THE LEGAL MANDATE OF LABOR UNIONS TOWARDS
THE IMPROVEMENT AND PROTECTION OF
WORKERS' CONDITIONS IN UGANDA:
AN EXAMINATION

BY
NINSIIMA JACKLINE
LLB/35956/113/DU

A DESSERTATION SUBMITTED TO THE SCHOOL OF LAW IN PARTIAL
FULFILLMENT OF THE REQUIREMENT FOR THE AWARD OF A DEGREE OF
BACHELOR OF LAWS OF KAMPALA
INTERNATIONAL UNIVERSITY

JUNE, 2015
DECLARATION

I Ninsiima Jackline, declare that this is my first hand work. It has never been presented or formed by any one at any other institution or university. However other authors' works have been used as references but with their names identified. I therefore declare responsibly accountable for any work herein enclosed.

Hence, it is hereby presented in partial fulfillment of the requirement of the Degree of Bachelor of Laws of Kampala International University.

Signature: ...........................................
Student  NINSIIMA  JACKLINE

Date: 24/06/2015 ...........................................
This Research Report "The Examination of the Legal Mandate of Labour Unions towards the protection and improvement of worker's conditions in Uganda" is submitted to Kampala International University with the approval of my supervisor.

Supervisor: 

Signature: 

Date: 26/6/2015
DEDICATION

I dedicate this book to all my family members; Mr. Tibihika Apollo’s family with whom without, my vision would remain in vain, my relatives, friends and all my classmates whose support made the production of this thesis a success.
ACKNOWLEDGEMENT

I am greatly indebted to my family; Mr. Tibiibika Apollo’s family’s tireless support in all endeavors in my life, your love and support is the cornerstone of my success.

I am extremely grateful to my supervisor; Counsel Nabiryo Lydia whose tireless effort led to the production of quality work.

I also acknowledge the effort, support, pieces of advice and any role played by my classmates to the completion of this book.

BE BLESSED IN ALL YOUR ENDEAVOURS.
ABSTRACT

A labour union is an organization by or for the workers to pursue collective workplace goals, wages, benefits, work rules and powers. They are intended to represent the collective interests of workers in negotiation with employers over wages, hours of work and working conditions.

This study analyzed the adequacy of the legal mandate of labour unions in Uganda and found it adequate but only lacks political will in its implementation and enforcement due to the circumstances under which it was passed.

The research also examined the rights and privileges of labour unions. The most hindrance to the enjoyment of these rights and privileges has always been the government's negative attitude towards them as this study explains in the context.

The major problems facing labour unions in Uganda are; casualization of labour which leaves workers at the employers mercy since their terms and conditions of work are not expressly prescribed, unemployment, insufficient and inadequate facilitated labour officers.

Due to the decentralization of labour matters, there is need for the establishment of sufficient, well-funded and staffed branches of industrial courts in Uganda, urgency for the grant of the minimum wage that is appropriate to the services rendered to eliminate oppression at workplace and ensure the enforcement of all privileges and rights granted to the workers.
LIST OF STATUTES

1995 Constitution of the Republic of Uganda

The Labour Unions Act 2006

The Labour Disputes (Arbitration and Settlement) Act 2006

The Public Services (Negotiating, Consultative and Arbitration Settlement Machine) Act, 2008

C11 Right of Association (Agriculture) Convention, 1921

C12 Workmen's Compensation (Agriculture) Convention, 1921

Workmen's Compensation (Accidents) Convention, 1925

C17

C19 Equality of Treatment (Accident Compensation) Convention, 1925

C26 Minimum Wage-Fixing Machinery Convention, 1928

C29 Forced Labour Convention, 1930

C45 Underground Work (Women) Convention, 1935

C50 Recruiting of Indigenous Workers Convention, 1936

C64 Contracts of Employment (Indigenous Workers) Convention, 1939

C65 Penal Sanctions (Indigenous Workers) Convention, 1939

C81 Labour Inspection Convention, 1947

C86 Contracts of Employment (Indigenous Workers) Convention, 1947

C87 Freedom of Association and Protection of the Right to Organize Convention 1948

C94 Labour Clauses (Public Contracts) Convention, 1949

C95 Protection of Wages Convention, 1949
C98 Right to Organize and Collective Bargaining Convention, 1949
C100 Equal Remuneration Convention, 1951
C105 Abolition of Forced Labour Convention, 1957
C111 Discrimination (Employment and Occupation) Convention, 1958
C122 Employment Policy Convention, 1964
C123 Minimum Age (Underground Work) Convention, 1965
C124 Medical Examination of Young Persons (Underground Work) Convention, 1965
C138 Minimum Age (Underground Work) Convention, 1958
C143 Migrant Workers (Supplementary Provisions) Convention, 1975
C144 Tripartite Consultation (International Labour Standards Convention, 1976
C154 Collective Bargaining Convention, 1981
C158 Termination of Employment Convention, 1982
C182 Worst Forms of Child Labour Convention, 199
<table>
<thead>
<tr>
<th>ACRONYMS</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>NOTU</td>
<td>National organization Of Trade Unions</td>
</tr>
<tr>
<td>COFTU</td>
<td>Central organization Of Free Trade Unions</td>
</tr>
<tr>
<td>AGOA</td>
<td>African Growth And Opportunity Act</td>
</tr>
<tr>
<td>ATML</td>
<td>African Textile Mills Limited</td>
</tr>
<tr>
<td>CHOGM</td>
<td>Common Wealth Of Government Meeting</td>
</tr>
<tr>
<td>EATUC</td>
<td>East African Trade Union Council</td>
</tr>
<tr>
<td>FUE</td>
<td>Federation Of Uganda Employers</td>
</tr>
<tr>
<td>ICESCR</td>
<td>International Covenant On Economic And Cultural Rights</td>
</tr>
<tr>
<td>ICFTU</td>
<td>International Confederation Of Free Trade Unions</td>
</tr>
<tr>
<td>ICFTU-AFRO</td>
<td>International Confederation Of Free Trade Unions African Regional organization</td>
</tr>
<tr>
<td>ILO</td>
<td>International Labour Organization</td>
</tr>
<tr>
<td>ITG &amp; LWF</td>
<td>International Textile, Garment And Leather Workers Federation</td>
</tr>
<tr>
<td>JLOS</td>
<td>Justice, Law And Order Sector</td>
</tr>
<tr>
<td>MOFRED</td>
<td>Ministry Of Finance, Planning And Economic Development</td>
</tr>
<tr>
<td>NGO</td>
<td>Non-Governmental Organization</td>
</tr>
<tr>
<td>NRM</td>
<td>National Resistance Movement</td>
</tr>
<tr>
<td>PEAP</td>
<td>Poverty Eradication Action Plan</td>
</tr>
<tr>
<td>SAPS</td>
<td>Structural Adjustment Programs</td>
</tr>
<tr>
<td>UDHR</td>
<td>Universal Declaration Of Human Rights</td>
</tr>
<tr>
<td>UGAWU</td>
<td>Uganda Government And Allied Women's Union</td>
</tr>
<tr>
<td>UHRC</td>
<td>Uganda Human Rights Commission</td>
</tr>
</tbody>
</table>
UMWU  Uganda Medical Women’s Union
UN     United Nations
UNATU  Uganda Teachers Union
UNMU   Uganda Nurses And Midwives Union
UPEU   Uganda Public Employees Union
TABLE OF CONTENTS

DECLARATION ........................................................................................................................................... i
APPROVAL .................................................................................................................................................. ii
DEDICATION ............................................................................................................................................. iii
ACKNOWLEDGEMENT ........................................................................................................................... iv
ABSTRACT .................................................................................................................................................. v
LIST OF STATUTES .................................................................................................................................. vi
ACRONYMS ............................................................................................................................................. viii

CHAPTER ONE ........................................................................................................................................1
INTRODUCTION ....................................................................................................................................... 1
Background of the Study ............................................................................................................................... 2
Statement of the problem ............................................................................................................................... 4
Purpose of the study ...................................................................................................................................... 5
Objectives of the study .................................................................................................................................. 5
Research Questions ....................................................................................................................................... 5
Scope of the study ......................................................................................................................................... 6
Significance of the study ............................................................................................................................... 6
Methodology ................................................................................................................................................. 6
Literature Review ......................................................................................................................................... 7
CHAPTER TWO ................................................................................................................................. 12
The Legal Framework of Labour Unions ............................................................................................ 12
The 1995 Constitution of the Republic of Uganda ................................................................................ 12
The Labour Union Act, 2006 ................................................................................................................ 13
The Labour Disputes (Arbitration and Settlement) Act, 2006 ............................................................ 14
The Public Service (Negotiating, Consultative and Disputes Settlement) Act, 2008 ......................... 15
ILO Conventions .................................................................................................................................. 16

CHAPTER THREE ............................................................................................................................. 18
Rights and Immunities of Labour Unions ............................................................................................ 18
Union recognition and collective bargaining ....................................................................................... 19
Right to strike ........................................................................................................................................... 20
No dissolution and suspension of organization by administrative authority ..................................... 21
Right to establish federations and confederations and to affiliate internationally .............................. 21

CHAPTER FOUR .................................................................................................................................. 22
Problems faced with labour unions .................................................................................................... 22
Non-recognition of labour unions ....................................................................................................... 22
Casualization of labour ....................................................................................................................... 23
The government’s attitude towards labour rights and its economic policies; ..................................... 24
Unemployment ....................................................................................................................................... 25
CHAPTER ONE

INTRODUCTION

A labor union is an organization established by or for the workers to pursue collective workplace goals, wages, benefits, work rules and powers. It is further defined as an organization created by employees, the principle objective of which are under its constitution, the regulation of the relations between the employees and employers or between employees for the purpose of representing the rights and interests of employees. Accordingly it means any organization of employees created by employees for the purpose of representing the rights and interests of employees and includes a registered labor unions in existence at the commencement of the labor unions Act 2006. Hence it is intended to represent the collective interests of workers in negotiation with employers over wages, hours of work and conditions. Labor Unions arose as a result of the civil war as a response to the modern industrial economy that changed worker’s conditions reducing individual’s power to influence conditions of work. Hence they were adopted as a basic backbone of collective bargaining to determine the price of labor services, the terms and conditions of employment.

Labor unions in Uganda have the legal backup under Article 29(1) (c) and 40 and are majorly governed by the Labor Union Act and also have the international back up from the international instruments that have been ratified and domesticated in Uganda.

---

1 Labour Disputes [Arbitration, Settlement] Act Cap 224
2 Labor Unions Act 2006
3 The 1995 Constitution of the Republic of Uganda
4 No. 5 of 2006
5 International Labour Conventions
In Uganda, there are over 40 Labor Unions and two national Centre’s: National Organization of Trade Unions and COFTU whose vision is to build a strong, self-oriented, self-sustaining labour organization through the main agent of viable affiliated unions and to achieve a dynamic employment environment, facilitating the enactment and surveillance of accepted labour standards and employment policies for sustainable human and trade unions. Hence these are the most representative, mandated to sensitize members on the current industrial relations in the country, reach out to members in the informal sector, sensitize the public about child labour and its evils, sexual harassment in the workplace, improvement of occupational health, to mention but a few.

Hence in pursuit of these mandate, statutory bodies are established through which sound industrial relations are being pursued and these are; Labour Advisory Board, The Medical Arbitration Board, Occupational Safety and Health Board and the industrial court. These draw membership from the Ministry of Gender Labour and Social Development, NOTU, COFTU and FUE.

**Background of the Study**

During the 18th Century, workers faced long working hours, getting little wages, without rest days, had no annual leaves and public holidays. With the industrial change in economy brought about by the industrial revolution which reduced individuals' power to influence conditions of work, the formation of Labor Unions were inevitable which met heavy resistance from both the employers and the government. This led to a strike in Chicago in America in 1864 that left over 6 million workers killed in fight for an increase in their salaries and wages hence the labor date that is celebrated world over in the memory of the bloodshed.
However in 1940, the labour party which came into power in Britain enacted the Development and Welfare Act and its government encouraged the formation of Trade Unions in its affected colonies and promised to finance the economic projects and its colonies if wages would be embodied in their laws, of which Uganda preferred the formation of workers' committees that were selected by employers hence served the interests of the employers and not of employees.

In Uganda, the development of Trade Unions is traced back in 1930's with the formation of Uganda African Motor Drivers Association founded by James Kintu and Ignatius K. Musaazi in 1938. This was due to the agitation for political and economic independence, external influence and economic depression of 1950s, which gave the fertile grounds for the normal functioning of Trade Union. In 1958, Federation of Uganda Employees was established as a national representative body for protecting employees, interests in the public and private sector or companies, multi-national companies, training institutions, medical service providers, sectorial associations and NGOs and its activities are guided by a series of strategic plans. Currently there are over 40 Labor Unions with two national centres; Confederation of Free Trade Unions which is the breakaway of 4 Trade Unions from the original 21 Trade Unions affiliates and the National Organization of Trade Unions which was established in 1973 during the reign of Idi Amin Dada and it currently has 20 affiliates.

The main objectives of Trade Unions are to promote and defend the rights and interests of its members, fight for the deliberate regulations of the conditions of employment for the betterment of members, act as a tool for workers to escape exploitation and violation of their basic human

\[\text{(UAMDA)}\]
dignity and improve their job security and ensure the provision of benefits and services that their members are entitled like financial support to members in distress, vacations, training and skill development, recreational and wellness of center facilities and pension scheme and other services and benefits to mention but a few.

However, the reports show that child labor still exists and the public is unaware of its evils, non-provision of the Trade Union benefits and services to their members, ignorance of Labor Union recognition of Labor Unions due to privatization and casualization of labor in Uganda.

Statement of the problem

The current labour laws were passed due to pressure from America on Ugandan government courtesy of African Growth and Opportunity Act in order to conform to the ratified and core ILO Conventions, by giving Uganda an ultimatum up to March 2006 to pass all the labour laws otherwise she would be struck off AGOA. Hence this leaves some doubt as to the adequacy in their implementation and content since the government was coerced into passing them.

After the dismissal of workers by the Apparel Tri-Star Ltd a private company in Uganda that was employing over 2000 workers that were represented by UTGL and AWU which it refused to recognize claiming that the unions should certify that they represented at least 51% of the workers at Trister. As a result workers agitated for union recognition and bargaining rights and filed a complaint with ILO and ILO Committee which requested the government to take steps and amend the trade union act to bring it into conformity with freedom of association principles. However, there are reports about hostile attitude of government towards the expansion and enforcement of rights of workers as it considers them to be hindrances to investment and economic growth which are key interests to its neoliberal policies, casualization of labor which
subjects such labourers to summary dismissal not able to benefit from any of the normal conditions of employment and rights guaranteed by law, ignorance about the existence and operation of labor unions in Uganda, and the violation of principles of freedom of association, collective bargaining, discrimination in employment and child labour have been reported as prevalent.

**Purpose of the study**

The purpose of the study was mainly to examine the legal mandate of labor unions towards the improvement and protection of workers' conditions in Uganda.

**Objectives of the study**

The study aimed at researching and achieving the following objectives:

- Analyzing the adequacy of the legal framework of labor unions in Uganda.
- Identifying the rights and privileges of labor unions in Uganda.
- Examine the challenges facing labor unions in Uganda.

**Research Questions**

The research questions of this study are:

1. Whether the existing law is adequate to protect and improve workers' conditions in Uganda?
2. What are the rights and privileges of labour unions in Uganda?
3. What are the challenges facing labour unions in Uganda?

---

*ILO SUPERVISORY REPORT on the standards embodied in the fundamental conventions, application of the law vis the standards*
Scope of the study
The study analyzed the legal framework of Labor Unions in Uganda, identified the rights, immunities and privileges of Labor Unions in regard to the legal framework, cited out some of the services and benefits effected by the Unions to their members, identified the challenges facing labour union in the implementation of their obligations and their achievements.

Significance of the study
This study contributes a lot to the existing knowledge about the existence, operation and legal framework of labor unions in Uganda since there is limited literature about them which has caused limited textbooks for reference about labor unions in Uganda for scholars in various libraries.

It enabled me acquire knowledge about the international foundation that triggered the need for labor unions and how relevant they are in Uganda, understand the rights of workers under them, rights, immunities and privileges of labor unions.

Methodology
The study relied on several sources, both primary and secondary; the study relied on government publications related to labor unions, labor union and employees' federation reports, journals. This is because they contain or are wealth with first hand in-depth information on particular points and helped me compile quality work.
Literature Review

Literature on Labor Unions has attracted limited attention with few authorities involved in Uganda as it has its major relevant sources from the International Labor Organizations standards that are applicable in Uganda. However, Juma Okuku\(^8\) assessed the involvement of Trade Unions in the political and economic reforms under the NRM government and observed that SAPS in general have brought the formula of casual laborers and that most employers in Uganda would wish to have only casual laborers as they work without terms and conditions expressly laid in a contract and can be dismissed any time and are unable to demand for their benefits which is still the reality up the present.

Ralph Gonzales' thesis whose work provides one of the most detailed macro-analysis of the development of trade unions, their political role and hurdles created by the law to workers' struggles in the colonial period and over the first decades of independence raises questions related to the use of law as the state to control and incorporate Trade Unions within state structures particularly under the reign of Obote I was not embodied under the laws of Uganda. ILO's freedom of association and collective bargaining, general survey of 1994, explains the meaning and practice of the right to establish organizations, rights to organize and manage them, the right to strike, right to collective bargaining and need to protection against acts of anti-union discrimination and for the promotion of collective bargaining in Uganda. Labor unions operation has earned them overwhelming protection and back up from its law of the land hence being relevant and their rules and regulations have been embedded in our laws.

\(^8\)(2005)
H. R. Schillinger argues that though weak and undermined by an on-going informalization of African economies on one hand and the consequences of neo-liberal globalization on the other, unions, “remain a political force to be reckoned with, as they continue to be one of the Uganda few societal organizations in Africa with a sizeable constituency countrywide structure and the potential for mobilizing members on social and political matters”. This is relevant as the unions in Uganda with NOTU as a lead has been influential in the labour law legislation incorporation law governing the effective regulation of workers condition at workplace and formulation of policies. Ramazamy suggests that exploring social movement unionism specifically in alliance with the new global social movement as a new feature of global anti-hegemonic solidarity against globalization may be a great assistance to workers and the trade union.

Baligasima Yazidi9 on his analysis of Trade Union services and benefits in Uganda (in Africa) concluded that workers are dissatisfied with the nature of services and benefits provided by the Unions, workers have no input in making the collective bargaining agreements which makes most of them to be ignorant of their content and recommended the need for Union leadership to improve on service and benefits given to members and come up with measures to attract and remove other casualization of labour. Dr. John – Jean Barya also concluded that there are other major problems facing Ugandan workers and trade union and these are non-recognition of unions following unemployment and the casualization of labour which are still in existence in Uganda.

---

9 Trade Union Services and Benefits in Africa
ILO’s freedom of association and collective bargaining, General Survey, which is a basic treatise on freedom of association and collective bargaining looks at freedom of association for workers and trade union rights as part and parcel of traditional and constitutional civil liberties and is basically an expose of convention 87 and convention 98. This book explains the meaning and practice of the right to establish organization, the right to organize and manage them freely, right to strike, right to collective bargaining and the need for protection against acts of anti-union discrimination and the promotion of collective bargaining. Hence the same themes have attracted attention in a special issue of the international labour review by various writers and such as Nicolas Valticas who argues that international labour standards and human rights are universal and although progress had been on these issues one can foresee another difficult period as a result of the advent of as yet unbridled globalization and economic liberalism.

Literature from elsewhere in Africa for examples in South Africa the condition under which trade unions operate vary significantly; Zimbabwe, workers enjoy basic labour and organizational rights whereas in others like South Africa they are exposed to suppression and intimidation by employers and the state. And in most of these countries ‘far too many workers in the small business sector are currently not unionized’ yet they present an enormous potential for membership growth and the poor conditions of employment in large parts of the informal sector can only be improved through a combination of protective legislation and unionization ‘while the further challenge of unions is to pay more attention to the needs of women workers and young workers.

---

10 ILO 1994
11 Muneku et al 25
The impact of globalization on trade unions and labour rights has been extensively commented on, for instance Ramazamy has identified major challenges responsible for the negative effects of globalization on the labour movement in general and trade unions in particular:

- The challenge arising out of the recognition of production and the development of new management strategies of capitalization which include toyotism, flexible path and the employment of contract labour that have negatively impacted the independence and the autonomy of labour movement.

- The internationalization of capital has led to the fragmentation of the labour movement due to the rise of the informal sector; the creation of flexible labour force, the sub-contracting of employment and the use of female labour which have all “introduced serious division within the labour movement”.

It has undermined public sector employment due to the reduction of the public expenditure, deregulation and the removal of the welfare related functions. The loss of jobs has also led to the reduction in union membership.

In Uganda however, although privatization and retrenchment of the public employees reduced the numbers of workers unionization in the public sector due to the changes in law. This is because between 1968-1993 all public service employees except group employees were prohibited from joining trade unions. It is only in 1993 when a new law allowed unionization in the public service succumbed to the dictates of the deregulation of markets and thus withdrawing

---

12 Ramazamy, 2005 at 20

13 Barya, 2001

14 Public Service [Negotiating Machinery] Amendment Act 1968, 1986; Public Service Act 18/1996 s.2
certain welfare provisions to labour, it has remained an active partner on the side of global capital and its coercive attributes have been strengthened.\textsuperscript{15}

\textsuperscript{15}Barya 2005
CHAPTER TWO

THE LEGAL FRAME WORK OF LABOUR UNION

The Labour Unions have the legal backup from the 1995 Constitution of the Republic of Uganda. The Labour Unions Act, 2006, Labour Disputes (Arbitration & Settlement) Act 2006, and the Public services (Negotiating, Consultative and Dispute Settlement Machine) Act, 2008. They are also bound by the principles and the right to organize and collective bargaining embedded under the international labour conventions that are ratified and domesticated in Uganda. Therefore this chapter comprises the examination of this legal frame work in Uganda.

The 1995 Constitution of the Republic of Uganda

The 1995 constitution of the Republic of Uganda is the law of the land that binds all the matters in the country and any law that contravenes it is illegal. Hence Article 38 provides for the right to participate in the affairs of government, individually or through representatives in accordance with the law to influence the policies of government through civic organizations

Article 29(1) as provides for the right to associate, form trade unions, political or civil organizations. This right is further emphasized under Article 40(3) which provides that every worker has a right to:

a) Form or join a trade union of his/her choice for the promotion and protection of his her economic and social interests.

b) Collective bargaining and representation.
c) Ensure that every worker is accorded rest and reasonable working hours and periods of holidays with pay as well as enumeration for public holidays.

Hence as provided under Article 40, workers have a right to work under satisfactory and healthy conditions, equal treatment and payment without discrimination, accorded rest and reasonable working days and periods of holidays with pay as well as remuneration for public holidays. This however guarantees the labour unions a right to recognition and collective bargaining and autonomous administration as they have a right to carry on any lawful occupation, trade or business\textsuperscript{16}.

Currently, in Uganda, labour unions are represented by five representatives directly elected by delegates' from all labour unions and the two national centres. The splintering of these unions has weakened them further and they hardly receive support from government despite all these provisions in the letter of the law.

The Labour Union Act, 2006

This spells out regulatory framework for relations between labour unions and employers or employees organizations or between employees. This is in line with the constitution of the Republic of Uganda and the ILO Convention 87 on Freedom of Association. For stance it removed the satisfaction of 51 percent of eligible employees for a union to be recognized, and the requirement of 1000 members for a union to be registered and permitting unionization of all workers save members of the Uganda Peoples Defense Force. This lays out the functions, immunities, responsibilities and the right of recognition of labour unions by prohibiting employers from interfering with the formation and administration of any registered organization.

Hence this regulates the establishment, registration and management of labour unions and provide for other related matters.

However these unions depend on memberships at the local and branch level and at present, they are poorly organized, even after the passage of this law, the majority of the informal workers are not able to join or set up trade union branches due to pressure from their employers\(^\text{17}\).

**The Labour Disputes (Arbitration and Settlement) Act, 2006**

This was established with the purpose of establishing a framework for the prevention and settlement of Labor disputes in Uganda, after the ILO committee on freedom of association requested to amend the Trade Unions Act to bring it into conformity with the freedom of association principles. This aims at simplifying and reducing the statutory procedures of settling disputes and encourages the use of voluntary conciliation and arbitration and the observance of collective bargaining agreements.

This empowers a labour officer to perform some duties charged with the minister. For stance resolving any case or dispute reported to him or her within 14 days through negotiation and reconciliation\(^\text{18}\) failure of which takes it to the industrial court for arbitration. However, labour officers are few in numbers countrywide and are unable to appropriately cover all the areas under their jurisdiction. For instance in December 2010, they were 112 districts with about 36 labour

\(^{17}\)2003, 6th Annual Report, Kampala, Uganda Human Rights Commission P 129.

\(^{18}\) S.4 Labour Dispute (Arbitration and Settlement) Act 2006
officers who were not well facilitated both in terms of equipment and support staff\textsuperscript{19}. This curtailed their movement and ability to carry out their activities thus non-performance in the eyes of both employers and employees.

Section 7 establishes an industrial court which is mandated to arbitrate on labour disputes referred to it and adjudicate upon questions of law and fact arising from references to it by any other law which it should dispose of without delay. However this court is not required to apply the arbitration and conciliation Act, 2006\textsuperscript{20} and this makes it inappropriate which affects the principles of justice. A case in point is UFAWU and UHAWU whose case was finalized in 2010 after four yearsof filing it due to the inadequate labour officers and in operation of the industrial court.

S.25 empowers a minister to establish a board of inquiry if he considers it expedient to inquire and report to him any matter affecting the working conditions of an employee or group of employees affecting the relations between employees and employers and relating to the terms of employment which shall compose of a single person or a number of persons.

\textbf{The Public Service (Negotiating, Consultative and Disputes Settlement Machine) Act, 2008}

This establishes a public service negotiating, consultative and disputes settlement machinery and provides for the creation of consultative committees in each department or other unit or sub-

\textsuperscript{19} Baseline Survey on the Implementation of New Labour Laws in Uganda. Case study of Kampala,Wakiso,Jinja,Gulu and Mbarara Districts,(Executed by the Uganda Labour Resource Centre,ULRC),May 2011
\textsuperscript{20} S.9 Labour Dispute(Arbitration and Settlement) Act 2006
division of government or in each local government to hear and offer conciliation services in labour disputes and act as a forum involving public offices and other employees in public service in policy issues that affect them\(^{21}\).

S.4 also establishes the public service negotiating consultative council to conduct and facilitate consultation, dialogue and negotiation between the government, an autonomous body or a local government as an employee and the public service, labour union on the terms and conditions of service with members and unions; act as a forum for discussion, consulting and negotiations on issues that have implication on monetary expenditure; and act as a forum for involving offices and other employers in a public service in a process of formulating policies in the public service\(^{22}\).

S.5 provides for the creation of a public service Tribunal to hear and arbitrate any labour dispute referred to it by the minister; make awards or recommendation to the government on labour disputes referred to it, secure harmonious labour relations in the public service and their awards bind parties to the dispute.

ILO Conventions

Art. IV of Public Service Convention 1978 guarantees public employees adequate protection against acts of anti-union in respect of their enjoyment especially to the acts precluding them from joining any union of their choice. Article 1 and Article 2 guarantee workers or the employees'organization adequate protection against acts of interference by each other or each

---


other's agents or members in their establishment, functioning or administration. This entitles the labour unions independent administration of their activities and any intervention from any anti-unionism activities. Therefore they have a right to draw up their constitution and rules, elect their representatives in full freedom, and organize their administration and formulate their programs.

The legal mandate of labour unions in Uganda has its stronghold foundation under its constitution which is the supreme law of the land, Acts of Parliament and other international conventions that are ratified and domesticated in Uganda, thus it is efficiently adequate. There are only inadequate and insufficient facilitated labour institutions which are established to implement and enforce these provisions to the required working standards.

23 Right to Organize and Collective Bargaining Convention 1949
CHAPTER THREE

RIGHTS AND IMMUNITIES OF LABOUR UNIONS

This chapter spells out the rights and immunities enjoyed by labour unions in Uganda as are enshrined under the laws of Uganda and these are discussed below as researched.

Autonomous administration of labour unions and their activities.

Article 3 of Convention, 1948, guarantees the autonomous and free functioning of workers’ and employers’ organization by recognizing the basic rights namely:

- To draw up their constitution and rules
- Elect their representatives in full freedom
- Organize their administration and activities
- Formulate their programs.

Hence labour unions are free to elect their leaders, hold annual general meetings\(^{25}\) obtain funds without ministerial approval and generally run their affairs and Art. 5 of Convention 151 guarantees complete independence from public authorities and labour unions are government adequate protection against any acts of interference by each other or each other’s agents or members in their establishment, functioning or administration. [Article 5\(^{26}\),Art, 2(1)\(^{27}\) and Article 8 (1)\(^{28}\) of provides Labour Unions right to freely subject to no limitations other than those prescribed by the law as a necessity in a democratic society in the interest of national security or public order.

---

\(^{25}\) Section 33[1]a Labour Union Act 2006
\(^{26}\) Convention 151
\(^{27}\) convention 98
\(^{28}\) ICESCR
However the registrar retains the powers to interdict officers for misappropriation or management of funds or persistent failure to comply with directors properly given by the Registrar\textsuperscript{29} and to inspect books of accounts or to call for detailed accounts\textsuperscript{30} and to approve a list of auditors to be used by the unions\textsuperscript{31}.

**Union recognition and collective bargaining**

Section 4(1)(d)\textsuperscript{32} provides that every employer shall be bound to recognize, for the purposes of collective bargaining and in relation to all matters affecting the relationship between the employer and his/her employees any registered labour unions to which and of his/her employees have previously subscribed their membership where the employees fall within the scope of membership after labour union. S 24 (2)\textsuperscript{33} further provides that such employer is bound to recognize such organization under bargain in good faith. The ILO supervision bodies particularly the committee on freedom of Association and the committee on experts insisted that trade unions can only freely operate where they are guaranteed personal security including freedom from torture, disappearance, arbitrary arrest and detention, death and exile\textsuperscript{34} and also this includes the right to freedom of opinion and expression assembly and protection of trade union premises and property. The labour unions therefore have a right to collective bargaining.

\textsuperscript{29}5.23 Labuor Unions Act 2006
\textsuperscript{30}5.51-53 Labour Unions Act 2006
\textsuperscript{31}5.48 Labour Unions Act 2006
\textsuperscript{32}Labour Unions Act 2006
\textsuperscript{33}Labour Unions Act s2006
\textsuperscript{34}ILO 1994 Para 28-33
through the use of measures appropriate to national conditions to promote and encourage the regulatory terms and conditions of employment.\textsuperscript{35}

However, labour unions are still denied recognition. For instance on leader is quoted some of the words commonly used by employees to intimidate workers from joining labour unions as follows “You first become an employee before you become a member of the union, if you think you give preference to the union, we shall withdraw and leave you to the union”\textsuperscript{36}

Right to strike

Generally it is lawful for any labour union to take part in a strike or to act in contemplation or furtherance of an industrial action in connection with the labour dispute, picketing for the purposes of industrial action and a strike with in certain limits in essential services without a certificate of the minister as under the law. This in regard to the principle spelt under Art. 8, (1) (d) that guarantees the labour unions a right to strike to be exercised in conformity with the laws of the country.\textsuperscript{37}

This has been given effect under the Labour Unions Act\textsuperscript{38}, and the Labour Disputes (Arbitration and Settlement) Act 2006\textsuperscript{39}. Hence it is lawful to take part in a strike or act in furtherance of an industrial action in connection with the labour dispute to and precisely for the purposes of the industrial action and strike

However in an event to exercise such a right, workers are always mistreated and dehumanized under the disguise of maintaining peace and order.

\textsuperscript{35} ILO 1994 Para 28-33
\textsuperscript{36}Baseline Survey on the Implementation of New Labour Laws in Uganda: case study of Kampala, Wakiso, Jinja, Gulu and Mbarara Districts. (Executed by the Uganda Labour Resource Centre, ULRC), May 2011
\textsuperscript{37} ICESCR
\textsuperscript{38} Labour Unions Act 2006
\textsuperscript{39} S5[28-32]
No dissolution and suspension of organization by administrative authority

Every established labour is entitled to carry out its activities, functioning and administration with full independence and operate on equal footing.

This is provided for Art. 4 and Article 6 of the Convention 87 that guarantees workers’ suspended by administrative authority and this also applies to federation a confederation. This dissolution and suspension of Labour Union constitute extreme forms or interference by the authorities in the activities of organizations and should therefore be accompanied by all the necessary guarantees. Hence this guarantees labour unions a right to carry out their activities in full independence and on an equal footing.

Right to establish federations and confederations and to affiliate internationally

Art. 5 of convention 87 provide that any organization, federation or confederation shall have a right to affiliate with international organizations of workers and employees. Hence the workers’ organizations have a right to federations and confederations of their own choosing. Section 9 also provides for voluntary affiliation to any registered federation of labour unions, implying that the affiliation to NOTU or COFTU is no longer mandatory but voluntary. Hence these are also free to affiliate to national or international labour unions. For stance NOTU is currently affiliated to the East African Trade Union Confederation, International Confederation and Free Trade Union, OATUU (organization of African Trade Union Unity and ICFTU – Afro. This is also embedded under Art 8(1) (b) of ICESCR of the right to labour unions to establish national federations or confederations and the right of the latter to form or join international trade union organizations.
CHAPTER FOUR

PROBLEMS FACED WITH LABOUR UNIONS

Non-recognition of labour unions

With the existence of this law, many of the neoliberal companies have blatantly refused to acknowledge the existence of labour unions on top of systematically eradicating any attempts to create them in the companies like construction companies, hotels etc. Due to secrecy regarding the details of investment agreement the government and investors, there is little information on the terms and conditions for labour especially in the flower and hotel industries, partly owing to difficulties in organizing union locals and no mechanisms to inform workers about their rights and still there is little knowledge of labour laws in general.\textsuperscript{40} This exists both in the private and public sectors.

However, Barya, in his analysis of labour law recommends that before resorting to court action, the labour unions, FUE, the Ministry responsible for labour should encourage and persuade employers to see the advantages of unionization and urge the voluntary recognition of trade unions\textsuperscript{41}. Hence most workers have refused to recognize unions which are due to high role of unemployment leading to casualization of labour which denies them the right to join unions.

\textsuperscript{40}William Katuuka, Tuesday April 5,2011

\textsuperscript{41}Dr.Jean Barya,April,2007
Casualization of labour

The introduction of casual laborers presents a major challenge in the formation of sustainable and operational trade unions. The Employment Act\textsuperscript{42} defines a casual laborer as that person who works on a daily or hourly basis when payment of wages is due to the completion of each day’s work. Hence it is labour that is employed irregularly, from time to time as and when work is available and work with no binding contract that contains the terms and conditions of work. This labour is presumed to be without any rights apart from the payment of wages at the end of the day. Hence Okuku\textsuperscript{43}, observed three major incidents of casualization.

- No written contracts or appointment letters
- There is also denial of the right to join trade unions.
- There is an increase in working hours.

In 2008, the number of registered flower investors in Uganda was estimated at 21% while those in hotels were estimated to be slightly more than 50% and majority of these employing workers informally which leaves them outside the legislative regulation regarding minimum wages\textsuperscript{44}. Besides in purpose is to deny them their benefits ranging from gratuity, pension, form or join Trade Unions and its motive is cut wages or costs. Therefore this is rampant in hotels, the construction industry, many manufacturing industries and most workplaces of investors.

\textsuperscript{42} Section 2 The Employment Act Cap 2006
\textsuperscript{43} Okuku c 2005:42,Wambede,2000
\textsuperscript{44} Uganda Human Rights Commission,[2003],6\textsuperscript{th} Annual Report Kampala ,UHRC,P.129
The government’s attitude towards labour rights and its economic policies;

This is portrayed by the minimal allocation of funds by the Ministry of Finance to the Ministry responsible for labour. According to the 2003 report, Uganda Human Rights Commission concluded that “successive governments have sacrificed the rights of workers in favor of foreign investments and the liberal economy” in the hotel and textile industries, the report “noted workers are helpless because the government supports investors irrespective of the way they treat the workers”\textsuperscript{45}. This is further revealed in survey of 2014 wherein Ezra Kanyama from the artists union and Basra Stephen from the horticulture union were arrested for demanding for introduction of the minimum wage. In order to conform to the basic principles of the international instruments of the right to organize and collective bargaining which Uganda has ratified and domesticated, Uganda passed these laws as a result of a threat on her from America that she would be stuck out from the membership of NGOA and was given an ultimatum by March 2006. This was due to the government’s position that such laws were populist laws which were a hindrance to investment and economic growth that are key interests of its neoliberal policies. Hence these laws are always seen by government as a letter to achievement of objectives thus a basis for inadequate resources allocation for enforcement of the laws. Therefore a consorted struggle by trade unions, sympathetic force in parliament, civil society and

\textsuperscript{45} UGANDA Human Rights Commission, [2003], 6\textsuperscript{th} Annual Report Kampala, UHRC, P. 129
foreign union federations and trade secretariats will be necessary in order to ensure enforcement\textsuperscript{46}.

**Unemployment**

According to government statistics, both unemployment and under employment are major problems in Ugandan economy with open unemployment affecting 3.2% of the labour force while underemployment affects 65% of all adults in Uganda. Hence those employed and wish to retain their jobs at any cost and therefore employers resisting labour unions face a weak labour force that is under pressure from the unemployed and under employed which has promoted and encouraged a resort to casual labour that is cheap, can be hired and fired at will as there are no written contract’s and are denied the right to join labour union.

\textsuperscript{46}Barya 2007 Pg. 30
CHAPTER FIVE

CONCLUSION

Currently the conditions of workers in Uganda have revamped back to the then conditions of 1900s, where workers faced long working hours with an inappropriate pay, oppression in form of harassment and without pay, and the workers’ conditions that was characterized with casual labour that comprised of child labour. Though we witness the existence of the labour laws in Uganda with all the required mandate, they have proved to be toothless barking dogs since no much is effected following the current imprisonment of a teacher in Kabale while exercising and demonstrating against the low salary payments.

Generally, the labour unions’ legal mandate is adequate but there is lack of positive political will in its implementation and enforcement. The government is biased against this mandate that its implementation and enforcement is unfavorable to the investors. Hence governments’ continual violation of the letter of the law that is in favour of labour unions thus remaining failures in all their endeavors. Therefore the main problems facing labour unions in Uganda are lack of political will and casualization of labour.

RECOMMENDATIONS

Labour unions and the liberal employers should ensure that labour standards are upheld since an efficient, well remunerated, and protected labour force yield better results than is a right less and casualised labour force.
Due to decentralization of labour matters, this calls for the appointment of sufficient labour officers who are adequately facilitated and need for the establishment of industrial courts in all the districts in Uganda that is strengthened, funded and sufficiently staffed. Currently, there are very few labour officers in Uganda who are multi-tasked and inadequately facilitated which has led to inadequate delivery of services. Thus the labour unions' failure in their operation.

Labour unions should put in place strategies of recruiting the casual labourers especially the permanent or long serving type so that they are accorded protection under the law. Besides, government should consider urgency of the need of the minimum wage to all the workers in Uganda to ensure appropriateness in the services rendered and the payments effected thus curing the oppression of the labour force.
Bibliography

The 1995 Constitution of The Republic of Uganda

The Labour Union Act 2006

The Public Service (Negotiating, Consultative and Dispute Settlement Machine) Act

The International Labour Convention


Application of the Law Vis the Standards 2011.

Juma Okuku, Trade Unions in the Political and Economic Reforms under the NRM Government

Baligasima Yazidi, Analysis of Trade Unions Services and Benefits in Africa.

Dr. John Jean Barya, 2002, Monitoring Progress towards Democratic Governance in Uganda.

Country Report, CBR/UNECA


William Katuuka New Vision, Tuesday April, 5 2011.


ILO FAO 5th Revised Edition 2006:68


Rapid Assessment Survey on Children Working in the Telecommunications Industry in Uganda April 2008