

**ANALYSIS OF THE EFFECTIVENESS OF THE LEGAL FRAMEWORK ON THE
PROTECTION AND ENFORCEMENT OF WORK RIGHTS IN UGANDA.**

BY

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DECLARATION

I hereby declare that except for references to other peoples work, which have been duly acknowledged, the study presented here was written by me, under the supervision of Mr. Muyinga Samuel. It is a record of my own research work and has not previously been presented in any form whatsoever in any application for a degree elsewhere. All sources of information collected and materials used have been duly acknowledged by means of references and bibliography.

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DEDICATION

I dedicate this work primarily to the almighty God for his guidance and mercy throughout my studies. I also dedicate this work to my Dad Mr. Betunga Telesphorous and Mum Mrs. Katushabe Stella, and the entire family for the support, love and care they have given me throughout my studies.

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International Conventions

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

Convention Concerning Minimum Age for Admission to Employment No. 138 of 1973.

Convention on Forced Labour No. 105 of 1957.

Forced Labour Convention, 1930 (No. 29) & Abolition of Forced Labour Convention, 1957 (No. 105)

ILO Convention No. 87

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

Minimum Age Convention, 1973 (No. 138) & Worst Forms of Child Labour Convention, 1999 (No. 182).

The Convention Concerning Freedom of Association and Protection of the Right to Organise

Municipal laws

Constitution of the Republic of Uganda, 1995

Employment Act 2006

Labour Disputes (Arbitration and Settlement) Act 2006.

Labour Union Act 2006

Occupational Safety and Health Act, 2006

The minimum wage Bill 2015

Workers Compensation Act Cap 22

LIST OF ACRONYMS

CMP	Common Market Protocol
COFTU	Confederation of Free Trade Unions- Uganda
EAC	East African Community
FES	Friedrich Ebert Stiftung
FUE	Federation of Uganda Employers
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic Social and Cultural Rights
ILO	International Labour Organisation
MGLSD	Ministry of Gender Labour and Social Development
MoFPED	Ministry of Finance Planning and Economic Development
NDP	National Development Plan
NEP	National Employment Policy
NOTU	National Organisation of Free Trade Unions
NRM	National Resistance Movement/ National Resistance Army
UDHR	Universal Declaration of Human Rights
UGX	Uganda Shillings
UNDP	United Nations Development Programme
UNHS	Uganda National Household Survey
UNPF	United National Population Fund

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ABSTRACT

The main objective of this study was to provide an analysis of the effectiveness of the legal framework on the protection and enforcement of work rights in Uganda. The study found out that numerous labour laws were enacted by parliament in the year 2006 to act as guidelines to both the employers and the employees in the protection and observance of employees' rights in Uganda. These laws included the Employment Act of 2006, the labour Unions Act of 2006, the occupational health and safety Act of 2006 and the Labour Disputes (Arbitration and Settlement) Act 2006 which established the industrial court that is vital in adjudicating disputes among people with employment contracts.

The Researcher employed a doctrinal methodology of research to find out that workers' rights are protected through various laws in Uganda and that these laws are a reflection of the international laws on labour rights, the research foundout that Uganda has ratified conventions and treaties protecting labour rights internationally as discussed in chapter two of this paper. Despite the legal protection of the rights, enforcement of the workers' rights is still a problem to Ugandans. The findings show that employee's rights are violated mostly by their employers and this has been attributed to ignorance of their rights as workers and the overwhelming unemployment in the country where workers condone ill treatment by their employers for fear to lose their jobs and go unemployed. This paper analyzed the conditions of work among employees in their work places and came up with recommendations that if adopted would improve on enforcement and protection of employees' rights in Uganda.

CHAPTER ONE

0.1 Introduction

Workers' rights are viewed as key components of human rights in Uganda. Uganda is estimated to have a labour force of 13.4 million people 65% of whom are women and 55% are men.¹ In abide to protect this labour force Uganda has enacted a number of laws as well as setup instruments that provide for workers' rights and guarantees labor standards to promote opportunities to men and women to obtain a decent and productive work in conditions of freedom, equity, security and dignity. Most of the workers' rights have been indoctrinated in the domestic law from the available international laws following the universality nature of human rights and these were fully envisaged in the 1995 constitution of the Republic of Uganda under Article 40 and were further given attention by the legislators in 2006 following the enactment of the Employment Act and other Labour laws that were enacted in that year like the Occupational Safety and Health Act, 2006 and the Labour Disputes (Arbitration and Settlement) Act 2006., the effort to the implementation of Uganda's labour laws since enactment has been pushed effortlessly. It is rather flabbergasting and unfortunate that the dignity and rights of workers are still threatened and violated. Various abuses of workers such as low remuneration, sexual harassment, denial of holidays, working for long hours, unfair dismissal, denial of terminal benefits, denial of freedom of speech and association, child-labour and physical assault, among others are common phenomena at work in Uganda.² These are all symptoms of lack of respect for the dignity of the workers yielding to poor working conditions.³ This has not only affected the workers but the entire social fabric right from the family as a nucleus of society. Lack of regard for the workers' dignity has also caused the prevailing corruption, tribalism, and nepotism.⁴ Dehumanization of workers is high not only due to massive unemployment but also due to the government's neo-liberalistic policies in support of foreign investors at the expense of the natives. In the long run the marginalized workers are left in abject poverty. Worst of all, what

¹Ministry of Finance Planning and Economic development, *State of Uganda's population default*, 2010

² Musooka Moses Kimera. Ba (Sps) 2010: Regard For Workers' Dignity: A Remedy To The Poor Conditions Of Workers In Wakiso Town: Wakiso District A Dissertation Submitted In Fulfilment Of The Requirement For The Award Of A Master's Degree In Religious And Theological Studies Of Makerere University

³ Ibid note 2

⁴ Ibid note 2

flummoxes one is that some workers have not only turned a deaf ear to the problem but also seem ignorant about their rights.

Workers in Uganda are guaranteed rights and freedoms for their protection in employment.⁵ Workers' rights are provided for, in international human rights instruments, including the Universal Declaration of Human Rights (UDHR) under Articles 23 and 24. 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.⁶ 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.⁷ 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.⁸

The right to work imposes three obligations on States parties: To respect, protect and fulfill. The obligation to respect the right to work requires States parties to refrain from interfering directly or indirectly with the enjoyment of that right.⁹ The obligation to protect requires States parties to take measures that prevent third parties from interfering with the enjoyment of the right to work.¹⁰ The obligation to fulfil includes the obligations to provide, facilitate and promote that right.

It implies that States parties should adopt appropriate legislative, administrative, budgetary, judicial and other measures to ensure its full realisation.¹¹ Uganda is estimated to have a labour

⁵ Ugandahuman Rights Commission: Workers' Rights: A perspective on the enjoyment of the rights of factory workers in Uganda. at 7

⁶ UGANDAHUMAN RIGHTS COMMISSION: WORKERS' Rights: A perspective on the enjoyment of the rights of factory workers in Uganda.at 7

⁷ Ibid

⁸ ibid

⁹ Para 22 of the General comment No. 18 on the Right to work. adopted on 24 November 2005.

¹⁰ Para 22 of the General comment No. 18. ibid.

¹¹ 3 Para 22 of the General comment No. 18. ibid.

force of 13.4 million people, 50% of whom are female.¹² In a bid to protect this labour force, there are core labour standards guaranteed internationally to promote opportunities for women and men to obtain decent and productive work, in conditions of freedom, equity, security and dignity.¹³ These include:

- i. Freedom of association which enables workers to join trade unions that are independent Of government and employer influence;¹⁴
- ii. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). A perspective on the enjoyment of the rights of factory 14 workers in Uganda.”
“WORKERS’ Rights
- iii. The right to collective bargaining which makes it possible for workers to negotiate with their employers collectively rather than individually;¹⁵
- iv. The prohibition of all forms of forced labour, which among other things, includes prevention of workers from being forced to work under duress;¹⁶
- v. Elimination of the worst forms of child labour;¹⁷
- vi. Non-discrimination in employment: equal pay for equal work.
- vii. Payment of wages for work done.

However, these international laws have been domesticated to become law in Uganda for example the Constitution¹⁸ was Amended in the effort to introduce provisions protecting workers rights and enactment of the labour laws which include the Labour Unions Act¹⁹ Employment Act²⁰ Labour Disputes Act²¹ Safety and Health Act²² coupled with the Social Teachings of the Church.

¹² Labour force as indicated in the National Employment Policy for Uganda. April 2011. 4.

¹³ Introduction to International Labour Standards. accessed from:

<http://www.ilo.org/global/standards/introduction-to-international-labour-standards/lang--en/index.htm>

¹⁴ Freedom of Association and Protection of the Right to Organise Convention. 1948 (No. 87).

¹⁵ Right to Organise and Collective Bargaining Convention. 1949 (No. 98).

¹⁶ Forced Labour Convention. 1930 (No. 29) & Abolition of Forced Labour Convention. 1957 (No. 105)

¹⁷ Minimum Age Convention. 1973 (No. 138) & Worst Forms of Child Labour Convention. 1999 (No. 182).

¹⁸ Article 40 of the Constitution of the Republic of Uganda. (1995).

¹⁹ Act No. 7, 2006

²⁰ Act No. 6 2006

²¹ Act No. 8, 2006

²² Act No. 9, 2006

The study there is to examine the efficacy of the legal and institutional mechanism of workers' rights in Uganda vis-à-vis the right to form trade unions to ensure the enforcement of workers' rights.

1.1 Background to the study

In 1963 Uganda joined the International Labour Organisation (ILO) and has through the years ratified various ILO Conventions and domesticated some of these through its labour laws. Today labour matters in Uganda are under the watch of the Ministry of Gender, Labour and Social Development (hereinafter referred to as the 'Labour Ministry'). The other key stakeholders in the country's labour relations include; the National Organisation of Free Trade Unions (NOTU) established by Decree No. 29 of 1973,²³ the Confederation of Free Trade Unions- Uganda (COFTU) and the Federation of Uganda Employers (FUE), which was established in 1958 and registered in 1960 is the sole employer representative body in Uganda.²⁴

By the 1980's, Uganda's labour legislation had become obsolete.²⁵ The main laws that needed to be revised included: Employment Decree 1975, Trade Union Decree 1974, Factory Inspectorate Act 1964 and Trades Dispute (Arbitration and Settlement) Act Cap 224.²⁶ In 1988 the ILO was invited to assist in the revision of Uganda's labour legislation.²⁷ Accordingly a commission, with representatives from the Labour Ministry (government), FUE (employers) and NOTU (employees) was established.²⁸ The commission agreed to repeal and revise the outdated labour legislation and make these laws compliant with national and international minimum labour standards.

²³ National Organization of Trade Unions available at www.notu.or.ug.

²⁴ Federation of Uganda Employers (FUE) 'Business Agenda Uganda 2011- 2014' available at www.fuemployers.org.

²⁵ Friedrich Ebert Stiftung (FES) & Uganda Labour Resource Centre (ULRC) 'Baseline Survey on the Implementation of New Labour Laws in Uganda: A Case Study Of Kampala Wakiso, Jinja, Gulu and Mbarara Districts' (2011) 19 available at http://www.fesuganda.org/media/documents/Labour_Study_2011.pdf.

²⁶ Friedrich Ebert Stiftung (FES) & Uganda Labour Resource Centre (ULRC) 'Baseline Survey on the Implementation of New Labour Laws in Uganda: A Case Study Of Kampala Wakiso, Jinja, Gulu and Mbarara Districts' (2011) 19 available at http://www.fesuganda.org/media/documents/Labour_Study_2011.pdf.

²⁷ J J Barya 'Trade Unions, Liberalisation and Politics in Uganda' in B Beckman, S Buhlungu & L Sachikonye (eds) Trade Unions & Party Politics: Labour Movements in Africa (2010) at 98

²⁸ Friedrich Ebert Stiftung (FES) & Uganda Labour Resource Centre (ULRC) 'Baseline Survey on the Implementation of New Labour Laws in Uganda: A Case Study Of Kampala Wakiso, Jinja, Gulu and Mbarara Districts' (2011) 19 available at http://www.fesuganda.org/media/documents/Labour_Study_2011.pdf

A technical memorandum was presented to government in 1992 but was never acted upon.²⁹ The proposals made by the ILO sought to create new labour rights in the employment relationship as well improve labour dispute settlement process, and expand safety and health rights at work.³⁰

In a separate forum, the Ministry of Finance sought assistance from World Bank in updating its commercial laws which included a brief on labour legislation.³¹ In a move that Barya describes as ‘forces of neoliberalism in government led by President Museveni’,³² other consultants were engaged by World Bank to update the same labour laws that the Ministry of labour and ILO had already updated. This was done without reference to the work already done by ILO and the social partners.³³

The World Bank study classified all labour laws under commercial laws under the docket of the Ministry of Finance Planning and Economic Development (MoFPED).³⁴ The recommendations made by study commissioned by the World-Bank favoured flexibility for employers and weaker labour laws.³⁵ The labour ministry study, on the other hand, opted for affirming various labour rights. The Labour Ministry, the employers’ federation and the trade unions unanimously rejected the World Bank sponsored draft legislations and sought the implementation of the ILO sponsored draft legislation which had been agreed upon earlier.³⁶ The impasse was resolved through conducting a third study on the labour laws,³⁷ supported by the ILO and United Nations Development Programme (UNDP).³⁸ The report from this study was presented to labour ministry, but even though MPs were supportive of the bills, the bills were resented by MoFPED and the President for being ‘antiinvestor’.³⁹ Irrespective of the pleas by unionists and the strong support for the Bills by Labour Ministry, the laws were not passed until nearly after 5 years in 2006⁴⁰.

²⁹ J J Barya ‘Trade Unions, Liberalisation and Politics in Uganda’ in B Beckman, S Buhlungu & L Sachikonye (eds) *Trade Unions & Party Politics: Labour Movements in Africa* (2010) at 6

³⁰ Friedrich Ebert Stiftung (FES) & Uganda Labour Resource Centre (ULRC) ‘Baseline Survey on the Implementation of New Labour Laws in Uganda: A Case Study Of Kampala Wakiso, Jinja, Gulu and Mbarara Districts’ (2011) at 21 available at http://www.fesuganda.org/media/documents/Labour_Study_2011.pdf.

³¹ *ibid* at 20

³² *supra* Barya at 98.

³³ *supra* Barya 98

³⁴ *Supra* FES 20.

³⁵ *Supra* FES op 20.

³⁶ *Supra* FES at 21.

³⁷ *supra* FES at 22.

³⁸ *supra* Barya at 99.

³⁹ *supra* Barya at 99

⁴⁰ *supra* Barya at 99.

The passing of the bills was done to meet a US government ultimatum to Uganda to pass all pending labour laws (by March 2006), failing which Uganda would be struck off the African Growth Opportunity Act (AGOA) arrangement.⁴¹ The key labour laws that were updated included; The Employment Act, Occupational Safety and Health Act, Labour Unions Act and Labour Disputes (Arbitration and Settlement) Act of 2006. The process through which the above labour legislation came to be amended and put into law is expressive of the government's overall attitude towards labour legislation. Unsurprisingly, the pursuit for an effective minimum wage in Uganda mirrors the sequence of events, and obstacles faced (discussed above) in updating key labour legislation in the country.

1.2 Statement of the problem.

In Uganda, Workers are forced to work for longer hours, there is forced labour, unfair dismissal without terminal benefits, sexual harassment and denial of other rights. Such mal-practices are not only attributed to the phenomenon of massive unemployment leading to high supply of labour against a low demand for it, but also the neo-liberal economic policies which have bred into a conflict between workers' rights and government policies then the fact that workers are ignorant about their rights. There is need therefore to sensitize workers about their rights such that it becomes easy for them to seek redress in the provided institutions like the labour officer and the Industrial Court when such rights are violated.

Ideally, both the employer and the employee should value work and hold the value of workers' rights. Employers should respect the dignity and the rights of workers. Workers should be given freedom to participate in decision-making, so that their skills and talents can be developed. Workers should be given a reasonable remuneration and allowed to freely participate in other social activities like religious practices, politics and leisure. There ought to be built a good-working relationship between employers and employees and amongst the employees themselves. Such mutual understanding will enhance good-working conditions of workers and promote

⁴¹ Uganda had taken advantage of the US's African Growth Opportunity Act (AGOA) and as a result the government assisted a team of Sri Lankans set up Apparel Tristar Ltd, a clothing industry employing more than 2000 female workers. However, Tristar refused to recognize a Labour Union (UTGLAWU) representing most of its workers. Tristar claimed that the union had to certify that it was representative of 51% of the workers as stipulated in the old Trade Unions Act that was still binding then. However, upon further agitation by workers for union recognition and bargaining rights, the company dismissed near 300 workers. UTGLAWU reported the matter to the ILO and also sought assistance from the American Federation of Labour- Congress of Industrial Organisation (AFL-CIO). AFL-CIO urged the US government to expel Uganda from the AGOA arrangement. Faced with the ultimatum from the US government, the government mobilized parliament in February 2006. The bills were tabled, debated and passed with minor adjustments in a record time of one week. See *ibid* Barya 99-101.

justice. There is need, therefore, to respect the different domestic and international labour laws protecting the rights of workers in Uganda. This paper therefore explores the role of different mandated institutions in promoting labour laws and enforcing workers' rights and whether there is any success in their struggle to promote worker rights in Uganda.

1.3.1 General objective

The general objective of the study is to examine the efficacy of legal and institutional mechanisms aimed at protecting workers' rights in Uganda.

1.3.2 The Specific Objectives of the study are:

1. To analyze the legal and institutional framework put in place to protect and enforce workers' rights in Uganda.
2. To establish whether workers are afforded adequate protection in the course of their work.
3. To establish the challenges and hindrances towards the enjoyment of workers' rights in Uganda.
4. To establish strategies that could be utilized to ensure respect, protection and promotion of workers' rights

1.4 Research questions.

- I. What is the legal and institutional frame work in place to help in the enforcement of workers' rights in Uganda?
- II. Whether the legal and intitutional mechanisms aimed at protecting workers rights are effective?
- III. Whether workers are afforded adequate protection in the course of their work?
- IV. Whether there are any challenges and hindrances towards the enjoyment of workers' rights in Uganda?
- V. What do you propose as strategies that could be utilized to ensure respect, protection and promotion of workers' rights?

1.5 Hypothesis

The Research into workers' rights is conducted to ascertain whether workers' rights are indeed respected and protected in Uganda. The research examined the level of enjoyment of the right to work, join and form trade unions, work in safe conditions at their places of work and whether

workers had protection including social security and pension rights for the time they would leave employment. This paper is therefore based on the hypothesis that legal and institutional framework mechanisms while properly embraced by employers and employees could reduce the abuse and violation of their rights in Uganda.

1.6 Scope of the study

1.6.1 Time scope

This study will cover the time between 2010 to date

1.6.2 Geographical scope

The research will be carried out with the Geographical area of Uganda

1.7 Significance of the study

The study findings, insights and recommendations will furnish enlightenment and give alternative approach to the Central Government, Ministry of Labour, Local Government and district planners as they grapple with the phenomenon of employers' rights.

Further, the study is a necessary reference or a hand book to the offices of administrators, Human Resource Managers (personnel), Workers' Unions, National Organizations of Trade Unions, and Members of Parliament. It provides a resource material on the possible approach to liaise with workers in order to improve their working conditions.

Further still, employees, employers and other Human rights bodies and organizations in Uganda will make good use of this study report. The research is a way of sensitization towards grasping the necessity of regarding the workers' rights.

Finally, the lawyers will find the study supportive in proposing a new approach on how to improve on the workers' conditions.

1.8 Methodology.

This study relies significantly on secondary data. This data is gathered from library such as books, articles, case law, international and domestic instruments and internet sources. Reliance is therefore made of the desktop scheme of research.

Within the broad remit of reviewing the effectiveness of labour laws in Uganda, the dissertation focuses analytically on employees' rights in Uganda and also makes a Comparative analysis with

other countries through written literature and online material about labour rights in different countries.

1.9. Limitations.

The research will be limited to Uganda only so as to focus on one African country and compare it to international models. Perhaps the greatest limitation to this study is the factor that this research is directly related to which are the difficulties encountered in accessing relevant and accurate information. Government records, statistics and official documents that could have been examined and relevant to show the impact of corrupt practices in Uganda and to validate the hypothesis of this research are presently inaccessible due to the culture of secrecy that still prevails in the country. As a result, the research has to rely on secondary sources such as reports of NGOs, credible newspaper reports and some other writings.

The researcher anticipates to encounter a number of constraints which included limited funding and limited time frame within which to conduct the research.

1.10 Literature review

This part provides a review of other authors regarding the topic of study. The main concern is how they look at the rights of employees and how their dignity is recognized, protected, enjoyed and enforced.

Rerum Novarum of Leo XIII⁴² is exceedingly recognized of its sincere protection for the inalienable dignity of workers, in conjunction with the importance of the right to property, cooperation among social classes, the right of the weak and the poor, the obligation of workers and employers and the right to form associations. Leo XIII foresaw the conflict between employers and workers as an obstacle to the dignity of workers. He pointed out socialism and communism as the sources of evil, degrading and injuring workers' rights of lawful ownership. His major concern was apparently on private property as a remedy to the conflict. This, however, is a partial remedy for the attainment of the workers' dignity. Broadly, the encyclical was oriented towards strengthening and vitalizing Christian social life in consolidation of numerous initiatives of high civic profile.⁴³ However, it gave a great momentum to labour-related

⁴² Leo XIII. (1891). Encyclical on Human Condition of Workers. Rerum Novarum. Nairobi: Paulines Publications.

⁴³ Like groups and social studies, associations, workers' organizations, unions, cooperatives, rural banks, insurance groups and aid organizations.

legislations for the protection of the workers' dignity and improvement of salaries and cleanliness in the work environment.⁴⁴ *Rerum Novarum* was a kick-off for the Church's involvement in considering the social question about the plight of the workers.

John Paul II⁴⁵ further enhanced his predecessor's endeavours by elaborating more on work and personal dignity. In *Laborem Exercens*, he argues that workers should not experience a lowering of their dignity. He condemns using work against people such as forced labour, turning it into means of oppressing the worker, thus damaging one's dignity. Therein, he further addresses the current questions and problems on human existence and work. In fact, his whole social question is not only on personal dignity in work but also economic development, cultural and moral development of the persons, the family and the entire human race. Above all, the pontifical Council holds the human person as the measure of the dignity of work.⁴⁶ Hegel in *Karl*⁴⁷, state that the Church's social teaching on work and workers adopted more a spiritual dimension. The rights and dignity of workers was over-spiritualized, thus overshadowing the responsibility of the tripartite partners. Over-spiritualization of the affair thus retards the advocacy for workers' dignity. However, this does not rule out the necessity of the spiritual aspect in work. In fulfillment of the social values of the gospel there is need to promote moderately the spiritual prospect.

The report workers' rights reveal that Uganda has enacted a number of laws as well as set up institutions mandated to safeguard workers' rights. Uganda has also ratified various international instruments that make provision for workers' rights. At the international level the conventions include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), the Convention Concerning Minimum Age for Admission to Employment and the ILO Convention on Forced Labour¹¹ which all target various abuses of workers' rights in the course of employment. The Report finds out that the state is obliged to put in place a legal and institutional framework to ensure the protection of workers' rights and to afford workers an opportunity to work in a decent and safe environment.

⁴⁴ Pontifical Council for Justice and Peace. (2004). *Compendium of the Social Doctrine of the Church*. Nairobi: Paulines Publications Africa. Nos. 269-269)

⁴⁵ John Paul II. (1981). *Encyclical Letter on Human Work, Laborem Exercens*. Nairobi: Paulines Publications.

⁴⁶ Pontifical Council for Justice and Peace. (2004). *Compendium of the Social Doctrine of the Church*. Nairobi: Paulines Publications Africa. Nos. 269-269)

⁴⁷ Karl. Löwith. (1964). *From Hegel to Nietzsche. The Revolution in Nineteenth-Century*. New York: Columbia University Press.

As Barya ⁴⁸ asserts, it is a common phenomenon now days that employees are treated unlawfully, discriminated against, harassed, denied their due wages or benefits, made to work in unsafe conditions, or wrongfully terminated. John Paul II⁴⁹ teaches that workers have priority over capital. Workers have personal dignity, while capital, considered as such, has only the value of material things. Thus, employers should not regard workers as a mere part of their capital resources, another instrument which they purchase or rent and use for their own purpose. Failure to recognize the priority of a worker leads to the practical error of evaluating him or her solely by the economic value of his or her results, an error John Paul II calls 'economism'⁵⁰ common to both laissez-faire capitalism and socialism. It is assented that this error leads employers who own or control the material means of production to treat workers as a mere commodity to be purchased at the lowest possible price, and to deal with employees as mere means to the employers' own ends, thus aiming at profit maximization.⁵⁰ Plainly, this prevents employees from being associates in a common effort and hinders advocacy of workers' dignity, which frequently leads employers to the systematic abuse of their authority, to low wages, long hours of work, and bad working conditions.

In a symposium, Dr. Opio Fred⁵¹ revealed that labour structures are dormant and, therefore, need to be revitalized and strengthened. Among the tripartite structures mentioned are the National Manpower Council, the Trade Unions meant to enhance social dialogue and industrial labour relations, Federation of Ugandan Employers (FUE) meant to strengthen labour issues in the Sub Regional East African Community, Ministry of Labour and National Organization of Trade Unions (NOTU) to which all unions are obliged to affiliate and be registered.⁵² This shows that Uganda has a number of tripartite structures. Most of them, however, are redundant or meet only occasionally. It is out of this mess that the study opted for employees, employers and government/state to form the tripartite structure, since these encompass all other structures. When these three parties are involved, all other structures will be reawakened and also

⁴⁸ Barya, John-Jean. (1991). Workers and the Law in Uganda. CBR Working Paper No. 17

⁴⁹ John Paul II. (1981). Encyclical Letter on Human Work, *Laborem Exercens*. Nairobi: Paulines Publications.

⁵⁰ Gariez, Germain. (and helpers Joseph Boyle, Jeanette Grisez, Russell Shaw and others). (1993). *The Way of the Lord Jesus*. Vol. II Living a Christian Life. Franciscan Press: Quincy University.

⁵¹ Opio, Fred and Pajoba, Bruno. (1998). Symposium on Employment and Workers' Issues in Privatization and Investment in Uganda. In the National Organization of Trade Unions. International Confederation of Free Trade Unions Africa Regional Organization.

⁵² *ibid*

operationalised. The rights encompass the relationship between the employer, direct or indirect and the worker with the state. All the tripartite agents at the local, national and international level are, therefore, responsible for the whole orientation of labour policy. I therefore, assert that the strengthening of these and other structures will thus enhance social dialogue in advocacy for the workers 'rights.

As one of the tripartite partners the Government of Uganda has not put in place a comprehensive employment policy. The past regimes/governments passed laws which disfranchised workers from their rights. At present, some efforts are made, for instance, workers have got Members of Parliament to represent them and ILO conventions have been ratified.⁵³ The importance of employment and labour are anchored in the National Constitution and espoused in His Excellency the President's Manifesto 2006, under Chapter One on Good Governance, where the NRM Government committed itself to Take all possible measures to create employment for all and ensure that protection of workers rights is respect.⁵⁴ Despite these efforts, it appears that the government is in favour of the employers in the pretext of investors' protection, leaving the employees agonizing. All issues pertaining to employment and human resource development are shelved. The government has done contrary to its agreement with the ILO. The government has deprived autonomy from the Ministry of Labour, up-to-date it is seen as a department, worst of all under-funded and under-staffed,⁵⁵ hence diluting its importance and performance. The Industrial Court is also defunct.⁵⁶ Ratifying of rights and laws from ILO is not all. The government has to play its supervisory role to ensure the observance of the core labour standards. As a tripartite partner and a measure or a tool of ILO, the government has primacy in advocating for the dignity of workers.

Despite the laws and rights of workers, it is unfortunate that the relationship between employer and employee is still governed by the 'master-slave' assumption. Employers are like kings and are free to offer any terms of employment and treat their employees in any way they dictate, and

⁵³ Lyomoki Sam and Baguma, Arthur. (2000-2009). Workers Need a Better Deal. Kampala: New Vision Publications. enteruganda.com/brochures/labour05.htm

⁵⁴ Ministry of Gender Labour and Social Development (MGLSD). (Friday, 1st May 2009). Promoting Local Investment for Increased Employment Opportunities. Kampala: New Vision Publications. <http://enteruganda.com/brochures/labour05.htm>

⁵⁵ Lyomoki Sam and Baguma, Arthur. (2000-2009). Workers Need a Better Deal. Kampala: New Vision Publications. enteruganda.com/brochures/labour05.htm

⁵⁶ Nalumansi, Lillian. (2000-2006). The Law Provides a Win-Win Situation. Kampala: New Vision Publications. enteruganda.com/brochures/labour05.htm

the employees are free to either accept or reject those terms, that is, “take it or leave it”.⁵⁷ It is adverse that employees still do not have a platform to voice their protests. Since employers and employees enjoy equal personal dignity, employers should care about their employees as persons and not treat them merely as means of obtaining the results of their work. As far as possible, they should help employees understand the significance of their work, the result they are to bring about, and the reasons for using particular means, so that employees can direct their own work. Moreover, employers should provide employees with appropriate ways of sharing in the management of the common enterprise.⁵⁸ At a minimum, employers should welcome employees’ suggestions, especially about problems connected with their work, and consult them before making decisions affecting the common enterprise. Employees should also avoid abusing their participatory role, otherwise, failure to fulfill their obligations as workers also sabotages the efforts made in advocating for their dignity.

Salaries/wages are still a controversial issue in Uganda. Workers complain that they are underpaid, so they cannot provide for basic needs and also save. The Operations Manager of Sango Bay Sugar cane plantation, Peter Musisi, admits that workers’ conditions are poor, but the management of the cane plantation has already signed a contract with their clients in Tanzania and cannot cancel it. He says that workers are operating on the agreement already signed and cannot make any changes.⁵⁹ Also teachers and health workers complain that their salary is not only low but also delayed. This is why health workers and teachers in government hospitals and schools show up for a few days in a month.⁶⁰ Some leading hotels, construction companies, and newly privatized enterprises are said to force their employers to work for long hours without overtime. Similar accusations were brought against textile and food producers in the eastern Town of Jinja, where labour relations have been aggravated by the continual talk of cost-cutting and maximizing profit.⁶¹ All these menaces are clear pointers to the lack of advocacy for the

⁵⁷ Lyomoki Sam and Baguma, Arthur. (2000-2009). *Workers Need a Better Deal*. Kampala: New Vision Publications. enteruganda.com/brochures/labour05.htm

⁵⁸ John XXIII. (1961). *Encyclical Letter on Social Progress*. Mater et Magistra. Nairobi: Paulines Publications at 68

⁵⁹ Musisi, Peter. (2006, Monday 24th July). *Poor Working Conditions on Uganda’s Plantations: Kampala and Sugar Cane Plantations. Workers in Sango Bay, Kakuuto, in Rakai District are Threatening to Strike Because of Poor Working Conditions*. Kampala: New Vision Publications. <http://enteruganda.com/brochures/labour05.htm>

⁶⁰ Bukenya, Robert. (Sunday, 16th March 2008). *Why Uganda Doctors Prefer to Work Abroad*. Kampala: New Vision Publications. <http://enteruganda.com/brochures/labour05.htm>

⁶¹ Kalebbo, Denge Geoffrey. (1998). *Unions Face a Challenge of Economic Change*. Kampala: New Vision Publications. <http://enteruganda.com/brochures/labour05.htm>

workers' rights and dignity. This implies that workers still operate in poor working conditions which need to be addressed.

The issue of Social Security has been among those in the forefront of the welfare of Uganda's labourers. Employees have expressed their ingratitude about the National Social Security Fund (NSSF) pension scheme. Workers say that it is mandatory yet ineffective. Ssenkaaba⁶² says that Social Security in this country is only limited to the working class outside the public service. She further said that the Government would do well to ensure that social security benefits all classes of people in the country even the unemployed and the old.

There still exist a number of enterprises that are hostile to the Trade Union Movement. Wedig's report established that the majority of construction workers and hotels face the problems of unwritten contracts and irregular wage payments. Enterprises cited included Hotel Equatoria, Grand Imperial, Imperial Botanical Beach Hotel, Mukwano Industries, Roko Construction, Kyagalanyi Coffee factory, Picfare/NYTIL and Vitafoam. among others.⁶³ There have been cases of Trade Unionists being frustrated, intimidated or even losing their jobs for simply trying to form or join Trade Unions. Former Labour Minister Paul Etiang argues that Employers need to adopt a positive attitude towards Trade Unions because poor working conditions have not yet been completely eliminated in this country and the world at large. Sam Lyomoki, a Member of Parliament with a track record for representing workers' interests, says there is general lack of mobilization for workers to join Trade Unions. He postulates: there is widespread apathy and ignorance among workers on the importance of Trade Unions in this country. He further says that government seems to favour employers and always threatens workers when they come up to air their grievances.

It is worth noting that Uganda's Trade Unions were given legal recognition by the British colonial administration in 1952. Despite all the efforts made by the ILO, Trade Unions are ineffective in Uganda. This is in part due to a lack of unity amongst workers as they work two or three jobs, and are subject to ethnic, regional, and gender divides. Also, Trade Unions and other

⁶² Ssenkaaba, Stephen. (2000-2009). Social Security is Vital for Life after Work. Kampala: New Vision Publications

⁶³ Opiyo, Fred and Pajobo, Bruno. (1998). Symposium on Employment and Workers' Issues in Privatization and Investment in Uganda. In the National Organization of Trade Unions, International Confederation of Free Trade Unions Africa Regional Organization

workers' movements have had their powers reduced by the government.⁶⁴ In light of this situation, although the power of Trade Unions has been historically low in Uganda, it is no surprise that they are now a virtually non-existent lobby group. Despite their non-existence, Trade Unions are still faced with peculiar difficulties of non-skilled labour, political threats and government policies.⁶⁵ It is thus a clear manifestation that advocacy for the workers dignity is still relevant to the plight of workers.

What is certain is that in Uganda, as in so many developing countries, catering for the work force remains a major problem, in spite of economic growth. Amidst pervasive poverty and vast restructuring requirements, the poor wages and harsh conditions of millions of workers, discontent over inequality and social injustice are never far-removed from economic policy making. The leaders of the National Organization of Trade Unions (NOTU) continue to decry the growing exploitation of workers in newly privatized enterprises.⁶⁶ Although Uganda has ratified many labour laws, in practice they are not adhered to. These problems need to be addressed urgently in order to improve the current working conditions and to protect workers in Uganda against the impact of future crises. There is no other way other than advocating for the dignity of workers by the tripartite partners. Otherwise, many employees, especially in the private sector, will continue to suffer silently.

External intervention by American Trade Unions and the US government, which insisted on labour law reform as a condition for access to the US market under the African Growth and Opportunity Act (AGOA), became increasingly vociferous before the enactment of new labour legislation in April 2006.⁶⁷ This legislation greatly improved the organizational and substantive rights of Ugandan workers. Trade Union leaders and some employers in Uganda, with the assistance of the ILO, had been arguing unsuccessfully for similar laws for the previous twenty years, but the American intervention seems to have been decisive.⁶⁸ Since the passing of new legislation in 2006, the Ministry of Finance, Planning and Economic Development has not yet allocated sufficient resources to enforce the new legislation. The government has not yet

⁶⁴ Opiyo, Gabriel and Baguma, Arthur. (1st May 2009). East Africa wants Labour Laws Harmonised

⁶⁵ Kalebbbo, Denge Geoffrey. (1998). Unions Face a Challenge of Economic Change. Kampala: New Vision Publications. <http://enteruganda.com/brochures/labour05.htm>

⁶⁶ International Labour Organizations of Employers. (Nov 2006). Labour Law and Micro and Small Enterprises (MSES).

⁶⁷ Barya, John-Jean (2006). Trade Unions, Liberalization and Politics in Uganda, 1986 to 2006. A paper Presented at the International Sociological Association (ISA), held in Durban, South Africa between 23-29 July.

⁶⁸ Barya, John-Jean (2007). Freedom of Association and Uganda's New Labour Laws: A critical Analysis in the State of Workers' Organizational Rights. HUREPIC Working Paper No. 4.

recognized any public sector unions, despite considerable organizational strength in the teacher and health worker unions, suggesting a continuing lack of commitment to the reforms. Some key aspects of labour administration have now been decentralized to the districts, but the majority of districts (45 out of 80) have not been able to appoint labour officers. Those who have been appointed have not been trained adequately to fulfill the new judicial and quasi-judicial functions required to implement the new labour laws, particularly the employment act.⁶⁹ The district labour officers also do not have the staff (clerks) or even access to the rooms they require to implement the laws.

1.12 Chapter synopsis

The first chapter deals with the background and overview of labour law in Uganda. Other aspects that are covered in this chapter include the statement of the problem, objectives of the study and significance. The literature review and methods used in the study are the other aspects catered for in the first chapter.

The second chapter entails an overview of the legal and institutional framework for labours law in Uganda. It spells out the operation of labour legal and institutional framework. Further, it provides a review of the constitutional basis of the workers' rights and an analysis of the laws related to labour law such as the labour unions Act,2006 Employment Act 2006 and the newly introduced Minimum Wage Regulations 2019.

Chapter three will examine the efficacy of legal and institutional mechanisms used in the enforcement of workers' rights. The chapter also discusses the different rights of the workers and how the same rights have been enforced by the responsible institutions and to investigate whether workers are afforded protection of their rights.

Chapter four establishes the challenges faced by the institution responsible for enforcement of the workers' rights in their struggle to protect workers against ill treatment at work by their employers.

⁶⁹ Barya, John-Jean (2001). (2001). Trade Unions and the Struggle for Associational Space in Uganda: The 1993 Trade Union Law and Article 40 of the Constitution. CBR Working Paper No. 63.

Chapter five provides the recommendations to the various stakeholders, including the policymakers and law reformers, which can be useful for the sustainability and effective implementation of workers rights.

CHAPTER TWO

LEGAL AND INSTITUTIONAL FRAMEWORK OF LABOUR LAW IN UGANDA

2.0 Introduction

Uganda has enacted a number of laws as well as set up institutions mandated to safeguard workers' rights. Uganda has also ratified various international instruments that make provision for workers' rights. At the international level the conventions include the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic Social and Cultural Rights (ICESCR), the Convention Concerning Minimum Age for Admission to Employment⁷⁰ and the ILO Convention on Forced Labour⁷¹ which all target various abuses of workers' rights in the course of employment. The State is obliged to put in place a legal and institutional framework to ensure the protection of workers' rights and to afford workers an opportunity to work in a decent and safe environment.

2.1 International Legal Framework

2.1.1 Universal Declaration of Human Rights (UDHR)

The UDHR (1948) to which Uganda is a signatory, is one of the initial international human rights instruments that recognised workers' rights. Article 23(1) of the UDHR recognises, among others, the right of every person to work, free choice of employment, just and favourable conditions of work and protection against unemployment. Article 23(4) specifically 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.

2.1.2 The Convention Concerning Freedom of Association and Protection of the Right to Organise⁷²

Uganda ratified the Convention Concerning Freedom of Association and Protection of the Right to Organise, on 2nd June 2005.⁷³ The Convention aimed at recognising the principle of freedom

⁷⁰ Convention Concerning Minimum Age for Admission to Employment No. 138 of 1973.

⁷¹ Convention on Forced Labour No. 105 of 1957.

⁷² ILO Convention No. 87

of association as a means of improving conditions of labour and of establishing peace.⁷⁴ The Convention guarantees the right of workers and employers, to establish and join organisations of their own choice without previous authorisation.⁷⁵ The Convention also provides for workers to affiliate their organisations with international organisations of workers and employers.⁷⁶

Article 8(1) of the Convention requires workers and employers and their respective organisations to respect the law of the land; and that the law of the land should not be one that impairs, or is applied in a manner that impairs the guarantees in the Convention.⁷⁷ Worth noting is that this freedom of association has been interpreted to mean the freedom to form and join trade unions.

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

The International Covenant on Economic Social and Cultural Rights (ICESCR) was adopted in 1966 with the aim of addressing socio-economic rights in general. The ICESCR defines the right to work to include the right of everyone to have an opportunity to gain his living by work which he freely chooses or accepts, and will take appropriate steps to safeguard this right.⁷⁸ Article 3 of the Covenant calls upon states to ensure equal rights for men and women in the enjoyment of all economic, social and cultural rights. General Comment No. 18 also calls for a comprehensive system of protection to combat gender discrimination and to ensure equal opportunities and treatment between men and women in relation to their right to work by ensuring equal pay for work of equal value.⁷⁹ In a bid to ensure non-discrimination on grounds of gender, there are attempts to offer protection to expectant workers. In particular, the ICESCR requires that pregnancies should not constitute an obstacle to employment and should not constitute justification for loss of employment.⁸⁰

Article 7 recognizes the right of everyone to the enjoyment of just and favourable conditions of work, in particular the right to safe working conditions. It includes remuneration, fair wages,

⁷³ List of countries that have ratified the ILO Convention No. 87 as accessed from <http://www.ilo.org/ilolex/cgi-lex/ratific.pl?C087>

⁷⁴ Preamble to the ILO Convention, accessed at www.ilocarib.org.tt/projects/cariblex/conventions.

⁷⁵ Article 2 of the ILO Convention No. 87.

⁷⁶ Article 5 of the ILO Convention No. 87.

⁷⁷ Article 8(2) of the ILO Convention No. 87.

⁷⁸ Article 6(1) of the ICESCR.

⁷⁹ Para 13 General comment No. 18 on the Right to work.

⁸⁰ Para 13 General comment No. 18 on the Right to work.

equal remuneration for work of equal value without distinction of any kind, equal pay, decent living for the workers and their families, safe and healthy working conditions, equal opportunity for everyone to be promoted, rest, leisure and reasonable limitation of working hours. Article 8 of the ICESCR also guarantees the right of everyone to form trade unions and join the trade union of their choice as well as the right of trade unions to function freely.

Uganda as a signatory to the ICESCR has made efforts to domesticate the provisions of the Covenant through the enactment of laws, including the Employment Act.

2.2 Regional

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

The African Charter is the main regional human rights instrument aimed at protecting human rights in Africa. Uganda ratified the African Charter on 10th May 1986.⁸¹ The African Charter provides for the enjoyment of rights and freedoms without discrimination⁸² as well as the right of workers to work under equitable and satisfactory conditions and the right to receive equal pay for equal work.⁸³

2.3 National Legislations

Uganda has increasingly sought to attract investors in order to boost its economic growth; it has also maintained the need to guarantee protection of workers through the enactment of laws and policies. These laws are discussed below:

2.3.1 Constitution of the Republic of Uganda, 1995

The Constitution is the supreme law of the land and provides for the protection of workers' rights under the bill of rights. It requires Parliament to enact laws that, among others, provide for the right of persons to work under satisfactory, safe and healthy conditions⁸⁴ and to ensure equal payment for work without discrimination.⁸⁵

⁸¹ List of countries that have ratified the African Charter accessed from, <http://www.africa-union.org/root/au/Documents/Treaties/List/African%20Charter%20on%20Human%20and%20Peoples%20Rights.pdf>,

⁸² Article 2 of the African Charter.

⁸³ Article 15 of the African Charter.

⁸⁴ Article 40 (1) (a) of the Constitution of Uganda.

⁸⁵ Article 40 (1) (b) of the Constitution of Uganda.

The Constitution further 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 interests;⁸⁶ to collective bargaining and representation;⁸⁷ and to withdraw his or her labour according to law.

The Constitution accords female workers protection during pregnancy and after birth.⁸⁸ Article 45 of the Constitution also recognises that the rights, duties, declarations and guarantees relating to fundamental and other human rights and freedoms mentioned in the Constitution do not exclude others not specifically mentioned.⁸⁹ The Constitution further provides for avenues for enforcement of rights and freedoms by competent courts.⁹⁰

2.3.2 Employment Act 2006

The Employment Act governs employee-employer relationships, in particular, for employment under contracts of service. The Employment Act, 2006, provides for protection from forced labour,⁹¹ protection from discrimination in employment,⁹² and protection of employees from sexual harassment by the employer⁹³. The Act also provides for regulation of working hours,⁹⁴ annual leave and holidays,⁹⁵ and paternity leave of four days.⁹⁶ The Employment Act provides for the right to written particulars of the contract,⁹⁷ the right to fair hearing before dismissal,⁹⁸ and the right to reinstatement or compensation in case of unfair dismissal.⁹⁹ The Act creates the office of the labour officer and gives the officer powers to inspect places of work for purposes of securing enforcement of legal provisions relating to conditions of work.¹⁰⁰ The Act also gives the

⁸⁶ Article 40(3) (a) of the Constitution of Uganda.

⁸⁷ Article 40(3) (b) of the Constitution of Uganda.

⁸⁸ Article 40(4) of the Constitution of Uganda.

⁸⁹ Article 45, 1995 Constitution of Uganda.

⁹⁰ Article 50, Constitution of Uganda.

⁹¹ Section 5 of the Employment Act.

⁹² Section 6 of the Employment Act.

⁹³ Section 7 of the Employment Act.

⁹⁴ Section 54 of the Employment Act.

⁹⁵ Section 53 of the Employment Act.

⁹⁶ Section 57 of the Employment Act.

⁹⁷ Section 59 of the Employment Act.

⁹⁸ Section 66 of the Employment Act.

⁹⁹ Section 71(5) of the Employment Act.

¹⁰⁰ Section 10 of the Employment Act.

labour officer powers to investigate and dispose of complaints,¹⁰¹ prosecute civil or criminal matters before the Industrial Court.¹⁰²

The Act, however, does not apply to employers and their dependent relatives in family undertakings, or to the Uganda People's Defence Forces other than their civilian employees.¹⁰³

2.3.3 Labour Union Act 2006

The Labour Union Act seeks to maintain and improve working conditions and raise the economic status of the workers through the creation of unions. The Act recognises the right of workers to organise themselves in labour unions¹⁰⁴ and also requires employers to refrain from interfering with union organisation.¹⁰⁵ The Act provided for the creation of Unions that could advocate for the observance of workers' rights. The Act also makes it an offence for an employer to contravene provisions in the Act.¹⁰⁶

2.3.4 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 employment¹⁰⁷ 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 employment. 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.¹⁰⁸

2.3.5 Occupational Safety and Health Act, 2006

It is estimated by the International Labour Organisation that two million workers die as a result of occupational accidents and work related diseases every year.¹⁰⁹ Consequently, countries like Uganda have enacted the Occupational Safety and Health Act as a means to safeguard workers'

¹⁰¹ Section 13 of the Employment Act.

¹⁰² Section 14 of the Employment Act.

¹⁰³ Section 3(2) of the Employment Act.

¹⁰⁴ Section 3 of the Labour Union Act.

¹⁰⁵ Section 4 of the Labour Union Act.

¹⁰⁶ Section 5 of the Labour Union Act.

¹⁰⁷ Agnes Kyotalengerire, 'Making workers' safety a priority', The New Vision, accessed from <http://www.enteruganda.com/brochures/labourpage01.html>

¹⁰⁸ Section 3(2) Workers Compensation Act.

¹⁰⁹ Patrick Katabaazi Kiconco, 'Occupational safety and health issues in Uganda', accessed from <http://pkatabaazi.blogspot.com/2008/02/occupational-safety-and-health-issues.html>

health and safety rights. This law generally provides for the right of persons to work under satisfactory, safe and healthy conditions. The Act makes it a duty for employers to protect workers¹¹⁰ and to, among other things, monitor and control the release of dangerous substances into the environment,¹¹¹ provide protective gear¹¹² and supervise the health of workers¹¹³. The Act also imposes on workers a duty to take reasonable care for the health and safety of themselves or any other person that may be affected by their acts or omissions.¹¹⁴

2.3.6 Labour Disputes (Arbitration and Settlement) Act 2006.

The Labour Disputes (Arbitration and Settlement) Act was enacted against the backdrop that there would be fast resolution of labour disputes through the Industrial Court.¹¹⁵ The industrial court has the mandate to arbitrate on labour disputes referred to it by the labour officer¹¹⁶ and adjudicate upon questions of law and fact arising from references to Industrial Court by any other law.¹¹⁷

The Act provides for the right of an employee to be involved in lawful industrial action without hindrance and, the right of access of union officials to employees or their representatives (shop stewards) in a workplace.¹¹⁸ 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.¹¹⁹ The Act also prohibits employers from discriminating against unionised employees and also recognises the right to strike.¹²⁰

¹¹⁰ Section 13 Occupational Safety and Health Act.

¹¹¹ Section 18 Occupational Safety and Health Act.

¹¹² Section 19 Occupational Safety and Health Act.

¹¹³ Section 21 Occupational Safety and Health Act.

¹¹⁴ Section 35(1) (a) Occupational Safety and Health Act.

¹¹⁵ Section 8(2) Labour Disputes Act.

¹¹⁶ Sections 6 & 8(1)(a) of the Labour Disputes Act.

¹¹⁷ Section 8(1)(b) of the Labour Disputes Act.

¹¹⁸ Section 30(1), of the Labour Disputes Act.

¹¹⁹ Section 32 of the Labour Disputes Act.

¹²⁰ Section 28-32 of the Labour Union Act.

The minimum wage Bill 2015

The term ‘wages’ is defined to mean ‘remuneration or earnings, however designated or calculated, capable of being expressed in terms of money and fixed by mutual agreement or by national laws or regulations.’¹²¹

A minimum wage is therefore the lowest monetary value which may be paid to a worker at a particular point in time.¹²²

In 2013, Workers’ Member of Parliament Arinaitwe Rwakajara successfully tabled a motion seeking leave of Parliament to draft a Private Member’s Bill on the minimum wage in Uganda.¹²³

In his speech to Parliament, he stated that;

‘The existing legislation on minimum wage is outdated and lack of one exposes workers to exploitation by their employers and poor working conditions ... we need to have a comprehensive legislation to protect employees.’¹²⁴

The minimum wage bill was first read on December 24th 2015 and then referred to the committee on gender labor and social development for consideration.

Section 4 of the minimum wage bill establishes the minimum wage Board with a major duty of fixing the minimum wage in a given sector and to determine other conditions of work in the sector.¹²⁵

The functions of the minimum wage Board are established under section 5 of the Act and these include

- a) Recommending a minimum wage for all classes of people
- b) Recommending terms of employment in that sector.

¹²¹ s.2 of the Employment Act 2006

¹²² The lowest wage that an employee is allowed to pay by law, AS Hornby, ‘Oxford Advanced Learner’s Dictionary, Oxford University Press, p.1667

¹²³ The motion was tabled together with Paul Mwiru (Jinja Municipality) and James Mbahimba (Kasese Municipality). Stuart Oramire, ‘Instituting minimum wage will protect workers from exploitation,’ The Daily Monitor 23rd February 2015

¹²⁴ This was reported in the Daily Monitor on 21st February 2013.

¹²⁵ Section 4 of the minimum wage bill.

- c) Carrying out periodical revision of minimum wage fixed by the board as directed by the minister.
- d) Advising the minister on policy issues concerning employee working conditions and terms of employment and
- e) Carrying out any other functions incidental or consequential to the Boards functions.¹²⁶

On February 20th 2019 the parliament passed the minimum wage bill and set one hundred thirty shillings (130,000) per month as the minimum wage that the lowest paid Ugandan should earn per month.¹²⁷

Proponents of minimum wage legislation argue that Uganda does not need to add another empty piece of legislation onto the pile. They claim that the country should leave the determination to the forces of demand and supply.¹²⁸ This is due to poor enforcement mechanisms in Uganda. In many developing countries, enforcement mechanisms are poor and compliance with legal requirements is low. Uganda is no exception. Indeed, the World Justice Rule of Law Index of 2015 has rated the country ninety-fifth out of one hundred and two countries assessed on their adherence to the rule of law.¹²⁹

Uganda has ratified the International Labour Organization's Minimum Wage-Fixing Machinery Convention (No. 26) (1928) which requires ratifying member states to create or maintain machinery for fixing minimum wages.¹³⁰

2.4 Institutional Framework put in place to protect workers rights

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.

¹²⁶ Section 5 of the minimum wage bill.

¹²⁷ www.wageindicator.org/salary/minimum-wage/uganda accessed on 8th May 8, 2019

¹²⁸ Proponents oppose the rigidities of a minimum wage controlled labour market where under it may become unresponsive to changes in the rest of the economy. This is considered unfair to employers who have to pay high wages for lower returns.

¹²⁹ <http://data.worldjusticeproject.org>

¹³⁰ Article 1 (1)

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:

2.4.1 Ministry of Gender Labour and Social Development/Labour Office

The Ministry is mandated to cater for the interests of all workers in the country. In line with this mandate, it has a Directorate of Labour, Employment and Occupational Safety and Health which also has three departments: Labour, Industrial Relations and Productivity; Occupational Safety and Health; and Employment Services. It is within this directorate that the labour office is catered for. Labour officers have the role of inspecting work places to ensure enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work.¹³¹

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.¹³² 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 issues.¹³³ Much as labour officers generally operate under the MoGLSD, their activities are decentralized and funded under the District Local Governments budget.¹³⁴ 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.¹³⁵ The labour officers are not only inadequate to protect workers' rights, but their effectiveness is also affected by their limited national coverage.

2.4.2 Industrial Court

The Industrial Court was established under the Labour Disputes (Arbitration and Settlement) Act, 2006¹³⁶ to settle unresolved disputes between employers and trade unions over terms and

¹³¹ Section 10(2) (a) Employment Act, 2006.

¹³² Section 10(2) (c) Employment Act, 2006.

¹³³ Section 13 of the Employment Act, 2006 gives a Labour Officer powers to investigate and dispose of complaints.

¹³⁴ A perspective on the enjoyment of the rights of factory workers in Uganda. UGANDA HUMAN RIGHTS COMMISSION at 24

¹³⁵ Ibid at 24

¹³⁶ Section 7 Labour Disputes (Arbitration and Settlement) Act.

conditions of employment. The role of the Industrial Court is to adjudicate on labour disputes filed by aggrieved parties whose complaints have not been settled by either the District Labour Officers (DLO) or a conciliator.¹³⁷

The Court has the same status as a High Court since appeals from the court are heard by the Court of Appeal. These appeals to the Court of Appeal are either on a point of law or to determine whether the Industrial court had the jurisdiction to hear a case.¹³⁸ The court can sit as often as is necessary.¹³⁹

The rationale behind the creation of the Industrial Court is that if disputes are not resolved, they can lead to strikes and lock-outs thereby causing a decline in production and national income.¹⁴⁰ This could lower the standard of living and lead to unemployment for affected workers.¹⁴¹ The presence of the court, therefore, contributes to industrial harmony and peace with consequent economic growth and improved standards of living.¹⁴²

The Industrial Court is, however, not functional. A judge was appointed to head the court but the court is not yet operational. As such, once a labour officer fails to resolve a complaint, the resolution process comes to a halt. This is bearing in mind that it is the labour officer or the commissioner for labour, in the event that an issue is likely to turn into a national disaster, that have the mandate to handle labour disputes.¹⁴³ In the event that orders made by labour officers fail, the Industrial Court is the last resort to seek enforcement. However, with a non-functional Industrial Court, the efforts of labour officers to have certain disputes resolved would be futile.

2.4.3 Trade Union Associations

The National Organisation of Trade Unions (NOTU) is one of two national trade union centres in Uganda; the other being the Central Organisation of Free Trade Unions (COFTU). NOTU was established by Decree No. 29 of 1973. NOTU represents millions of Ugandan workers and has 20 labour union affiliates, including, Amalgamated Transport and General Workers' Union,

¹³⁷ Section 5 Labour Disputes (Arbitration and Settlement) Act.

¹³⁸ Section 22 Labour Disputes (Arbitration and Settlement) Act.

¹³⁹ Section 7(2) Labour Disputes (Arbitration and Settlement) Act.

¹⁴⁰ 'The Industrial Court' accessed from <http://www.mglsd.go.ug/?p=711>

¹⁴¹ *ibid*

¹⁴² *ibid*

¹⁴³ Sections 3 (1) & (2) Labour Disputes (Arbitration and Settlement) Act.

Uganda Building, Construction, Civil Engineering, Cement and Allied Workers' Union and National Union of Plantation and Agricultural Workers.¹⁴⁴ It aims at promoting and defending workers' interests in the country.

Unfortunately, trade unions do not seem to have a very strong presence in the country. The estimated total number of unionised workers is less than 1,000,000 (one million) in Uganda.¹⁴⁵

Furthermore, trade unions are preoccupied with internal wrangles which essentially stemmed from the creation of COFTU as a break away from NOTU.¹⁴⁶ It is such wrangles and failure to expand their network that could impede the ability of trade unions to ensure strict observance and protection of workers' rights in the country.

2.5 Chapter conclusion

Uganda has one of the best legal framework when it comes to protection of workers' rights following the recent introduction of the minimum wage of one hundred thirty thousand shilling (130,000) which had for long not been determined it is well understood that Uganda's problem is no longer laws but the enforcement of the existing laws. Much as many institutions have been put in place to ensure the protection of these rights, it is rather astonishing that workers' rights are still heavily violated in Uganda. General enforcement of laws in Uganda is lacking as the World Justice Rule of Law Index of 2015 has rated the country ninety-fifth out of one hundred and two countries assessed on their adherence to the rule of law.¹⁴⁷ I believe therefore that if proper enforcement mechanisms are put in place in Uganda, workers will enjoy their rights maximally as required by law and the international standards.

¹⁴⁴ Accessed from NOTU website at <http://www.notu.or.ug/index.php>

¹⁴⁵ Vincent Nuwagaba, 'Labour Unions in Uganda, a Threat to Workers' Rights', The African Executive, accessed from <http://www.africanexecutive.com/modules/magazine/Articles.php?Article=4374>

¹⁴⁶ *ibid*

¹⁴⁷ <http://data.worldjusticeproject.org/>

CHAPTER THREE

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

3.0 Introduction

The protection of workers rights in Uganda has led to the creation of institutions to to enforce the laws that have been put in place to ensure that human rights are protected. The institutions include the Ministry of Gender, Labour and Social Development (MoGLSD), the Industrial Court and labour unions. This chapter therefore examines the mandte of the institutions and their effectiveness in promoting the workers' rights in Uganda.

3.1 Mandate of labour Institutions

3.1.1 Ministry of Gender Labour and Social Development/Labour Office

The Ministry is mandated to cater for the interests of all workers in the country. In line with this mandate, it has a Directorate of Labour, Employment and Occupational Safety and Health which also has three departments: Labour, Industrial Relations and Productivity; Occupational Safety and Health; and Employment Services. It is within this directorate that the labour office is catered for.

Labour officers have the role of inspecting work places to ensure enforcement of legal provisions relating to conditions of work and the protection of workers while engaged in their work.¹⁴⁸ 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.¹⁴⁹ 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 issues.¹⁵⁰

¹⁴⁸ Section 10(2) (a) Employment Act, 2006.

¹⁴⁹ Section 10(2) (c) Employment Act, 2006.

¹⁵⁰ Section 13 of the Employment Act, 2006 gives a Labour Officer powers to investigate and dispose of complaints.

The labour officers generally operate under the MoGLSD and their activities are decentralized and funded under the District Local Governments budget.¹⁵¹ As such they are heavily constrained financially and are not in a position to effectively carry out their activities.

3.1.2 Industrial Court

The Industrial Court is established under the Labour Disputes (Arbitration and Settlement) Act, 2006¹⁵² to settle unresolved disputes between employers and trade unions over terms and conditions of employment. The role of the Industrial Court is to adjudicate on labour disputes filed by aggrieved parties whose complaints have not been settled by either the District Labour Officers (DLO) or a conciliator.¹⁵³

The Court has the same status as a High Court since appeals from the court are heard by the Court of Appeal. These appeals to the Court of Appeal are either on a point of law or to determine whether the Industrial court had the jurisdiction to hear a case.¹⁵⁴ The court can sit as often as is necessary.¹⁵⁵

The rationale behind the creation of the Industrial Court is that if disputes are not resolved, they can lead to strikes and lock-outs thereby causing a decline in production and national income.¹⁵⁶

This could lower the standard of living and lead to unemployment for affected workers. The presence of the court, therefore, contributes to industrial harmony and peace with consequent economic growth and improved standards of living.¹⁵⁷

3.1.3 Trade Union Associations

The National Organisation of Trade Unions (NOTU) is one of two national trade union centres in Uganda; the other being the Central Organisation of Free Trade Unions (COFTU). NOTU was established by Decree No. 29 of 1973. NOTU represents millions of Ugandan workers and has labour union affiliates, including, Amalgamated Transport and General Workers' Union, Uganda Building, Construction, Civil Engineering, Cement and Allied Workers' Union and National

¹⁵¹ WORKERS' Rights: A perspective on the enjoyment of the rights of factory workers in Uganda. UGANDA HUMAN RIGHTS COMMISSION

¹⁵² Section 7 Labour Disputes (Arbitration and Settlement) Act.

¹⁵³ Section 5 Labour Disputes (Arbitration and Settlement) Act.

¹⁵⁴ Section 22 Labour Disputes (Arbitration and Settlement) Act.

¹⁵⁵ Section 7(2) Labour Disputes (Arbitration and Settlement) Act.

¹⁵⁶ 'The Industrial Court' accessed from <http://www.mglsd.go.ug/?p=711>

¹⁵⁷ *ibid*

Union of Plantation and Agricultural Workers.¹⁵⁸ It aims at promoting and defending workers' interests in the country.

The estimated total number of unionised workers is less than 1,000,000 (one million) in Uganda. Furthermore, trade unions are preoccupied with internal wrangles which essentially stemmed from the creation of COFTU as a break away from NOTU.¹⁵⁹ It is such wrangles and failure to expand their network that could impede the ability of trade unions to ensure strict observance and protection of workers' rights in the country.

3.2 State of workers in Uganda

3.2.1 Unfair Dismissal from Work

Unfair dismissal of workers is a general out-cry among workers in Uganda. This is majorly because many workers in Uganda are employed without contracts or terms of employment. This is not only partially due to the ignorance of the employees, but to a big extent also due to the obstinacy of employers to follow the termination procedures. This is because employers do not want to give terminal benefits as required in the employment Act.¹⁶⁰ Employers stubbornly do not follow the procedures in case of lay-offs and redundancy,

3.2.1 Workers hours

The Uganda Constitution mandates Parliament to enact laws to ensure every worker is accorded rest and reasonable working hours and periods of holiday with pay as well as remuneration for public holidays.¹⁶¹ 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.¹⁶²

Workers are not given their holidays and in some instances when granted they are without pay. It was also found that workers are forced to work for long hours, while also mothers are not given their maternity leaves.¹⁶³ This is done because employers aim at profit maximization, thus exploiting all the potentials of the workers for high productivity without compensation. As an

¹⁵⁸ Accessed from NOTU website at <http://www.notu.or.ug/index.php>

¹⁵⁹ Vincent Nuwagaba, 'Labour Unions in Uganda, a Threat to Workers' Rights', The African Executive, accessed from <http://www.africanexecutive.com/modules/magazine/Articles.php?Article=4374>

¹⁶⁰ Section 75, 5/2006.

¹⁶¹ Article 40(1) (c) Constitution of the Republic of Uganda.

¹⁶² S. 53(5) Employment Act, 2006.

¹⁶³ MUSOOKA MOSES KIMERA, BA (SPS), REGARD FOR WORKERS' DIGNITY: A REMEDY TO THE POOR CONDITIONS OF WORKERS IN WAKISO TOWN: WAKISO DISTRICT, 2010

aftermath, the entire social fabric has been disintegrated whereby there is destabilization of the families, preference of leisure to work by workers, and tarnishing the divine value of work. This is deferent from the developed countries where Shaw and Barry (1998) say that economic gain is no reason for workers to be denied time of rest and divine worship.¹⁶⁴ There is need, therefore, to show the vitality of holidays and rests to both the workers and firms, at the same time rejuvenate the attitude of people towards work.

3.2.2 Discrimination at Work

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.¹⁶⁵ The provision further lists the grounds on which discrimination is prohibited as including, sex, race and tribe.¹⁶⁶ 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 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 Employment Act requires every employer to pay male and female equal remuneration for work of equal value.¹⁶⁷ The Act further provides that an employee is entitled to wages paid in legal tender.¹⁶⁸

Discrimination at work resulted into non-equal treatment of workers. While article 21 of the constitution provides for equality among all citizens of Uganda, Workers are discriminated at work according to gender, tribe and nationality. Lyomoki¹⁶⁹ says that some areas are backward

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¹⁶⁵ Article 21(1) Constitution of the Republic of Uganda.

¹⁶⁶ Article 21(2) Constitution of the Republic of Uganda.

¹⁶⁷ Section 6(7) Employment Act, 2006.

¹⁶⁸ Section 41 Employment Act, 2006.

¹⁶⁹ Lyomoki Sam and Baguma, Arthur. (2000-2009). Workers Need a Better Deal. Kampala: New Vision Publications. enteruganda.com/brochures/labour05.htm
Ministry of Gender Labour and Social Development (MGLSD).

while some are developing because of political and tribal differences this brings about discrimination.

3.2.3 Lack of Health and Medical Care

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.¹⁷⁰

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.¹⁷¹ There is lack of medical health and medical care among workers, whereby employers do not consider workers' health as a priority. Workers are not provided with protective gears or safety precautions. This has caused massive loss of life more particularly on the construction sites and places with fire outbreaks. The human rights commission found out that much as there were attempts to ensure the safety and health of workers, the efforts were not sufficient especially in instances where the protective wear were inadequate and where workers had to fend for themselves when ill despite their meagre earnings.¹⁷² This is divergent from what John Paul said namely, that capital has less value than human labour. Here, instead of giving human life priority, increment of capital and structural developments are given precedence.¹⁷³

3.2.4 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.¹⁷⁴ 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

¹⁷⁰ S. 35(1) (a) The Occupational Safety and Health Act 2006.

¹⁷¹ Section 10(2) (a) Employment Act, 2006.

¹⁷² WORKERS' Rights: A perspective on the enjoyment of the rights of factory workers in Uganda. UGANDA HUMAN RIGHTS COMMISSION

¹⁷³ John Paul II. (1981). Encyclical Letter on Human Work, *Laborem Exercens*. Nairobi: Paulines Publications.

¹⁷⁴ Section 3(1) Workers Compensation Act Cap 225.

at the work for which he or she was employed. Human Rights Commission established that compensation for injury was largely done for employees permanently contracted by the companies.¹⁷⁵ 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.

3.2.5 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.¹⁷⁶

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;¹⁷⁷ the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;¹⁷⁸ 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;¹⁷⁹ work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.¹⁸⁰ 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,

¹⁷⁵ WORKERS' Rights: A perspective on the enjoyment of the rights of factory workers in Uganda. UGANDA HUMAN RIGHTS COMMISSION

¹⁷⁶ Child Protection: Definition of indicators as obtained from UNICEF at http://www.unicef.org/infobycountry/stats_popup9.html

¹⁷⁷ Article 3 (a) Worst Forms of Child Labour Convention, 1999.

¹⁷⁸ Article 3(b) Worst Forms of Child Labour Convention, 1999.

¹⁷⁹ Article 3(c) Worst Forms of Child Labour Convention, 1999.

¹⁸⁰ Article 3(d) Worst Forms of Child Labour Convention, 1999.

implementing a minimum working age and certain working condition requirements for children, are part of the core labour standards.

3.2.6 Sexual Harassment

It is unfortunate that workers are faced with the problem of sexual abuses. Worse still, some of the workers were employed through such dubious sexual practices. Uganda is well known for its traditional and cultural background where sex is considered as sacred. This is one of the major abuses workers face yet they are too desperate to report such cases. Commonly it is kept as a secret to themselves in protection of their reputation and in fear of being dismissed from work. Just as Gariez said, such practices have not only violated the dignity of workers but also demoralize them, thus affecting their morale at work and their self esteem.¹⁸¹ This is similar to Ugandans because sexual affairs in African setting are sacred and not talked about in public. Such conduct creates an intimidating, hostile or humiliating working environment to the workers.

3.2.7 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.¹⁸²

In the Research carried out by the Uganda Human Rights Commission, the commission 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 Commission 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.¹⁸³

¹⁸¹ Gariez, Germain. (and helpers Joseph Boyle, Jeanette Grisez, Russell Shaw and others). (1993). *The Way of the Lord Jesus, Vol. II Living a Christian Life*, Franciscan Press; Quincy University.

¹⁸² Article 40(4) of the Constitution of the Republic of Uganda.

¹⁸³ WORKERS' Rights: A perspective on the enjoyment of the rights of factory workers in Uganda. UGANDA HUMAN RIGHTS COMMISSION

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.¹⁸⁴

3.2.8 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 interests¹⁸⁵ and to collective bargaining and representation.¹⁸⁶

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,¹⁸⁷ as well as bargain collectively through a representative of their own choosing.¹⁸⁸ 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. The Commission established that the Central Organisation of Trade Union (COFTU) General Secretary and Workers Member of Parliament (MP), Dr Sam Lyomoki, registered the UFABWU. This union was alleged to have

¹⁸⁴ *ibid*

¹⁸⁵ Article 40(3) (a) Constitution of the Republic of Uganda.

¹⁸⁶ Article 40(3) (b) Constitution of the Republic of Uganda.

¹⁸⁷ Section 3(a) Labour Unions Act 2006.

¹⁸⁸ Section 3(b) Labour Unions Act 2006.

started luring workers from NUAPAWU to join it.¹⁸⁹ 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.¹⁹⁰ labor unions are beneficial to some of the workers as a number of issues affecting workers are handled with the assistance of the trade unions. The labour Unions are important for negotiations that are held annually between such companies and the trade union representatives to ensure that some of the workers' demands are met.

3.2.9 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.

Employees enter contracts with their own consent and therefore forced labour was un heard of throughout this research.

3.3 Conclusion

Institutions and laws have been put in place to prevent the violation of workers rights by their employees. It is important to note that the above institutions have taken a stop to end the violation of workers rights in work places. However these institutions face a lot of challenges in the enforcement and protection of workers rights as will be discussed in the next chapte

¹⁸⁹ Martin Ssebuyira, Unions in fight for Kinyara workers, The Daily Monitor 29th June 2011,

¹⁹⁰ ibid

CHAPTER FOUR

CHALLENGES FACING THE ENFORCEMENT OF WORKERS RIGHTS IN UGANDA.

4.0 Introduction

This chapter will discuss the challenges facing the enforcement of workers' rights by the mandated institutions in the enforcement of the rights. Challenges such as poor funding, less labour officers, insufficient sensitization, casual labour and many others will be discussed in this chapter.

4.1 Structure and Funding of the MGLSD

Under the first Poverty Eradication Action Plan (PEAP), introduced in 1997, various government departments were restructured, including the Ministry of Labour, which was made a Directorate under the Ministry of Gender, Labour and Social Development (MGLSD).

The MGLSD submits an annual departmental budget which includes operational funds for the Directorate of Labour. The MGLSD complains of chronic underfunding resulting, in turn, in inadequate operational funds being provided to the Directorate. The Minister of the MGLSD stated that at present the Ministry is operating with about 40% of the required employees but is unable to recruit more due to budget constraints.¹⁹¹ Some have pointed to the reorganization of labour under the umbrella of the MGLSD as being at the root of the Directorate's funding problems:

In the world over, the ministry of labour operates as a full ministry. The case of Uganda is different. We have the Ministry of Gender, Labour, and Social Development. Labour is merely a department. So there is a very big mismatch where the country is pushing for the process of industrialization and on the other hand the mother ministry that is supposed to direct the country on how to develop industries is marginalized.¹⁹²

As pointed out by one labour inspector, however, the organization of the Directorate is of secondary concern to the amount of funds it is receiving:

¹⁹¹ Interview of Hon. Gabriel Opio, Minister of Gender, Labour and Social Development (15 July 2010) [MGLSD].

¹⁹² Interview of Moses R. Mauku, Economic Research & Development Secretary of the Uganda Hotels, Food, Tourism & Allied Workers' Union (7 June 2010) [UHFTAWU].

I do not think being a separate ministry is the answer to the problem of facilitation. We could have our own ministry, and the government would give us enough funds to sit at our desks, but if we don't have enough money to get out on the ground, we are in the same position we are in the Ministry of Gender. The issue is not being together, the issue is facilitation. As long as you do not have the facilitation to deliver the services, it will be as well separately as it is together.¹⁹³

Labour officers and inspectors both complain of an acute shortage of funding, but the source of these difficulties is different as labour officers are appointed and managed by individual districts, while labour inspectors are appointed and managed directly by the Directorate of Labour.

4.2 Decentralization of Labour Officers

Pursuant to the Employment Act, every District Service Commission has the responsibility of appointing a district labour officer responsible for administering the Employment Act. Every district is required to have at least one labour officer. Labour officers are responsible for conducting workplace inspections and ensuring compliance with employment standards.¹⁹⁴ They are also called upon to facilitate the settlement of employment disputes and are empowered to institute criminal or civil proceedings in the Industrial Court in respect of any violation of the Employment Act.¹⁹⁵

The management of labour officers by districts has not been ideal for a few reasons. First and foremost, this new structure has put labour officers in the difficult position of having to carry out inspections and “enforce these laws against their employers (the local government) and politically-connected employers under their jurisdiction.”¹⁹⁶ It goes without saying that labour officers would be better able to enforce labour laws against local governments and employers if they were not biting the hand that feeds them in the process.

Secondly, a number of districts do not have adequate funding to hire, train and pay a full-time labour officer. Despite the requirement in the Employment Act that every district has a labour

¹⁹³ FOUNDATION FOR HUMAN RIGHTS INITIATIVE, *The Long Road to Realizing Labour Rights In Uganda, Monitoring The Implementation of Uganda's New Labour Laws Report for the Period September 2010 – March 2011*

¹⁹⁴ s. 11. Of the Employment Act 2006

¹⁹⁵ *Ibid.* at s. 12 – 14.

¹⁹⁶ John-Jean Barya, *Freedom of Association and Uganda's New Labour Laws: A Critical Analysis of the State of Workers' Organizational Rights* (HURIPEC, Working Paper No. 4, April 2007)

officer, at present there are over 120 districts in Uganda and only 35 labour officers.¹⁹⁷ Limiting the jurisdiction of labour officers to a single district has left 85 districts without this first line of recourse in the event of a labour dispute. Further more, some districts have considerably less industry than others and, in light of the limited resources, more than a single labour officer could serve one such district if restrictions on jurisdiction were removed.

Even those districts with labour officers struggle to sufficiently support them. Didas Tibingwa, a labour officer with the Kasese District reported, that he has had to stop conducting workplace inspections altogether due to lack of funding.¹⁹⁸ Funding constraints have also led to labour officers being given the responsibility for labour on top of their other duties:

*They may be the officer in charge of gender, or community development, or social development, and the job of labour officer is added to those other duties. They usually must attend to those other responsibilities first, since that is their first responsibility. They usually are getting funding for their other position, but often do not get additional funding to carry out their labour responsibilities. Thus, they need to be a little bit ingenious in order to look after labour with the funding they get for the other position.*¹⁹⁹

Adding the role of labour officer onto the existing duties of civil servants instead of hiring and training full-time staff has severely compromised the value of the position since “some of the labour officers don’t have very good qualifications to hold the office... and don’t know what is expected from their office.”²⁰⁰ Returning responsibility for labour officers to the Directorate of Labour would hopefully result in additional resources being available, but would at the very least allow for more efficient use of the limited available resources.

¹⁹⁷ *ibid*

¹⁹⁸ Interview of Didas Tibinwa, District Labour Officer of Kasese District (7 September 2010) [Tibinwa]. Adopted from FOUNDATION FOR HUMAN RIGHTS INITIATIVE, *The Long Road to Realizing Labour Rights In Uganda, Monitoring The Implementation of Uganda’s New Labour Laws Report for the Period September 2010 – March 2011*

¹⁹⁹ FOUNDATION FOR HUMAN RIGHTS INITIATIVE, *The Long Road to Realizing Labour Rights In Uganda, Monitoring The Implementation of Uganda’s New Labour Laws Report for the Period September 2010 – March 2011*

²⁰⁰ *ibid*

4.3 Insufficient Sensitization

A key ingredient to the implementation of any new law is adequate sensitization of the affected parties, in this case employers, employees, unions, civil society organizations and key government officials. Numerous unions and NGOs stressed the degree to which workers' lack of awareness of their rights is a debilitating issue. This is especially true of casual labourers. Even when aware of their rights, workers do not know where to turn or what steps to take in the event these rights are violated:

Most workers in Uganda are ignorant about where to go in case of labour abuse, surprisingly not only for uneducated – even the educated people in the country. For example, if someone has been unfairly discontinued from work he/she may not know what next and where to go.²⁰¹

Previously the ILO ran a program entitled 'Strengthening Labour Relations in East Africa' which held workshops across the country to educate people about labour issues. The funding for this programme has unfortunately ceased and although various unions and civil-society organizations are working independently to sensitize employees there is no coordinated national-level education initiative. The District Labour Officer for Gulu reported that they used to run a radio program which had proven to be an extremely effective method of sensitizing citizens about labour rights and the procedures to be followed to pursue a complaint.²⁰²

Many employers also lack awareness about the legal duties imposed on them by the country's labour laws. The Federation of Uganda Employers (FUE) offers periodic training programs to its members both in Employment Relations and Occupational Safety Health and has developed a useful publication entitled "The Employers' Guide to the Labour Laws." Attendance at these courses is optional, however, and depends on the goodwill of employers. If the government were to initiate and fund similar training sessions, which were free and accessible to all employers, and possibly even mandatory, this would go a long way towards improving industrial relations

²⁰¹ Interview of Lyel Moi Odong Ongaba, Former Secretary General for NOTU (9 September 2010) [Ongaba]. Adopted from FOUNDATION FOR HUMAN RIGHTS INITIATIVE, *The Long Road to Realizing Labour Rights In Uganda, Monitoring The Implementation of Uganda's New Labour Laws Report for the Period September 2010 – March 2011*

²⁰² Interview of Christine Akello, District Labour Officer for Gulu District (9 September 2010) [Akello, DLO]. Adopted from FOUNDATION FOR HUMAN RIGHTS INITIATIVE, *The Long Road to Realizing Labour Rights In Uganda, Monitoring The Implementation of Uganda's New Labour Laws Report for the Period September 2010 – March 2011*

and enforcing the new labour laws. Unfortunately, the government's failure to allocate adequate resources to the MGLSD, and in turn to the Directorate of Labour, has severely crippled sensitization efforts.

4.4 Casualization of Labour

The ready availability of labour created by high unemployment and underemployment rates in the country has also led to increased use of casual workers, a phenomenon which has had a profoundly negative effect on labour rights. It is clear that there are prevalent misconceptions, both among employees and employers, about the definition of a casual labourer and their associated rights. A casual labourer is defined by the Employment Act as a person who works on a daily or hourly basis where payment is due at the completion of each day's work.²⁰³ Pursuant to this definition, an employee who is paid on a monthly basis and/or engaged to work for a period of more than one day, would not meet the definition of casual labourer. In the eyes of the law a casual labourer is an employee who enters into a new contract of employment with their employer every day. Casual labourers, just like individuals engaged under yearly contracts of employment, are employees towards whom employers carry statutory obligations.

Casual labourers and employees with contracts for longer defined terms are often confused for 'independent contractors'. Distinguishing between a contractor and an employee engaged for a defined term is important as it determines against whom the worker can enforce their statutory rights. An independent contractor is his/her own employer and thus responsible for his/her own employment standards. Whether a worker is a contractor or an employee depends not on the term used by the employer when they engage the individual but on the nature of the relationship as a whole. The presence of some or all of the following factors may suggest a worker is an independent contractor.

4.5 Rights of a casual labourer

Beyond defining the term 'casual employee' the Employment Act does not include specific provisions dealing with this category of workers and the application of the Employment Act to casual labourers is less than clear. Casual labourers do have some clear statutory entitlements however.

²⁰³ s. 2. Of the Employment Act 2006

First, like any other employee, casual labourers have the right to form and join labour unions and participate in collective bargaining. Section 3 of the Labour Unions Act states that “employees have the right to organise themselves in any labour union” and section 1 of the Act defines an employee as “any person who has entered into a contract of service or a contract of apprenticeship as defined in the Labour Disputes (Settlement and Arbitration) Act.”²⁰⁴ The Labour Disputes Act defines “contract of service” as “any contract, written or oral, where a person agrees to perform work for an employer in return for remuneration.”²⁰⁵ Pursuant to these definitions, casual labourers are equally entitled to exercise their freedom of association to form and join trade unions.

Second, casual labourers are equally entitled to the same standards of occupational safety and health and to obtain compensation in the event of a workplace accident. Section 3(1) of the Workers Compensation Act states: “If personal injury by accident arises out of and in the course of a worker’s employment, the injured worker’s employer shall be liable to pay compensation in accordance with this Act.” Section 1 of the WCA defines ‘worker’ as “any person who performs services in exchange for remuneration, other than a person who performs services as an independent contractor.” As discussed above, casual employees are employees, and not independent contractors, and thus fall within the parameters of this definition.

Finally, employers are obligated to make contributions to the NSSF on behalf of casual labourers on the basis of the number of days worked by the casual labourer in a month. Section 6 of the NSSFA states: “Subject to this section, on and after the appointed day, every contributing employer shall, for every month during which he or she pays wages to an eligible employee, pay to the fund, within fifteen days next following the last day of the month for which the relevant wages are paid, a standard contribution of 15 percent calculated on the total wages paid during that month to that employee.” Pursuant to the definitions of ‘contributing employer’, ‘wages’, ‘eligible employee’ and ‘contract of service’ at section 1 of the National Social Security Fund Act, casual workers are captured by section 6.²⁰⁶

²⁰⁴ 2006, (Act No. 8) [Labour Disputes Act].

²⁰⁵ Ibid S.2

²⁰⁶ s. 1 and 6. Of the NSSF

The main distinction between the rights of casual employees and other employees is the right to notice prior to termination. A true casual labourer – that is, an employee engaged and paid on a daily basis - has no entitlement to notice or guarantee of being hired the next day, since that is one of the terms of the agreement under which they are hired.

What is less clear is whether casual employees also benefit from statutory provisions governing paid leave. Entitlements to annual leave and sick pay are based on the requirement that an employee has provided a specified length of continuous service²⁰⁷ and any week in which an employee works for 16 hours or more counts in the calculation of continuous service.²⁰⁸ It is not clear from this section of the Employment Act, whether the daily nature of a casual employee's contract would be deemed to interrupt continuous service. If it does, then employees would be able to evade requirements for sick pay, weekly and annual leave by hiring casual labour.

Despite their legal entitlements, casual labourers are particularly vulnerable when it comes to enforcing their rights as they generally do not have a written contract of employment, are paid in cash and are reluctant to confront their employers for fear of not being hired again the next day. Unionization of casual labour is made difficult by the daily nature of the employees' contracts, tenuous job security and low income. employees considered 'casual' (whether correctly or not) were chronically underpaid and regularly deprived of their statutory entitlements.²⁰⁹ To guard against some of these problems, the Employment Act should speak more clearly to the rights of casual workers and include a restriction on the length of time a casual labourer can be employed by the same employer before becoming entitled to notice prior to dismissal and leave.

Excessive casualization of the labour force and associated misconceptions about the definition and rights of casual employees present one of the biggest threats to labour rights in Uganda. It is important that employers and employees alike are sensitized as to the true definition and rights of casual labourers and that unions and civil society organizations begin advocating more forcefully for the enforcement of these rights. Furthermore, to guard against some of these problems, the Employment Act should speak more clearly to the rights of casual workers and

²⁰⁷ S. 54(1)(a) and (4)(a) and s. 55(1). Of the Employment Act 2006

²⁰⁸ s. 83(3) *ibid*

²⁰⁹ FOUNDATION FOR HUMAN RIGHTS INITIATIVE, *The Long Road to Realizing Labour Rights In Uganda, Monitoring The Implementation of Uganda's New Labour Laws Report for the Period September 2010 – March 2011*

include a restriction on the length of time a casual labourer can be employed by the same employer before becoming entitled to notice prior to dismissal and leave.²¹⁰

4.6 Informal Sector

Monitoring and regulating the labour market is complicated by the high percentage of employees who are engaged in work in the informal sector. The informal sector is currently estimated at 59.3% of the labour force for adults and 90.9% for youth.²¹¹ The informal sector is that portion of the economy which is unregistered with the tax authorities and unmonitored by government.

Members of the informal sectors most often deal in barter or cash. Dominant activities in the informal sector include: product production (such as wood products and handicrafts), market vendors, subsistence agricultural workers and workers in the transport sector. The majority of workers in the informal sector are self-employed. Different informal sectors may be subject to varying levels of self-regulation or even limited government regulation. For example, market vendors pay a daily fee for use of market space to their respective market associations, who in turn pay a fee to their municipal council for management of the market. Similarly, boda-boda (motorbike) drivers pay a fee to join a stage, which is distributed among the existing stage members and are also required to maintain insurance and annual registration in the district.

Because they fall outside institutional frameworks for pensions, national social security and workers compensation, informal workers and their families are vulnerable in the event of job loss, injury, sickness or death.

They also frequently lack organized and recognized representation to advocate on their behalf to government and address problems affecting the sector such as issues of ownership rights, taxation, and safe conditions of work.²¹² As explained by Dr. Lyomoki, “these are people who

²¹⁰ *ibid*

²¹¹ The World Bank, *Directions in Development, Human Development, “Youth in Africa’s Labour Market”* (Washington: 2008).

²¹² Interview of Dr. Sam Lyomoki, the General Secretary of Central Organization of Free Trade Unions (21 June 2010) [COFTU]. Adopted from FOUNDATION FOR HUMAN RIGHTS INITIATIVE, *The Long Road to Realizing Labour Rights In Uganda, Monitoring The Implementation of Uganda’s New Labour Laws Report for the Period September 2010 – March 2011*

have very little capital, very little education and people who are very marginalized and vulnerable.”²¹³

Recently, COFTU has taken steps to try and unionize members of the informal sector. Newly formed unions in the informal sector include: the Uganda Markets and Allied Employee Union (UMAEU), the Uganda Artisan and General Workers’ Union (UAGWU) and the National Union of Drivers, Cyclists and Allied Workers Union (NUDCAWU).²¹⁴ In May 2010, NOTU wrote to the MGLSD requesting that these unions, along with 13 others, be deregistered on grounds that informal sector workers are not ‘employees’ as defined by Labour Unions Act, and therefore not entitled to organize.²¹⁵

This is true to the extent that those who are self-employed cannot unionize; however, employees of informal sector workers would be qualified to join (e.g. an employee working for the owner of a shop or a boda driver working for a boss). As suggested by NOTU, it is open to business owners in the informal sector to form cooperatives to address their concerns.²¹⁶

4.7 Worker’s MPs

There are five Members of Parliament elected by NOTU and COFTU to represent workers (3 from NOTU, one from COFTU and one female representative elected by the Electoral College comprising NOTU and COFTU).

All five of the incumbent workers’ MPs contested on the NRM ticket. The function served by workers’ MPs in Parliament has often been questioned as the position is perceived to create a conflict of loyalty for workers’ MPs between representation of their workers and their employer (the government). Due to their political affiliation workers’ MPs are under pressure to support government interests in Parliament rather than workers’ interests.

They therefore see themselves more as agents of NRM-O and the government than of workers and the trade union movement. They raise issues related to workers’ interests only in so far as such issues do not antagonise the government or the president.

²¹³ *ibid*

²¹⁴ *ibid*

²¹⁵ Al Mahdi Ssenkabirwa “Notu wants 16 labour unions deregistered,” Daily Monitor (19 May 2010) <<http://www.monitor.co.ug>>.

²¹⁶ *ibid*

The trade union movement has gone too deep into politics. Most of the leaders... are being compromised with the government system and they are full of praises for government yet the people they represent are suffering a lot. Provided workers' leaders are being elected under the political party system, it means you expect nothing new in the labour sector in Uganda.

It has been suggested that trade union federations will have to form alliances with members of the political opposition in Parliament if they are to obtain a legitimate platform for representation of workers' interests.²¹⁷

4.8 The Industrial Court

The function of the Industrial Court is to arbitrate labour disputes and adjudicate on questions of fact and law.²¹⁸ If a dispute arises between an employee and his/her employer, it is initially referred to a labour officer.²¹⁹ In the event that the labour officer cannot resolve the dispute, the matter is referred to the Industrial Court.²²⁰ The Industrial Court is the apex organization for resolving labour specific disputes. Decisions of the Industrial Court may only be appealed on point of law to determine whether the Court had proper jurisdiction over the matter.²²¹ The Court is made up of a Chief Judge and a Judge, to be appointed by the President on the recommendation of the Judicial Service Commission (JSC), a representative each of employers and employees and an independent member, to be appointed by the Minister responsible for labour.²²² The existence of the Industrial Court serves as an important recognition of workers' need for access to justice. The Court is set up in a manner that is intended to be more accessible and expedient than proceeding through the civil court system. Its procedures are simplified and legal representation is optional.²²³

²¹⁷ Barya, John-Jean. "Trade Unions, Liberalisation and Politics in Uganda" in Bjorn Beckman, Sakhela Buhlungu & Lloyd Sachikonye, eds., *Trade Unions & Party Politics: Labour Movements in Africa* (Human Sciences Research Council, 2010)

²¹⁸ Labour Disputes Act, 2006 at s. 8(1).

²¹⁹ *Ibid.* at s. 3.

²²⁰ *Ibid.* at s. 5.

²²¹ *Ibid.* at s. 22.

²²² *Ibid.* at s. 18 and 20.

²²³ John-Jean Barya, *Freedom of Association and Uganda's New Labour Laws: A Critical Analysis of the State of Workers' Organizational Rights* (HURIPEC, Working Paper No. 4, April 2007)

Unfortunately, since the mid-1990s, the court has been marginalised and poorly funded.²²⁴ In 2006, the tenure of the judges and independent panellists expired and replacements were not appointed.

Pursuant to section 8 of the Labour Disputes Act, the Industrial Court has jurisdiction to arbitrate on labour disputes referred to it under the Labour Disputes Act and adjudicate upon questions of law and fact arising from references to the Industrial Court by any other law.²²⁵

However the Industrial Court is facing problems of case backlog as the many matters are being referred to it from different labour officers are many to be determined it being one court.

4.9 Conclusion

It should be noted that due to the unemployment that is rocking all Uganda workers condone all kinds of mistreatment at work for fear to lose their jobs as it is evident that once a job is lost it take a worker many more years to secure for themselves another job. Therefore protection of workers' rights should be encouraged through funding the enforcement institutions in order to fight ill treatment of workers.

²²⁴ *ibid*

²²⁵ Labour Disputes Act, 2006 at s. 8.

CHAPTER FIVE

REFORMS AND RECOMMENDATION

5.0 Introduction

This chapter contains the reforms and recommendations that the researcher proposes to improve the enjoyment and the enforcement of workers' rights by the government and the mandated institutions like the Ministry of Gender, the different trade unions and the workers MPs.

5.1 Government

- Government should embark on the sensitization and training of workers on labor 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 operationalized 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 labor officer, as well as the expeditious handling of complaints referred to the court.
- The public should be made aware of their labor 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 centralized 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.

5.2 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 minimize 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 utilize 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.

5.3 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 minimizing 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.

5.4 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.

5.5 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 firsthand the issues affecting workers as well as enable them engage in discussions with employers on how to improve the workers' conditions of service.

5.6 REFORMS

- The Employment Act should speak more clearly to the rights of casual workers and include a restriction on the length of time a casual labourer can be hired by the same employer before becoming entitled to notice prior to dismissal and entitlements to leave.
- Magistrate Courts should be empowered to hear minor labour disputes or, in the alternative, regional labour-specific courts or tribunals should be established.
- The Employment Act should be amended to shift control of labour officers back to the MGLSD.

5.7 Conclusion

It's upon the government to be keen to implement the labour policies, and the plight of the workers would be better. Things are the way they are mainly because the government has put very little effort in that regard.

When ignorance among workers is eradicated, the poor conditions of workers would be improved. This is because there is lack of knowledge or education which leads to the abuse of the labour force. It is still also due to lack of vitality and activism among workers.

If the employers check upon their greed, the plight of the workers would improve. The situation of Worker is poor because of the excessive human greed caused by profit maximization.

1.8 General Conclusion

The study has achieved its main objective which is the analysis of the effectiveness of the legal framework on the protection and enforcement of work rights in Uganda. The study revealed that there are very many laws in existence in Uganda to protect workers. Besides the laws it was established that the laws create institutions that are mandated to protect and enforce workers' rights in Uganda. Therein, the study revealed the poor working conditions and the injustices which were manifested in discrimination at work, sexual harassment, poor health/medical care, denial of terminal benefits, casualness, low remunerations, violence, cruelty, torture and lack of respect for the subordinates. It was also established that there exist poor relations between the employers and employees and amongst workers themselves. Astoundingly, it was also confirmed that ignorance among workers still prevails. Credibly, it is important to underscore that the study has contributed to the entire economic theory and particularly to human resource management theory and practice. It is by means of these major findings that the study archived its objectives.

In the process of the study, the phenomenon of remuneration was jumbled with the challenges of under-employment and unemployment. It was also noticed that there existed a clear hostility between the constitutional and labour rights on the one hand, and the market forces behind the neo-liberal economic policies that for deregulation and minimal or no rights for workers, on the other hand, as well as the issue of education so as to mitigate the phenomenon of ignorance among the workers. Due to the limitation and the scope of the study, these issues are recommended for further research.

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