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ORDER OF INJUNCTION, GENDER AND MARGINALIZED GROUPS' RULES AND HUMAN RESOURCE MANAGEMENT PRACTICES IN SELECTED STATE CORPORATIONS IN KENYA

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**ORDER OF INJUNCTION, GENDER, MARGINALIZED
GROUPS' RULES AND HUMAN RESOURCE MANAGEMENT
PRACTICES IN SELECTED STATE CORPORATIONS IN
KENYA**

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Abstract

Purpose: The main objective of the study was to examine the effect of order of injunction, gender and marginalized groups' rules on the HRM practices in state corporations in Kenya.

Methodology: The study adopted an explanatory research design.

Findings: Results revealed that the order of injunction and gender and marginalized groups rules affects the human resource practices in State Corporation in Kenya. The particular aspects of human resource practices that were affected included; human resource planning, recruitment and selection of employees, performance management, rewards and compensation management, training and development and employee participation.

Unique contribution to theory, practice and policy: The study findings will provide an insight into the effects of order of injunction and gender and marginalized groups' rules on HRM practices in the Kenyan public sector and thus serve as a platform for progressive reforms of the labour laws. This will enable the Legislative organs in the National Assembly, Senate and County Assemblies enact laws that will facilitate good practices in Human Resource departments. The Judiciary will also benefit in terms of development of jurisprudence in labour related cases and come up with policies that will give effect to the Constitution and labour laws without hindering Human Resource practice and economic development in the Country.

The study findings will also contribute to policy development in terms of restructuring human resource management in the public sector and labour laws. Further, Educational Institutions will also benefit especially when developing curriculum in the courses involving HRM, and in particular impart legal knowledge to the students studying HRM. The study will also add value to the existing body of knowledge on HRM practices and labour laws. Future researchers in this field will find this research quite resourceful as part of their literature review.

Keywords: *Order of Injunction, Gender and Marginalized Groups' Rules, HRM Practices and State Corporations*

INTRODUCTION Background

Human resource management is a strategic and coherent approach to the management of an organization's most valued asset; the people working there, who individually and collectively contribute to the achievement of its goals (Armstrong, 1999). Human resource management is a distinctive approach to employment management which seeks to obtain competitive advantage through the strategic deployment of highly skilled workforce using an array of cultural, structured and personnel techniques. Human resource management can also be regarded as a set of interrelated policies with an ideological and philosophical underpinning (Storey, 2009).

Human resource management practices are namely human resource planning, recruitment and selection, performance management, rewards and compensation management, training and development, career planning and employee participation amongst several other practices that vary from one organization to another (Chang & Huang, 2005). Human resource planning practices aim at securing and improving an organization's human resources to meet present and future needs (Cole, 2012). The principal purpose of recruitment activities is to attract sufficient and suitable potential employees to apply for vacancies in the organization while the principal purpose of selection activities by comparison, is to identify the most suitable applicants and persuade them to accept a position in the organization. Performance management is equally a crucial human resource management practice whereby organizations can monitor the development of desired employee attitudes and behaviours through the use of the appraisal mechanisms. Employee compensation and rewards practices affect motivation of employees whereby firms use performance-based compensation to provide rewards to employees for achieving specific goals and objectives (Cole, 2012).

According to the Kenyan Constitution (2010), Article 27 provides for the right to equality and freedom from discrimination. It states that women and men have the right to equal treatment, including the right to equal opportunities in political, economic, cultural and social spheres. Article 27(4) of the Constitution states 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, belief, culture, dress, language or birth. The Public Service Commission, in collaboration with HRMs, have come up with new guidelines and approaches to realizing the one third rule for women and ethnic groups, within which all the counties are given a set of seats of their own. Recruitment practices into top positions in the civil service now follow the marginalization and gender rule, so that the situation is improving step by step.

In Kenya the Constitution (2010) is the supreme law of the land, and any other law that is inconsistent with the Constitution is null and void. The Constitution spells out in various Articles the creation and protection of human rights. Some of the salient provisions that deal with HRM in general and protection of rights in particular are:-Article 19 that spells out the rights and the fundamentals freedoms for achieving the social, economic and cultural policies and to preserve the dignity of individuals', Article 23 that mandates and gives Courts authority to uphold and enforce the bill of rights, including granting of a declaration of rights, injunction, conservatory orders.

Again Article 30 prohibits slavery, servitude and forced labour in any labour related matters. With regard to labour relations, Article 41 provides that every person has right to fair labour practices, and that every worker has the right to fair remuneration, reasonable working conditions and right to participate in labour organizations. **Statement of the Problem**

The goal of HRM is to maximize employee's contributions in order to achieve optimal productivity and effectiveness, while simultaneously attaining individual and societal objectives (Dessler *et al.*, 2009). As change constantly occurs in the practice of HRM, human resource managers ought to examine the directions of the HR policies in relation to the recruitment and retention of employees (Dessler *et al.*, 2009). However, the HR manager is not in full control of the direction the HR policies takes since these policies are also influenced by external factors such as legislation (Ozutku & Ozturkler, 2009). In Kenya, the labour laws curb the freedom of HR functions to align staffing needs with business of public sector agency strategic needs. The labour law confines the HR manager to the role of enforcing laws rather than create business solutions. The HR manager appears to be a compliance officer who ensures that the organization complies with legislation and the achievement of organization goals becomes secondary. This study sought to examine the effect of order of injunction and gender and marginalized groups' rules on the HRM practices in state corporations in Kenya.

Objective of the Study

The general objective of this study was to examine the effect of order of injunction, gender and marginalized groups' rules on the HRM practices in state corporations in Kenya.

METHODOLOGY OF THE STUDY

This study employed an explanatory research design. The study population comprised of 200 court decisions in the Industrial Court relating to cases falling under the purview of Human Resource Management and these cases covered the period from 2013 to 2015. The rationale for this period is because the Constitution was promulgated in 2010. The new Constitution has provisions relating to fundamental rights, the 1/3 Gender Rules and labour laws that govern and affect Human Resource Management. The cases filed in the Industrial Court after the new Constitution came into force were not determined immediately, hence the need for the study to deal with decisions made from 2013 to 2015. This study used simple random sampling design to sample the state corporations whereby the human resource manager was selected to represent a state corporation. The sample size was 84 respondents. The study used a questionnaire to obtain primary data. The research collected data by use of questionnaires. The questionnaire was self administered. A pilot study was conducted in order to establish the validity and reliability of data collection instruments. Data collected from the questionnaires was prepared and converted from responses to quantitative format for ease in analysis using statistical package for social sciences (SPSS). The statistics generated was descriptive statistics and inferential statistics. The specific descriptive statistics included percentages and frequencies while the specific inferential statistics included a regression. A multiple linear regression model was used to test the significance of the influence of the

independent variables on the dependent variable. The results were presented in form of tables and charts.

RESULTS OF THE STUDY

Data analyzed was summarized in line with the research objective and appropriate frequency tables inserted for presentation.

Response rate

In this study, 84 questionnaires were administered. A total of 63 questionnaires were duly completed and returned. This represents a response rate of 75%. The Table 1 shows the response rate.

Table 1: Response Rate

Issued questionnaires	Returned Questionnaires	Response Rate
84	63	75%

Reliability

The cronbach alpha was calculated by subjecting the questionnaire to nine employees in a bid to measure the reliability of the questionnaire. The two variables were reliable since their cronbach alpha was above 0.7 which was used as a cut-off of reliability for the study.

Table 2: Reliability

<u>Variable</u>	<u>No of Items</u>	<u>Respondents</u>	<u>α=Alpha</u>	<u>Comment</u>
Order of Injunction	7	9	0.726	Reliable
Gender and marginalized groups' rules	7	9	0.891	Reliable
Human resource practices	6	9	0.977	Reliable

Demographics

The respondents were required to provide information about their gender, age, level of education and number of years in current position. Result showed that most of respondents (71.43%) were male while 28.57% of the respondents were female. Results also revealed that 47.62% of the respondents were aged between 41-50 years. Another 47.62% of the respondents were above 50 years while only 4.76% of the respondents were aged between 31-40 years. Further, the study established that most of the respondents (95.24%) of the respondents had attained education up to the master's degree level while only 4.76% of the respondents had attained education up to bachelor's degree level. Results also showed that most of the respondents (74.6%) had served as human resource managers for more than 6 years, 15.87% of the respondents had worked as human

resource managers for 4- 6 years while 9.52% of the respondents had worked as human resource managers for 1- 3 years.

Descriptive Statistics Order of Injunction

The study sought to determine the effect of order of injunction on the HRM practices in state corporations in Kenya. The respondents were asked to indicate the effect of order of injunction on the HRM practices in state corporations in their corporation. Results in Table 3 reveal that 85.7% of the respondents agreed that order of injunction affects human resource planning in their corporation and order of injunction affects recruitment and selection of employees in their corporation respectively. Results in Table 3 also showed that 66.6% of the respondents agreed that order of injunction affects performance management in their corporation while 66.7% of the respondents agreed that order of injunction affects rewards and compensation management in their corporation. Further, results in Table 3 revealed that 58.7% of the respondents agreed that order of injunction affects training and development in their corporation while 53.9% of the respondents agreed that order of injunction affects employee participation in their corporation.

On a five point scale, the average mean of the responses was 3.7 which means that majority of the respondents were agreeing to the statements in the questionnaire; however the answers were varied as shown by a standard deviation of 1.0. These findings agree with those of Kristantonis (2008) who posited that in Greece, since 1990 there have been significant changes towards independence of collective bargaining from the state and new legislation, which mainly aims at promoting flexibility in the labour market.

Table 3: Order of Injunction

Statement	Strongly Disagree	Disagree	Neutral	Agree	Strongly Agree	Mean	Std Dev
Order of injunction affects human resource planning in our corporation.	4.8%	4.8%	4.8%	41.3%	44.4%	4.2	1.1

Order of injunction affects recruitment and selection of employees in our corporation.	0.0%	4.80%	9.50%	46.00%	39.7%	4.2	0.8
Order of injunction affects performance management in our corporation.	0.0%	9.5%	23.8%	57.1%	9.5%	3.7	0.8
Order of injunction affects rewards and compensation management in our corporation.	4.8%	19.0%	9.5%	50.8%	15.9%	3.5	1.1
Order of injunction affects training and development in our corporation.	0.0%	9.5%	31.7%	39.7%	19.0%	3.7	0.9
Order of injunction affects career planning in our corporation.	0.0%	22.2%	23.8%	44.4%	9.5%	3.4	0.9
Order of injunction affects employee participation in our corporation.	4.8%	15.9%	33.3%	30.2%	15.9%	3.4	1.1
Average						3.7	1.0

Gender and Marginalized Groups

The study sought to assess the effect of gender and marginalized groups' rules on the HRM practices in state corporations in Kenya. The respondents were asked to indicate the effect of gender and marginalized groups' rules on the HRM practices in state corporations in their corporation. Results in Table 4 reveal that 60.3% of the respondents agreed that gender and marginalized groups rules affects human resource planning in their corporation while 80.9% of the respondents agreed that gender and marginalized groups rules affects recruitment and selection of employee in their corporation. Results in table 4 also revealed that 65.1% of the respondents agreed that gender and marginalized groups rules affects performance management in their corporation while 49.2% of the respondents agreed that gender and marginalized groups rules affects rewards and compensation management in their corporation while 74.6% of the respondents agreed that gender and marginalized groups rules affects training and development in their corporation. Results also showed that 76.2% of the respondents agreed that gender and marginalized groups rules affects career planning in their corporation while 41.2% of the respondents agreed that gender and marginalized groups rules affects employee participation in their corporation.

On a five point scale, the average mean of the responses was 3.7 which means that majority of the respondents were agreeing to the statements in the questionnaire; however the answers were varied as shown by a standard deviation of 1.1. These findings agree with the report by OECD (2010)

that much of the growth that has taken place in the OECD zone over the past ten-fifteen years is attributable to the increase in women's labour force participation.

Table 4: Gender and Marginalized Groups Rules Statement					Strongly	Disagr			
Neutr	Agree	Strongl	Me	Std					
			Disagree	ee	al	y Agree	an	Dev	
Gender and marginalized groups rules affects human resource planning in our corporation.			9.5%	23.8%	6.3%	14.3%	46.0%	3.6	1.5
Gender and marginalized groups rules affects recruitment and selection of employee in our corporation.			4.8%	14.3%	0.0%	33.3%	47.6%	4.0	1.2
Gender and marginalized groups rules affects performance management in our corporation.			4.8%	4.8%	25.4%	30.2%	34.9%	3.9	1.1
Gender and marginalized groups rules affects rewards and compensation management in our corporation.			0.0%	9.5%	41.3%	30.2%	19.0%	3.6	0.9
Gender and marginalized groups rules affects training and development in our corporation.			0.0%	9.5%	15.9%	60.3%	14.3%	3.8	0.8
Gender and marginalized groups rules affects career planning in our corporation.			0.0%	19.0%	4.8%	50.8%	25.4%	3.8	1.0
Gender and marginalized groups rules affects employee participation in our corporation.			9.5%	15.9%	33.3%	20.6%	20.6%	3.3	1.2
Average								3.7	1.1

Human Resource Practices

The study sought to find out whether judicial decisions affect human resource practices in state corporations. Results in Table 5 reveal that 58.7% of the respondents indicated that judicial decisions do not affect human resource practices in state corporations while 41.3% of the respondents agreed that judicial decisions affect human resource practices in state corporations.

Table 5: Effect of Judicial Decisions on HRM Practices

Response	Frequency	Percent
No	37	58.7
Yes	26	41.3
Total	63	100

The respondents who agreed that judicial decisions affect human resource practices in state corporations were asked to indicate the extent to which the industrial court decisions affect HRM practices in their state corporation.

Results in Table 6 reveal that most of the respondents (54%) indicated that judicial decisions did not have any effect on human resource planning practice while 25.4% of the respondents indicated that judicial decisions affected human resource planning practice to some extent while 15.9% of the respondents indicated that judicial decisions affected human resource planning practice to a great extent. Results in table 6 also showed that most of the respondents (54%) indicated that judicial decisions did not have any effect on recruitment and selection of employees practice while 25.4% of the respondents indicated that judicial decisions affected recruitment and selection of employees practice to some extent while 9.5% of the respondents indicated that judicial decisions affected recruitment and selection of employees practice to a great extent. Results in Table 6 also showed that most of the respondents (54%) indicated that judicial decisions did not have any effect on performance management practice while 36.5% of the respondents indicated that judicial decisions affected performance management practice to some extent. Further, results in Table 6 reveal that most of the respondents (54%) indicated that judicial decisions did not have any effect on rewards and compensation management practice while 28.6% of the respondents indicated that judicial decisions affected rewards and compensation management practice to some extent while 6.3% of the respondents indicated that judicial decisions affected rewards and compensation management practice to a great extent.

Results also revealed that most of the respondents (54%) indicated that judicial decisions did not have any effect on training and development practice while 17.5% of the respondents indicated that judicial decisions affected rewards and compensation management practice to a little extent while 4.8% of the respondents indicated that judicial decisions affected rewards and compensation management practice to a great extent. Finally, results in Table 6 show that most of the respondents (54%) indicated that judicial decisions did not have any effect on career planning and employee participation practice while 20.6% of the respondents indicated that judicial decisions affected career planning and employee participation practice to some extent while 4.8% of the respondents indicated that judicial decisions affected career planning and employee participation practice to a great extent.

These results agree with those of Purcell (2010) who purported that HRM practices are not influenced by judicial decisions. This was due to the fact that HRM does not focus, as does industrial relations, on collective bargaining, which is a central institution in industrial relations.

Purcell (2010) asserted that HRM practices such as promotion are based on performance and outcomes.

Table 6: Extent of Effect of Judicial Decisions on HRM Practices

Statement	No extent	Little Extent	Neutra l	Some Extent	Great Extent
Human resource planning practice.	54.0%	0.0%	4.8%	25.4%	15.9%
Recruitment and selection of employees practice.	54.0%	0.0%	11.1%	25.4%	9.5%
Performance management practice.	54.0%	0.0%	9.5%	36.5%	0.0%
Rewards and compensation management practice.	54.0%	4.8%	6.3%	28.6%	6.3%
Training and development practice.	54.0%	17.5%	23.8%	0.0%	4.8%
Career planning and employee participation practice. Average	54.0%	0.0%	20.6%	20.6%	4.8%

Inferential Statistics

Inferential analysis was conducted to generate model of fitness, and analysis of the variance and regression coefficients.

Regression Analysis

The results presented in Table 7 present the fitness of model used of the regression model in explaining the study phenomena. Order of injunction and gender and marginalized groups rules were found to be satisfactory variables in explaining human resource practices in state corporations. This is supported by coefficient of determination also known as the R square of 40.1%. This means that order of injunction and gender and marginalized groups rules explain 40.1% of the variations in the dependent variable which is human resource practices in state corporations. This results further means that the model applied to link the relationship of the variables was satisfactory.

Table 7: Model Fitness

Indicator	Coefficient
R	0.633
R Square	0.401
Adjusted R Square	0.381

Table 8 provides the results on the analysis of the variance (ANOVA). The results indicate that the overall model was statistically significant. Further, the results imply that order of injunction and

gender and marginalized groups rules are good predictors of human resource practices in state corporations. This was supported by an F statistic of 20.089 and the reported p value (0.000) which was less than the conventional probability of 0.05 significance level.

Table 8: Analysis of Variance

Indicator	Sum of Squares	df	Mean Square	F	Sig.
Regression	17.389	2	8.695	20.089	0.000
Residual	25.968	60	0.433		
Total	43.357	62			

Regression of coefficients results are as presented in table 9. Results show that there is a positive and significant relationship between order of injunction and gender and marginalized groups rules and human resource practices in state corporations as supported by beta coefficients of 0.299 and 0.600 respectively. These results show that an increase in the unit change of order of injunction would result to better human resource practices in state corporations by 0.299 units. These results also show that an increase in the unit change of gender and marginalized groups rules would result to better human resource practices in state corporations by 0.600 units. These findings are supported by the Kenyan legal set up. There are indeed, Judicial decisions regarding HRM which are based on the provisions of the laws

Table 9: Regression of Coefficients

Variable	B	Std. Error	t	Sig.
(Constant)	0.498	0.48	1.037	0.304
Order of Injunction	0.299	0.093	3.225	0.002
Gender and Marginalized Groups	0.600	0.143	4.187	0.000

The optimal multiple linear regression model is as shown below.

Human Resource Practices in State Corporations = .498 + 0.299 *Order of Injunction* + 0.600 *Gender and Marginalized Groups Rules*

CONCLUSIONS

Based on the findings the study also concluded that order of injunction affects the human resource practices in State Corporation in Kenya. Order of injunction particularly affected the human resource planning, performance management, rewards and compensation management, training and development and employee participation of the state corporations. Further, the study concluded that gender and marginalized groups' rules affects the HRM practices in state corporations in Kenya. Specifically, gender and marginalized groups' rules affects the human resource planning, recruitment and selection of employee, the rewards and compensation management, career planning and employee participation of the state corporations.

RECOMMENDATIONS

Based on the findings of the study, the study recommended that Human resource managers in state corporations ought to take the initiative to access the information about laws that govern human resource practices in Kenya. The study also recommended that human resource managers in Kenya should adhere to the laws governing human resource management practices. This would help to reduce the number of cases related to these practices in the labour regulation courts. This would also assist to ensure equality and fairness in employment. Further, the study recommended that the members of the public should take the initiative to understand the laws that govern human resource practices. This would assist to eliminate unfairness and injustices that oftenly occur in employment.

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