to widen across all sectors of the economy and at various levels of development intervention. This trend has led to increased unemployment, under-employment, poverty and powerlessness among many Kenyan women. Part of the reason for the persistent inequity is the slow process of mainstreaming gender into employment creation and poverty eradication policies, programmes and strategies in a coordinated, multi-sectoral and crosscutting way. The other reason relates to the existence of social, cultural and structural barriers to effective female participation in the labour force. These and other factors have jointly contributed to the low pay and productivity of women's labour and to their continued under-representation in senior management positions within the public and private sectors.

Although Kenyan women have joined the labour force in large and increasing numbers over the last two decades due to increased access to education, the majority of them are still concentrated in traditional "female occupations" and the informal sector. The urban labour force participation rate for women in Kenya has increased from 30% in the early eighties to 56% in 1995. Despite their growing participation in the workforce, there are still very few women in the top echelons of public decision and policy making positions in Kenya. Most women in Kenya are concentrated in low paying, low status occupations with poor fringe benefits and carried out under poor working conditions and therefore hold very little prospect for poverty reduction and upward mobility. On the other hand, the majority of the women in the rural areas spend a great deal of time on low productivity work which has created major income disparities between men and women. The reasons for gender disparities in employment opportunities include segregation in the labour market, social attitudes towards women, inadequate capacity on the part of women in terms of their knowledge and skills and lack of gender responsive policies and programmes. (Suda 2002 p302)

In Kenya, labour surveys have shown that women constitute over half of the labour force and predominate in the rural areas (Ndegwa 1991 p231-233). Ndegwa observes that in the 1980's the unemployment rate among females was more than double (24.1 per cent) than that of males (11.7 per cent). This was partly attributed to lack of training among girls and women, especially in technical skills needed in the informal sector. Ndegwa (1991, p231-233), Sessional Paper No. 2 of 1996, concur that when gender inequities occur in education and the labour market, girls and women are the most disadvantaged. They continue to point out that the problem is complicated by the absence of reliable data needed for policy decisions.

2.7 Labour Standards

Labour standards address gender equality in different ways. Some are Gender explicit referring to equality or non-discrimination 1951 (No. 100), maternity protection, 2000 (No. 183), termination of employment, 1982 (No. 158), and employment policy, 1964 (No. 122). Others are gender—sensitive — standards whose provisions by their nature take into account women's and men's needs but do not mention men and women explicitly, e.g. the Conventions on workers with family responsibilities, 1981 (No. 156), elimination of the worst forms of child labour, 1999 (No. 182), part-time workers, 1994 (No. 175) and home workers, 1996 (No. 177), and a range of standards dealing with working conditions such as safety, security and transport. The fundamental Convention No. 111 spans these two groups, since it addresses discrimination and therefore gender equality but is not exclusively about gender-based discrimination. A third group of Conventions comprises technical standards whose texts are fairly neutral but which may have gender specificities in their application, for instance in the collection and use of statistics. They include areas such as payment of wages, occupational accidents and injuries, hours of work, and social security. (ILO 2000: 4-10)

Four ILO Conventions have been designated as key instruments for achieving gender equality in the world of work:

- Equal Remuneration Convention, 1951 (No. 100);
- Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- Workers with Family Responsibilities Convention, 1981 (No. 156);

- Maternity Protection Convention, 2000 (No. 183).

An important strategy used by the ILO to achieve the global goal of decent work is to promote the ratification and application of the labour standards relevant to equality. The four key equality Conventions are of particular importance, but other Conventions and Recommendations relevant to gender equality, such as those related to employment promotion, working conditions, and migrant workers, are also promoted. It is also important to note that the promotion of standards with obvious gender equality aspects in no way precludes the promotion of equality in the application of standards which are not specifically gender-related.

The Declaration on Fundamental Principles and Rights at Work is also a very important element in the framework for promoting women workers' rights and gender equality. (ILO 2000: 4-10)

2.8 Gender equality, a fundamental human right

Since the 1990s, the concept of a human-rights-based approach to development has gained in importance and offers a normative framework which is very relevant to standards and standard setting. The rights-based approach naturally includes eliminating all forms of discrimination.

The Declaration on Fundamental principles and rights at work and its follow-up, adopted by the International Labour Conference in 1998, sets out the following in which areas in which fundamental rights and principles are to be promoted and realized:

- a) freedom of association and the effective recognition of the right to collective bargaining;
- b) the elimination of all forms of forced or compulsory labour;
- c) the abolition of child labour;
- d) The elimination of discrimination in respect of employment and occupation.

This means that all ILO member States have an obligation, arising from the very fact of their membership, to respect, promote and realize the principles concerning these fundamental rights.

The ILO has designated eight Conventions as embodying these fundamental principles and rights. Two of these have the specific aim of promoting gender equality: Conventions No. 100 and No. 111.

The protection and promotion of equality between women and men are recognized as fundamental concepts in the major international human rights instruments, including the Universal Declaration of Human Rights (1948); the International Covenants on Civil and Political Rights (ICCPR) and on Economic, Social and Cultural Rights (ICESCR) (1966); the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) (1979) and its Optional Protocol of 1999; the Convention on the Rights of the Child (1989); the International Convention on the Protection of the Rights of all Migrant Workers and Members of their Families (1990); the UN Declaration on the Elimination of Violence against Women (1993); the Beijing Declaration and Platform for Action (1995) and its follow-up; the Millennium Development Goals; and, most recently, the UN Convention on the Rights of Persons with Disabilities, adopted by the Plenary of the General Assembly on 13 December 2006. Such provisions are also binding on States which have not ratified specific ILO instruments but have ratified these more general international standards. Many of the treaty bodies established to monitor compliance with the UN instruments have in their regular reporting paid special attention to gender issues, and indeed have mainstreamed gender equality in their questions to States Parties.

As well as international instruments, national human rights machineries, including commissions for equality and equal opportunities, are valuable instruments for winning and protecting equal rights in the world of work. They exist in many countries. In South Africa, for example, the South African Human Rights Commission (SAHRC), created under section 189 of the Constitution, has successfully taken a high profile especially on discrimination issues. The SAHRC exists alongside a national Commission on Gender Equality, also established by the Constitution (section 187). Some have argued that the parallel existence of these two bodies could result in women's rights being marginalized, and accordingly there have been several efforts to coordinate their work. Carrying that trend further, the United Kingdom's Equality Act of 2006 — the precursor to a promised

Single Equality Act aimed at combining all the existing equality enactments (on race, gender, disability, etc.) within Great Britain-has established an overarching Commission for Equality and Human Rights.

2.9 History of standard setting to promote women workers' rights and gender equality

Discrimination on the grounds of sex is a major form of discrimination, and has been a focus of attention for the international community since the Second World War.

The protection and promotion of women workers' rights have always been integral to the ILO's mandate. The employment of women before and after childbirth was the subject of one of the ILO's first Conventions, dating from 1919, the very first year of the Organization's life. Maternity protection remains a key issue in the promotion of gender equality, as the third Convention on this theme, Convention No. 183, shows. Convention No. 100, by guaranteeing equal pay for work of equal value, opened the door to the examination of structural gender biases in the labour market. Since then there has been a gradual shift in emphasis from protecting women to promoting equality and improving the living and working conditions of workers of either sex on an equal basis, as can be seen, for instance, in the replacement of the Employment (Women with Family Responsibilities) Recommendation, 1965 (No. 123) by the Convention No. 156. In the new millennium, new and revised labour standards reflect the overarching goal of decent work, which now underpins all the ILO's activity. Gender equality is central to this goal.

In the early decades of the twentieth century, women were perceived as more fragile than men, both physically and socially, and therefore as not suited to certain forms of work, particularly any activity which might endanger their health and especially their childbearing function. Minimum standards regarding maternity leave and benefits were consequently among the first instruments adopted by the ILO. In the early 1950s, the emphasis shifted to the promotion of equality between men and women in employment and remuneration. In 1951, Convention No. 100 and its accompanying Recommendation on equal remuneration (No. 90) laid down the guiding principles of equal remuneration for work of equal regardless of sex. In 1958, Convention No. 111 and the Discrimination

(Employment and occupation) recommendation (No. 111) were adopted to establish the principle of non-discrimination on a number of grounds including sex. With regard to access to vocational training, access to employment, and terms and conditions of employment Conventions 100 and 111 are among the most widely ratified of all ILO conventions and have influenced the drafting of subsequent and related United Nations conventions and regional instruments.

Other early standards related to occupational safety and health, such as the Lead Poisoning (Women and Children) Recommendation, 1919 (No. 4), the White Phosphorus Recommendation, 1919 (No. 6), and the White Lead (Painting) Convention, 1921 (No. 13), contained specific provisions prohibiting the employment of women in certain areas and for certain processes, reflecting the concern with not endangering women workers' reproductive health. While these instruments (and the Benzene Convention (No. 136) and Recommendation (No. 144) of 1971 are due to be revised, several up to date instruments contain similar women-specific provisions, right up to the very recent Safety and Health in Agriculture Convention (No. 184) and Recommendation (No. 192) of 2001. Convention No. 89 prohibiting night work for women in industry, adopted in 1948 (following the earlier Night Work (Women) Convention, 1919 (No. 4) and Night Work (Women) Convention (Revised), 1934 (No. 41)), was made more flexible through the Protocol of 1990, and a new Night Work Convention (No. 171) and Recommendation (No. 178) were adopted in 1990, now protecting both men and women against the hazardous effects of night work. However, women-specific provisions are still the subject of debate, for a large number of ILO member States consider them discriminatory.

From the 1960s, standards promoting equality were increasingly based on the recognition that equality implies the sharing of family responsibilities between men and women. As women gained a growing share of the labour market — though not always in full-time jobs — the male breadwinner in full-time work came to represent the model of the "typical" worker less and less. Labour standards began to reflect this shift in 1965, when Recommendation No. 123 on women with family responsibilities was adopted, covering measures that should be taken to enable women workers to fulfill their various responsibilities harmoniously and without discrimination. From the early 1980s, as the focus of analysis concerning equality in general was reoriented from women to relations

between women and men. The conviction gained ground that any change in the role of women should be accompanied by a change in that of men and should be reflected in their greater participation in family and household duties. In accordance with this thinking, convention No 156 and its accompanying recommendations No 165 concerning workers with family responsibilities were adopted in 1981. These instruments apply to men as well as women with responsibilities for dependent children or other members of their immediate family, and are intended to facilitate their employment without discrimination resulting from such family responsibilities.

2.10 Challenges of protecting labour rights in the Informal sector in kenya

In Kenya, the so called informal economy generates over 90 per cent of employment but the quality of jobs generated is comparatively poor, compared to the few created within the formal sector. The jobs lack the pillars of decent work which include workers rights, proper working conditions, legal and social protection, representation and voice.

Kenya like other poor countries in Africa is dominated by rapid informal economic development, which most governments have failed to integrate into the overall planning of national economies. Equally, these countries face a serious challenge in protecting labour rights in their informal economies; in spite of being signatories to the International Labour Organisation (ILO) provisions, the Labour rights, are enshrined in ILO Declaration on Fundamental Principles and Rights to Work. The Declaration constitutes a mutual obligation between member states and the ILO. It applies to all workers, regardless of employment relationship or formality status. These rights include: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced labour; the effective abolition of child labour; and the elimination of discrimination in respect to employment and occupation (ILO 1998).

The employer/employee relationship has been a fading phenomenon in most countries; in particular, the developing countries, where the majority of the population are either self employed and have to cater for their own labour rights or are employed by unregistered employers who do not subscribe to their respective country's, or the ILO's labour rules and regulations of employment. In Kenya, as in many other countries within Africa, this category of employees constitutes the majority of workers. These workers largely operate

within the informal economy which, in spite of having linkages to the formal economy, is still to be fully integrated into the national economic development. (Mittulla, 2008: 6)

The informal economy in Kenya is dominated by the Micro and Small Enterprises (MSE). Enterprises in this sector include: agri-processing, building, electrical, woodwork, metal work, leatherwork, textile, chemical, handicraft, service industry, trade and motor vehicles. The 1999, National Baseline Survey on MSEs revealed that, there is a high degree of informality within the MSE sector, with more than 88 per cent and about 61 per cent of the firms operating without registration or any license respectively (GOK et al 1999). These enterprises face a number of challenges namely: unfavorable policy environment; inhibitive legal and regulatory framework; limited access to markets; financial services, information, infrastructure and linkages with larger enterprises; inadequate access to business skills and technology, gender inequality; unfavorable taxation regime, entry barriers and health and safety among others.

The 2004, Kenya Economic Survey noted that, the MSE's, which are part of the informal sector, created 458,800 new jobs constituting 94.3 per cent of all new jobs created outside small scale agriculture. On the other hand, the formal sector created only 27.9 thousand new jobs and grew by 1.6 per cent, (GOK 2004). The National Baseline Survey found out that, there were 1.3 million MSEs in Kenya, employing an estimated 2.4 million people. Over 99 per cent of the firms employed only 1 person and the MSE share of contribution to GDP was 18.4 per cent.

The ILO (2002) notes that: 'the informal economy is where most jobs have been created in recent years, but it is also where the greatest problems with regard to workers rights are found'.

The ILO further observes that jobs, in the informal economy are seriously deficient in terms of workers rights, proper working conditions, legal and social protection, representation and voice, and are not comparable to protected and decent work jobs in the formal economy. The World Employment Report 2004/2005 notes that, while it is clearly the case that employment is central to poverty reduction, it is 'decent and productive' employment that matters, and not employment alone. Labour Rights should be embedded in the decent work pillars. Understanding labour rights has to begin by an

acknowledgement of who the workers are. Since our concern is on the poor, and the decent work deficit, which they experience

2.11 Institutional and Policy Framework

The Kenya policy paper on Development of Micro and Small Enterprises for Wealth and Employment Creation for Poverty Reduction (2005), has isolated a number of challenges, which include: unfavorable policy environment, inhibitive legal and regulatory framework; limited access to markets, financial services, information, infrastructure, linkages with larger enterprises; inadequate access to skills and technology, business skills; gender inequality; unfavorable taxation regime, entry barriers and health and safety. These challenges do not include labour laws, and occupational health and safety which negatively affect MSE workers.

Sessional Paper No. 1 of 1986, on 'Economic Growth Management for Renewed Growth' laid the foundation for the founding of entrepreneurship in Kenya. The paper highlighted the potential of the MSE sector, and helped to change its image from employer of the last resort, to that, of a vibrant wellspring of technological capacity and aggressive entrepreneurship. The paper, introduced radical changes, and outlined a development strategy that put greater emphasis on the rural economy and the development of the informal sector. The policy paper proposed the establishment of a special task force to review local authority by-laws and other regulations governing informal activities, and thereby, to create a healthy legal and regulatory environment for informal sector activities. The policy paper further noted that, direct assistance was to be provided to individuals and small scale businesses. Consequently, the 'Center Project' was born within the Ministry of Planning and National Development to address key issues relating to the informal sector.

The Sessional Paper was followed by the publication of a 'Strategy for Small Enterprises Development in Kenya: Towards the Year 2000' in 1989. The strategy focused on the constraints the sector was experiencing, which included: enabling environment, investment and finance and promotional programmes and enterprise culture. These,

subsequently, formed the basis for designing fairly focused policies on the sector. By 1992, therefore the policy was refined, and was published as Sessional Paper No. 2 of 1992 on 'Small Enterprises and 'Jua Kali' Development in Kenya'. In 1994, a comprehensive analysis of policies, strategies and programmes under the Agenda for Early Action was carried out, and obstacles inhibiting growth in the sector identified and analyzed.

2.12 Theoretical Framework

Early debates regarding the causes and characteristics of the informal sector crystallized into dominant schools of thought, as follows; the dualist, structuralist and legalist schools of thought. Over the years, these debates crystallised into three dominant schools of thought regarding what gives rise to the informal sector, its defining characteristics and its links to the formal sector or the formal regulatory environment: the dualist, structuralist and legalist schools of thought. While the dualist school is now considered rather outdated, both the structuralist and legalist perspectives are still evoked to explain different components of the informal economy. In particular, the legalist perspective is used to explain the behaviour of the entrepreneurial class among the informal workforce who seek to avoid the costs associated with formalising their enterprises; and the structuralist perspective is used to explain the subordinate relationship of labour and small producers to big businesses and, more specifically, of sub-contracted firms and workers to the lead firms who sub-contract work to them.

The *dualist* school, popularised by the ILO in the 1970s, subscribes to the notion that the informal sector is comprised of marginal activities – distinct from and not related to the formal sector – that provide income for the poor and a safety net in times of crisis (Hart 1973; ILO 1972; Sethuraman 1976; Tokman 1978). According to this school, the persistence of informal activities is due largely to the fact that not enough modern job opportunities have been created to absorb surplus labour, due to a slow rate of economic growth and/or to a faster rate of population growth.

The *structuralist* school, popularised by Caroline Moser and Alejandro Portes (among others) in the late 1970s and 1980s, subscribes to the notion that the informal sector should be seen as subordinated economic units (micro firms) and workers that serve to

reduce input and labour costs and, thereby, increase the competitiveness of large capitalist firms. In the structuralist model, in marked contrast to the dualist model, different modes and forms of production are seen not only to co-exist but also to be inextricably connected and interdependent (Moser 1978; Castells and Portes 1989). According to this school, the nature of capitalist development (rather than a lack of growth) accounts for the persistence and growth of informal production relationships.

The *legalist* school, popularised by Hernando de Soto in the 1980s and 1990s, subscribes to the notion that the informal sector is comprised of micro-entrepreneurs who choose to operate informally in order to avoid the costs, time and effort of formal registration (de Soto 1989). According to de Soto et al, micro-entrepreneurs will continue to produce informally so long as government procedures are cumbersome and costly. In this view, unreasonable government rules and regulations are stifling private enterprise

In regard to informal enterprises, dualists paid relatively little attention to government regulations per se but focused instead on government provision of necessary support services to informal enterprises: notably, credit and business development services. In regard to informal employment relations, the dualists tended to subscribe to the orthodox notion that government intervention in labour markets would result in wage rigidities which would, in turn, lead to more informal employment. In marked contrast, the structuralists see a role for government in regulating the unequal relationships between 'big businesses' and subordinated informal producers and workers. This would involve the regulation of commercial relations in the case of informal producers and the regulation of employment relations in the case of informal wage workers. The central proposition of the legalist school of thought is that costly and cumbersome government regulations inhibit the ability of informal entrepreneurs to operate a business

There is a clear need to better integrate the ILO's Decent Work agenda with a special focus on the informal workforce and women into current poverty reduction initiatives. However, within the international development discourse, there is a dominant school of thought that argues that the demand for labour should be left to the market and that social protection is affordable only for the formally employed. For those holding this view,

labour and employment issues are not relevant to poverty reduction strategies. Overcoming such misconceptions will require continued research and advocacy (ILO, 2002c). This research seeks to help in this effort by focusing on the linkages between informal employment, gender and female labour rights.

2.13 Study Hypotheses

Based on the general objective of the study, the researcher has formulated the following Hypotheses:

1. Labour rights in the informal sector of Gikomba Nairobi are gender based.
2. There is a significant relationship between gender and labor rights in the informal sector of Gikomba Nairobi.
3. Female labor rights in informal sector Gikomba Nairobi in lie with ILO Standards are not in line with ILO standards
4. Women in the informal sector of Gikomba Nairobi are aware of their labor rights

2.14 Research Gaps

A lot of research has been done in this area but so far none has been done specifically on female labour rights in the informal sector of Nairobi. Njogu (2005) investigated the challenges encountered by women casual workers, Gachochi (1997) looked at financial accessibility of MSEs in Kibera and Gikomba. Kaifa (2005) was closer home but he restricted himself to gender wage differentials in Kenya, while kibuchi (1992) examined problems of funding the jua kali sector at Gikomba. This study therefore will generate literature to cover the research gaps.

CHAPTER THREE

RESEARCH METHODOLOGY

3.0 METHODOLOGY

3.0 Introduction

This section sets out the methodology that will be used to conduct the study. The chapter comprises of the research design, the population of interest, the population sample, data collection instruments, pilot test and the data analysis technique that will be used to determine effect of female labor rights in the informal sector of Nairobi Gikomba Market

3.1.1 Background to Nairobi city

Nairobi has experienced a rapid growth both in population and physical extension. The physical area of Nairobi expanded from 3.84 square Kms in 1910 to 5 Kms in 1919. By 1948, the city boundary covered an area of 83 square Kms. In 1963, the boundary was extended to 696 sq. Kms which is currently still the official extension of the city, (GOK statistical abstract, 2008:4). The rapid boundary expansion can be explained by the high rate of urbanization that has attributed to increased immigration and high natural population increase.

A notable observation however is the growth of the city itself, has bypassed the growth of the necessary infrastructure. Immigration in the city, and lack of sufficient employment opportunities for the majority has resulted in spontaneous development of informal and small scale activities. This has largely been as a result of the decline in wage employment opportunities in Nairobi, especially in the public sector. The public sector's share in total employment declined from 47.4% in 1992 to 46.5% in 1993 and to 45.7% in 1994.

3.1.2 Study area

The proposed study will take place, at the Gikomba market which is located in the south-East of Nairobi Central Business District (CBD). This is one of Kenya's largest outdoor wholesale and retail markets, measuring approximately 35 kilometers. To the southern

boundaries lies The Nairobi industrial area while to the eastern zone lie a number of middle and low income residential estates. The north western boundary of the zone is the old central business district of Nairobi.(Kibuchi,1992:28-31)

The emergence and growth of jua kali sector in Nairobi

The term “informal sector” was popularized by a 1972 study of Kenya, but Kenyans have another term for the sector: *jua kali*, literally “under the hot sun.” It is indicative of the severe conditions under which micro-entrepreneurs and their employees labor. This unstructured sector has emerged as a result of the incapacity of formal, regulated industries to absorb new entrants. (The World Bank, 2003:5) The *jua kali* sector encompasses small scale entrepreneurs and workers who lack access to credit, property rights, training, and good working conditions. Originally restricted to artisans, the term has come to include a number of professions, including auto mechanics and market vendors. They supply goods to local markets using predominantly manual labor and little capital, often making do with handmade tools. Their livelihoods are constantly threatened by arbitrary seizures and other forms of harassment by authorities. Many Kenyans consider the *jua kali* to be the predominant – and most important – economic sector in Kenya, the one in which they all work. This is not far from the truth. According to the Economic Survey published by Kenya’s Central Bureau of Statistics, employment within the sector increased from 4.2 million persons in 2000 to 5.1 million persons in 2002, accounting for 74.2% of total employment. The sector contributes 18.4% of the gross domestic product and provides goods and services, promotes creativity and innovation, and enhances entrepreneurial culture. A common statement heard throughout Kenya is “We’re all *jua kali* nowadays (Orwa 2007:1)

In pre-colonial era, and before advent of the Kenya-Uganda railway in 1899, the area now occupied by Gikomba, the cradle of the informal sector activities, was a swamp used as grazing and watering point for Maasai herds of cattle. This was the only informal activity though largely unrelated to the present light industry activity existing there.

At the onset of colonization in Kenya Nairobi was divided into racial zones. The zones were further sub-zoned into commercial, residential and industrial sections and Gikomba was regarded as a native area of operation. The Africans so called had no right over such

land and thus developed a squatter type of environment. So, Gikomba adopted an informal attitude right at its initial stage of birth. In the late 1930s population growth out-paced the employment growth rate on the native job-seekers in Nairobi. In 1939, for instance, there were 23,000 African employees. In 1940, the number dropped to 18,000, yet the African population had increased to 30,000 by then.(Kibuchi,1992:9-15)

With the outbreak of Mau Mau revolts, Nairobi experienced a population influx. The colonial government in fear of further antagonizing the Africans lifted the rules which formerly refused recognition of Africans as town dwellers. This influx caused further unemployment and depressed the wage levels. The unemployed newcomers in search of survival engaged in small cottage crafts industries such as tailoring, shoe repair and illegal brewing. This comprised the nucleus of informal sector development in Nairobi. .(Kibuchi,1992:9-15)

Conspiracy of various factors enhanced growth of informal sector in Gikomba in colonial period. Close proximity to the Machakos country bus station ensured adequate market both from rural Kenya and urban centres. Gikomba area was marked as an area of native operation characterised by people of low incomes. These people provided a ready market for such products hence the growth of the sector. Any kind of business thought by Africans was non-registered, illegal and unfinanced and only meant to be operational to fellow Africans. Due to these limiting factors informal activities could only flourish in this part of Nairobi delimited for African's use.

Insubordination of people formerly masters of themselves into house servants, porters and domestic chores attendants by colonial masters demoralized Africans. This, coupled with poor wages and forced labour, forced Africans to engage in informal sector while others joined it due to lack of such jobs. In other cases, talented native artists, craftsmen like wakamba could not put up with restricted environments with their artistry talents dormant. They therefore established household small scale industries around Gikomba which later developed to cottage industries as are seen today.

When Kenya got her independence in 1963, Africans took political leadership. The colonial restrictive rules which prevented active African participation in the economy

were abolished. This entailed sharing of economic and social status with other races. This boosted the growth of informal sector in terms of number operators and output. Raw materials could easily be accessible to Africans while many of the Africans formerly committed to forced labour in European farms were relieved to join this sector.

Rural-urban migration was an immediate phenomenon observed after independence. Nairobi's population increased at a rate of 401% per annum and could not match up with 3.8% employment rate that existed then. Majority of the immigrants could not get access to wage employment in the formal sector. This was further aggravated by the capital intensive production mode adopted by Kenyan formal sector. The unemployed group joined the informal sector to try their hand.

Other factors have been associated with the continued growth of informal sector in Nairobi. Proximity to the industrial area in relation to Gikomba has highly influenced growth. Raw materials in terms of scrap metals and other industrial wastes from industrial area are easily available to the sector operators. The cost of transporting them is low and thus economical.

The neighbouring of Gikomba comprise of low income residence. This is as supported by estates like Majengo, Muthurwa, Shauri Moyo and Bondeni. Residents of these estates form a major market for the products of this sector. Also with time, people have changed mentality about the products of jua kali sector and even those in high income brackets have developed strong ties with informal sector. Expansion of Machakos country bus terminus ensures consumption of the sector's product not only in Nairobi but in the whole republic. These factors have ensured continued growth and expansion of the sector in Nairobi and Gikomba in particular.

Presently growth of informal sector has had its impact in our economy. The government has recognized the potentials yet to be tapped in this sector. As cited in Sessional paper no. 1 of 1986, the informal sector was to assist in realizing a targeted economic growth of 5.3 per cent per annum into the 21st century. This was in terms of employment creation and production of goods and services. The sector being appropriate to Kenya's case, more and faster growth is expected as observed by the ILO report. This report recognized

the sector as having the greatest potential of development thus the future of this sector is bright. However, this 'dream' shall only be realized if the challenges facing this sector are solved and resources mobilized to support it.(ibid)

3.2 Research Design

This study is descriptive in nature since the main purpose of the study will be to describe the effect of female labor rights in the informal sector of Nairobi Gikomba Market. Descriptive research according to Kothari (1990) is a powerful form of quantitative analysis. Kandie (2001) argues that a case study is a form of qualitative analysis where studies are done on institutions and from the study; data generalization and inferences are drawn. The study method will give in-depth information on female labor rights in the informal sector (Jua Kali) of Nairobi Gikomba Market. In general, a case study is a qualitative study that has been narrowed down to a specific unit but comprehensive enough to give representative information for similar units operating in the same environment. The use of case study in research is of particular importance taking in to account the advantages that come along with it. It is the easiest research free from material bias and enables one to study intensively a particular unit.

3.3 Study Population

The proposed study will be conducted among the Gikomba market workers. Interviewees will be market workers, federation of Kenyan employers and International Labour Organizations' programme officers and technical advisers dealing with the informal sector.

3.4 Sampling Framework

Case Study Approach

In order to identify the study areas for the research, a reconnaissance survey of the informal sector activities in Nairobi will be done. Gikomba was selected by taking various points into consideration. These included the degree of activity mix, observed rate of increase of activities in the area, existence of MFIs lending institutions operating in these areas, and the expansiveness of the area in as far as it would affect data collection

taking into account limited resources in terms of time, money and personnel. This site was therefore considered appropriate for the study.

In order to achieve a representative study, the researcher has categorized various activities into three major types which are widely accepted namely; trade, service and manufacturing and a sample size of 20 interviews will be conducted for each sector, covering a total of 60 women entrepreneurs. From the selected sample sizes, a systematic random sampling method will be used in identifying the cases to be interviewed. The first respondent will be chosen at random, and the next respondent will be selected after an interval of five entrepreneurs, to achieve a representative coverage for the study area.

3.5 Data Collection Instruments

The study will make use of both primary and secondary data. Primary data will be collected using a semi-structured questionnaire. A sample questionnaire developed for this purpose is attached as Appendix II. Questionnaires will be administered to informal sector workers, federation of Kenyan employers and International Labour Organizations' programme officers and technical advisers dealing with the informal sector under study to ensure that respondents interpret the questions correctly leading to more accurate information. Secondary data will be sourced from published literature on female labor rights in the informal sector (Jua Kali) of Nairobi Gikomba Market Kenya.

3.6 Data analysis

Qualitative data will be operationalised, categorized into emerging themes/patterns or categories and then finally coded. The coded data will be assigned numbers for the purpose of data analysis. The researcher will use The Statistical Package for the Social Sciences (**SPSS**) for data analysis. The main statistical measures in this analysis will be the mean, mode, median and frequency distributions. An array of tables and figures will be used to display the research findings.

CHAPTER FOUR

DATA ANALYSIS, PRESENTATION AND INTERPRETATION

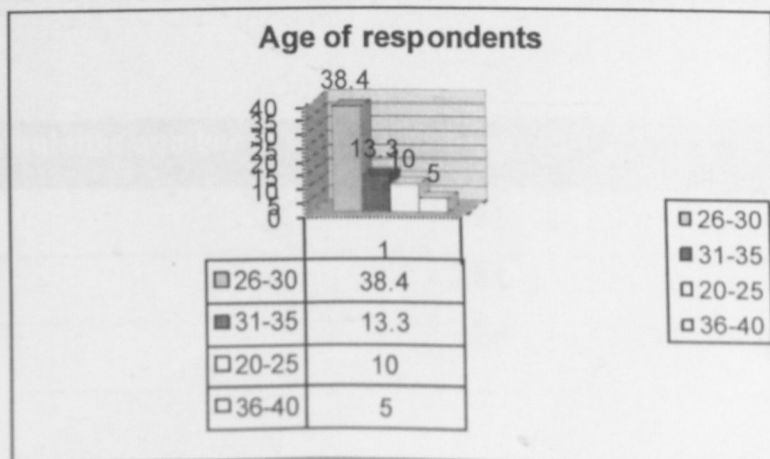
4.0 Introduction

This chapter presents analysis and findings of the study as set out in the research in the methodology. The collected data was summarized, organized, presented and interpreted using descriptive statistics. Measures used included percentages, frequency distributions, measures of central tendency and dispersion as well as measures of contingency coefficient and reliability analysis. Data collection and analysis was guided by the objectives of the study. The first objective being to analyze the extent to which women enjoy their labor rights in the informal sector the second objective was to establish the extent to which women are denied their labor rights in the informal sector while the third one was to determine the extent to which female labor rights in informal sector Nairobi in line with ILO Standards and finally to find out if women in the informal sector of Nairobi are aware of their labor rights.

4.1 response rate

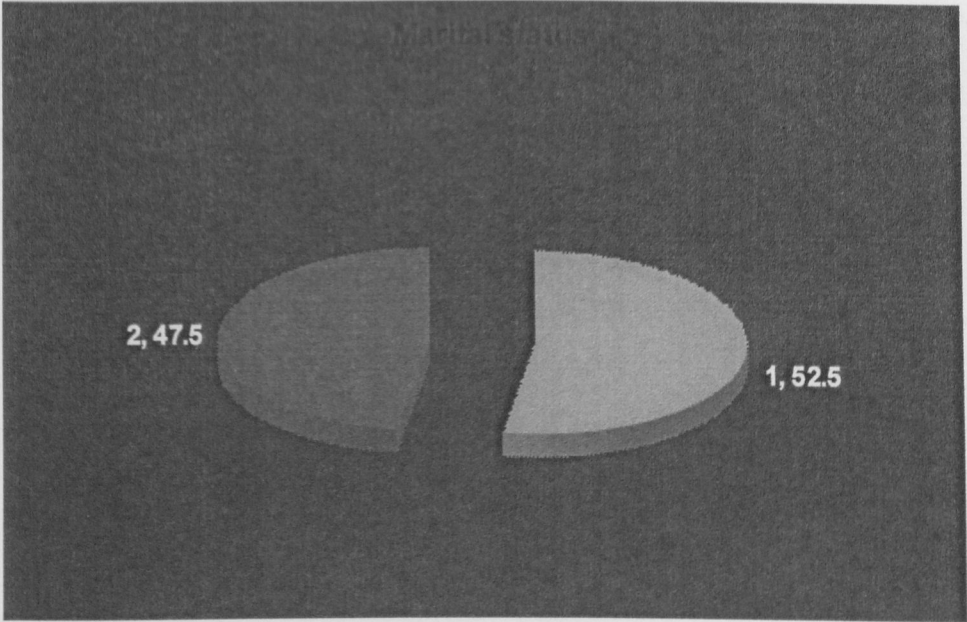
Out of the total 60 questionnaires the researcher administered, only 40 were returned. In the analysis of the study to investigate the effect of female labor rights in the informal sector of Nairobi Gikomba Market; the response rate was therefore 66.7%. This rate is therefore an adequate rate to base conclusions. From table 4.1 it can be noted that the women who had the highest response rate of 38.4% were those aged 26-30. They were followed by 31-35 at 13.3% and 20- 25 at 10% while those age between 36-40 were only

5% **Figure 4.1 Response rate as per age category**



4.2 Marital status of respondents

In the analysis of the demographics of the respondents, the study sought to find out the marital status of the women. **Figure 4.2** below illustrates the marital status of the women



According to Figure 4.2 52.5% of the women were married while 47.5% were single. This finding was important for the study since from the findings majority of the women had also family responsibilities.

4.3 WORK ENVIRONMENT

In this section the study considered how work environment influenced respondents.

4.3.1 years of work

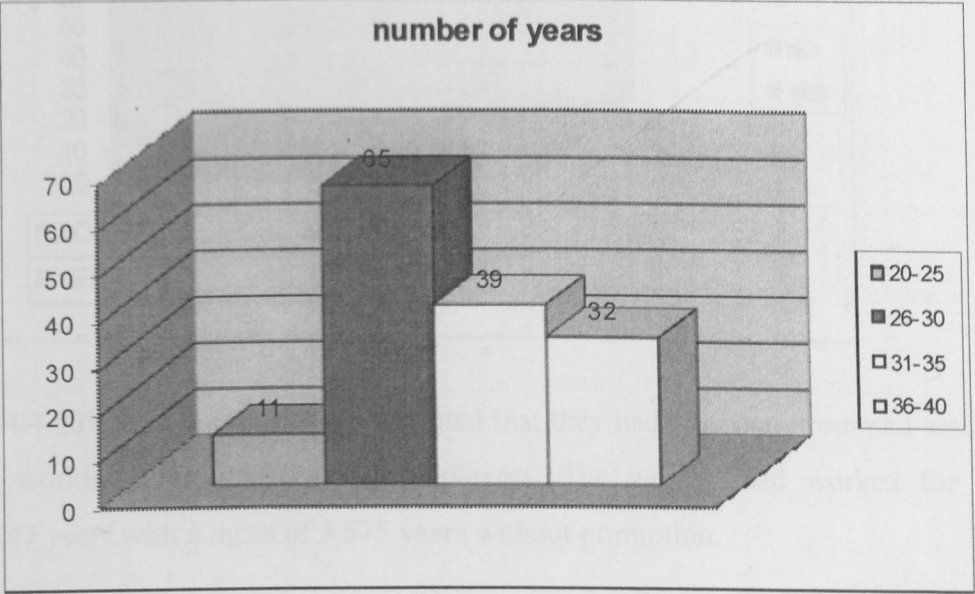
Respondents were required to indicate their years of work with their current employer

Table 4.1

Category	Cumulative number of years	Mean	Modal years
20-25	11	1.83	1
26-30	65	2.82	3
31-35	39	5.57	8

36-40	32	10.6	10.6
Total			

Figure 4.3

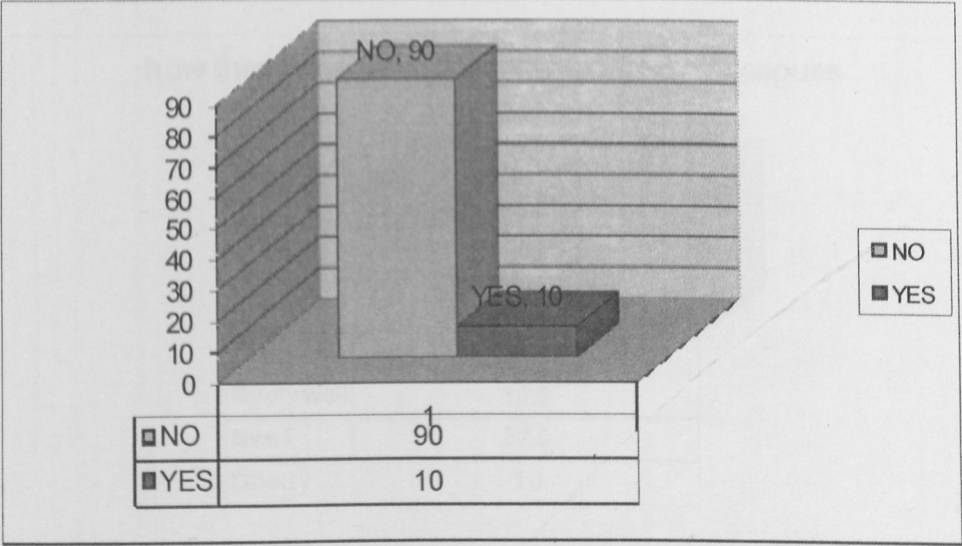


From figure 4.3 respondents in the age category of 26-30 had the highest cumulative frequency 65 followed by those aged 31-35 at 39 and those aged 36-40 at 32 those ages 20 -25 had the lowest frequency of 11. Consequently the last group had the lowest mean working years of 1.83 with a modal working period of 1 year. The highest mean was 10.6 for the age group 36-40.

4.3.2 PROMOTION

Respondents were required to indicate if ever they had been promoted since they started working with the current employer on a scale if yes or no the following was recorded.

Figure 4.4



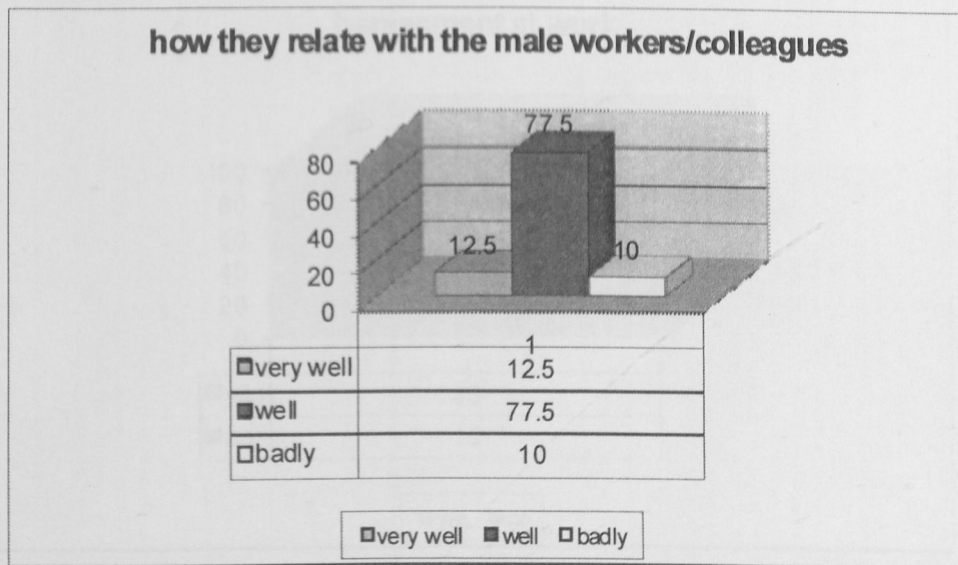
From figure 4.4 90% of the respondents indicated that they had not been promoted since they started working with their current employers. The women had worked for a cumulative 147 years with a mean of 3.675 years without promotion.

4.3.3 Relationship

The respondents were required to indicate how they relate with the male workers/colleagues. On a scale of very well, well and badly the respondents indicated as follows.

<i>promotion</i>	<i>Frequency</i>	<i>percent</i>	<i>valid %</i>	<i>Cumulative %</i>
<i>Valid</i>				
<i>Very well</i>	5	10	12.5	12.5
<i>Well</i>	31	80	77.5	90
<i>Badly</i>	4	10	10	100
<i>Total</i>	40	100	100	

Figure 4.5



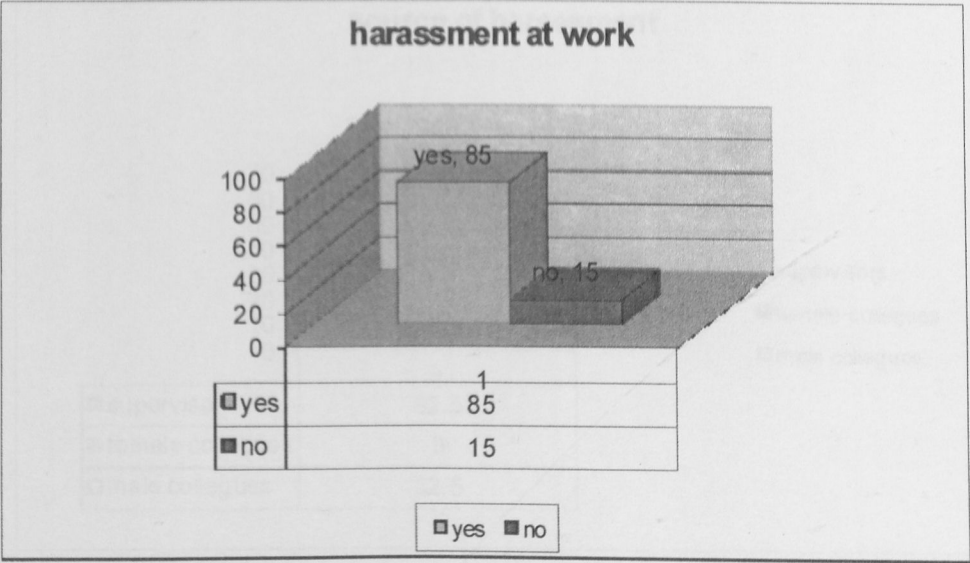
From figure 4.5 12.5% indicated they related very well, 77.5% said they related well while 10% said they related badly. From this figures it is apparent that there was a good relationship between the women and their male counterparts.

4.3.4 Harassment at work

Respondents were required to indicate if ever they had experienced or experience harassment at work on a scale if yes or no the following was recorded.

harassment	Frequency	percent	valid %	Cumulative %
<i>Valid</i>				
Yes	34	85	85	85
No	6	15	15	100
<i>Total</i>	40	100	100	

Figure 4.6



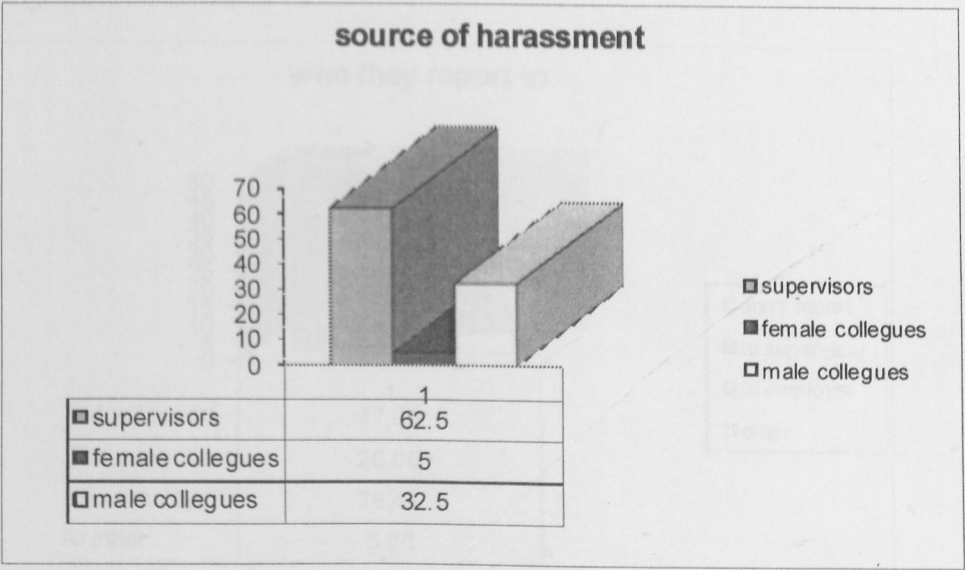
According to figure 4.6, 85% agreed that there was some form of harassment while 15% denied that there was not.

4.3.5 Source of their harassment

Consequently those who had experienced or experience harassment at work were asked to indicate the source of their harassment. Respondents were required to indicate if the source was their supervisors, male or female colleagues. The following responses were recorded

source of their harassment	Frequency	percent	valid %	Cumulative %
Valid				
Supervisors	25	60	62.5	62.5
Female colleagues	2	10	5	67.5
Male colleagues	13	30	32.5	100
Total	40	100	100	

Figure 4.7



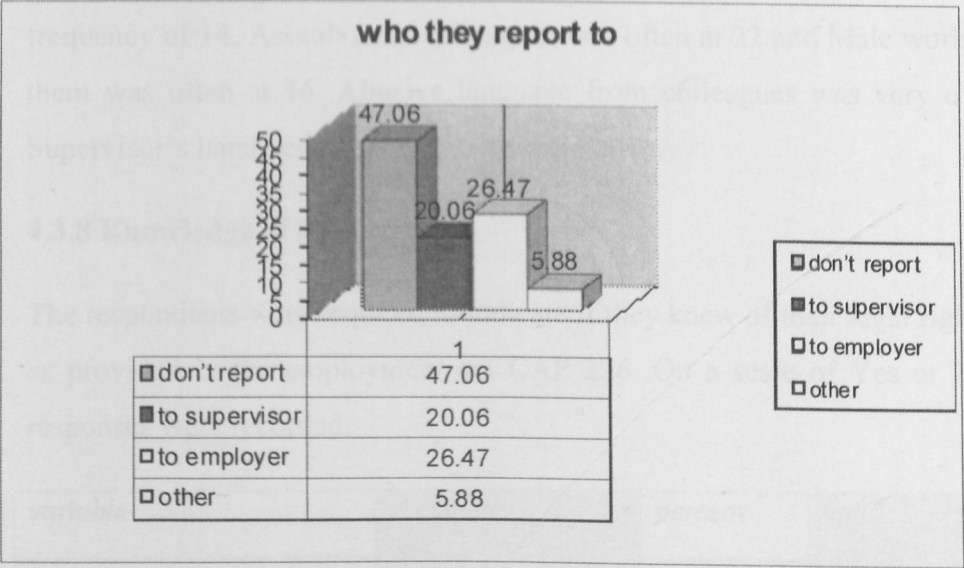
From figure 4.7 above 62.5% of the respondents indicated that the source of harassment was from their supervisors, 32.5% said they were harassed by their male counterparts while only a negligible 5% indicated that the source of harassment was from their female colleagues.

4.3.6 Report of grievances

The respondents were required to say to whom you report their occupational grievances. On a scale of 1.I don't report 2. To the employer 3.To my supervisors and 4 other

variable	Frequency	percent	valid %	Cumulative %
Valid				
Don't report	16	50	47.06	47.06
To supervisor	7	20	20.06	67.64
To employer	9	30	26.47	94.11
Other	2	0	5.88	100
Total	34	100	100	

Figure 4.8



The purpose of the challenge question was to find out if the women realized their rights. From figure 4.8 above 47.06% said they don't report 20.06 said they report to their supervisors while 26.47% indicated that they reported to the employer and 5% were not sure.

4.3.7 kind of harassment/violence they experience

The respondents were required to say to what kind of harassment/violence they experience from the male colleagues. On a scale of Severe, Very often, often and occasionally respondents were required to indicate the extent of harassment or violence in their workplace.

Table 4.9

harassment/violence	Severe	Very often	often	occasionally
Sexual harassment	2	14	14	10
Assault from colleagues	0	4	22	14
Male workers undermining	10	8	16	6
Abusive language from colleagues	12	13	6	9
Supervisors harshness	16	10	4	9

According to Figure 4.10 about 30% of the respondents was not a worker in their legal

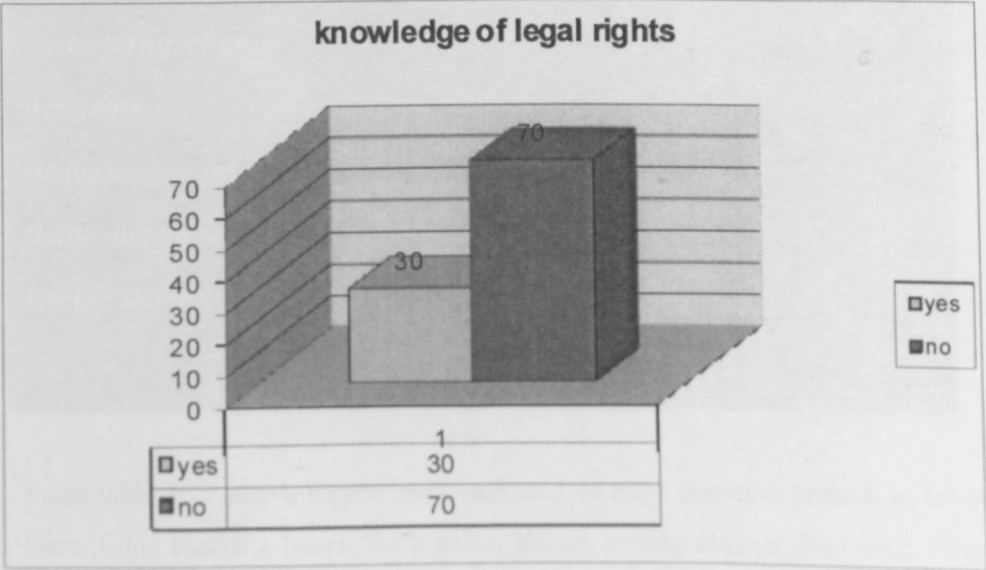
From table 4.9 above Based on the scale Sexual harassment was very often with a frequency of 14, Assault from colleagues was often at 22 and Male workers undermining them was often at 16. Abusive language from colleagues was very often at 13 while Supervisor's harshness was the most severe at 16.

4.3.8 Knowledge of legal rights

The respondents were required to indicate if they knew of their legal rights as employees, as provided in the employment act CAP 226. On a scale of Yes or No the following responses were recorded.

variable	Frequency	percent	valid %	Cumulative %
Valid				
Yes	12	30	30	30
No	28	70	70	100
Total	40	100	100	

Figure 4.10



According to Figure 4.10 above 70% of the respondents was not a ware of their legal rights while only 30% indicated that they knew of their legal rights as employees

4.4 Health and Safety

The study sought to establish that health and safety environment the female workers were exposed to. The respondents were required to indicate the Occupational hazards the experienced. Below is an analysis of the responses

4.4.1 Occupational hazards

Table 4.11

<i>Occupational hazard</i>	<i>Frequency</i>	<i>position</i>	<i>rank</i>
<i>Dust</i>	5	1	9
<i>Smoke</i>	8	2	6
<i>Heat</i>	3	3	11
<i>Long working hours</i>	2	4	12.5
<i>Back pains</i>	4	5	10.5
<i>Burns</i>	7	6	7.5
<i>Falling objects</i>	7	7	7.5
<i>Bad dour</i>	12	8	5
<i>Chest pains</i>	15	9	4
<i>Bacterial infection</i>	18	10	3
<i>Accidents</i>	19	11	2
<i>Heavy languages</i>	20	12	1
<i>Deafening noise</i>	4	13	10.5
<i>Electric shocks</i>	2	14	12.5

From table 4.11 above respondents indicated 14 most common hazards as follows; Dust, Smoke, Heat, Long working hours, Back pains, Burns, Falling objects, Bad dour, Chest pains, Bacterial

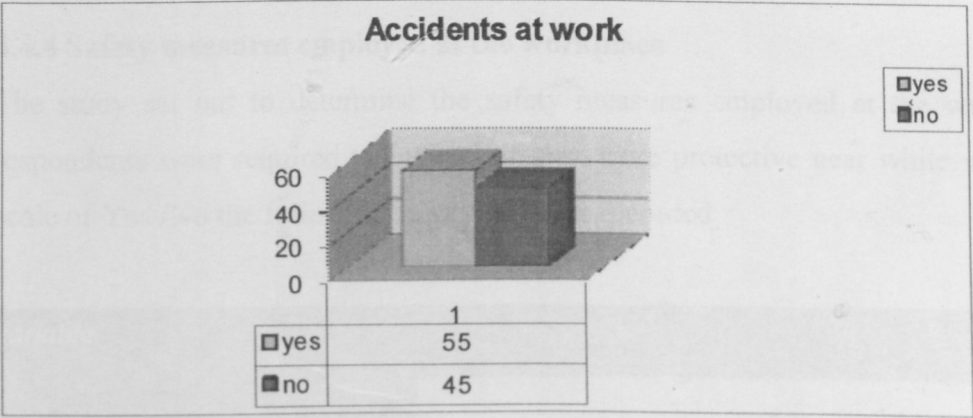
infection, Accidents, Heavy languages, Deafening noise and Electric shocks. Electric shocks and long working hours were ranked to with a rank of 12.5, followed Heat at 11. Back pains and deafening noise at 10.5,while dust at 9 was followed by Burns and Falling objects followed at 7.5 each while Accidents and Heavy languages were considered least.

4.4.2 Physical accidents

On a scale of Yes or No respondents were required to indicate if they had had a physical accident at work. The following responses were recorded.

variable	Frequency	percent	valid %	Cumulative %
Valid				
Yes	22	55	55	55
No	18	45	45	100
Total	40	100	100	

Figure 4.12



From Figure 4.12 above 55% of the respondents had had an accident at work against 45% who had not had an accident

4.4.3 Causes of accidents

For those who said yes a supplementary question was asked to determine the cause. The following responses were recorded.

Table 4.13

<i>Occupational hazard n=22</i>	<i>Frequency</i>	<i>position</i>	<i>rank</i>
<i>Fire</i>	12	1	4
<i>Falling objects</i>	24	2	2
<i>Lack of oxygen</i>	4	3	5
<i>Falling</i>	26	4	1
<i>Heavy luggage</i>	18	5	3
<i>Electric shock</i>	3	6	6

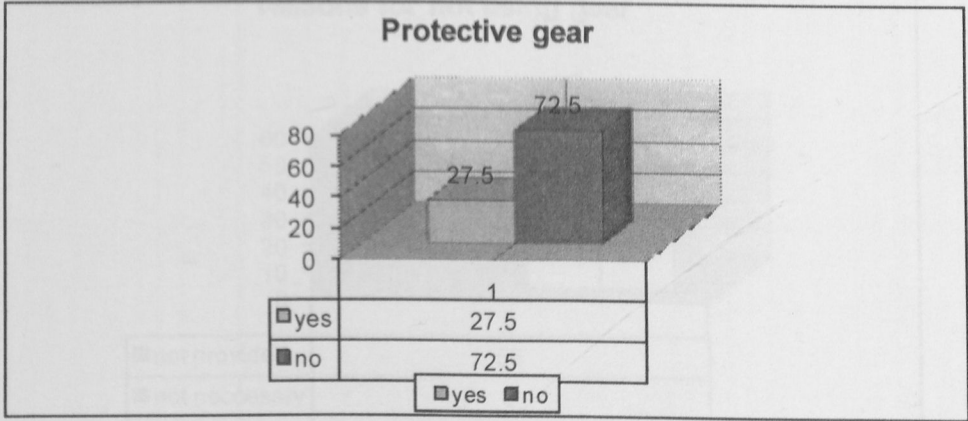
From table 4.13 above the causes of occupational accidents included Fire, Falling objects, Lack of oxygen, Falling, Heavy luggage and Electric shock. Based on a ranking frequency electric shock was ranked the highest cause followed by lack of oxygen at 5 and fire accidents at 4. carrying of heavy luggage was placed 3 while falling objects and falling were least causes at 2 and 1 respectively

4.4.4 Safety measures employed at the workplace

The study set out to determine the safety measures employed at the workplace. The respondents were required to indicate if they wore protective gear while working. On a scale of Yes /No the following responses were recorded

<i>variable</i>	<i>Frequency</i>	<i>percent</i>	<i>valid %</i>	<i>Cumulative %</i>
<i>Valid</i>				
<i>Yes</i>	11	30	27.5	27.5
<i>No</i>	29	70	72.5	100
<i>Total</i>	40	100	100	

Figure 4.15



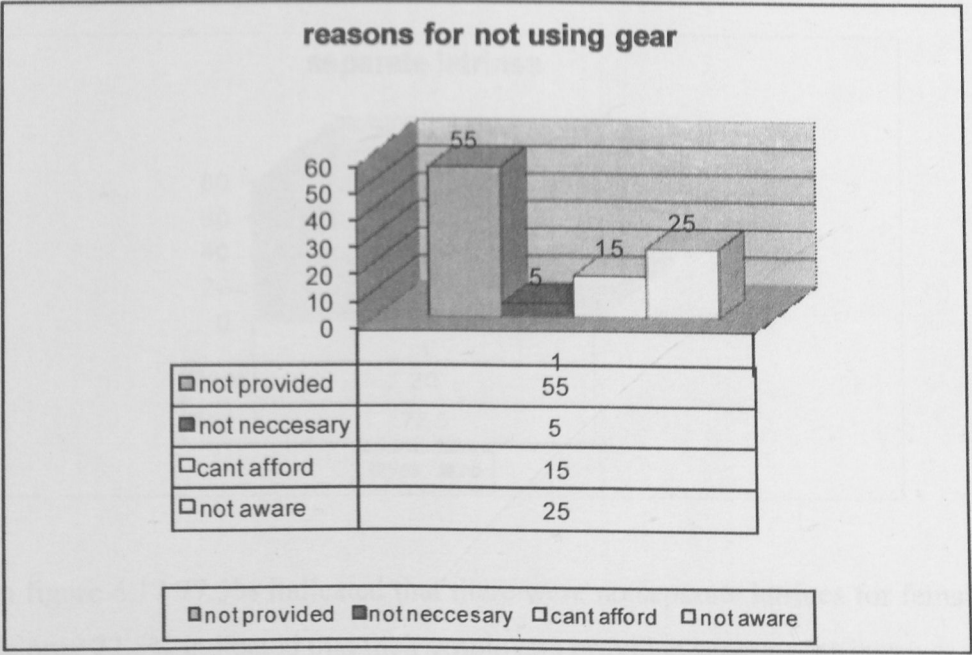
From figure 4.15 72.5% indicated that they did not use protective gear while only 27.5% said that they used some form of protective gear. Subsequently those who wore protective gear indicated that they used Masks, Gloves and Overcoats

4.4.5 Protective gears

The respondents were asked to indicate the reasons why they did not use protective gears. On the scale of 1 to 4 where 1.Not provided by employer 2.Cannot afford 3.Not necessary and 4.Not aware of them the respondents indicated the following.

variable	Frequency	percent	valid %	Cumulative %
Valid				
Not provided by employer	22	55	55	55
Not necessary	2	5	5	60
Cannot afford	6	15	15	75
Not aware	10	25	25	100
Total	40	100	100	

Figure 4.16



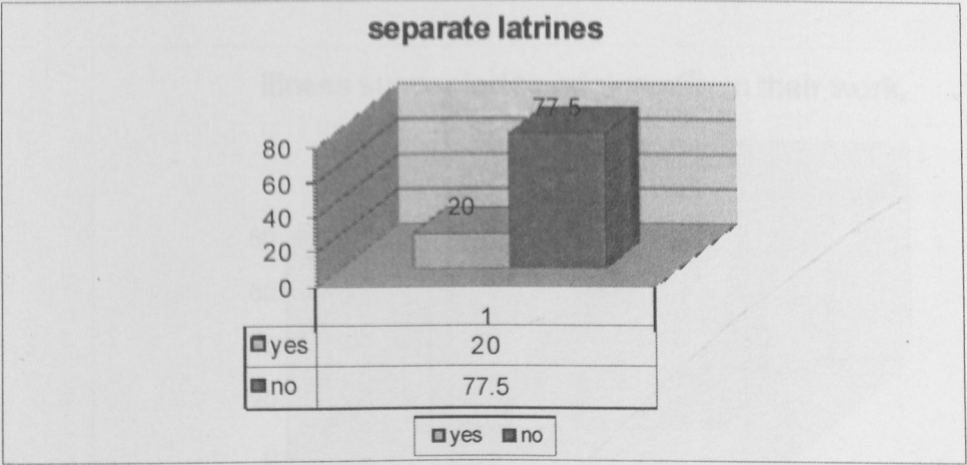
According to Figure 4.16 55% of the respondents said that they did not use protective gear because the employer had not provided for, 25% said that they were not aware that the protective gear was necessary. On the other hand 15% said they could not afford them while 5% thought they were not necessary.

4.4.6 Privacy

The study set to find out if female workers were provided with separate latrines from those of male worker colleagues. On a scale of yes/No the following responses were recorded.

variable	Frequency	percent	valid %	Cumulative %
Valid				
Yes	9	22.5	20	22.5
No	31	80	77.5	100
Total	40	100	100	

Figure 4.17



From figure 4.17 77.5% indicated that there were no separate latrines for female workers while only 22.5% indicated that their employers provided separate latrines.

4.4.7 Illness

This study sought to establish if the respondents had had an illness suspected to originate from their work. On a scale of yes/No the following responses were recorded

variable	Frequency	percent	valid %	Cumulative %
Valid				
Yes	26	65	65	65
No	14	35	35	100
Total	40	100	100	

Figure 4.18

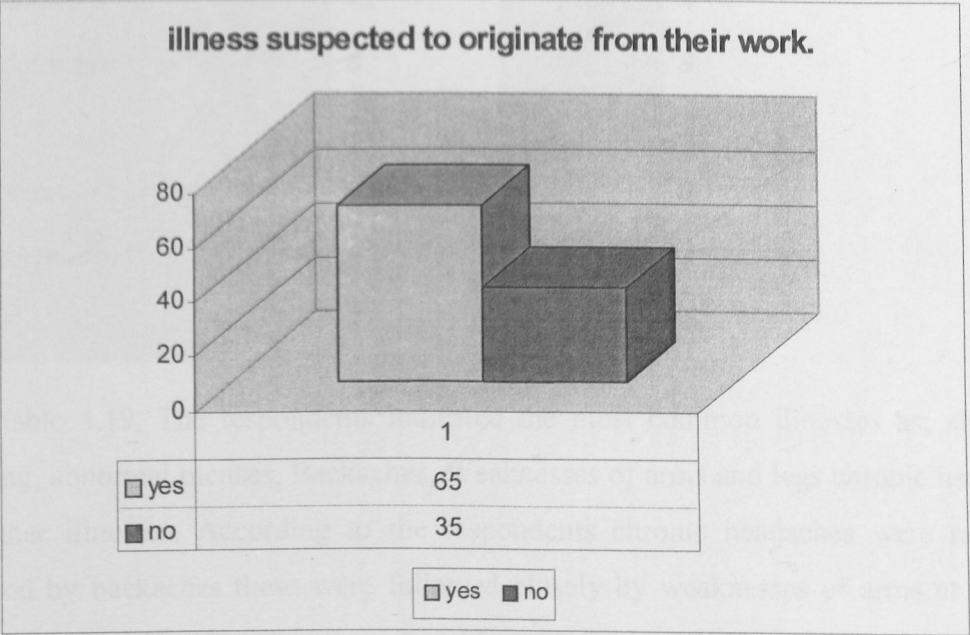


Figure 4.18 indicates that 65% of the respondents had an illness which was as a result of their work. 35% said that they had not contracted any illness due to their work

4.4.7 The nature of workplace

This study sought to establish the nature of workplace illnesses that were prevalent among the respondents. The respondents were given a list of workplace illnesses to indicate whether or not they had experienced such condition since they started working at the market. On a scale of frequencies the respondents gave the following responses.

Table 4.19

	Frequency	position	rank
Abnormal sweating	21	1	4
Abnormal menses	8	2	5
Backaches	37	3	2
Weaknesses of arms and legs	30	4	3
Chronic headaches	40	5	1
other	2	6	6

From table 4.19. The respondents indicated the most common illnesses as; abnormal sweating, abnormal menses, Backaches, Weaknesses of arms and legs chronic headaches and other illnesses. According to the respondents chronic headaches were ranked 1 followed by backaches these were followed closely by weaknesses of arms at 3 while abnormal sweating and menses were 4 and 5 respectively.

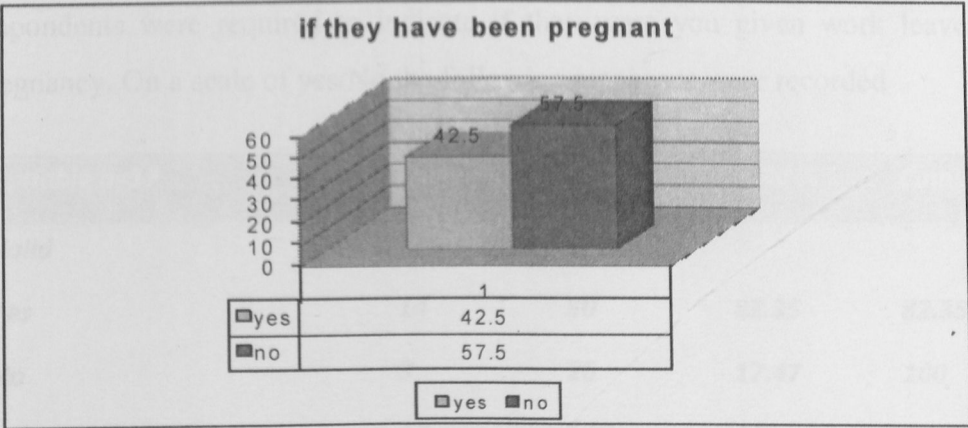
4.4.8 Pregnant workers

This study sought to establish the nature of workplace care that was accorded pregnant workers. Consequently the respondents were asked to indicate if they have ever been pregnant at work. On a scale of yes/No the following responses were recorded

Table 4.20.

Variable n=40	Frequency	percent	valid %	Cumulative %
Valid				
Yes	17	40	42.5.	42.5
No	23	60	57.5	100
Total	40	100	100	

Figure 4.21



From Figure 4.21 57.5% of the respondents said they had not been pregnant while at work while 42.5 % agreed that they had been pregnant.

Figure 4.22

4.4.9 Health problems due to work

Those who said yes were required to indicate if they experienced any health problems due to work. On a scale of yes/No the following responses were recorded

Variable n=17	Frequency	percent	valid %	Cumulative %
Valid				
Yes	16	90	94.11	94.11
No	1	10	5.88	100
Total	17	100	100	

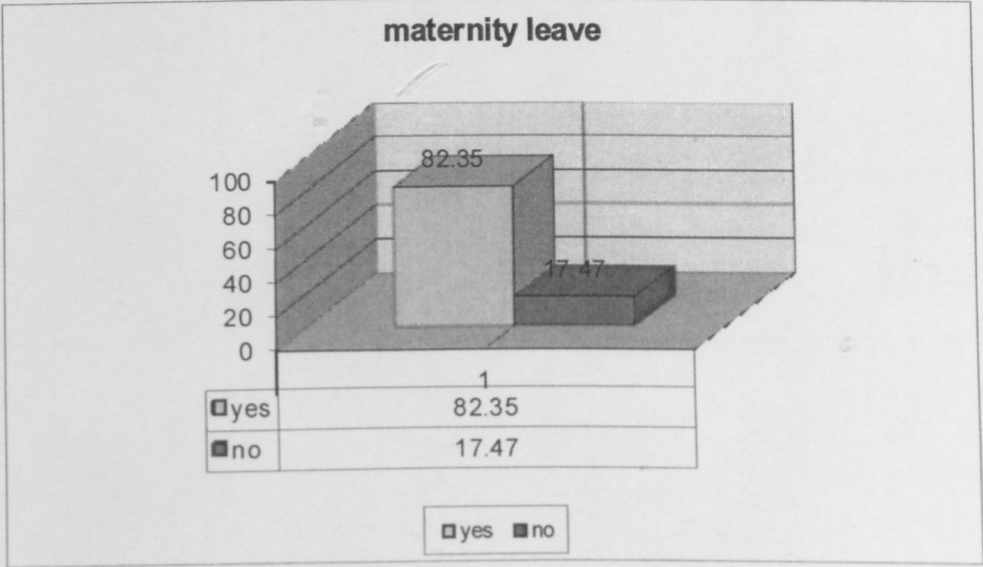
From table 4.22 above 90% of those who had been pregnant said they experienced some health problems of those who had been pregnant they said the problems as Back aches, fatigue, vomiting swelling of feet bleeding

4.4.10 adherence to labor laws

The study sought to establish the level of adherence to labor laws on maternity. The respondents were required to indicate if they were you given work leave during the pregnancy. On a scale of yes/No the following responses were recorded

Variable n=17	Frequency	percent	valid %	Cumulative %
Valid				
Yes	14	80	82.35	82.35
No	3	20	17.47	100
Total	17	100	100	

Figure 4.23



From Figure 4.23 82.5% of those who had been pregnant said they received some form of maternity leave. 17.5% said they had not received any maternity leave.

Consequently those who admitted to having gotten leave indicated the length of the period. How long was the leave?

Table 4.24

Variable n=14	Frequency	percent	valid %	Cumulative %
Valid				
60 days	4	30	28.57	28.57
30 days	8	60	57.14	85.71
Less 20 days	2	10	14.2	100
Total	14	100	100	

According to Table 4.24 above only 28.57% of the respondents obtained the legally stipulated 60 days maternity, a whopping 57.14% indicated they obtained only 30 days while 14.2% received 20 or less days.

CHAPTER FIVE

SUMMARY CONCLUSIONS AND RECOMMENDATIONS

5.0 INTRODUCTION

The aim of this research was to establish the effect of female labor rights in the informal sector of Nairobi Gikomba Market. The study sought to determine the extent to which female participation boosted growth in the informal sector, what benefits women working in informal Nairobi have and if female labor rights in informal Nairobi in line with ILO Standards above all the study sought to determine if women in the informal Nairobi were aware of their labor rights. This chapter contains a summary of the results as presented in the previous chapter and give conclusions and recommendations based on the findings of the study the chapter also provides the limitations of the study based on the analysis of the entire study and finally the study provides suggestions for further research.

5.1 SUMMARY

From the research findings the female workers at the Gikomba market were women who were also married mothers. This finding was important for the study since from the findings the women had also family responsibilities besides being in the informal sector employment. The study found out that the highest number of female workers at Gikomba was those aged between 26-30 years.

From the research findings the female workers at the Gikomba market had spent years of work with their current employer without being without promotion. According to the findings 90% of the respondents indicated that they had not been promoted since they started working with their current employers. The women had worked for a cumulative 147 years with a mean of 3.675 years without promotion. As far as how they related with their male workers/colleagues, the study established that actually they related very well a majority 77.5% said they related well while only 10% said they related badly. From this

figures it is apparent that there was a good relationship between the women and their male counterparts.

As far as harassment at work was concerned, the study found out that there indeed was harassment at the workplace. According to the study findings the women had experienced or experience harassment at work According to the study findings the Source of their harassment was their supervisors and their male and female colleagues. According to the study findings, the main source of harassment was from their supervisors followed by their male counterparts. Apparently there was from their female colleagues. The study findings established that as far as Reporting of grievances was concerned the majority of the women did not report their grievances

The according to the research findings the kind of harassment or violence they experienced included Sexual harassment, Assault from colleagues, Male workers undermining them, Abusive language from colleagues and Supervisor's harshness which was the most severe of all the forms of abuse. Consequently the study found out that the women's knowledge of their legal rights as provided in the employment act CAP 226 of the laws of Kenya was minimal. According to the study the majority of the respondents were not a ware of their legal rights as employees.

This study established that health and safety environment the female workers were exposed to was prone to occupational hazards. The kind of occupational hazards the women were exposed to included Dust, Smoke, Heat, Long working hours, Back pains, Burns, Falling objects, Bad dour, Chest pains, Bacterial infection, Accidents, Heavy languages, Deafening noise and Electric shocks. Electric shocks and long working hours were found to be the most serious occupational hazards

The study found out that the majority of the women had had a Physical accident at their place of work. According to the study findings the main causes of occupational accidents included Fire, Falling objects, Lack of oxygen, Falling, Heavy luggage and Electric shock. According to the research findings electric shock was ranked the highest cause followed by lack of oxygen and fire accidents. Subsequently the study found out the employers had not put in place Safety measures at the workplace. According to the study,

the women did not use protective gear while those who wore protective gear indicated that they used Masks, Gloves and Overcoats. According to the study findings the reasons why they did not use protective gears because the employer had not provided for and also because they were not aware that the protective gear was necessary. On the other hand some could not afford them

The study found out that the Privacy of the female workers was not taken seriously. According to the findings there were no separate latrines for female workers while only a few whose employers provided separate latrines. As far as Illness was concerned, the study found out that a majority of the respondents had an illness which was as a result of their work. According to the study the nature of workplace illnesses that were prevalent among the women include; abnormal sweating, abnormal menses, Backaches, Weaknesses of arms and legs chronic headaches and other illnesses. According to the study chronic headaches were the most common form of illness followed by backaches. This study established that a good number of women had been pregnant while at work. This study established that there were health related problems due to work. The most common problems were Back aches, fatigue, vomiting swelling of feet bleeding. Consequently the study found out that adherence to labor laws in the informal sector was minimal. As far as adherence to labor laws on maternity was concerned, the study found out that although the women were given work leave during the pregnancy, the leave they were granted was not what is legally stipulated in the labor laws of Kenya

5.2 CONCLUSIONS

The following conclusions are pertinent to the findings of this study.

From the study findings there is definitely lack of awareness of labor rights of women working in the informal sector of Gikomba. From the research findings the female workers at the Gikomba market had spent years of work with their current employer without being without promotion. According to the findings there it is apparent that there was a good relationship between the women and their male counterparts. However this has not deterred harassment the women experience at work. According to the study findings the women had experienced or experience harassment at work especially from

their supervisors and by their male counterparts. According to this study failure to report to relevant authorities is a sign that the women were not aware of their labor rights.

From the study findings, it can be concluded that the women's knowledge of their legal rights as provided in the employment act CAP 226 of the laws of Kenya was minimal. According to the study the majority of the respondents were not aware of their legal rights as employees. Based on the nature of their illnesses, the health and safety environment the female workers were exposed to was prone to occupational hazards. The kind of occupational hazards then led to the myriad health complaints by the female workers.

The study concludes Physical accidents at their place of work are due to the fact that the employers had not put in place Safety measures at the workplace. Consequently the women did not use protective gear because the employer had not provided for and also because they were not aware to demand for them. From the findings it can be concluded that Privacy of the female workers is not taken seriously. This study concludes that a good number of women who had been pregnant while at work were not taken care of according to the law. Consequently the study concludes that adherence to labor laws in the informal sector was minimal.

Based on the findings of the study the following research hypotheses are accepted by the findings

Labor rights in the informal sector of Gikomba Nairobi are gender based.

There is a significant relationship between gender and labor rights in the informal sector of Gikomba Nairobi.

Female labor rights in informal sector Gikomba Nairobi in line with ILO Standards are not in line with ILO standards

Women in the informal sector of Gikomba Nairobi are aware of their labor rights

5.3 RECOMMENDATIONS

The role of women in national development forms an integral component and hence cannot be overlooked. The informal sector industry environment in Kenya is very dynamic and hence the regulation of this industry is quite challenging. Despite the challenges there is a need therefore to adapt to constant challenge of the changing informal sector industry environment so as to ensure that labor laws are adhered to especially those that affect women. A solution lies in the design of enforceable labor laws which could ensure a well developed business environment.

5.4 LIMITATIONS OF THE STUDY

The main challenge faced was the administration of the questionnaires; most female employees of the informal sector were not comfortable with the questionnaires the argument being that they could breach confidentiality with their employers

5.5 RECOMMENDATIONS FOR FURTHER STUDY

The researcher conducted a case study of Gikomba only. She therefore recommends that for a more generalized conclusion to be made on the effect of female labor rights in the informal sector a study should be done or conducted for the industry in Kenya. Repeat surveys, will also offer a distinct advantage as they enable us to capture the net effect changes. By repeating the survey at a different time and asking fairly similar questions, it enables us to collect information that can easily be compared.

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Appendix II: Questionnaire

PART A - PROFILE

Name (Optional)

Place of Work-----

Your age -----

Marital status-----

PART B - ENVIRONMENT

1. What work do you normally do? (List in the order of frequency of work)

- i. _____
- ii. _____
- iii. _____

2. How long have you worked with the current employer?

3. Have you ever been promoted since you started working with the current employer?

☐ Yes

☐ No

4. How many hours do you work in a day?

5. How do you relate with the male workers/colleagues?

☐ Very well

☐ Well

☐ Badly

6. Have you experienced or do you experience harassment at work?

☐ Yes

☐ No

7. If yes, who is the source of the harassment?

☐ Supervisors

☐ Female colleagues

☐ Male colleagues

8. What kind of harassment/violence do you experience from the male colleagues? (Tick appropriately)

Cause	Rating			
Sexual harassment	1	2	3	4
Assault from colleagues	1	2	3	4
Male workers undermining your work	1	2	3	4
Abusive language from colleagues	1	2	3	4
Supervisor's harshness	1	2	3	4

9. Do you know your legal rights as an employee, as provided in the employment act CAP 22 ☐ Yes ☐ No

Part C

Health and Safety

1. What occupational risks do you encounter in your work?(Indicate in the order of frequency of occurrence)

- i. _____
- ii. _____
- iii. _____
- iv. _____
- v. _____

2. Have you had a physical accident at work?

☐

Yes

☐

No

3. If yes, what was the cause?

- i) _____
- ii) _____
- iii) _____
- iv) _____

4. a) Do you wear protective gear while working?

☐

Yes

☐

No

b) Which ones? Specify _____

5. If you don't, what is the reason?

☐

Not provided by contractor

☐

cannot afford

☐

Not necessary

☐

Not aware of them

6. Are you provided with separate latrines form those of male worker colleagues?

☐

Yes

☐

No

7. Have you had an illness you suspected to originate from your work?

☐

Yes

☐

No

8. If yes, please specify the nature of illness

9. Which of the following abnormal changes in your body have you experienced since you started working in the construction site?

- i. Abnormal sweating
- ii. Abnormal menstrual flow
- iii. Backaches
- iv. Weakness of arms or legs

- v. Chronic headaches
vi. Other specify
-

10. a) Have you ever been pregnant at work?

☐

Yes

☐

No

b) If yes did you experience any health problems due to your work?

☐

Yes

☐

No

c) Please specify the problem

11. a) Were you given work leave during the pregnancy?

☐

Yes

☐

No

b) How long was the leave?

OBSERVATION SCHEDULE

1. Is there a separate latrine for women?

☐ Yes

☐ No

2. How clean is it?

☐ Very clean

☐ satisfactory

☐ Dirty

☐ very dirty

3. To what extent are the women wearing protective gear?

☐ Non-wearing

☐ Majority wearing

☐ Average number wearing

☐ few wearing

4. How clean is the women's working environment?

☐ Very clean

☐ fairly clean

☐ Unclean

☐ very dirty

OBSERVATION SCHEDULE

5. Is there a separate latrine for women?

☐ Yes

☐ No

6. How clean is it?

☐ Very clean

☐ satisfactory

☐ Dirty

☐ very dirty

7. To what extent are the women wearing protective gear?

☐ Non-wearing

☐ Majority wearing

☐ Average number wearing

☐ few wearing

8. How clean is the women's working environment?

☐ Very clean

☐ fairly clean

☐ Unclean

☐ very dirty

