Effectiveness Of Minimum Wage Enforcement Mechanism In Kenya

Peter Dayan

Ministry of East African Community Affairs,
Labour and Social Protection, Kenya

Abstract: The history of minimum wages in Kenya dates back to 1932. Enforcement of Minimum wages in kenya has been low in the past years. The study aimed at assessing the effectiveness of minimum wage enforcement mechanism in Kenya. Kaitz ratio and the labour inspectorate staff employment ratio were used to assess the effectiveness of minimum wage enforcement mechanism in Kenya. As at 2014, the Kenyan labour inspectorate staff-employment ratio was 155,435 implying ineffectiveness of minimum wage enforcement mechanism. The study found an average kaitz ratio of 0.48 between 1996 and 2014, implying that minimum wage was on average 48 per cent of the average wage in the agricultural and general sectors. Therefore, there is need for the government to enhance effective enforcement of minimum wage regulations through digitization of labour inspection

Keywords: Minimum wages, enforcement, Kaitz ratio, labour inspectorate

I. INTRODUCTION

In Kenya, Minimum Wages (MWs) are determined through tripartite mechanism (Omolo, 2010). The tripartite mechanism is composed of representatives of workers, employers and the government. In this case, workers are represented by the Central Organization of Trade Unions (COTU) while employers are represented by the Federation of Kenya Employers (FKE). The government on the other hand is represented by the Ministry of Labour, Social Security and Services (MOLSS).

Section 44(5) of the Labour Institutions Act identifies economic and social parameters that should be taken into consideration while fixing MWs. These include employee's needs and their families, cost of living, general level of wages in the country, social security benefits and relative living standards of other social groups. Among the economic factors include productivity levels, desirability of attaining and maintaining high level of employment, poverty alleviation, and minimum subsistence level, need to encourage investment and employment creation (Republic of Kenya, 2007b).

Article 3 of the ILO Minimum Wage Fixing Convention, 1970 (No. 131) similarly identifies the parameters to be taken into consideration in determination of the level of MWs. They include the needs of workers and their families, general level of wages in the country, the cost of living, social security benefits and the relative living standards of other social groups. Economic factors include the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

Article 5 of the ILO Minimum Wage Fixing Convention, 1970 (No. 131) provides for the measures to ensure the effective application of provisions associated with MWs. The measures include protecting workers against victimization, giving publicity to MW provisions in languages understood by workers who need protection and sufficient penalties for infringement of provisions relating to MWs. The ILO MW Fixing Convention, 1970 (No. 131) also empowers the employers and workers' organizations to protect workers against abuse so as to ensure effective enforcement of MWs.

Article 23 of the United Nations (UN) Universal Declaration of Human Rights also identifies rights which are important to every worker. These include, working freely, free choice of employment, protection against unemployment and right to just and favorable conditions of work. Others include

equal pay for equal work without discrimination, just and favorable remuneration ensuring an existence worthy of human dignity and forming and joining trade unions for protection of worker's interests. These rights are in line with the parameters identified by the Labour Institutions Act and the ILO Minimum Wage Fixing Convention aimed at according workers bare minimum standards of living.

Determination of MWs in Kenya is also guided by Wage Guidelines (Republic of Kenya, 2005). The Wage Guidelines identifies same parameters, which include granting workers a just minimum standard of living, aligning revision of wages to productivity increases and ensuring consistency between changes in prices and MWs (Republic of Kenya, 2005).

Effectiveness of MW enforcement mechanism is measured in terms of the effectiveness of labour inspectorate services and the kaitz ratio. This is done by assessing the labour inspectorate staff-employment ratio (Omolo, 2010). In the ILO report of committee on employment (2006), a benchmark was developed to provide for an optimal ratio of the number of workers that should be served by one labour inspector. The benchmark is based on the state of the economy. The ILO (2006) benchmark is one labour inspector per 10,000 workers for industrialized and market economies, one inspector per 20,000 workers in transition economies, and one inspector per 40,000 workers in developing economies like Kenya. Figure 1.1 gives the trends of labour inspectorate staff and
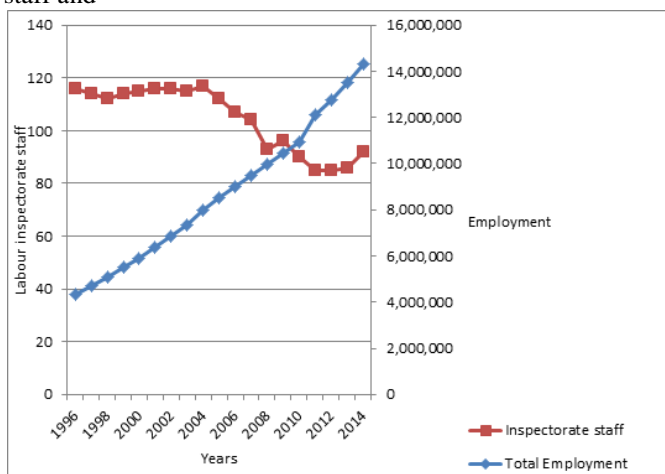
Source of data: Republic of Kenya, Economic Survey (various) and MOLSS

Figure 1.1: Labour Inspectorate staff and Employment Trends in Kenya

The data presented in Figure 1.1 shows that while total employment in the economy has been growing, the number of labour inspectorate staff has displayed a decreasing trend for most of the years.

II. RESEARCH OBJECTIVE

The objective of the study was to assess the effectiveness of Kenya's minimum wage enforcement mechanism.

III. DATA AND DATA ANALYSIS

The objective of the study seeks to assess the effectiveness of Kenya's minimum wage enforcement mechanism. Labour inspectorate staff data was collected from the Ministry of East African Affairs, labour and Social Protection while employment and minimum wages data was obtained from secondary sources such as economic surveys and statistical abstracts. The objective was addressed by analyzing the trends in the labour inspectorate staff-employment ratio using the recorded data for the period 1996 to 2014 and comparing with global benchmarks. The period 1996 is associated with much of the labour market reforms which were targeting labour market flexibility in Kenya. The study also analyzed the measures of importance and toughness of minimum wage using the kaitz ratio.

IV. FINDINGS AND DISCUSSIONS

A. EFFECTIVENESS OF MINIMUM WAGE ENFORCEMENT MECHANISM

The objective of this study was to assess the effectiveness of the minimum wage enforcement mechanism in Kenya. The first approach that was used to assess the effectiveness of minimum wage enforcement mechanism was the kaitz ratio which is a measure of the importance and toughness of minimum wage (Omolo, 2010). The higher the ratio, the better is the relative position of the worker's minimum wage. Another approach that was employed in this study was the use of labour inspectorate staff-employment ratio.

A summary of the measure of toughness and importance of minimum wages in Kenya is presented in Table 4.1.

Sector	Kaitz Ratio		
	1996	2014	Average(1996-2014)
Agricultural	0.59	0.32	0.33
General	0.70	0.73	0.62
Average	0.65	0.53	0.48

Source: Own calculations (2015)

Table 4.1: Toughness of the Minimum Wage across Sectors

The study found an average kaitz ratio of 0.48 between 1996 and 2014. From the results, minimum wage was on average, 48 per cent of the average wage in the agricultural and general sectors during the period 1996 to 2014. However across the two sectors, the kaitz ratio ranged between 0.33 and 0.62. The 0.33 Kaitz ratio computed for Kenya's agricultural sector implies that there is a considerable gap between earnings of the minimum wage workers and an average worker in the agricultural sector. Based on the average kaitz ratio found by the study, minimum wage enforcement mechanism in Kenya is weak. These results are consistent with those reported by Omolo (2010). The author argued that the toughness of minimum wages as measured by the kaitz ratio differed across sectors.

The second approach that was used to assess the effectiveness of minimum wage enforcement mechanism in Kenya was the labour-inspectorate staff employment ratio. Table 4.5 presents the trends of the labour inspectorate staff employment ratio for Kenya.

Year	Total Employment (Millions)	Inspectorate Staff(Nos)	Inspectorate Staff /Employment Ratio	Variance based on ILO report on employment
1996	4.314	116	37,284	- 2,716
1997	4.707	114	41,214	1,214
1998	5.100	112	45,506	5,506
1999	5.493	114	48,181	8,181
2000	5.912	115	51,755	11,755
2001	6.367	116	55,257	15,257
2002	6.852	116	59,197	19,197
2003	7.330	115	63,702	23,702
2004	7.999	117	68,363	28,363
2005	8.505	112	75,938	35,938
2006	8.993	107	84,050	44,050
2007	9.479	104	91,143	51,143
2008	9.946	93	106,948	66,948
2009	10.439	96	108,735	68,735
2010	10.958	90	121,752	81,752
2011	12.116	85	142,544	102,544
2012	12.782	85	150,376	110,376
2013	13.525	86	157,265	117,265
2014	14.3	92	155,435	115,435

Source of Data: Republic of Kenya. Economic Survey (various), MOLSS and own calculation (2015)

Table 4.2: Labour Inspectorate Staff-Employment Ratio

International standards for labour inspectorate staff employment ratio requires that one labour inspector attends to 10,000 employees for industrializes economies, an inspector per 20000 employees for transition economies and one labour inspector to 40,000 employees for developing economies. Kenya being a developing economy, based on the aforementioned standards, effectiveness of minimum wage enforcement mechanism was only achieved in 1996. During this period the labour inspectorate staff –employment ratio was 37,284. Comparing this figure with the ILO benchmark, there was a deficit of 2716 workers to be attended to by one labour inspector. For the remaining period that is 1997 to 2014, the labour inspectorate staff-employment ratio exceeded the International labour Organization benchmark. For instance as of 2014, Kenyan labour inspectorate staffs were overburdened by up to 289 per cent compared to international standards.

The results support the overburdened nature of Kenya's labour inspectorate services based on the ILO requirements. The results further confirm the weak nature of minimum wage enforcement mechanism in Kenya. Generally, based on the results of the study, minimum wage enforcement mechanism in Kenya is weak. These findings agree with Omolo (2010) which found that the state of minimum wage enforcement mechanism in Kenya is weak.

V. SUMMARY, CONCLUSIONS AND POLICY IMPLICATIONS

The objective of the study was to assess the effectiveness of minimum wage enforcement mechanism in Kenya. The study found that, in Kenya the toughness of minimum wage regulation varied across sector. The study found an average kaitz ratio of 0.48 between 1996 and 2014. The study found an average kaitz ratio of 0.48 between 1996 and 2014. However, across sectors, the kaitz ratio ranged between 0.33 and 0.62.

The average kaitz ratio of 0.48 manifested a close to an average position for minimum wage workers. The average kaitz ratio computed for Kenya's labour market implies that there is a gap between earnings of the minimum wage workers and an average worker. This reveals a weak minimum wage enforcement mechanism in Kenya.

The study also found that the labour inspectorate staff employment ratio worsened over time. The Kenyan labour inspectorate staff was overburdened by up to 289 per cent as at 2014 implying a weak enforcement of minimum wage regulations. Comparing this to ILO standard for the labour inspectorate staff employment ratio, it implies declining enforcement of minimum wage regulations. The policy implications of the study is that the government should ensure effective enforcement of minimum wage regulation through digitization of labour inspection.

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