

Decent Work for All

Hivos is a Dutch development organization that seeks new solutions to persistent global issues. Hivos in collaboration with its partners is implementing a five year (2016-2020) Women@Work Campaign. The Women@Work Campaign anchors most of Hivos' substantive work on corporate accountability. Founded in 2012, the Women@Work Campaign aims to contribute to decent work for women who earn their living through global production chains, most notably: flowers, fruits and vegetables, grown for the export market. In Eastern Africa, the campaign involves partners in Kenya, Uganda, Tanzania Ethiopia, and Rwanda, enlisting both local and international partnerships (CSOs; Businesses; Governments, certification bodies, trade unions, the media and citizens), working together to improve workplace conditions for women. In 2016, the campaign was extended to Southern Africa focusing on Malawi, Zimbabwe and Zambia. This policy brief is based on the findings and recommendations of an in-depth assessment of the status of workers' representation by the trade union movement in Malawi with specific focus on the horticulture including the chilli sector.

workers representation in Malawi was conducted with the ultimate objective of, realising workers' rights and welfare through the promotion of decent work for all workers, effective trade unions and proper collaboration amongst key stakeholders. Although the study focused on women, informal workers and the horticultural /agriculture sector, the best practices and recommendations highlighted in this brief are relevant for realising decent work for all workers.

According to the International Labour Organisation (ILO)¹ Decent Work involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organise and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men. The decent work agenda is increasingly recognised as a critical instrument for creating work opportunities and enhancing good working conditions. It provides a clear framework and strategy for promoting labour issues in the country. Decent work is premised on four pillars:



Women@Work Campaign

About Decent Work

This policy brief evaluates the extent to which the decent work agenda is being realised in Malawi. In 2019 a study on

¹ <https://www.ilo.org/global/topics/decent-work/lang--en/index.htm>, accessed on 1 November 2020

- i. Rights at work: this focuses on ensuring that labour rights are enjoyed by all
- ii. Employment: this focuses on enhancing employment opportunities for vulnerable groups
- iii. Social protection: this focuses on enhancing and expanding the coverage of social protection
- iv. Social dialogue: this focuses on enhancing social dialogue as a tool for effectively addressing employment and labour issues

Decent work is therefore achieved when:

- ❖ Workers are paid a fair income
- ❖ A secure form of employment as well as fair and safe working conditions are guaranteed
- ❖ There are equal opportunities and treatment for all
- ❖ There is social protection for the workers and their families
- ❖ There are prospects for personal development and social integration
- ❖ Workers are free to express their concerns and to organise

The Policy and Legal Framework

In line with the ILO's decent work country programme, Malawi formulated the National Employment and Labour Policy (NELP) (2014-2019) which is relevant for all workers. The NELP provides a framework for the promotion of productive and decent employment; compliance with labour standards by employers, investors and workers among others. The policy's main

objectives are, among others, to improve and strengthen the existing labour administrative system for promotion of decent work, worker participation in decisions and an efficient industrial conflict resolution mechanism in the labour market. The policy has twelve policy priority action areas which include labour administration and labour standards as well as the agricultural sector and employment.

Further, Malawi has a comprehensive legal framework to facilitate the decent work agenda. Malawi has ratified 32 ILO Conventions including 8 fundamental Conventions that cover fundamental principles and rights at work². The Malawi Constitution guarantees essential labour and employment rights including; the right to work and to pursue a livelihood³; the right to fair and safe labour practices, the right to form and join trade unions and the right to fair wages⁴; the freedom of association⁵.

Other pieces of legislation regulate various essential aspects of employment and labour. Firstly, the Employment Act (2000) reinforces and regulates minimum standards of employment. Secondly, the Labour Relations Act (1996) protects and promotes collective bargaining, trade unionism and the freedom of association generally. Thirdly, the Workers Compensation Act (2000) regulates compensation for injuries or diseases or death incurred in the course of employment. Fourthly, the Occupational Safety, Health and Welfare Act (1997) regulates the safety and health of workers in the workplace. Finally, the Pension Act (2011) provides for mandatory pension for

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https://www.ilo.org/dyn/normlex/en/f?p=1000:11200:0::NO:11200:P11200_COUNTRY_ID:103101, accessed on 1 November, 2020

³ Section 29

⁴ Section 31

⁵ Section 32

all workers except a few exempted categories which categories are covered under the Employment amendment Act (2010). Malawi therefore has a broad legal framework to facilitate all aspects of decent work.

Realising Decent Work for All

The study found that, most workers are not familiar with the concept of decent work. The majority have a narrow conception of decent work equating it to good wages. Consequently, other than fighting for increased wages, there is no pressure on unions to negotiate for the other equally important aspects of decent work such as working conditions, occupational safety, social dialogue and social security with the result that these other aspects are being neglected.

To the extent that unions negotiate/fight for decent work aspects, most unions seek to achieve this by engaging their employers and key stakeholders like Ministry of Labour through tripartite social dialogue. Those that have Collective Bargaining Agreements (CBAs) with their employers are trying to achieve decent work by negotiating the implementation of such CBAs. In other instances, unions use industrial action. However, most workers are of the view that trade unions do not have proper mechanisms for facilitating decent work despite the above efforts.

Key Achievements in Realising Decent Work

Common gains in decent work include:

- Initiation of the decent work country programme

- The existence of CBAs that incorporate the decent work agenda or, its aspects
- Improvement of national minimum wage and the lobby for sector wide minimum wage
- Pension and labour law reforms
- Increased union density and the successful pursuit of court cases for workers
- The reduction of strikes and improved wages in some sectors
- The existence of policy papers that contain sustainable development goals, child labour and gender issues among others

Key Challenges to The Realisation of Decent Work

- Trade unions do not fully understand the decent work concept and therefore are not fighting to achieve all aspects of decent work beyond fair wages
- Trade unions lack the capacity to facilitate decent work and their structures are not coordinated for this purpose
- Lack of strong leadership and capacity of union leaders to effectively negotiate decent work especially since election to positions of leadership does not depend on educational or professional qualifications
- Poor implementation of collective bargaining agreements incorporating decent work elements.
- Poor mobilisation, resistance and lack of support from employers
- Poor minimum employment standards
- Lack of support from the Ministry of Labour
- Lack of relevant partnerships and collaborations

- Malawi's poor economic situation

Best Practices

- The existence of Collective Bargaining Agreements. Trade unions that have CBAs and regularly negotiate their implementation seem to be progressive and effective in achieving the decent work agenda
- Having internal and external collaborations and partnerships
- Infrastructural and financial independence. Unions whose secretariats are not housed on employer premises and which do not receive any financial support from employers seem more empowered than their counterparts
- Visits to private employers' premises such as estates to engage employers and mobilise members

Policy Recommendations

1. Trade unions, employers' organisations and government must undertake a general awareness campaign on decent work to acquaint workers and employers with all aspects of decent work.
2. Each trade union must endeavour to have a collective bargaining agreement incorporating all key elements of decent work with their employers and demand implementation regularly.
3. Trade unions and employers must always balance their expectations to achieve win-win situations and improve collaboration.
4. Trade unions must build wider and more relevant partnerships and collaborations, locally and internationally including partnerships

with educational institutions to enhance capacity building

5. Trade unions and all stakeholders must invest in capacity building for leaders and ordinary union members in various labour related issues like: leadership, negotiation skills, membership mobilization, financial mobilization, public relations, collective bargaining and dispute resolution.
6. Trade unions should introduce minimum qualifications for those aspiring for union leadership positions and recruit appropriate staff competent to run the secretariat and advise leadership.
7. Government must ensure that national programmes mainstream the decent work agenda with a special focus on decent work for the informal sector
8. Government should set good minimum standards and improve enforcement of such standards.
9. Ministry of Labour, MCTU⁶ and MUFIS⁷ must drive reform of the legal framework so that the informal sector is recognised for purposes of collective bargaining with relevant entities such as City Councils.
10. Ministry of Labour and MCTU must ensure that Labour laws and policies are simplified and made accessible to union leaders and ordinary members alike in all commonly spoken languages to enhance understanding of labour relations and rights of workers.
11. MCTU and other unions should document and share best practices with affiliate members for lesson learning.

⁶ Malawi Congress of Trade Unions

⁷ Malawi Union for the Informal Sector

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