

**THE LEGAL PROTECTION OF CASUAL WORKERS IN REGARD TO
ENFORCEMENT OF EMPLOYMENT RIGHTS IN UGANDA:
A CASE STUDY OF KAMPALA DISTRICT.**

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**KAMPALA,
SCHOOL OF LAW.**

By:

**BUSINGE HASSIM
1153-01024-01621**

JUNE 2019

DECLARATION

This Research report is my original work and has not been presented for a degree award in any other university.

BUSINGE HASSIM

REG. NO: 1153-01024-01621

Signed 

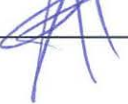
Date 26/06/2019

APPROVAL

This research has been submitted with our approval as the University supervisor.

Name of Supervisor

Madam: Wahab Amina

Signed  _____

Date  _____

DEDICATION

I dedicate this research report to my parents, brother and sisters for their moral and physical support throughout my education level.

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I would like to gratefully acknowledge the contribution of several people who have helped me in completing this dissertation. First and foremost, praise to God, whose blessings and guidance has helped me through the completion of this study. Second, the sincere appreciation and dedication of thanks go to my supervisor Madam Wahab Amina , who gave me guidance and encouragement to the completion of this research. Without his commitment this research would not complete accordingly.

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International Labour Organization C182 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, 1999,

International Labour Organization C26 Minimum Wage-Fixing Machinery Convention, 16 June 1928,

Abstract

The study looked at the legal laws regulating the protection of casual workers, the study objectives were theatrical review governing casual workers' rights, the legal laws protecting casual workers and efficacy of legal and institutional mechanisms in protection of workers' rights.

The study findings were, no complaints of sexual harassment were reported despite workers living within the same camp as well as the big ratio of men to women. grounds of her pregnancy as being a reasonable ground for dismissal. To avert sexual harassment complaints, some companies had a non-fraternization policy for staff. Much as no reports on sexual harassment were obtained by the Commission during investigations, press reports had indicated that female workers were being forced to have sex with their bosses as a way of getting money to support their families. It was noted that complaints of sexual harassment of female staff were few though there were no indications of any action that had been taken by some of the management to stamp out the practice.

The study concludes that casual workforce faces myriad challenges. They are not sufficiently protected by current labor laws, and although court rulings have helped those who bring suit, the rest of the casual workforce is faced with worse conditions as corporations try to sneak through increasingly smaller loopholes. As workforce becomes more and more dependent on employee benefits packages, the issue of casual worker protections will continue to gain prominence and importance.

The study recommends that Government should embark on the sensitization and training of workers on labour laws and their rights as workers. With this awareness, as rights' holders, they would be in a better position to know when their rights are being violated and what rights to claim. There is a need for government to set a minimum wage for workers in accordance with the type of work done and level of qualifications of the worker. This will help curb the exploitation, oppression and underpayment of workers. Determination of minimum wage should also take into consideration the inflation and costs of living.

CHAPTER ONE: INTRODUCTION.

1.1. BACKGROUND.

Casual workers are defined as employees without access to leave entitlements. Under awards and enterprise agreements, casual workers are paid a loading on top of their hourly wage rate usually set at 25 per cent to provide financial compensation for the lack of access to leave entitlements such as annual leave, sick pay and carer's leave. Arrangements associated with casual employment contracts may suit particular workers such as students and parents with caring responsibilities who are seeking higher remuneration for the small number of hours they are available for work. However, some casual workers particularly those seeking regular hours of work may prefer more certainty about their weekly hours of work and more predictable earnings than their current circumstances provides¹.

For many workers, experience with casual employment is a relatively temporary state that provides income in the short term before transitioning to more stable ongoing or permanent employment. For others, casual employment can be a more persistent state. Researchers at the Melbourne Institute examined data from a number of waves of the Household Income and Labour Dynamics in Australia (HILDA) survey and found that between 28 and 32 per cent of casual employees had found non-casual employment within a year and between 46 and 49 per cent of casual employees had found a non-casual job within four years. *"It is unclear what proportion of workers still engaged in*

¹ Buddelmeyer, H., Wooden, M. and Ghantous, S., Transitions from Casual Employment in Australia, Project 09/05 (December 2006)

*casual work after four years were satisfied with their employment arrangements and what proportion were unsatisfied but unable to find alternative forms of work”.*²

Workers in Uganda are guaranteed rights and freedoms for their protection in employment. Workers’ rights are provided for, in international human rights instruments, including the Universal Declaration of Human Rights (UDHR) under Articles³. Article 23 of the UDHR guarantees the right of every person to work, to have a free choice of employment, to just and favourable conditions of work and to protection against unemployment. *“The Article further guarantees the right of every person to equal pay for equal work, as well as the right to form and join trade unions for the protection of one’s interests. Furthermore, Article 24 of the UDHR guarantees the right of a worker to rest and leisure, including the limitation of working hours and periodic holidays with pay”.* Article 6 of the International Covenant on Economic Social and Cultural Rights (ICESCR) states that the right to work includes ‘the right of everyone to the opportunity to gain his living by work’. It identifies the crucial element in the human rights standard as the opportunity to earn one’s living.

While article⁴ of the Constitution guarantees the right of every person in Uganda to “practise his or her profession and to carry on any lawful occupation, trade or business,”⁵ the current levels of unemployment and underemployment in the country present significant barriers to the fulfilment of this right. Unfortunately, while the government’s neo-liberal economic policy may have resulted in an increase in

² ACTU, *Lives on Hold: Unlocking the potential of Australia’s workforce* (2012).

³ Articles 23 and 24.

⁴ article 40(2) of the Constitution

⁵ Supra note 1

investment and GDP, to date this growth has not translated into a significant reduction in unemployment or improved job security for the citizens of the country. It has also come at the expense of strong enforcement of the country's new labour laws, since the government sees protection of labour rights as being at odds with a liberal economic policy,⁶ Thus, while the government has fulfilled its obligation under article 7 of the ICESCR to take steps to implement policies to achieve steady economic development, it has failed to achieve a corresponding social growth.

⁶ List/African%20Charter%20on%20Human%20and%20Peoples%20Rights.pdf, (accessed on 19 May 2019).

1.2 STATEMENT OF PROBLEM

The concept casual employment is riddled with ambiguity and paradoxes. The characteristics of most casual workers indicate that this form of employment has more to do with limited choices available to young people, women and low skilled workers than any flourishing of choices for people at work.⁷ The growth of casual employment is seen as an outcome of recruitment practices developed to meet internal labour demands in the context of changing labour regulations and changing relationships between firms and the labour market. While casual employment is a function of 'demand-side' factors, the recruitment strategies that stimulate its growth are formed through managers' perceptions of the quality and reliability of the available labour supply. Though 'demand-side' factors, especially firm size and union activity, are major determinants of the use of casual employees, attention has also been paid on the role of institutional factors that have enabled casual work to flourish in widening gaps in labour regulation. The growth of casual work has generated considerable interest, but only recently has attention focused on its heterogeneity.⁸ In an overview of the dynamics, therefore, this study tends to examine the legal protection of casual workers in regard to enforcement of employment rights in Uganda.

⁷ Owoseye A, Onwe C (2009) Recession: Temporary Employment the Toast for Employers 232 NEXT, Lagos

⁸ Convention on Forced Labour No. 105 of 1957.

1.3 JUSTIFICATION OF THE STUDY

The core labour rights are laid out in articles 6 – 9 of the ICESCR and include: the right to work, the right to just and favourable conditions of work, the right to form and join trade unions and the right to social security. From these, flow several corollary rights such as the right to fair remuneration, to safe and healthy working conditions, to reasonable working hours and rest and the right to strike. Most of these rights have been incorporated into domestic law by way of the Constitution of the Republic of Uganda, 1995, primarily in article 40, which protects a wide range of economic rights.

In an effort to monitor the implementation of Uganda's new labour laws and the impact they have had on workers in the four years since their enactment, this report examines the current working conditions in various industries across the country and provides a critical analysis of some of the major institutional obstacles to the realization of labour rights in Uganda.

1.4 STATEMENT OF OBJECTIVES

- i. To examine the theatrical review governing causal workers' rights
- ii. To analyze the legal laws protecting casual workers
- iii. To examine efficacy of legal and institutional mechanisms aimed at ensuring protection of workers' rights.

1.5 RESEARCH QUESTIONS

- i. What are the theatrical review governing casual workers' rights?
- ii. What are the legal laws protecting casual workers?
- iii. What is efficacy of legal and institutional mechanisms in protection of workers' rights?

1.6 RESEARCH DESIGN AND METHODOLOGY

The Study focused on the legal laws regulating the protection of casual workers, the investigations examined the level of enjoyment of the right to work, join and form trade unions, work in safe conditions and whether workers had protection including social security and pension rights for the time they would leave employment. The investigations will also look into the efficacy of legal and institutional mechanisms in protection of workers' rights, the challenges and hindrances towards the enjoyment of workers' rights? And the strategies that could be utilised to ensure respect, protection and promotion of workers' rights. This study was basically qualitative and library-oriented. It is mainly desktop research and this included review of relevant literature such as statutes, text books and journal articles. The researcher accessed material and data from statutory bodies and specialized institutions and relevant government ministries.

1.7 LIMITATIONS

The main limitation am likely to face is time frame since there much to be covered and the time scope is limited (only 2 months).

The season am conducting this research is a rainy season, thus limiting timely collection of data.

1.8 CHAPTER BREAKDOWN.

This research comprises of five chapters. This chapter has provided the context for the research by considering a brief historical background of child labour. It has outlined the purpose and rationale of the study.

Chapter two consists of a review of the literature on rights of Casual Workers, both regionally and internationally.

Chapter three identifies the legal laws protecting casual workers

Chapter four provides the core discussion of the study. Efficacy of legal and institutional mechanisms in protection of workers' rights?

Chapter five proposes the strategies that could be utilised to ensure respect, protection and promotion of workers' rights The chapter allows for realistic recommendations on how to fill the gaps in the legislation in an effort to improve the rights of casual workers in Uganda.

1.9 LITERATURE REVIEW

Among a range of classifications available, casual employment is variously referred to under the titles "contingent"⁹. By and large, the terms refer to those who are employed in jobs that do not fit the traditional description of a full-time, permanent job.¹⁰ casual employment is generally understood to encompass casual employees recruited by short term consultants or agencies which are external to the employer, or those hired directly by the company to be casual employees, contract employees, subcontractors, consultants, leased employees, part-time employees and self-employed. As a distinct labour subset, however, "casual employment" is commonly defined as: A job where the individual does not have an explicit or implicit contract for long term employment, the casual nature of the job being recognized by both parties¹¹. The different descriptions and definitions of casual employment, and the linked uncertainty, offers a challenge to scholars of research as any educated guess of the size of the casual workforce depends on the definition that is used.¹²

Casual employment has increasingly become part of the labour market in the European Union and its member states, with an average incidence of about 13 per cent in 2000 (OECD, 2002). In spite of measurement problems, commentators are in accord that the casual workforce has become a significant employment option¹³, casual employment in the USA increased almost 250 per cent – ten times faster than overall employment in

⁹ Belous, 1989, cited in Lips, 1998, "irregular", "non-standard", or "atypical" Bourhis and Wils,(2001)employment

¹⁰ Brosnan and Walsh, 1996.

¹¹ Gallagher, D. G., & Sverke, M. (2005). Contingent employment contracts: are existing employment theories still relevant?. *Economic and industrial democracy*, 26(2), 181-203.

¹² Risher, 1997.

¹³ Rasak, B., & Okafor, E. E. (2015). Casual Employment–A Nostrum to Unemployment in Nigeria. *Fountain Journal of Management and Social Sciences*, 4(2), 100-112.

that country. Socio-economic variations including those related to globalization and faster innovativeness have brought about changes in workforce structures that facilitated the growth in casual employment¹⁴. Casual employment is a means of job continuity in an era of restructuring, redundancy and unemployment. Such job continuity is replacing job security for many professionals and casual work is a way to stay continuously employed¹⁵.

Casual employment may open up opportunities for previously unemployed people to find employment¹⁶, and it provides foot-in-the-door opportunities and experience for people (re)entering the workforce. ¹⁷indicates that casual employment can offer long-term advantages to some workers; for example, it can foster lifetime participation in paid work by women. He further found that many casual employees voluntarily take up this form of employment for the flexibility and opportunities for skill advancement that it provides. Casual employment also provides people with the opportunity to "try out" new organizations, industries, and occupations without the long-term commitment (Lips, 1998). Moreover, casual employment is increasingly being used to facilitate the transition from situations such as unemployment, studying, time off work by women to have children, and redundancy, back to a permanent work situation (Lips, 1998). Based on this assertion, there is need to study the choice faced by unemployed workers, whether to work as casual in an organization or to remain unemployed.

¹⁴ Jawando, J. O., & Adenugba, A. A. (2015). Assessing the patterns of temporary employment in the food processing industry in Lagos, Nigeria. *Journal of Asian and African studies*, 50(6), 732-749.

¹⁵ Ibid

¹⁶ Hardy, D. J., & Walker, R. J. (2003). Temporary but seeking permanence: a study of New Zealand temps. *Leadership & Organization Development Journal*, 24(3), 141-152.

¹⁷ Ibid

Reasons for Employers using Casual Workers

According to the Dual Labour Market model¹⁸ organizations are composed of two main groups of workers: the core (or primary) group and the peripheral (or secondary) group. Core workers are mostly "standard" or permanent employees. These employees work under the so called standard employment relationship (SER), which, according to certain authors,¹⁹ has some typical characteristics: it offers continuity of employment, which gives the workers a certain level of security regarding their working situation; the employees work in the employer's workplace and receive employer's supervision. The peripheral group is mostly "nonstandard" or casual workers²⁰

All these types of employment are different from the standard employment in aspects such as working hours, terms of the contract, access to fringe benefits and supervision received. Most of the companies have a certain number of casual workers as a way to deal with periods of decreased productivity or lower demand. This characteristic is considered by many authors as a quantitative (or numerical) external flexibility, concerning employees who belong to the "external" part of the company and not to the

¹⁸ De Cuyper, N., De Jong, J., De Witte, H., Isaksson, K., Rigotti, T., & Schalk, R. (2008). Literature review of theory and research on the psychological impact of temporary employment: Towards a conceptual model. *International Journal of Management Reviews*, 10(1), 25-51.

¹⁹ Bosch, G. (2004). Towards a new standard employment relationship in Western Europe. *British journal of industrial relations*, 42(4), 617-636.

²⁰ Supra note 18

“core”²¹ There are three main reasons for employers to use casual workers, flexibility of staffing, reduction of costs and ease of dismissal²².

Due to the rapid innovativeness in science and the ever increasing competitiveness, companies have established policies of flexibility and adaptation to the economic changes in order to keep profits as high as they can. Given that employment situations all over the world has become more competitive and unstable, many companies and organizations have inclined to present more flexible employment conditions, focusing on prospective tribulations (such as lower demand of the market) and the possibility of lay-offs²³. Most companies experience variable demands of work. When demand is high, the usual response is overtime work sometimes augmented by the recruitment of casual employees²⁴

According to Biggs,²⁵ a key benefit in utilizing casual employees is the reduction of recruitment costs. This is especially noticeable with agency workers actively recruited by employment agencies, rather than by their eventual employers²⁶. Indeed, recruitment services by the employment agencies are sometimes extended to the recruitment of permanent personnel and in the United Kingdom represent 7 per cent of invoiced sales turnover within employment agencies. Decreasing employee costs within an

²¹ Wandera, H. T. (2011). The effects of short-term employment contract on an organization: a case of Kenya Forest Service. *International journal of humanities and social science*, 1(21), 184-204.

²² Okoye, P. U., & Aderibigbe, Y. W. (2014). Comparative Assessment of Safety Climate of Casual and Permanent Construction Workers in South-East Nigeria. *International Journal of Health and Psychology Research*, 2(1), 54-66.

²³ Rasak, B., & Okafor, E. E. (2015). Casual Employment—A Nostrum to Unemployment in Nigeria. *Fountain Journal of Management and Social Sciences*, 4(2), 100-112.

²⁵ Biggs, D., Burchell, B., & Millmore, M. (2006). The changing world of the temporary worker: the potential HR impact of legislation. *Personnel Review*, 35(2), 191-206.

²⁶ Ward, K., Grimshaw, D., Rubery, J., & Beynon, H. (2001). Dilemmas in the management of temporary work agency staff. *Human Resource Management Journal*, 11(4), 3-21.

organization is a critical aspect of strategic human resource management with regard to competitive global market²⁷

²⁷ Ibid

CHAPTER TWO: THEORATICAL FRAMEWORK

2.0 Introduction

This chapter focuses on theatrical review concerning causal workers, their rights and how it's being exercised.

2.1 Theoretical framework

Uganda is a signatory to several international instruments enshrining labour rights including: International Labour Organization C87, Freedom of Association and Protection of the Right to Organise Convention,²⁸ International Labour Organization C98 Right to Organise and Collective Bargaining Convention,²⁹ the International Covenant on Civil and Political Rights,³⁰ and the International Covenant for Economic, Social, and Cultural Rights.³¹ The core labour rights are laid out in articles 6 – 9 of the ICESCR and include: the right to work, the right to just and favourable conditions of work, the right to form and join trade unions and the right to social security. From these, flow several corollary rights such as the right to fair remuneration, to safe and healthy working conditions, to reasonable working hours and rest and the right to strike.

Most of these rights have been incorporated into domestic law within the framework of the Constitution of the Republic of Uganda, 1995, primarily in article 40 which protects a wide range of economic rights, including: the right to work under satisfactory, safe

²⁸ 1948, 9 July 1948 [ILO 87]

²⁹ 1949, 1 July 1949 [ILO 98].

³⁰ 16 December 1966, 999 U.N.T.S. 171 [ICCPR].

³¹ 16 December 1966, GA res. 2200A (XXI), 21 UN GAOR Supp. (No. 16) at 49 [ICESCR].

and healthy conditions; to rest and reasonable working hours; to practice his or her profession and to carry on any lawful occupation; and to form and join a trade union.³²

Until recently, however, the legislation implementing these constitutionally protected rights was badly in need of reform. It was not until 2006, after several aborted attempts at legal reform, that four crucial pieces of labour legislation were enacted.

These were: the Employment Act,³³ the Labour Unions Act,³⁴ the Labour Disputes (Arbitration and Settlement) Act (the Labour Disputes Act)¹⁰ and the Occupational Safety and Health Act (the OSHA).¹¹ Already in existence at the enactment of these new acts, and also forming part of Uganda's battery of labour legislation, are: the National Social Security Fund Act (the NSSFA),³⁵ the Pensions Act,³⁶ and the Workers Compensation Act.³⁷

On paper, these new and updated labour laws have brought Uganda largely in line with ratified and core international labour instruments. Four years later, however, a number of significant obstacles continue to impede the effective implementation of these Acts. This report will first examine the current state of the core labour rights. The final chapter of the report then provides a critical analysis of some of the key obstacles presently impeding the successful implementation of labour rights in the country.

³² Constitution of the Republic of Uganda, 1995.

³³ 2006, (Act No. 6), replaced the Employment Act, 1977 (Ch 219).

³⁴ 2006, (Act No. 7), replaced the Trade Unions Act, 1976 (Ch 223).

³⁵ 1946 (Ch 286).

³⁶ (No. 8 of 2000) (Chapter 225) [WCA], replaced the Workmens' Compensation Act (Ord. 15 of 1949) (Chapter 197).

³⁷ Ibid

Structure of the Directorate of Labour

At this stage it is also necessary to provide a brief description of the bodies responsible for the administration and enforcement of the country's labour laws. The ministry currently responsible for the oversight of labour in the country is the Ministry of Gender Labour and Social Development (MGLSD). The MGLSD is divided into a number of Directorates, including the Directorate of Labour. The Directorate of Labour, in turn, has three departments:

Employers are not required to provide casual workers with an employee benefits package that full-time, permanent employees receive. This means that most casual workers do not receive paid vacations, holidays, or sick leave, and employer's pension and health insurance plans.

The most significant drain on contingent workers is the cost of health insurance. Employer-sponsored plans are generally less expensive for one or both of two reasons. First, employers often offset the costs by making contributions to workers' health insurance. Second, an employer contracting for a large group of employees can negotiate for a better rate because of the number of policies involved do not usually include them.³⁸ Casual workers are, however, protected by worker's compensation laws, minimum wage laws,³⁹ and health and safety laws.⁴⁰ These laws only serve as a safeguard against sub-minimum standards; they are not a significant

³⁸ Richard S. Belous, *The Rise of the Contingent Work Force: The Key Challenges and Opportunities*, 52 WASH. & LEE L. REV. 863, 874 (1995).

14. Berger, *supra* note 1, at 303-04.

³⁹ 29 U.S.C.A. § 206 (2000).

⁴⁰ 29 U.S.C.A. §§ 651-671(a) (2000).

source of help to people who more often than not are struggling to make ends meet. Similarly, although antidiscrimination laws" technically cover casual workers, the "temporary" nature of the employment prevents any meaningful protection.

Professor Summers points out that for Family and Medical Leave Act (FMLA) benefits to kick in, for example, "temporary employees must work more than twelve months for the same employer.':" Another area in which casual workers are almost always left to fend for themselves is with pension benefits.⁴¹ The Employee Retirement Income Security Act (ERISA) requires a five-year vesting period, and mandates that benefits are no transportable. This requirement excludes virtually all casual workers from pension programs.

Vizcaino v. Microsoft: A Milestone Case In 1996, Donna Vizcaino, representing a class of former workers⁴², successfully sued Microsoft Corporation under ERISA for retroactive benefits under Microsoft's saving and stock purchase plans. Ms. Vizcaino was one of many people hired by Microsoft as an independent contractor" to perform certain services for it. These "independent contractors" worked alongside and on teams with Microsoft's regular employees for a period of more than two years.⁴³ They worked the same hours and under the same supervisors as the regular employees." The only real difference between these workers and the regular employees was the way in which Microsoft paid them.

⁴¹ 29 U.S.C. §§ 1001-1003, 1321-1323 (2000).

⁴² *Vizcaino v. Microsoft Corp.*, 120 F.3d 1006, 1008 (9th Cir. 1997) (en bane).

⁴³ contractors, Vizcaino and others contracted around any employee benefits that Microsoft's full-time employees received.

Instead of going through the payroll department, they submitted invoices for their hours to and were paid through the accounts payable department." This was an accounting technique used by Microsoft to classify Ms. Vizcaino and others in a similar position as independent contractors' rather than employees. In addition to disallowing the workers from participating in employee benefits plans, Microsoft did not withhold Federal Insurance Contribution Act (FICA) taxes, nor did it pay the employer's share of FICA taxes. This tax reclassification made Microsoft realize that it had to change its system, at least for tax purposes. One of the ways that it accomplished this was by outsourcing some of its work to staffing agencies.⁴⁴ This tax reclassification led Microsoft to take advantage of a loophole that effectively enabled it to avoid some of the costs of providing employee benefits-it decided to outsource its work to staffing agencies.

Essentially, Microsoft offered some of its employees the option of continuing to work for them, but "as temporary employees under the auspices of a temporary employment agency.':" Ms. Vizcaino was offered such a position, which she decided not to take. At that point she and seven others similarly situated workers filed the lawsuit against Microsoft, asserting "that they were employees of Microsoft and should have had the opportunity of participating in the SPP [(Savings Plus Plan)] and ESPP [(Employee Stock Purchase Plan)] because those plans were available to all employees.'

⁴⁴ Yesilyurt, H. (2011). The response of American police agencies to digital evidence.

CHAPTER THREE

LEGAL PROTECTIONS FOR CASUAL WORKERS

3.1 International legal protections for casual workers

3.1.1 Universal Declaration of Human Rights (UDHR)

Article 23 of Universal Declaration of Human Rights emphasizes the right to employment, to be free to choose work, and to be paid a fair salary that allows one to live and support his/her family. Everyone who does the same work should have the right to equal pay, without discrimination. We have the right to come together and form trade union groups to defend our interests as workers of which Uganda is a signatory. Article 23(4) further guarantees the right of workers to form and join trade unions for the protection of their interest. Furthermore, Article 24 guarantees the right of workers to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Freedom of association is a bedrock principle of international labor law. In 1919 the Allied powers expressed "recognition of the principle of freedom of association" in part XIII (Labour) of the Treaty of Versailles, which became the Constitution of the International Labour Organization (ILO).⁴⁵ Nearly three decades later, in 1948, the ILO adopted the landmark Convention Concerning Freedom of Association and Protection of

⁴⁵ Treaty of Peace with Germany (Treaty of Versailles), pt. XIII, pmbl., June 28, 1919, 2 Bevans 43; see also *id.*, Art. 427 (General Principles) (including "[t]he right of association for all lawful purposes by the employed as well as by the employers").

the Right to Organize (No. 87).⁴⁶ Article 2 of C. 87 declares: "Workers and employers, without distinction whatsoever, shall have the right to establish and, subject only to the rules of the organization concerned, to join organizations of their own choosing without previous authorization"⁴⁷ much as the convention highlighted the rights of workers, it generalized all workers and did not clearly so which group whether casual or permanent workers which this research aimed to bring out.

3.1.2 International Covenant in Economic Social and Cultural Rights (ICESCR), 1966

The International Covenant on Economic, Social and Cultural Rights (1966), together with the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966), make up the International Bill of Human Rights. In accordance with the Universal Declaration, the Covenants recognize that the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can be achieved only if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights. Article 6 of the Covenant recognises the right to work, defined as the opportunity of everyone to gain their living by freely chosen or accepted work.⁴⁸ Parties are required to take "appropriate steps" to safeguard this right, including technical and vocational training and economic policies aimed at steady economic development and ultimately full

⁴⁶ Convention Concerning Freedom of Association and Protection of the Right to Organise (No. 87), July 9, 1948, 68 UNTS 17 [hereinafter C. 87]. Several months later, in December 1948, the UN General Assembly adopted the Universal Declaration of Human Rights, which contains provisions regarding freedom of association and the right to join (or not join) labor unions. Universal Declaration of Human Rights, GA Res. 217A (III), Arts. 20(1), 23(4), UN Doc. A/810, at 71 (1948). For background on C. 87.

⁴⁷ C. 87, *supra* note 2, Art. 2.

⁴⁸ CESCR, Article 6.1

employment. The right implies parties must guarantee equal access to employment and protect workers from being unfairly deprived of employment. They must prevent discrimination in the workplace and ensure access for the disadvantaged.⁴⁹ The fact that work must be freely chosen or accepted means parties must prohibit forced or child labor.⁵⁰ The work referred to in Article 6 must be decent work.⁵¹ This is effectively defined by Article 7 of the Covenant, which recognises the right of everyone to "just and favourable" working conditions. These are in turn defined as fair wages with equal pay for equal work, sufficient to provide a decent living for workers and their dependants; safe working conditions; equal opportunity in the workplace; and sufficient rest and leisure, including limited working hours and regular, paid holidays. much as the convention highlighted the rights of workers, it generalized all workers and did not clearly so which group whether casual or permanent workers which this research aimed to bring out.

⁴⁹ CESCR General Comment 18: The Right to Work" (PDF). UN Economic and Social Council. 6 February 2006. pp. paragraph 31. Retrieved 2 June 2008.

⁵⁰ CESCR General Comment 18, paragraph 23.

⁵¹ CESCR General Comment 18, paragraph 7.

3.2 Regional

3.2.1 African Charter on Human and Peoples' Rights (African Charter)

The African Charter on Human and Peoples' Rights (also known as the Banjul Charter) is an international human rights instrument that is intended to promote and protect human rights and basic freedoms in the African continent.

Oversight and interpretation of the Charter is the task of the African Commission on Human and Peoples' Rights, which was set up in 1987 and is now headquartered in Banjul, Gambia. A protocol to the Charter was subsequently adopted in 1998 whereby an African Court on Human and Peoples' Rights was to be created. The protocol came into effect on 25 January 2005. The African Charter provides for the enjoyment of rights and freedoms without discrimination as well as the right of workers to work under equitable and satisfactory conditions and the right to receive equal pay for equal work. This convention much it highlighted on human rights; it did not basically focus on rights of causal workers which this research is aiming to bring out.

3.4 National

A central tenet, though not fully operational in Uganda, is the right to unionize and collectively bargain. This includes the option of industrial action to increase members' wages and improve working conditions. Labor rights are in context universal and apply to immigrant workers as well.

Among the key labor laws in Uganda are, the Workers Compensation Act 2000, the Minimum Wages Act 2000, the Employment Act 2006, the Labor Union Arbitration and

Settlement Act 2006 and the Occupational Safety Act 2006. Some, like the Minimum Wages Act 2000, though entrenched in law are however hardly enforced.

The Employment Act 2006

Outlines the conditions of employment including, contract of service, termination of contract, termination notices, and protection of wages, hours of work, rest and holidays, employment of women, employment of children and care of employees. Likewise, the Workers Compensation Act 2000 entitles employees to automatic compensation for any personal injury from an accident arising out and in the course of his employment even if the injury results from the employee's negligence. The Act further details that, for an injury that leads to death, the compensation should be equivalent to an employer's monthly pay multiplied by 60 months.

From a global scope, labor rights are viewed as a core component of the modern corpus of human rights as captured in Article 23 of the Universal Declaration of Human Rights to which Uganda is bound⁵². The article, stipulates that, "everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment; everyone, without any discrimination, has the right to equal pay for equal work;

The article further states that⁵³, "Everyone who works has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection;

⁵² Article 23 of the Universal Declaration of Human Rights

⁵³ Ibid

and that, everyone has the right to form and to join trade unions for the protection of his interests".

In addition, ⁵⁴Article 24 of the Universal Declaration likewise advocates that, "everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay".

From a practical trajectory, the existing regulatory policy in Uganda- an eight-hour work day and a 40-hour work week- with extra hour's payable as overtime, remains one of the prime products of labor movement campaigns.

Apart from general workrelated foci, labor rights also involve advocacy against child labor. In Uganda as elsewhere, child labor is viewed as exploitative and cruel, and often and deprives children the right to education.

More recently, advocacy groups on workers' rights have comprehensively engaged on the conditions of women workers and helped formulate genderbased policies and affirmative action programs. Their efforts have not only created greater visibility for women's issues but also the attainment of a minimum representation of 1/3 of women in Parliament.

Sustained efforts by groups such as the Uganda Women's Network (UWONET) have also generated common advocacy positions and impacted positively on the Domestic Relations Bill; the Land Policy; the Labor Rights of Women; and the Constitutional Amendment Bill and resulted in the enactment of Gender sensitive labor laws and labor

⁵⁴ Supra note 52

rights of women, including sixty days maternity leave, four days of paternity leave and the recognition of sexual harassment, among other benefits in the Employment Act 2006.

Occupational and safety act 2006

In accordance with Occupational Safety and Health Act⁵⁵, it is obligatory for an employer to ensure health, safety and welfare of persons at workplace. Employer must take measures to keep the workplace pollution-free by employing technical measures, applied to new plant or processes in design or installation, or added to existing plant or process; or by employing supplementary organizational measures⁵⁶. Employer must ensure safe working environment including its vicinity. Proper arrangements should be made to ensure safety and absence of health risks related to the use, handling, storage and transport of articles and substances. Provision and maintenance of workplace which is adequate regarding facilities and arrangements for the welfare of worker is also important⁵⁷.

Employer should provide and maintain safe and risk-free means of access to and exit from the workplace. Workers must be well informed of the real and potential dangers associated with the use of the substance or machinery and they must be well equipped with personal protective equipment's to prevent the risks of accidents or of adverse effects on health.

⁵⁵ section 13 of Occupational Safety and Health Act

⁵⁶ Ibid

⁵⁷ Ibid

Health Act 2006

In accordance with the provisions of the Occupational Safety and Health Act⁵⁸, it is the responsibility of employer to provide free protective equipment including clothing to the workers involved in hazardous work. The type of PPE needed varies depending on the nature of work being performed. The right use of PPE reduces risk of accident and the adverse effects on health. It is also a duty of the employer to provide instructions for the use of personal protective equipment and make sure that they are used whenever required.

In accordance with the Occupational Safety and Health Act⁵⁹, it is the responsibility of an employer to provide instruction, training and supervision as is necessary to ensure health and safety at work of his workers.

Labour inspection system is present in Uganda. Occupational Safety and Health Act provides for a vibrant labour inspection system (part II). The Commissioner is responsible for the administration of Occupational Safety and Health Act to improve and ensure health, safety, security and good working conditions at the enterprises, inspecting enterprises and ensuring the law enforcement.

⁵⁸ section 13(2g), 19, 91 & 95(7) of Occupational Safety and Health Act 2006

⁵⁹ Section 13(2c) of Occupational Safety and Health Act 2006

The Labour Disputes (Arbitration and Settlement) Act 2006 (Commencement)

The Labour Disputes (Arbitration and Settlement) Act was enacted against the backdrop that there would be fast resolution of labour disputes through the Industrial Court⁶⁰. The industrial court has the mandate to arbitrate on labour disputes referred to it by the labour officer⁵⁵ and adjudicate upon questions of law and fact arising from references to Industrial Court by any other law.

The Act provides for the right of an employee to be involved in lawful industrial action without hindrance and⁶¹, the right of access of union officials to employees or their representatives (shop stewards) in a workplace.⁶² Further, the Act prohibits the interference with a worker's right of association and makes it a criminal offence for an employer to obstruct this right. The Act also prohibits employers from discriminating against unionised employees and also recognises the right to strike.

Constitution of the Republic of Uganda, 1995

The Constitution⁶³ recognizes the right to equal pay for work of equal value. In accordance with section 6 of the Employment Act, every worker should receive equal pay for work of equal value. In accordance with article 21 of the Constitution of Uganda⁶⁴, all human being are equal before the law and no person can be discriminated against on any ground including sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political opinion or disability.

⁶⁰ Section 8(2) Labour Disputes Act

⁶¹ Section 8(1)(b) of the Labour Disputes Act.

⁶² Section 30(1), of the Labour Disputes Act.

⁶³ The Constitution of Uganda, 1995

⁶⁴ section 40 of the Constitution of Uganda 1995 (revised in 2005), section 6 of the Employment Act 2006

The Employment Act also prohibits discrimination on the basis of sex, race, colour, religion, political opinion, national extraction or social origin, the HIV status or disability. Any distinction, exclusion or preference in respect of a particular job based on the inherent requirements of that particular job is not however be deemed to be discrimination. Women can work in the same industries as men. No restrictions could be located in laws. In accordance with article 40 of the Constitution, "every person in Uganda has the right to practise his or her profession and to carry on any lawful occupation, trade or business".

Labour Union Act 2006

Labour unions are organizations of workers created by workers to represent their rights and interests. The Constitution of Uganda provides for freedom of association while Labor Unions Act allows the workers to establish and join unions. Workers are allowed to participate in union activities outside working hours. Every worker has a right to form or join a trade union of his or her choice for the promotion and protection of his or her economic and social interests; to collective bargaining and representation; and to withdraw his or her labour according to law.

Union members are free to elect their representatives and formulate their work program. They may draw up their own statutes and administrative regulations, as long as these are not contrary to laws in effect and public order.

The unions must get registered with the Ministry by filing 3 copies of their statutes; titles, names, ages, addresses and occupations of its officers; number of members; and

a revenue stamp of an amount prescribed by the Minister. A trade union is considered registered after the registrar registers a trade union and issues a certificate of registration. The registration process must be done within 90 days from the date of submission of the application.

An employer is not allowed to interfere in the formation or administration of a registered trade union and to support a union that is under the control of the employer or an employer's organization. Employer may deduct union dues from the wages of the members only after their written consent. Discriminatory behavior is prohibited for the employer on the basis of union affiliation or participation in union activities⁶⁵. An employer who does not abide by these rules and regulations commits an offence and is liable to a fine up to 96 currency points or imprisonment up to four years or both. In case of a continued offence, the employer is liable to a fine up to two currency points for every day or part of a day during which the offence continues.

The Constitution of Uganda and the Labor Unions Act allow workers to bargain collectively through their representatives. Collective agreement is a written agreement relating to the terms and conditions of employment concluded between one or more labour unions and one or more employers, or between one or more labour unions and one or more employer's organization.

The terms of collective agreement must be concluded in writing and contain a reference to the manner and date when it may be reviewed. A copy of collective agreement and

⁶⁵ section 29 & 40 of the Constitution of Uganda 1995 (revised in 2005); section 2-18 of the Labour Union Act 2006

any amendment/variation made to the agreement must get registered with a Labour officer. Even if it is not registered, it remains enforceable between the parties to the agreement. Signed agreement must be lodged with the Registrar of Labour Unions within 28 days from the date the agreement is made⁶⁶.

A person who acts against these provisions commits an offence and is liable to a fine up to 24 currency points or imprisonment up to one year or both.

The terms of registered collective agreement are incorporated in the employment contract of the workers.

Labour Advisory Board (LAB) is a tripartite body that was established to provide technical advice and information to the Minister responsible for Labour. Currently, LAB consists of 13 members; two representatives each from the employers' and trade unions organizations and six ministries are represented. The board advises the Minister of Labour on labour legislation and employment matters, oversees the labour inspectorates, implementation of labour policy, among others⁶⁷.

Right to strike is recognized by Constitution however this right is strictly regulated. According to the Labour Union Act⁶⁸, strike means to 'go slow' and 'a sit down' by a body of persons employed and acting in combination or a concerted refusal or a refusal under a common understanding, of any number of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling the

⁶⁶ Ibid

⁶⁷ section 40 of the Constitution of Uganda 1995 (revised in 2005); section 3 of the Labour Union Act 2006, section 3 & 38-39 of the Labour Disputes (Arbitration and Settlement) Act 2006

⁶⁸ Ibid

employer, or to aid other workers, to accept or not to accept terms or conditions affecting the employment.

Worker have the right to organise themselves in any labour union and may withdraw their labour and take industrial action. There is a compulsory 30-day mediation period before lawful strike action may be taken.

Strikers must not threaten non-strikers. Strikers cannot stop other employees who want to go to work during a strike from doing so. Ugandan law maintains a list of essential services where strike action is prohibited without written notice given to the employer, not earlier than 14 days and not later than 22 days from the intended strike. The Labour Disputes (Arbitration and Settlement) Act requires employers not to take civil action against the strikers.

Strike is considered illegal if it is not peaceful and does not comply with the provisions of labour law. It is illegal to start strike in order to force an employer to revise a CBA or arbitral award which is still in force⁶⁹.

A person that induces a strike where it has been declared unlawful by the Labour Officer commits an offence and is liable to a fine up to 24 currency points or imprisonment up to 1 years or both.

⁶⁹ 40 of the Constitution of Uganda 1995 (revised in 2005); §3 of the Labour Union Act 2006; §8 of the Labour Disputes (Arbitration and Settlement) Act 2006

Workers Compensation Act Cap 225

The Workers' Compensation Act provides for a mechanism of paying workers for damages or injuries incurred in the course of employment⁴⁶ and caters for compensation of injured employees. Section 3 (1) of the Act provides that an employer is liable to pay compensation if personal injury by accident arises out of and in the course of the worker's employment⁷⁰. The Act also absolves an employer from liability in the event that the injury does not result in permanent incapacity or incapacitate the worker for at least three consecutive days from earning full wages at the work for which he or she was employed.⁷¹

Institutional Framework

In a bid to ensure the protection of workers' rights in Uganda, institutions were created as a mechanism of giving life to the laws that are in principle aimed at ensuring protection of workers' rights. These institutions include the Ministry of Gender, Labour and Social Development (MoGLSD), the Industrial Court and labour unions. The mandate of these institutions in the protection of workers' rights are discussed below:

Ministry of Gender Labour and Social Development/Labour Office

Ministry of Gender Labour and Social Development is a Government Ministry with a responsibility to empower communities in diverse areas. The Ministry promotes cultural growth, skills development and labour productivity while promoting gender equality, labour administration, social protection and transformation of communities.

⁷⁰ Section 3 (1) of the Act

⁷¹ Section 3(2) Workers Compensation Act.

It is in the event of finding defects or abuses of workers' rights that are not covered by existing legal provisions that the minister is notified.⁷² Inspection reports are forwarded to the Commissioner for Labour under the MoGLSD for action. Labour officers are also mandated to receive complaints and mediate labour issues⁷³. As such they are heavily constrained financially and are not in a position to effectively carry out their activities. Furthermore, labour officers are not in all the districts of Uganda which, therefore, limits their ability to protect workers' rights in the whole nation. It is estimated that there are less than forty (40) labour officers in the country and yet there are over 100 districts. The labour officers are not only inadequate to protect workers' rights, but their effectiveness is also affected by their limited national coverage.

⁷² Section 10(2) (c) Employment Act, 2006.

⁷³ Section 13 of the Employment Act, 2006 gives a Labour Officer powers to investigate and dispose of complaints.

CHAPTER FOUR

THE EFFICACY OF LEGAL AND INSTITUTIONAL MECHANISMS IN PROTECTION OF WORKERS' RIGHTS.

4.0. Introduction

The findings detailed in this section focuses on the efficacy of legal and institutional mechanisms in protection of workers' rights.

4.1 ILO Conventions ratified by Uganda

Uganda has ratified a total of 30 ILO Conventions⁸ including all of the eight Fundamental Conventions and three of the four Priority Conventions. With respect to the main subjects of this needs assessment exercise, Uganda has ratified the Labour Inspection Convention No. 81 (1947), which itself is one of the ILO Priority Conventions. None of the other Conventions specifically relevant to labour administration and inspection has been ratified by Uganda, namely the: Employment Service Convention No. 88 (1948); Labour Inspection (Agriculture) Convention No. 129 (1969); Labour Administration Convention No. 150 (1978); Occupational Safety and Health Convention No. 155 (1981); Labour Inspection (Seafarers) Convention No. 178 (1996); and the Promotional Framework for Occupational Safety and Health Convention No. 187 (2006). Within the MGLSD, there is one labour officer responsible for coordinating the preparation of reports to be sent to the ILO Committee of Experts on the measures Uganda has taken to give effect to the provisions of its ratified Conventions. The biggest challenge is in obtaining the necessary information from the relevant government departments that are not under the MGLSD's jurisdiction.

4.1. 1 Freedom of association

The right to freedom of association is protected under Article 29(1) (e) of the Uganda Constitution which states that freedom of association includes the freedom to form and join associations or unions, including trade unions and other civic organisations. The Constitution recognises the right of every worker to form or join a trade union of his or her choice for the promotion and protection of his or her economic and social interests⁷⁴ and to collective bargaining and representation.⁷⁵

The Labour Unions Act states that employees have the right to organise themselves in any labour union and may assist in the running of the labour union,⁷⁶ as well as bargain collectively through a representative of their own choosing.⁷⁷ Section 4(b) of the Act prohibits an employer from interfering with the formation of a labour union or with the administration of a registered organisation. This essentially means that workers ought to be able to join trade unions of their choice; and the trade union ought to be independent of government and employer influence.

National Union of Agriculture, Plantation and Allied Workers Union (NUAPAWU) and the Uganda Farm and Agro-based Worker's Union (UFABWU). The two trade unions were registered under the rival trade union organisations started by two workers' representatives in Parliament, that is, Hon. Sam Lyomoki and Hon. Joram Pajobo. From the interview it was established that the Central Organisation of Trade Union (COFTU) General Secretary and Workers Member of Parliament (MP), Dr Sam Lyomoki,

⁷⁴ Article 40(3) (a) Constitution of the Republic of Uganda.

⁷⁵ Article 40(3) (b) Constitution of the Republic of Uganda.

⁷⁶ Section 3(a) Labour Unions Act 2006.

⁷⁷ Section 3(b) Labour Unions Act 2006.

registered the UFABWU. This union was alleged to have started luring workers from NUAPAWU to join it.⁷⁸ As one of the means of luring workers, Hon. Lyomoki is alleged to have reduced workers membership contribution to 2% from the 3% they were paying as membership to the NUAPAWU.⁷⁹ Hon. Lyomoki, however, argues that he was petitioned by workers as their MP on allegations that NUAPAWU was not assisting workers with the fight for their rights.⁸⁰ This matter is yet to be resolved. Employees spoken to stated that staff were generally free to join either NOTU or COFTU though some of the employees objected to being placed under any trade union as they felt that they were not assisted.⁸¹

From the study interview it was found that some of the workers were aware of NUAPAWU activities. The workers would take part in the election of their leaders and also drew up programmes for visits by NUAPAWU representatives to their district.⁸² The Commission also established that trade unions also signed contracts with individual companies in their areas of operation. The Commission was told that some employers discouraged unions because of their bargaining power although in some other companies, all workers were encouraged to join and were members of trade unions. It was revealed that the advantage of having unionised workers was that the unions instilled discipline among workers; and unions keenly followed up on issues affecting workers. The existence of unionised workers was reported to be advantageous in that

the unions could raise issues which staff may have not brought out and as a result, strikes have been avoided.

The study revealed that in some companies, the supervisory staff were not members of the union as they hold sensitive positions.⁸³ This was corroborated by employees the investigations team spoke to, who stated that all workers except the managerial staff were members of the union. They explained that the union is a collective voice for unionised workers and forms a bridge between factory management and the workers. As such, some employers would view having managerial staff as members of trade unions as a conflict of interest.

In some companies, however, management were not in support of the unionisation of labour through trade unions since, in their view, it affected productivity. Any interference by management with the formation of a union within the factory would be contrary to Section 4(b) of the Labour Unions Act which prohibits it. In other companies where employees were not unionised, there was lack of awareness of what labour unions were or their purpose.

In certain companies visited, it was established that labour unions were indeed beneficial to some of the workers as a number of issues affecting workers were handled with the assistance of the trade unions. From the filed interviews information got shows that negotiations were held annually between such companies and the trade union representatives to ensure that some of the workers' demands were met. It was

⁸³ Interview with Vincent Kitutu, Employee Relations Manager, Hima Cement.

observed that those employees under sub- contractors' agreements were not unionised since they negotiated their own working conditions and their jobs were temporary in nature. As such, these employees would not be in a position to benefit from the services and assistance of labour unions when the need arose.

In areas where trade unions were very active, employers were found to comply more with regulations guaranteed to ensure the protection of workers' rights. There was even regular consideration of wage increments for workers.

4.1.2 Protection from forced labour

Article 25(2) of the Uganda Constitution provides that no person shall be required to perform forced labour. This provision is supported by Section 5 Employment Act 2006, which prohibits the use of forced or compulsory labour. In the course of the systemic investigations, the Commission did not find any instances of any person being required to provide forced or compulsory labour.

4.1.3 Protection from discrimination on grounds of race, sex etc

The right to protection from discrimination is provided for under Article 21 of the Uganda Constitution which affords equal protection of all persons before the law in all spheres including economic and social life.⁸⁴ The provision further lists the grounds on which discrimination is prohibited as including, sex, race and tribe.⁸⁵ Section 6(3) of the Employment Act outlaws discrimination in employment and defines it to include any distinction, exclusion or preference on the basis of race, sex, national extraction or

⁸⁴ Article 21(1) Constitution of the Republic of Uganda.

⁸⁵ Article 21(2) Constitution of the Republic of Uganda.

social origin, among others, which has the effect of nullifying or impairing the treatment of a person in employment or occupation or of preventing an employee from obtaining any benefit under a contract of service. This, therefore, refers to the right to equal treatment of all workers regardless of, among other things, their gender or origin.

The study findings shows that a number of the companies visited made an effort to treat both male and female employees equally. Recruitment of employees was largely based on knowledge and skill in the assigned tasks. However, with regard to assignment of duties, there was some positive discrimination in the assignment of duties to protect either female staff or those that had been injured and disabled in the course of a previous assignment. For instance, in a sugarcane plantation that was visited, it was established that the female workers did not cut cane but supplied water to the cane cutters.⁸⁶

This, in the view of the company, was considered to be positive discrimination as cane cutting was deemed to be a very tedious exercise. While at tea estates female workers were treated equally with male workers, the female pluckers were said to be some of the fastest. In other companies, to ensure their safety, female workers were not allowed to take on night duty.

In a number of companies visited, no complaints of sexual harassment were reported despite workers living within the same camp as well as the big ratio of men to women. grounds of her pregnancy as being a reasonable ground for dismissal. To avert sexual

⁸⁶ Interview with Mr. Joshua Muhangi, Harvesting Assistant, kyagalanyi coffe Growers Ltd, at the office on 16th may 2019

harassment complaints, some companies had a non-fraternisation policy for staff. Much as no reports on sexual harassment were obtained by the Commission during investigations, press reports had indicated that female workers were being forced to have sex with their bosses as a way of getting money to support their families.⁸⁷ It was noted that complaints of sexual harassment of female staff were few though there were no indications of any action that had been taken by some of the management to stamp out the practice.

In a field study the information got shows that there was general discrimination and segregation by Asian supervisors towards African workers. It was reported that workers were subjected to both verbal and physical abuse by their supervisors. In essence, the discrimination complained of was not only on the basis of sex but also on the basis of race and status; which if proved would be a violation of a fundamental human right.

The study findings showed that there are some discrimination on tribal grounds in western Uganda. It was explained that there was a preference for locals since accommodation would not have to be provided for a local as their homes are within the district.

4.1.4 Regulation of working hours

The Uganda Constitution mandated Parliament to enact laws to ensure every worker is accorded rest and reasonable working hours and periods of holiday with pay as well as

⁸⁷ Complaint by an anonymous female worker as cited in Yazid Yolisigira, 'Iganga steel workers lay down tools', The Daily Monitor, accessed from <http://www.monitor.co.ug/News/National/-/688334/1151358/-/c26q2kz/-/index.html> (accessed on 17th May 2019)

remuneration for public holidays.⁸⁸ In line with this provision, the Employment Act provides that hours of work shall not exceed ten hours per day or fifty six hours per week.⁸⁹

The study findings shows that the regulation of working hours was generally respected. On average, labourers worked eight (8) hours a day with the exception of Saturday when they worked half day. The Commission was also informed that there were instances when workers exceeded the eight hours if they were being paid at piece rate, for example, tea plantation workers who were paid on the basis of per kilo of tea plucked. It was found that the workers who were paid at piece rate willingly forewent days of rest in a bid to earn extra money. As such, much as the companies respect the law on providing days of rest for their workers, it is not necessarily implemented since the majority prefer to earn extra than get some the much needed rest.

In one of the companies visited, employees' company policy provided for 12 hours as the standard working hours, with no provision for payment of overtime.

This was contrary to Section 53(5) of the Employment Act which states that working hours should not exceed ten. The trend was that employees were being exploited by employers to work for long hours without rest and for very poor remuneration. It is because of such mistreatment that Tilda Rice Scheme workers went on a sit-down strike due to poor conditions at work and poor pay.⁹⁰ Due to poverty, the same workers are

⁸⁸ Article 40(1) (c) Constitution of the Republic of Uganda.

⁸⁹ S. 53(5) Employment Act, 2006.

⁹⁰ Al-Mahdi Ssenkibirwa, 'Tilda, NOTU Officials Clash Over Workers Rights', The Daily Monitor 23rd March 2011, accessed from <http://allafrica.com/stories/201103230446.html> (accessed on 27th May 2019).

said to have been forced to return to work and sign contracts that they could not even read.

In some companies visited, that the formula for establishing the overtime payment was a division of Uganda shillings 2,600 by 8 hours multiplied by the number of extra hours worked. This in essence meant that the overtime payment was 325 Uganda shillings per hour. Also From sources it was reviled that a casual labourer in some companies was supposed to get Uganda shillings 5,600 per day though this was payable after every two weeks.

Lunch and tea breaks in some companies were only for permanent staff. Casual labourers did not have any tea or lunch breaks due to the nature of their work which required them to work in shifts without breaks. The workers were said to be given a short tea break and lunch usually after 3pm.

4.1.5 Annual leave and holidays

Section 56(1) of the Employment Act guarantees the right of female employees to a maternity leave of sixty (60) days. Article 40(4) of the Uganda Constitution mandates the employer of every woman worker to accord her protection during pregnancy and after birth in accordance with the law, that is, the Employment Act cited above. This is provided for under Section 54 of the Employment Act as well as international labour standards which recognise that an employee is entitled to an annual leave.⁹¹

⁹¹ Article 40(4) of the Constitution of the Republic of Uganda.

In all the factories that were investigated, the technical contractual/permanent workers were found to be entitled to leave and holidays while casual workers were not. The justification for this was that they were paid for the number of days worked. As such, the absence of a casual labourer meant that no payment of wages would be made.

It was found that the number of leave days due to employees differed from one company to another. Annual leave was, however, only given to workers under sub-contractors. In addition to annual leave days, some companies also granted employees both maternity and paternity leave days. The study established that some employees were not allowed to work on public holidays and in the event that one had to work, overtime payment would be given.

Furthermore, employees were also granted compassionate leave of 3 days in case of death of an immediate family member. Sick leave of up to 90 consecutive days was also permitted in some companies though it was subject to a doctor's recommendation. However, according to some employees interviewed, in some of the companies, no or less maternity leave, paternity leave or compassionate leave was granted to the employees. One of the companies visited granted maternity leave of only thirty days.

Also when leave was taken, only 70% of the leave pay was given and the 30% which was to be paid upon return of the employee was never paid. The Commission learnt that this complaint was taken up with the workers' MP but was yet to be resolved. With regard to workers employed by the company's contractors, there were complaints of no granting of annual or maternity leave.

4.1.6 Dispute resolution

The Employment Act gives powers to Labour Officers to investigate and arbitrate disputes, after which an order is made. The Labour Disputes Act requires that labour disputes should be reported to a Labour Officer.⁹² Furthermore, the Employment Act⁹³ mandates labour officers to investigate disputes as well as carry out inspections of work places. In the event that the order is not implemented, Labour Officers are supposed to refer the matter to the Industrial Court.⁹⁴

It was established that dispute resolution depended on each company's policy and also on whether the employees were contracted directly by the company or sub contractors. According to the Adrine Namalai⁹⁵, Kyagalanyi coffee Ltd does not deal directly with most of the casual labourers as they are subcontracted by contractors. As explained by the Human Resource Manager, the coffee out growers fall under the kyagalanyi Growers Ltd which sorts out their concerns.⁹⁶ The human resource manager further explained that in case of any termination or grievance, a hearing would be held.

In some companies, in the event of a conflict between workers and management, the matter is referred to the NUWAPAU. In other companies, the DLO would be contacted to handle complaints, while in other instances there was no direct relationship between companies and DLOs. For instance in Kampala district, the Commission was informed that the DLO was not involved in dispute settlement as it required facilitation which was not available.

⁹² Section 3(1) Labour Disputes Act.

⁹³ Section 11 Employment Act 2006.

⁹⁴ Section 5(1) Labour Disputes Act.

⁹⁵ Aldrine Namala labour officer kampala city council, at his office on 16th May 2019.

Some of the companies visited had well laid-out procedure for settlement of disputes between management and employees and it involved the use of an arbitrator. The employees the Commission spoke to stated that in the event of a dispute or any dissatisfaction among staff, meetings were held between management and the union. In the event of failure to reach a consensus, matters would be referred to other levels.

In companies like Hima Cement branch in kampala, the employees stated that there was no need for interventions by labour officers since operations run smoothly.⁹⁷ For employees at the management level, the staff council addressed their issues. It was further explained that every two years negotiations would be held with the trade union to agree on terms and conditions for staff; and there were quarterly meetings between staff and the trade union.

Generally, a number of complaints management mechanisms were used including: use of suggestion box; through the Human Resource Manager; Health and Safety Committee and a disciplinary committee; while issues affecting senior management were handled at the company's headquarters in Kampala. It was discovered that some of the issues affecting staff in companies with no disciplinary committees were resolved through the DLO with whom they had a good working relationship. The Commission learnt that cases of accidents were also referred to the DLO to compute the compensation.

⁹⁷ Interview held at Hima Cement

According to employees interviewed, the complaints process involved movement of a complaint from supervisor to production officer and later to the production manager if the issue was not yet resolved. In the event that all these avenues were not successful, the assistance of the DLO would be acquired. Some of the employees, however, denied ever interacting with the DLO since they mostly resolved their issues through the Human Resource Management. The employees also told the Commission that they were not aware of the role of the DLO and called for sensitisation on the issue as well as on labour laws. Other employees interviewed also denied ever having staff meetings to resolve disputes or the existence of a disciplinary committee in their companies.

On the face of it, there were attempts by the factories visited to ensure that the right of employees to be heard was accorded. This way, their views were considered in decisions on matters affecting them.

It was also established that an employee could be terminated for gross misconduct, although they would be given 7 days' notice before termination. According to Section 69(2) of the Employment Act, such notice should be in line with the contractual term or any statutory provision. The Commission was also informed that in case an employee absconded from duty, the contract would be terminated.

At mukwano Cooperative Union, complaints were said to go through departmental heads to the HRM. In the event that a disciplinary committee was required, approval had to be obtained from the Board. In instances where the assistance of the labour officer was required to resolve a dispute, the company was said to have a good working

relationship with the DLO who had reportedly done some sensitisation for staff on labour laws. It was a similar situation spear motor's where the staff interviewed indicated that they also had interactions with the labour officer to resolve their issues. The Commission was also informed that much as the DLO visits the company, the officer's interactions are only with the management and not the workers.

The fact that the Industrial Court is not functional greatly constrained the process of dispute resolution. Furthermore, due to limited or no facilitation, labour officers in most cases did not carry out most of their activities. In kampala region district, it was explained that the operational budget for the labour office was supposed to be catered for under the District Local Government budget. Consequently, due to competing demands and needs in the districts, the DLO did not receive most of its required funds. As such, activities like investigations and inspection of work places were largely suspended.

4.1.7 Right to equal pay for equal work done

The Employment Act requires every employer to pay male and female equal remuneration for work of equal value.⁹⁸ The Act further provides that an employee is entitled to wages paid in legal tender.⁹⁹

The Commission established that the payment for work done differed from company to company and also on whether an employee was a casual labourer or directly contracted by the company. For casual labourers, it was the contractors that determined the pay

⁹⁸ Section 6(7) Employment Act, 2006.

⁹⁹ Section 41 Employment Act, 2006.

which was in a number of instances low, that is, it ranged from Uganda shillings 2,600 to 4,500 in the companies visited. It was reported by the head of staff that some of the casual labourers had abandoned their jobs and returned home as they were not being paid by the contractors. This was corroborated by the acting labour officer who stated that most of the complaints that he had received were on non-payment of wages of workers, unclear remuneration to be earned and unclear schedules of payment.¹⁰⁰ The example cited of unclear schedule of payment was that at one time a worker would be paid after two weeks of service and later after three months.

The harvesting assistant that the Commission interviewed explained that the delay in paying workers was caused by a delay in the submission of field reports on the transportation of material.¹⁰¹

He further explained that sometimes deductions were also made on the amount to be paid in instances where the contractors spent money to buy rocks cutting knives for the workers. In the event of any labour complaints including failure to be paid, the labourers would report to the labour officer.¹⁰²

In kampala cement company Ltd, negotiations are held every year with NUAPAWU to agree on the terms and conditions of service of the workers. It was explained that a wage increment had been set for 1st July 2011 and that in the previous year,

unionisable employees had received an increment of 5% while permanent employees got an increment of 9%.¹⁰³

In kampala, NUAPAWU was active in negotiating wages for workers every year. At sharaton hotel, labourers were paid an average of Uganda Shillings 70 per time of material one carried to the plant. Furthermore, some workers were required to work on Sunday while in other companies it was optional.

The Commission was informed that wages for workers were determined through negotiations between Uganda cement Association (UCA) and NUAPAWU.¹⁰⁴ It was pointed out that UCA represents all worker's, as such all agreements are applied across the board. , it was established that permanent and contractual staff were paid monthly while casual labourers were paid Uganda Shillings 5000 weekly. At kyayagalanyi coffee limited the Commission was informed that contractual staff were paid monthly wages while

Much as wages were still considered low by the workers and union representatives spoken to, it was hoped that with collective bargaining, the wages could be increased to a standard commensurate with the current cost of living. It was further established that the staff were equally unaware of the payment of the National Social Security Fund (NSSF) contributions. In other instances there were complaints of non-remittance of NSSF deductions though the concerned company management said that the issue would be handled by the company secretary.

¹⁰⁴ Interview with Mr. Nsabimana Abel, Group Manager & Balinda Christopher Estate manager/Deputy Group Manager Kahuna Tea Estates, on 18th May 2011 at Toro Kahuna Tea Estates.

With regard to overtime payments, the Commission was informed that overtime was paid when production was above the targeted amount, was needs-based and done in accordance with the labour law. However, working overtime was optional. An annual bonus was paid to workers when the company had made profit but in accordance with the workers' scale.

4.1.8 Health and safety at the workplace

Health and safety at the work place entail the use of protective gear, safe conditions of work, as well as treatment for injured employees among others. All employers are expected to ensure that their workers are employed in a safe and conducive environment to ensure the protection of workers in the course of their duty. The Occupational Safety and Health Act 2006 makes it the duty of every worker to take reasonable care for the health and safety of himself or herself and of any other person who may be affected by his or her acts or omissions.¹⁰⁵

The Employment Act 2006 empowers a labour officer to engage in labour inspection which includes securing the enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work.¹⁰⁶

The Commission was informed that in some instances, plantation workers were expected to harvest sugarcane from a given area at all costs. As such, they were not to fall sick. For workers in the tea estates, it was pointed out that employers are bound by

¹⁰⁵ s. 35(1) (a) The Occupational Safety and Health Act 2006.

¹⁰⁶ Section 10(2) (a) Employment Act, 2006.

law to provide them protective gear though in some instances it was not supplied.¹⁰⁷ It was also pointed out that the labour inspectorate was not functioning and therefore left the performance of its functions to the trade unions.

It was established that in some companies, the protective gear given to labourers differed depending on the nature of their work; for instance, pluckers would be given plucking capes to protect them from morning dew while a mechanic operating within a factory would be given industrial boots, helmets, ear muffs and uniforms. Concern was also raised about chemicals applied to the tea plantation like Glamaxol which were alleged to be dangerous to humans and could cause impotence. This was, however, not verified. The workers interviewed however, in some employees opted to fold the top part of the plucking cape as it inhibits them from plucking very fast. At the factory, the Commission observed that attempts were made by management to alert staff on health and safety measures, for instance there was a sign reminding staff to wear protectives. In companies like Mukwano Oil Mill Safety, it was observed there were attempts to post awareness and warning posts in English, Swahili and Luo at the factory premises.

With regard to availability of health services within company premises, it was established that there were resident clinical officers who would treat basic ailments and injuries in most of the companies visited. For serious injuries, staff were taken to the main hospital in the companies' areas of operation and the matter would be reported to the DLOs to make the necessary investigations and computations for compensation for

¹⁰⁷ Interview with Paddy Twesigomwe, Regional Secretary National Union of Plantation and Agricultural Workers-Kabarole district. indicated that the protective wear given was inadequate. Consequently, some of the employees had bought their own protective gear including gumboots.

the injured worker where necessary. The Commission was informed that Government has also assisted with immunisation where necessary and that employees living with HIV/AIDS were accessing treatment free of charge.

It was established that at Hima Cement, there is a clinic at the level of a Health Centre IV within the factory with a doctor and clinical officer given the long distance of the factory from Kasese town. The factory also has an HIV policy it utilises to handle staff living with HIV/AIDS. At Hima Cement, the investigations team witnessed a health talk by the Medical Director from Lafarge Cement, Hima Cement's mother company. The Commission found out that workers undergo an annual medical check as they are exposed to noise and dust fumes. As part of ensuring their safety, workers are required to wear goggles to protect their eyes and masks for their noses and mouths. Helmets, reflective suits and safety shoes were also provided while the type of gloves, whether leather, cloth or polythene, were availed depending on the nature of the employee's work.

Employees at Hima Cement said that once an injured staff recovered, they were transferred to a section where the workload was lighter and there would be no deduction of one's salary¹⁰⁸. An example was given of a staff transferred from the mechanical section to logistics. According to employees interviewed, attempts have also been made by companies to train employees on how best to use the machinery in a bid to avoid accidents while other companies also had modern equipment that incorporated safety measures within it. In other companies visited, the Commission was informed

¹⁰⁸ Interview held with Unionised employees at Hima Cement.

that in the event that a worker fell sick, he/she would have to incur the treatment expenses. The companies only assisted in the payment of medical bills in instances where the treatment was major.

However, some of the workers lamented that there were no toilets and bathrooms for them so they had to make use of the surrounding areas whereas management had toilet facilities at their disposal. With regard to provision of medical insurance for employees, the employees interviewed indicated that it was only for permanent staff and did not include their families.¹⁰⁹ The employees also stated that they had been informed by the management that a new policy would be introduced to cover family members. The Commission observed that despite the provision of safety gear by BIDCO, some staff were not using them despite their supervisors' attempts to enforce the wearing of the protective gear.

4.1.9 Compensation for injury

According to the Workers Compensation Act, an employer is liable to pay compensation if personal injury by accident arises out of and in the course of a worker's employment.¹¹⁰ Further, under Section 3 (2), an employer is not liable for injury which does not result in permanent incapacity or incapacitate the worker for at least three consecutive days from earning full wages at the work for which he or she was employed.

¹⁰⁹ Interview with BIDCO supervisory staff from the refinery, plant and production department.

¹¹⁰ Section 3(1) Workers Compensation Act Cap 225

It was established that compensation for injury was largely done for employees permanently contracted by the companies. Some companies like Hima Cement insured their workers under Jubilee Insurance; as such, in the event of grave injury, an injured employee would be able to receive compensation. An assessment of the extent of the injury would be made by a doctor once the treatment was completed and the injured employee would be compensated. If the injured employee died, compensation would be given to the next of kin and the funeral costs would be incurred by the company.

4.1.10 Child labour

Article 34(4) of the Uganda Constitution offers protection for children from social or economic exploitation, which includes child labour. A child is considered to be involved in child labour activities if a child aged between 5 to 11 years of age did at least one hour of economic activity or at least 28 hours of domestic work, and a child aged 12 to 14 years of age did at least 14 hours of economic activity or at least 42 hours of economic activity and domestic work combined.¹¹¹

The worst forms of child labour include: all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labour, including forced or compulsory recruitment of children for use in armed conflict;¹¹² the use, procuring or offering of a child for prostitution, for the

¹¹¹ Child Protection: Definition of indicators as obtained from UNICEF at http://www.unicef.org/infobycountry/stats_popup9.html (accessed on 23rd May 2019).

¹¹² Article 3 (a) Worst Forms of Child Labour Convention, 1999.

production of pornography or for pornographic performances;¹¹³ the use, procuring or offering of a child for illicit activities.

In particular for the production and trafficking of drugs as defined in the relevant international treaties; ¹¹⁴work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.¹¹⁵ In line with the foregoing, Section 32 of the Employment Act states that a child under the age of 12 shall not be employed in any business undertaking or workplace. Elimination of the worst forms of child labour, and in particular, implementing a minimum working age and certain working condition requirements for children, are part of the core labour standards.

In the course of the systemic investigations, generally the Commission did not receive any complaints of child labour in the factories that were visited, except in Kabarole district where NUAPAWU was still investigating such a claim. It was alleged that children were being paid an equivalent of Uganda Shillings 1500 instead of Uganda Shillings 4500 per day which would ordinarily be paid to an adult worker. In most of the companies visited, the Commission was informed that the practice of employing child labour was abolished and that potential employees had to present identification, birth certificates and letters from their local councillors when applying for jobs.

¹¹³ Article 3(b) Worst Forms of Child Labour Convention, 1999.

¹¹⁴ Article 3(c) Worst Forms of Child Labour Convention, 1999

¹¹⁵ Article 3(d) Worst Forms of Child Labour Convention, 1999.

4.1.11 Written contracts of employment

Section 59 of the Employment Act entitles every worker to receive notice from his employer indicating, among other things, the title of the job the worker is employed to do, the date on which the employment under the contract began and the wages the employee is entitled to receive.

The study found out that a number of casual labourers did not have contracts of employment. This was the situation in instances where casual labourers were contracted by the out growers. An example of such a situation was at Kyagalanyi coffee Ltd where out growers did not have employment contracts with the casual labourers. Those employed under Kyagalanyi Factory were given contracts of employment. Casual labourers working under company had written contracts ranging from 3-8 months and that due to expansion contractors were brought on board to assist with tea leave production. As such, some of the casual labourers are catered for by the contractors.

It was established that for labourers working at the tea estate employment contracts were signed between them and personnel managers and in the presence of an officer from the trade union. The procedure was that contract would be explained to the labourer in his local language. contracts are given to those at management level while ordinary workers only had cards bearing their employment record.¹¹⁶ It was explained that no contracts were given to the ordinary workers since a number of them tended

¹¹⁶ Interview with Nsabimana Abel, Group Manager & Balinda Christopher, Estates Manager/ Deputy Group Manager Tea Estate, on 18th May 2011 at the Tea Estates.

not to work for a long period of time. All unionised workers were reported to have signed similar contracts.¹¹⁷

In other companies like uganda Railway corporatio , and Mount Meru Millers, letters of appointment were only given to permanent staff. The letters of appointment contained basic information including the job description, duration, responsibilities and entitlements, for instance, medical, leave days and working hours. While in a few companies, no contracts of employment or letters of appointment were given to employees as they were considered to be temporary staff.

CHAPTER FIVE

COUNCLUSIONS AND RECOMMENDATIONS

5.0 INTRODUCTION

The findings detailed in this section focuses on Conclusions and recommendations bases on study objectives in reference to legal protection of causal workers in Uganda.

5.1 CONCLUSION

The casual workforce faces myriad challenges. They are not sufficiently protected by current labor laws, and although court rulings have helped those who bring suit, the rest of the casual workforce is faced with worse conditions as corporations try to sneak through increasingly smaller loopholes. As workforce becomes more and more dependent on employee benefits packages, the issue of casual worker protections will continue to gain prominence and importance.

Legal institutions and others institutions need to be pushed to continue the fight, because it seems the lawsuits and legislation are the only ways to get results. Organizations like Working Today serve an important role in helping change legislation so that it better protects contingent workers."

Independent Workers often pay a high price for working in non-standard arrangements, making it increasingly more difficult to survive in the For example, current government policies assume that employers will be providing insurance, and rates are usually set according to the number of employees in a

company in order to spread the risks.'? Working Today has proposed several policy changes that would possibly help

In addition to revising existing insurance regulation to reflect the changes in the workforce, Working Today also recommends establishing refundable tax credits for health insurance payments for people, regardless of how they work.!" Of course, the ideal solution would encompass both concepts-it would protect workers who freelance and do not necessarily work continually for the same employer, and it would also make accommodations for those who fit the description of common law employees. But it is unlikely that such a solution will come in the near future without a significant increase in activism.

5.2 RECOMMENDATIONS

Government

Government should embark on the sensitisation and training of workers on labour laws and their rights as workers. With this awareness, as rights' holders, they would be in a better position to know when their rights are being violated and what rights to claim.

There is a need for government to set a minimum wage for workers in accordance with the type of work done and level of qualifications of the worker. This will help curb the exploitation, oppression and underpayment of workers. Determination of minimum wage should also take into consideration the inflation and costs of living.

Government should consider reviewing taxation on salary, allowances and gratuity,

especially for the low income earners.

Government should ensure the respect and effective enforcement of the Employment Act, in particular the observation of stipulated working hours. In situations where workers are expected to work longer hours, their due overtime allowance should be paid. Health and safety regulations in the work place should be strictly complied with.

The Industrial Court should be fully operationalised to efficiently and effectively resolve employer- employee disputes that have been forwarded to it by the DLOs. This would ensure the enforcement of orders made by the labour officer, as well as the expeditious handling of complaints referred to the court.

The public should be made aware of their labour rights through civic education in the media and training.

DLOs should be appointed to oversee protection of workers' rights in all districts of Uganda. The labour office should be adequately staffed with support personnel.

The district labour offices should be strengthened through adequate funding for them to facilitate their field visits.

Need for the strengthening and adequate resourcing of the labour function in MoGLSD.

This way, employee interests will not be disadvantaged by the focus on the ministry's other functions.

Facilitation of the labour office should be centralised rather than being decentralised since most district local governments tend not to have sufficient funding for their operations. Further, the central government should take over operations of the labour office since there is always no money at the district for the office's operations.

Labour officers should be trained to enable them carry out their work. In particular, they should undertake a diploma in law to assist them as prosecutors so that they are equipped to handle cases themselves.

There is a need to strengthen the inspections of places of work by labour officers. The labour officers should be able to interview workers in companies visited and hold meetings with management at places of employment as well as inspect the general state of workers' occupational health and safety.

Employees

There is need for all workers to ensure their health and safety at the work place. This includes the use of protective gear to minimise their injuries while at the work place.

Employees should be enabled to join trade unions of their choice in accordance with the Constitution and the Employment Act. This way, they would be able to utilise the power of collective bargaining to ensure participatory decision making when making company policy.

Employees should be informed and empowered on their labour rights, duties and responsibilities to ensure that they can claim their rights and fulfil their responsibilities.

Employers

Employers should adhere to the Employment Act and provide contracts of employment for all workers under their employment. This way, workers will be in a position to determine their rights and duties as provided for in the contract.

There is a need for employers to increase wages and give fairer terms of employment for casual labourers. This includes improvement in their welfare and provision of adequate protective gear and equipment.

Employers should have formal agreements with contractors which require adherence to basic labour rights for their workers. This would include requiring contractors to observe basic labour standards like granting employees leave, as well as basic and regular pay for work done.

Employers should support the decision of their employees in forming and joining labour unions so that they can benefit from collective bargaining to resolve crucial matters including determination of their basic pay.

There is need for employers to conduct more on job training for workers. This would not only improve their efficiency in executing tasks but would also assist in minimising accidents as the workers would be better trained on how to handle the machines. Such

trainings should also include routine management training to empower managers to handle staff issues better. This would also include communication skills as effective communication would lead to the resolution of any dispute that could arise.

For companies that offer housing to their employees, there is a need to ensure that dilapidated buildings are renovated and in other instances, the construction of habitable housing facilities with access to clean water for the workers. There is a need to ensure that the current housing structures are clean to ensure the health of the occupants.

Trade Unions

Trade unions should cultivate and maintain working relationships with management, labour office and workers in order to enhance success in negotiations between the parties to resolve issues affecting workers in a given institution.

There is need for dialogue and meetings with the Federation of Uganda Employers, employers, labour union and the DLO to discuss the issue of sub-contractors and employers' refusal of unionisation of workers.

There is need for frequent engagements between the union and employers to harmonise

and agree on positions for the betterment of the workers and the employers' business.

Trade Unions should also be efficient in giving relevant and timely feedback/information to their members in order to forestall industrial action triggered by lack of information on how their grievances are being handled.

There is a need for trade unions to increase their national coverage by expanding their services to all districts of Uganda.

There is also need for trade unions to resolve internal wrangles. As was noted, there are two trade unions at the national level, that is, NOTU and COFTU, with COFTU being a breakaway union. The wrangles between the two bodies has been extended to fights for workers. Since these wrangles could minimise efforts to promote and defend workers' rights, there is a need for the conflict to be resolved and harmony to be created between the two bodies for the collective furtherance of workers' rights.

Workers' Representatives in Parliament

Workers' representatives in Parliament should advocate for the operationalization of the Industrial Court. As noted in the discussion, the operationalization of the court would contribute to the effective resolution of complaints on violation of workers' rights.

Workers' representatives should regularly conduct monitoring of work places. This would give them an opportunity to experience first hand the issues affecting workers as well as enable them engage in discussions with employers on how to improve the workers' conditions.

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