

**THE ROLE OF THE UGANDA HUMAN RIGHTS COMMISSION IN  
THE REALISATION OF WORKERS RIGHTS:**

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**A PAPER SUBMITTED IN PARTIAL FULFILMENT OF THE  
REQUIREMENTS OF THE AWARD OF THE DEGREE OF  
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## DECLARATION

I Tusingwire Emmanuel, hereby declare that the following research is an original piece of work and that where other authorities and texts have been used, it has been clearly acknowledged. To the best of my knowledge, this research has not been submitted for this degree in any other University.

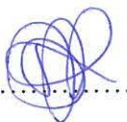
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Signature.  .....

Date. 21.05.2015 .....

## **DEDICATION**

To my mother Ms. Joyce Kekirehe and Mr. Byakatonda Emmanuel who raised me, gave me moral and financial support that laid foundation for my education. And my elder brother Dr. David Mushabe, who inspired the family to take up education which has benefited the family so much.

## ACKNOWLEDGEMENTS

So many people have contributed to the successful completion of this dissertation and while I may mention but a few, I am greatly indebted to all of them.

I shall always be grateful to the God Almighty who enabled me to study throughout my course. He has been unto me a tower, a refuge and counselor and by His Grace He has completed the good work he begun in me.

My sincerest thanks to my supervisor Ms. Diana.R for the patience, guidance and support that she offered me through this work. Her valuable comments have greatly helped me.

I appreciate the love and support of my brothers, sisters and friends. I owe you a lot. My work has been a success because of your relentless prayers at home.

Special thanks go to L.t.c. Sabiiti Magyenyi for his greatest financial support he provided during my LLB study, I am very grateful and highly indebted to you.

Special thanks to my senior counsel and brother David G Mushabe for the financial support, guidance and love he provided to me through my education. I owe you a lot.

Lastly but not the least, very special thanks go to my parents, for their financial, moral and spiritual support. You have sacrificed all you have and all for my success. I am greatly indebted to you.

May God bless you abundantly.

## **LIST OF NATIONAL LEGISLATION**

1. The Constitution of the Republic of Uganda 1995.
2. The Employment Act, 2006.
3. The Factories Act, cap 220.
4. The Minimum Wages Advisory Board and Wages Council Act, cap 221.
5. Labour Disputes (Arbitration and Settlement) Act. 2006
6. The Workers Compensation Act, cap 225.
7. Occupation, Safty and healthy Act. 2006
8. The Public Service (Negotiating, Consultative and Dispute settlement Machinery)  
Act. 2008
9. The Labour Union Act. 2006

## **LIST OF INTERNATIONAL INSTRUMENTS**

1. Universal Declaration of Human Rights 1948.
2. The International Covenant on Economic, Social and Cultural Rights 1966.
3. The International Labour Conventions.
4. African Charter on Human Peoples Rights 1981.

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## LIST OF ACRONYMS

CAP- Chapter.

ECO- Equal Opportunity Committee.

ICESCR- International Covenant on Economic, Social and Cultural Rights.

ILO- International Labour Organisation.

MGLSD- Ministry of Gender, Labour and Social Development.

NASA- National Security Agency.

.NGO- Non Government Organization.

NRA- National Resistance Army.

NRM- National Resistance Movement.

UHRC- The Uganda Human Rights Commission.

UN- United Nations.

UTV- Uganda Television.



## CHAPTER ONE

### 1.0 INTRODUCTION.

*“All human beings are born free and equal in dignity and right..... Everyone is entitled to all rights and freedoms set forth in this Declaration”.*<sup>1</sup> The Universal Declaration of Human Rights is a declaration adopted by United Nations General Assembly on 10 December 1948. Uganda is a party to United Nations and has ratified a number of UN conventions providing several human rights thus bound to enforce and preserve them.

The rights referred to above include labour rights and workers rights in particular.

A right is an entitlement you own. It is a claim by you against another to the extent that by exercising your right, you do not stop someone else from exercising his or hers.<sup>2</sup>

A human right is an entitlement or legal claim you have by virtue of being human against the state<sup>3</sup>. As such, there is no need to do anything to qualify to be entitled to them. These rights are enjoyed by every person without discrimination of any kind, be it race, religion, age, sex or any other status and thus by virtue of being human beings, workers are entitled to them. The UDHR provides for a number of human rights which in summary include; right not to be subjected to slavery and servitude, right to free choice of work in favorable conditions, right to equal pay for equal work, and right to form and join trade unions for the protection of his interest and leisure.

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<sup>1</sup> Preamble to The Universal Declaration of Human Rights 1948

<sup>2</sup> Kathryn English, Adam Stapleton; The Human Rights Handbook, a practical Guide to Monitoring Human Rights, Human Rights Center, University of Essex. 1995.P.5.

<sup>3</sup> Ibid

in case of any infringement on those rights, the infringer is held liable and the state has a duty to protect them.

A worker can also be termed as an employee. An employee is defined as any person employed for wages and includes an apprentice and domestic servants<sup>4</sup>.

The International Covenant on Economic, Social and Cultural rights (ICESCR) states in article 7 that; “*The states parties.... Recognize the right of everyone to the enjoyment of just and favorable conditions of work*” which ensure in particular:

- a) Remuneration which provides all workers as s minimum with;
  - i. Fair wages and equal remuneration for work of equal value without distinction of any kind in particular women being guaranteed conditions of work not inferior to those enjoyed by men with equal pay for equal work.
  - ii. A decent living for themselves and their families in accordance with the provisions of .....covenant.
- b) Safe and healthy working conditions.
- c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence.

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<sup>4</sup> Employment Act, 2006 S.1 (h)

- d) Rest leisure and reasonable limitation of working hours and periodic holidays with pay, as well and remuneration for public holidays.

These rights are fundamental and have been incorporated in chapter four of the Constitution<sup>5</sup> and labour laws such as Employment Act 2006, Workers Compensation Act, The Factories Act cap 220 and Trade Union Act cap. 223., etc.

Workers' rights have been recognized in the labour laws as noted above, to cultivate a good working relationship between employers and employees, whether public and private.

However, despite this recognition the labour laws in place have not been fully put to use, the administrative structure to enforce this legislation has not been sufficient and or appropriate and as a result workers rights have been abused by employers.

This research is mainly going to concentrate on the application, observance, and enforcement of the workers' rights. Provisions within the law in relation to enforcement and protection, of workers' rights and the role of the Uganda Human Rights Commission (UHRC) in the realization of these rights.

## **1.1 BACKGROUND TO THE STUDY.**

Before the 18<sup>th</sup> century, work was performed on serfdom ideology. With the emergence of changes in both social and individual conditions that is after the 18<sup>th</sup> century with the abolition of slave trade in Europe, workers gained liberty to sale their labour to whom

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<sup>5</sup> Constitution of the republic of Uganda 1995

they pleased, in return for financial rewards with rights and obligations determined by an agreement.<sup>6</sup>

The preamble to the Universal Declaration of Human Rights championed the cause to have employees' rights recognized at law. Subsequently, Uganda has adopted this noble cause by reflecting it in the 1995 Constitution, under article 20, the need to have Human rights which it regards fundamental.

From independence to the present time, there have been flagrant violations of Human rights characterized by mass killings, torture, destruction of property, disappearances etc.

The brutality that characterized successive regimes led to the conclusion that the task of human rights could not be entrusted exclusively to the state<sup>7</sup>. As a result, the 1995 Constitution created the Uganda Human Rights Commission (UHRC) under article 51 whose main functions are provided for in article 52 of the same Constitution. It is from this authority that the Uganda Human Rights Commission carries out research to investigate and makes reports on whether worker's rights have been respected and protected every year in Uganda.

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<sup>6</sup> Fredric Cooper, 'Labour History in Africa (A paper presented at a conference celebrating the 66<sup>th</sup> Anniversary of International Institute of Social History, 23-25<sup>th</sup> November 2000)

<sup>7</sup> Fredric W. Jjuuko, The State, Democracy and Constitutionalism, 'Constitutionalism and Rights, African United States Dialogue' reported in East African Journal of Peace and Human Rights, Vol. 5, No. 2 of 1995.

Workers in Uganda are guaranteed rights and freedoms for their protection in employment. Workers' rights are provided for, in international human rights instruments, including the Universal Declaration of Human Rights (UDHR) under Article 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 protection against unemployment. The Article further guarantees the right of every person to equal pay of equal work, as well as the right to form and join trade unions for the protection of one's interests. Furthermore, Article 24 of the UDHR guarantees the right of a worker to rest and leisure, including the limitation of working hours and periodic holidays with pay. Article 6 of 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 standards as the opportunity to earn one's living.<sup>8</sup> The Uganda government is bound by the ICESCR because it is an international law to which it is a party.

The right to work imposes three obligations on state parties: to respect, protect, and fulfil. The obligation to respect the right to work requires states parties to refrain from interfering directly or indirectly with the enjoyment of that right. It implies that states parties should adopt appropriate legislative, administrative, budgetary, judicial and other measures to ensure its full realization.<sup>9</sup>

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<sup>8</sup> Human Rights commission report 2014 on workers' rights

<sup>9</sup> Para 22 of the General comment NO. 18 on the right to work, adopted on 24<sup>th</sup> November 2005

According to the Human Rights commission annual report No.13, it is estimated that Uganda has a labour force of 13.4 million people, 50% of whom are female.<sup>10</sup>

This research is therefore going to examine the role of the UHRC as entrusted to it in the realization of workers' rights.

## **1.2 STATEMENT OF THE PROBLEM.**

Economically, Uganda is one of the least developed countries by the United Nations (UN) economic indexing in abject poverty, illiteracy and poor quality of life. For the majority of the Ugandans who are peasants, subsistence farmers living below the poverty line, there is need for work. The few people who have resources take advantage of their workers who want to improve on their livelihood by suppressing them, making them work for long hours in unsafe conditions, with little time to rest and with little pay. In the workers report of 2014<sup>11</sup>, it is stated that in some companies, the commission established that one of the company policy provided for 12 hours as the standard working hours with no provision for payment of overtime contrary to s.53(5). This meant that the employees were being exploited, and as a result Tilda Rice Scheme workers went on sit down strike.<sup>12</sup>

As such, workers rights are violated and this calls for the UHRC to take on its responsibility to ensure that workers rights are respected and protected.

Government Legislation is what provides workers with minimum standards of health and safe conditions in the work place. Minimum standards can always be made with safety

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<sup>10</sup> Labour force as indicated in the National Employment Policy for Uganda , April 2011.

<sup>11</sup> Aperspective on the enjoyment of the rightsof factory workers in Uganda.

<sup>12</sup> Workers Rights report 2014

conditions in the work place. Minimum standards can always be made with stronger legislation<sup>13</sup>.

There is need to re-examine the inadequate provisions within the law in relation to enforcement and protection of workers' rights and the role played by the UHRC in this regard.

A report of Human Rights Commission stated that, workers' rights are best protected through associations particularly trade unions and other workers organisations. When they join such organisations, their wages can be properly protected as they will be aware of their rights as employees.<sup>14</sup>

The UHRC Act, states the functions of the Commission in s.7 which include, s.7 (1) (a), to investigate, at its own initiative or on a complaint made by any person against the violation of any human right.

(h) To formulate, implement and oversee programs intended to inculcate in the citizens of Uganda awareness of their civil responsibilities and an appreciation of their rights and obligations as free people.

The rights referred to include workers' rights.

In addition to the work of the Commission, other Non Governmental Organisations (NGOs) and Trade Union are given the mandate to ensure that workers rights are

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<sup>13</sup> International Labour Organisation (ILO) workers education program Co-operation with national Organisation of Trade Unions (NOTU) Uganda. P. 6.

<sup>14</sup> The UHRC monthly magazine Vol. 3 No. 1. April/May

respected and protected. However, the question is whether they have played any role to the fulfillment of that mandate and what methods are used to achieve this realization of workers' rights in Uganda.

### **1.3. OBJECTIVES OF THE STUDY.**

The broad and main objective of the study is to analyse the role of the UHRC in the realization of workers' rights.

#### **Other objectives include:**

1. To discuss the ways in which workers' rights may be strengthened and made more visible so that workers may know what rights they are entitled to.
2. To make suggestions aimed at achieving an improvement in the workers' lives in terms of enjoyment and protection of their rights.
3. To explore any prospects of educating workers on enhancing their collective power and responsibility in the protection and realization of their rights.

### **1.4. HYPOTHESES.**

1. The labour laws in Uganda are inadequate to regulate workers' rights.
2. The notion of Human Rights as enshrined in chapter four of the 1995 Constitution does not offer much compromise without a keen state ready and willing to observe human rights especially with regard to workers' rights.
3. The UHRC while having the great potential to do so has failed to contribute to the realization of workers' rights in Uganda.



### **1.5. SCOPE OF THE STUDY.**

The study shall involve an analysis of the UHRC objectives in relation to the realization of workers' rights, its functions and specific roles in this area.

It will also look into the inadequate provisions of the law on labour rights and recommendations for changes in this regard.

The practical application of UHRC's role in the realization of workers' rights will be examined,; for example, educating workers on their rights.

The problems facing the UHRC's role in promoting and protecting workers' rights shall be analysed, studying the reasons for the same and other related aspects as to different people's views and requests on the matter.

Finally, solutions/recommendations to the problems at hand shall be identified and these shall be based on the research on the research findings.

The study will cover mainly the period between the promulgation of the 1995 Constitution to date (2015) although issues of workers' rights go a long way back in as far as international law is concerned.

It is therefore important to note that the treatment of this study is not entirely exhaustive as the research involved would be voluminous and time not allow for it.

### **1.6. SIGNIFICANCE OF THE STUDY.**

The study is taken as part of the requirement for the award of the degree of bachelor of laws of Uganda Kampala International University.

This study also focuses on the existing institutional and legal regime in Uganda and how its enforcement can be strengthened so as to improve on the observance of workers' rights.

It is hoped that this study will sensitize workers of their rights as inherent and not granted by the state, to advocate for respect of workers' rights and add to the realm of knowledge on the subject examined in this study.

### **1.7. METHODOLOGY.**

The following methods of research and data collection were employed:-

Library and desk research: this involved looking at the literature on the subject, labour laws, annual reports on the violation of human rights, journals, articles, books, magazines and the web site of the Uganda Human Rights Commission.

### **1.8. LITERATURE REVIEW.**

*Neil Kearney said,<sup>15</sup>*

*"The right to organise workers into trade unions, a key right does not exist in many countries, including Uganda. Governments are too inefficient, too incompetent or too uncaring to enforce international labour standards or even their own inadequate National Labour Legislation. As a result, decent work is no more than a dream in the face of falling wages, deteriorating conditions and growing exploitation".*

Kearney does not talk about the role played by the organisations formed particularly for the protection and enforcement of human rights. This research is looking at the role

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<sup>15</sup> General Secretary of international Textile Garment and Leather Workers' Federation (ITGLWF)

played by the UHRC in the realization of workers' rights because it is the Ugandan government body that researches and reports the extent and compliance of human rights in Uganda to make it easier for government to know which rights should be enforced. Therefore the organizations and government bodies should be examined as to their effectiveness in the monitoring of the compliance with human rights.

*Simon Honey Ball states that,*<sup>16</sup>

Where contracts of an employment have unfair terms, traditional view has been that the common law basis of "*laissez faire*" applies, the parties should be free, in contract to agree to what terms they please".

The trend to follow therefore should be as what is stated by the

House of Lords in *Photo production Ltd Vs Securicor Transport Ltd.*<sup>17</sup> Employees should be left free to express themselves and associate, for these are fundamental constitutional rights, which no one should be denied, regardless of the initial or other substantial terms added in the contract of employment.

National Labour Legislation.

*"As a result, decent work is no more than a dream. In the face of falling wages, deteriorating conditions and growing exploitation"*<sup>18</sup>. In the report by human rights

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<sup>16</sup> Honey Ball and John Bowers, Textbook on labour law, 7<sup>th</sup> Ed, Oxford University Press, 2002

<sup>17</sup> (1980) 1 ALL ER 556

<sup>18</sup> General Secretary of International Textile Garment and Leather Workers Federation, (ITGLWF)

Uganda's Labour Rights abuses raised today at International Labour Conference Held on 9<sup>th</sup> June 2004,

ITGLWF Press release.

commission 2014, during investigation, it was discovered by the commission that sometimes there are some instances when workers exceeded the eight hours of work provided under the Employment Act 2006 with no provision of extra payment.<sup>19</sup> The employees were working for long hours with poor remuneration. There was no standard formula for determining the salary for over time and as a result, some employers were paying 2600 per multiplied by 8 hours which is inadequate leading to exploitation due to lack of minimum wage in the labour laws.<sup>20</sup>

#### *Universal Declaration of Human Rights<sup>21</sup>*

provides for a number of human rights which in summary include; right not to be subjected to slavery and servitude, right to free choice of work in favorable conditions, right to equal pay for equal work, and right to form and join trade unions for the protection of his interest and leisure. However it does not provide for measures to promote, enforce and preserve these rights. It is the reason why we need to look at the role of UHRC to ascertain its enforcement and compliance.

*Elizabeth slade<sup>22</sup>* argues that,

*“An employer has no obligation at common law to provide facilities for education and training of these employees, unless they are engaged under a contract of apprenticeship. Similarly, he does not have to allow the employees time off for day – release or sandwich courses. However, an employer should not ask his employee to carry out a task requiring special skills unless the employer has undertaken to train the employee”*

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<sup>19</sup> S.53 of the Employment Act and Report 2014 on workers rights

<sup>20</sup> *ibid*

<sup>21</sup> UDHR

<sup>22</sup> Elizabeth O.C. Tolleys Employment Hand Book 8<sup>th</sup> Ed, by Nigel Griffin. 2000.p.70.

The position at which Slade looks at the employer – employee relationship and the education and training policy is unrealistic. This relationship can be observed and maintained, if provisions in the work places are open so that their employees can take on ‘work study’ programs. It is a right that can be recognized and the result is the employers would have many skilled and experienced workers to take on the challenges in their different fields of employment for the betterment of both the employers and that of the workers’ rights in terms of increased production.

*John Jean Barya*,<sup>23</sup> is of the view that while there have been struggles around the law giving rights concerning conditions of labour, our labour laws have been mainly in cases of restricting or controlling the Organisation of trade unions and disputes especially strikes.

Barya examines the labour laws restricting workers from joining trade unions which is contrary to the rights to join trade unions as provided for under article 40 (3)<sup>24</sup>. Every worker has a right to form and join a trade union of his/her choice for the promotion and protection of his/her economic and social interests. This research will take the study of Uganda’s labour laws further by analyzing the violation of workers’ rights and what the UHRC has done to realize workers rights.

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<sup>23</sup> J.J. Barya: Workers and the Law in Uganda CBR Publications, Working paper No. 17 (1991 P. 66-68)

<sup>24</sup> 1995 Constitution of the Republic of Uganda.

David Lewis asserts,<sup>25</sup> “Employees gain the benefit of a number of statutory employment rights and are subject to the unwritten general obligations, implied in all contracts of employment”

However, many employers in Uganda do not recognise these as they formulate which obligations and rights their employees should enjoy. There is need to begin to recognise workers’ rights as stipulated in our Act of Parliament to guarantee their recognition.

Elizabeth Slade argues that “an employer has no obligation at common law to provide facilities for education and training of these employees, unless they are engaged under a contract of apprenticeship. Similarly, he does not have to allow the employees time off for day – release or sandwich courses. However, an employer should not ask his employee to carry out a task requiring special skills unless the employer has undertaken to train the employee”<sup>26</sup>

The position at which Slade looks at the employer – employee relationship and the education and training policy is unrealistic. This relationship can be observed and maintained, if provisions in the work places are open so that their employees can take on ‘work study’ programs. It is a right that can be recognized and the result is the employers would have many skilled and experienced workers to take on the challenges in their different fields of employment for the betterment of both the employers and that of the workers’ rights in terms of increased production.

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<sup>25</sup> David Lewis and Sergeant Malcolm, People and Organisation; Essentials of Employment Law. 6<sup>th</sup> Ed

<sup>26</sup> Elizabeth Q.C. Tolleys Employment Hand Book, 8<sup>th</sup> Ed, by Nigel Griffn. 2000. P. 70.

*Hutchison (1999)*<sup>27</sup> defines competition as rivalry in the market place between different business organisations, usually competition for customers between those who have the same commodities to dispose off. Firms can make their productions competitive in price, quality, availability and delivery dates for example competition through advertising.

This re-echoes the wide spread competition in both the public and private sector and the widening gap can only be bridged by stability and fair treatment of workers, uplifting their rights regardless of which ever level they are at.

A balance must be struck to ensure that for competition to foster development, workers' rights must be taken to be of paramount importance. Workers should have the freedom to enjoy their rights in accordance with the existing laws.

*As stated in a hand book for United Nations staff,*<sup>28</sup>

*“Government retains the primary responsibility for human rights and it is not a question of asking business to fulfill the role of government, but of asking business to promote human rights in its own sphere of competence. Corporations responsible for human rights violations must be held to account.”*

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<sup>27</sup> Quoted in the Work Book Encyclopedia Ultra Deluxe by Dale Farris, 2003

<sup>28</sup> Human Rights, A Basic Hand Book for UN Staff, Published by UN Department of public Information (2001)

Therefore, to attain good quality in work, workers' rights should be properly observed for proper service delivery and this observance should not be streamlined to cater for a particular group of employees but should embody all.

The intensity of global competition has put working conditions under pressure. The minimum wage does not sustain a worker, while working conditions are deteriorating and job insecurity increasing.

The principles of hire and fire have very much come into play. The workers' rights have been put at stake and at the whims of the employer. Labour is one of the most treasured assets that human beings have. Purposeful labour does not only produce wealth, but also guarantees the very survival of man. Lord Denning MR as then he was, once said; "a man's right to work is just as important to him as, if not more important than, his right of property."<sup>29</sup>

Therefore, this research is going to fill in the gap of limited literature on this topic in Uganda as from the foregoing discussion it is thus far inadequate and not specific to Uganda.

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<sup>29</sup> "Lee Vs Showmen's Guild of Great Britain (1952)2QB 329 at 343



## **1.9 SYNOPSIS.**

This research paper is made up of five chapters broken down as follows; Chapter one, which is this chapter, contains the introduction of the research topic, background to the study, statement of the problem, objectives of the study, hypotheses, scope of the study, significance of the study, methodology and literature review

Chapter two contains a descriptive analysis of the laws governing employees working conditions in Uganda generally and the standards expected of employers towards their employees.

Chapter three discusses the role of the UHRC in the realisation of workers' rights, its objectives as set out by the Act, its interpretation, application and effect on workers' rights and the problems / obstacles! Limitations faced by the UHRC in its functions in relation to workers' rights.

Chapter four is the conclusion of the study, outlining the research findings, the problems encountered during research, conclusion and recommendations.

## CHAPTER TWO

### 2.0. The labour policy in Uganda.

The history of labour laws in Uganda and East Africa generally can be traced to the advent of colonialism and to a great extent most of the labour laws that exist today are part of that colonial heritage, although some were enacted in the 1970s. It was colonialism that, for instance, encouraged forced labour as a policy of getting natives to carry out repairs on roads, bridges, etc, and, in certain instances, it was exacted as a penalty for failure to pay taxes.<sup>30</sup>

It was this kind of policies and practices of colonial period that were envisaged under the provisions of the 1930 ILO Convention concerning forced or compulsory labour, in stipulating' that; "Forced or compulsory labour exacted as a tax and forced or compulsory labour to which recourse is had for the execution of public works by chiefs who exercise administrative functions shall be progressively abolished."<sup>31</sup>

Invariably, the bulk of the labour laws were largely introduced during the colonial period In Uganda, this was reflected in laws such as the Minimum Wage Ordinance and the Workman's Compensation Ordinance introduced in 1949 and Trade Unions Ordinance of 1937 respectively. These Ordinances among others would survive the end of colonialism

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<sup>30</sup> See eg, provisions of Article 14 of the Buganda Agreement of 1900 which Gave power to native Chiefs to Raise Labour for maintenance of roads in Buganda. In the other hand, the native administration Tax Ordinance of 1938 exacted Compulsory Labour for failure to pay taxes.

<sup>31</sup> ILO Convention concerning forced or compulsory labour. 1930 (No. 29) Article 10 (1)

and would remain unreformed; in fact the Workman's Compensation law would only be changed in 2000.<sup>32</sup>

The post-independence period in Uganda would see the enactment of a number of laws, particularly the Employment Decree in 1975 and the Trade Unions Decree in 1976. It would also be after independence that Uganda would ratify any International labour instruments, commencing the Minimum Age (Industry) Convention of 1919 (No.5) in 1963 and subsequently the Minimum Age (Underground work) Convention of 1965 No. 123 of 1967<sup>33</sup>.

With the revision of the laws in Uganda<sup>34</sup> the main labour laws in Uganda are;

- (a) Employment Act 2006
- (b) Trade Unions Act cap 223.
- (c) Labour Disputes (Arbitration and Settlement) Act 2006
- (d) The Factories Act cap 220.
- (e) The Workers Compensation Act cap 225.
- (f) The Minimum Wages Advisory Board and Wages Council Act cap 221.
- (g) The occupation, safety and Health Act, 2006
- (h) The public service (Negotiating, Consultative and Disputes settlement machinery) Act, 2008
- (i) The labour Union Act, 2006

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<sup>32</sup> Dr. Onoria Henery. Background to Labour Laws in Uganda, reported in a regional approach to Integrating International Labour Standards. Inaugural Training Workshop Report, Entebbe Uganda 24-27<sup>th</sup> Feb. 2004. Windsor Lake Victoria Hotel

<sup>33</sup> Ibid

<sup>34</sup> Laws of Uganda 2000.

## **2.1. Sources of International workers' rights.**

### **Universal Declaration of Human Rights 1948**

Article 23 provides for the right to work, to just and favourable conditions of work, the right to equal pay for equal work without any discrimination and the right to just and favourable remuneration.

Article 24 provides for the right to leisure, including reasonable limitation of working hours and periodic holidays with pay.

### **The International Covenant on Economic, Social and Cultural Rights of 1966.**

Article 6 provides for the right to work.

Article 7 provides for;

- (i) Just and favourable conditions of work including fair wages, equal remuneration for equal work, non-discrimination and decent standard of living.
- (ii) Safe and healthy working conditions
- (iii) Equal opportunity for promotion based on seniority and competence.
- (iv) Rest, leisure, limitation of working hours, periodic holidays with pay, remuneration for public holidays.

Article 8 provides for the freedom to form and join a trade union.

### **International Labour Conventions.**

Convention No.29. Provides for the abolition of forced labour.

Convention No. 87 is on the freedom of association and the right to organise.

Convention No. 98 provides for the right to organise and collective bargaining.

Convention No. 100 is on equal remuneration.

Convention No.110 advocates for the abolition of discrimination in work places.

Convention No. 138 provides for a minimum wage of entry to employment.

### **African Charter on Human and Peoples Rights.1981**

Article 15 provides for every individual's right to work under equitable and satisfactory conditions and to receive equal pay for equal work.

### **2.2. Sources of workers rights in Uganda.**

Workers rights are generally derived from written laws including the Constitution, Acts of parliament and regulations. Uganda has the legal obligation to ensure that its laws and practices are in conformity with international conventions such as the International Covenant on Economic, Social and Cultural Rights and the ILO Conventions.

### **The Constitution of the Republic of Uganda 1995.**

The Constitution in its chapter four provides for the protection and promotion of fundamental and other human rights and freedoms. The rights provided for include;

Article 29(1) (c) provides for freedom of association.

Article 39, the right to a clean and healthy environment.

Article 40 provides for the right to work under satisfactory, safe and healthy conditions, equal pay, equal work without discrimination, rest, reasonable working hours, periods of holidays, remuneration or public holidays, the right to form and join a trade union,

Collective bargaining and representation, the right to withdraw labour, protection of pregnant women and maternity, the right to practice profession and carry out lawful Occupation,

### **Employment Act 2006**

The Act focuses on what an employer can do and what he cannot do in the course of employing a person. The same Act also provides some guidelines for the conduct of employees while employed.

S.40 provides details underlying the obligations of the employer to provide work to employees.

Part V provides for employers to pay due wages in local currency and for payment to be effected at acceptable places by law and employees to spend the money anywhere they want without obstruction.

Part VI of the Act provides for the workers right to hours of work, rest and holidays.

S.56 talks about the protection of women under maternity leave.

The Act also provides for the rights of the worker at the termination of contract of employment in S.65

### **Trade Unions Act cap. 223.**

S. 2 provides for the establishment and functions of the National Organisations of Trade Unions.

S.54 (1) provides for the employees right to organise themselves in any trade union and assist in its running and bargain collectively through a representative of their own choosing and engage in other lawful activity which is for the purpose of collective bargaining or other mutual aid or practice.

S.54 (2), prohibits employers from interfering with, restraining or coercing employees in exercise of their rights, interfering with the formation of a trade union or with the administration of the National Organisation of Trade Unions or a registered trade union; discrimination in regard to hire, tenure or any terms or conditions of employment to discourage membership in a trade union and discharge an employee on account of his or her lawful involvement in union activities.

#### **The Minimum Wages Advisory Boards and Wages Council Act. Cap 221.**

The Act provides for the establishment of minimum wages advisory boards and wage councils and for the regulation of the remuneration and conditions of employment of employees.

The Statutory Instrument No.38 of 1984 fixed the minimum wage at shs.6000 which is unrealistic looking at the current cost of living in Uganda today.

#### **The Workers Compensation Act cap 225.**

Provides for the protection of workers from accidents, occupational diseases and death.

It also provides for compensation and insurance by employers, for enforcement through Prosecution, labour officers and the Ministry of Gender, Labour and Social Development.

### **The Labour Disputes (Arbitration and Settlement) Act 2006.**

It provides for settlement of disputes between workers and employers and dispute settlement mechanisms including conciliation and reference to the industrial court in S.5, 6 and 7.

### **The Factories Act cap 220.**

The Act provides for health, safety and welfare of persons employed in factories and other places.

It provides for registration of factories and factories inspection mechanisms to ensure health and safety working conditions.

It also provides for inspectors under the Ministry of Gender, Labour and Social Development to inspect, enforce and advise on health and safety standards.

## **2.3 Implementation of core labour standards and rights in Uganda.**

Uganda has the legal obligation to ensure that its laws and practices are in conformity with international conventions.

These standards are articulated in the ILO Declaration of Fundamental Principles and Rights at Work and the International Labour Conference (1998) and are contained in the Core ILO conventions and other international and regional human rights instruments.

Freedom of association and effective recognition of collective bargaining is the foremost amongst the core labour rights. It is on the basis of this freedom that labour is able to organise into formal associations or organisations and engage in collective bargaining.

Uganda has ratified ILO Convention No.98 and not No. 87.



In effect, the provisions of the 1995 Constitution and the existing labour laws do allow far the organisational and associational space of trade unions as well as affirming their role and centrality in collective bargaining.

The right to organise is generally observed in so far as unionisable workers are free to form and join trade unions. However, they may not fully exercise their organisational rights due to limitations such as failure to secure recognition from employers, the legal and practical difficulties involved in holding strikes. Furthermore, the bulk of civil servants are by law removed from the group of persons that can enjoy this right.<sup>35</sup>

ILO Convention No.100 requires ratifying states to take measures to promote and to ensure the application of the principle of equal remuneration for male and female workers for work of equal value. On the other hand, Convention No.111 requires that states promote equality of opportunity and treatment by policies aimed at ending all forms of discrimination in employment and occupation on grounds of race, colour, sex, religion, political opinion, national extraction or social origin.

While there has been growing access of women to employment and the work place as a result of affirmative policies of the government encouraging education of the girl-child, there remains a problem of discrimination of women as well as victims of HIV/AIDS in employment. The right to equal opportunities might be reflected and taking effect in the public sector (government ministries and departments) but it is yet to be seen in private enterprise. More crucially, the failure of government to constitute the Equal

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<sup>35</sup> Martine O, Masiga: *supra*. 27

Opportunities Committee (EOC), provided for under article 32 of the 1995 Constitution, somewhat deprives the substantive right to equal opportunity of an enforcement mechanism.<sup>36</sup>

The ILO Conventions No. 29 and 105 underscore the freedom from forced or compulsory labour as a core labour right and Uganda has ratified both conventions.

Forced and compulsory labour abounds in Ugandan prisons. Inmates are compelled to work under harsh circumstances for the private gain of prison authorities. They are often deployed to work in agricultural farms and other enterprises in which prison authorities have private interests. It is also common for prison authorities to hire out the services of inmates whether on remand or after conviction to members of the public especially to the Agricultural sector. Prisoners usually work for long hours of hard labour, poor feeding and endure routine beatings.<sup>37</sup>

ILO Convention No.26 provides for a minimum wage for workers. Much as there is a Minimum Wages Advisory Board and Wages Council, the last minimum wage was set in 1984 to an equivalent of Ushs 6000.<sup>38</sup> This is too meager and would according to Commissioner for Labour Dr.Daniel Ogaram apply to those manual labourers who do not have an employment contract. He further notes that many people in formal employment

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<sup>36</sup> Ibid

<sup>37</sup> Supra 27

<sup>38</sup> Minimum Wage Advisory Boards and Wages Council Act Cap221.

negotiate their wages with the employers. The Minimum Wage law has become outdated and inapplicable. Not even people from the informal sector would accept such a low wage for their services. Most wages now are above Ushs 30,000.<sup>39</sup>

The MPs call upon the Government to announce a statutory minimum wage that should not fall below Ushs.75, 000. The Workers MP expressed disappointment that although the issue was presented to the President over and over again, the President has not taken action saying "*it is not necessary.*"<sup>40</sup>

There are some provisions contained in municipal legislation especially in the Trade Union Act and legislation governing the Public Service, which need to be brought into conformity with Uganda's International labour rights obligations. For example, S.6 (3) of the Trade Union Act cap 223 disallows the registration of a trade union not composed of at least one thousand registered members. This is not conducive to formation of the trade unions in small and medium sized enterprises.

However, The Labour Unions Bill 2005 which was passed into law by Parliament on March 28 2006 with a few amendments and awaits being assented to by the president, repeals the Trade Unions Act cap223 and former president Idi Amin' s Trade Unions Decree of 1973 that barred fewer than 1,000 workers from forming unions. According to the new Act, workers of whatever number are now free to form and join a trade union.<sup>41</sup>

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<sup>39</sup> Foundation for Human Rights Initiative, Uganda Human Rights Status Report 2005. P.84.

<sup>40</sup> The New Vision April 2006

<sup>41</sup> Peter Nyanzi Daily Monitor, Tuesday April 4<sup>th</sup> 2006 at P. 13

S.7(4) of the same Act requires that only a trade Union whose officers and members of the executive committee or any of the committee are citizens of Uganda may be registered, this effectively excludes foreign nationals working in Uganda from assuming trade union leadership even if they are legally resident in the country.

This provision lies contrary to article 3 of Convention No.. 87 on Freedom of Association and Protection of the right to organise, 1948, which guarantees that workers shall “elect their representatives in full freedom.”

S.17 (1) (e) provides for the employer to recognise a trade union to which at least 51% of the employees are members. This ignores the rights of minorities if they so wished to form a trade union.

Furthermore, the Traded Union Act in S.2 establishes the National Organisation of Trade Unions (NOTU) as a compulsory centre to which all registered trade unions must affiliate. This limits the freedom of trade unions which wish to establish alternative national centers. Indeed hi November 2003 a group of trade unions made an attempt to split from NOTU to form the Centered Organisation of Free Trade Unions in Uganda.(COFTU).<sup>42</sup>

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<sup>42</sup> (COFTU) 2003, a New Hope for Workers of Uganda. Basic Information on the alternative National Center for Free Trade Unions in Uganda. Why another Trade Union Center, The philosophy and Spectrum of strategic innervations to revive Trade Unionism in Uganda.

The new Labour Unions Act regularises the establishment, membership and administration of labour unions. It also legitimises the existence of Central Organisation of Free Trade Unions, and its affiliates. COFTU broke away from the National Organisation of Trade Unions.<sup>43</sup>

The Labour Unions Act stipulates that employees have the right to organise themselves in any labour union and to bargain collectively through a representative of their own choosing and to engage in lawful activities for the purpose of collective bargaining without any hindrance or interference from the employer. It means that employees have a right to freedom of association as provided by the Constitution of the Republic of Uganda<sup>44</sup> and trade unions should be independent from the government. An employer who violates this provision commits an offence and is liable on conviction to a fine of 96 currency points (shs, 1 .9m) or imprisonment for a term not exceeding four years or both.<sup>45</sup>

The right of public servants to organise is severely restricted by law. Only group employees are eligible to be unionised. The restrictive pieces of legislation include the Public Service (Negotiating Machinery) Act No. 78 of 1963, the Public (Negotiating Machinery) Act Amendment Act 1968, No. 24 of 1968 and the Public Service Act No.18 of 1969. Uganda has ratified most of the important instruments necessary for the

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<sup>43</sup> Ibid note 4. P. 14

<sup>44</sup> Article.21(1)

<sup>45</sup> Ibid

promotion and protection of labour rights and enacted similar provisions in domestic legislation.

s.2 of the Workers Compensation Act Cap.22 applies to all employment in Uganda and to workers employed by or under the government of Uganda in the same way and to the same extent. However the Act excludes armed forces which subject them to forced labour. S.10 of the Act imposes a duty on the employer to report any incident of injury to the labour officer. Under this Act the employer is liable for any injury suffered by the worker while on duty he is employed for by his or her employer and shall be liable to pay compensation.

s.5(1) provides that no person shall use or assist any other person, in using forced or compulsory labour. This complies with the international standards of labour law. However compulsory or forced labour does not apply to military or civic obligation of the citizens of Uganda. Further, under s.6 discrimination in employment is prohibited and it imposes a duty on all parties, including a minister, labour officers and the industrial court to seek to promote equality of opportunity with the view of eliminating any discrimination in employment. However discrimination is practically left at the discretion of the employers because they hide under the excuse of qualifications and high number of turn up job seekers and end giving jobs to those they want. Therefore its had to tell whether you are denied a job on the basis of discrimination, inadequate job or qualification and therefore not taking up a complaint.

## CHAPTER THREE

### THE ROLE OF UHRC IN THE REALISATIONS OF WORKERS' RIGHTS.

This chapter attempts to examine the role of UHRC in the protection of workers' rights in this country. It lays a background of the formation of this National Humans Rights Institution and its legal frame work by way of examining the legislation that sets it up, its functions, powers and operational mechanism, its interpretation, applications and effect on workers' rights. The problems/Obstacles/limitations faced by UHRC in its functions will also be discussed.

#### 3.0. Historical background.

During the period after 1966, Uganda started experiencing serious political turmoil such that by 1970 and the period following the 1971 coup d'etat by Idi Amin up to 1986, the country was in anarchy with serious violations of human rights. People were often arrested and killed in broad daylight and most of these atrocities were state inspired in that security agents would commit serious human rights violations with impunity and this mainly applied to the Amin and Obote II era where security agencies such as National Security Agency (NASA) and state Research Bureau could cause the disappearance of people and the state would do nothing to stop this catastrophe from continuous happening.<sup>46</sup>

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<sup>46</sup> The Uganda Human Rights and the Protection of Human Rights, A Paper presented at a Workshop for the youth and the Constitution. 7<sup>th</sup> April 2002. by Commissioner M. Wangandya at International Conference Center. (ICC) Kampala.

With the coming of the then NRA/NRM government into power in 1986 an ad hoc commission known as the Commission on the Violations of Human Rights (commonly referred to as the ODER Commission) was set up with the specific mandate of investigating human rights violations that took place since independence (this is 1962 to 1986) and among its many recommendations, the commission recommended the establishment of a permanent human rights commission to always check and safeguard the rights of citizens in this country. This recommendation was also debated and passed in the Constituent Assembly that debated and passed the 1995 Constitution.<sup>47</sup>

### **3.1. The legal frame work.**

The law establishing the commission is Article 51 of the Constitution<sup>48</sup>, which stipulates; ‘There shall be a commission called the Uganda Human Rights Commission.’ It therefore exists legally by virtue of that Article and it’s from which it derives its functions and powers.

### **3.2, The functions of the Commission.**

The mandate of the commission is clearly spelt out in the Constitution in article 52(1) and s.7 (1) of the Constitution and Uganda Human Rights Commission Act cap 24 respectively.

Article 52(1), the commission shall have the following functions;

(a) To investigate, at its own initiative or on a complaint made by any person or group of persons against the violations of any human right. According to the 2014 on workers

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<sup>47</sup> Ibid

<sup>48</sup> 1995 Constitution of the Republic of Uganda.



'rights report',<sup>49</sup> it was discovered that some workers do not belong to trade union especially the top administration because they avoid conflict of interests, the industrial court that was established is not functional which results into slow process of labour dispute resolution and less freedom of association. The number of unionized workers is less than 1,000,000 (one million) in Uganda and the trade unions in Uganda have internal wrangles which essentially stemmed from the creation of COFTU as a break away from NOTU<sup>50</sup> at the presentation of the report, the chair person of the commission Mr. Kagura, said that the investigation was prompted by numerous complaints received by UHRC from workers alleging different violations by their employers including unfair dismissals, poor working conditions, and failure to pay remuneration. However due to a big number of illiterates I find many people not aware of their rights, when they are violated, and where to report especially villagers.

(c) To establish a continuing program of research, education and information to enhance respect of human rights. This sub Articles mandates the commission to research and educate to enhance respect of human rights. The commission in the fulfillment of this provision, it has made annual reports and published them for people to read and be updated on the current status of human rights in Uganda. Furthermore the commission in 2014 conducted activities which comprised workshops/trainings, community outreach activities, media campaigns and commemoration of international human rights days. The aim was to enhance the levels of human rights awareness, nurture a culture of respect of for human rights.<sup>51</sup> On 18<sup>th</sup> November 2014 the chairman of the commission while presenting the report, the commission pledged to continue with the advocacy for strong

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<sup>49</sup> Workers' Rights; a perspective on the enjoyment of the rights of factory workers in Uganda.

<sup>50</sup> Nuwagaba, trade unions in Uganda

<sup>51</sup> The 17<sup>th</sup> /Annual report

workers' union, setting of a minimum wage, a fully functional industrial court, an effective labour functioning in the ministry of gender, labour and social development and enforcement of employers' obligation and duties.<sup>52</sup> However the modes of communications in educating people are not effective to every citizens as not all people can turn up for training or tune on to one radio at the same time where the advert is being broadcasted in the language of the same area. I would suggest that t an office of human rights be put in every parish permanently for easy education and inquiries.

(d) To recommend to parliament effective measures to promote human rights, including provision of compensation to victims of violations of human rights, or their families. In the fulfillment of this provision the commission makes recommendations for every annual report made on human right. In particular, the report of the workers' right presented on 18<sup>th</sup> November 2014, the commission made a number of recommendations to government, employees, employers, and trade unions so that appropriate action can be taken to ensure that workers' rights are respected, protected and promoted. These include among others;

- 1) Government should sensitize and train workers on labour laws and their rights as workers to be in better position to know when their rights are violated and what rights to claim.
- 2) That the government should set a minimum wage for workers in accordance with the type of work done and the levels of qualifications of the worker, which helps to curb down exploitation and oppression. etc<sup>53</sup>. the chair person appealed to government agencies, parliament, and government ministries, departments to

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<sup>52</sup> Presentation on internet

<sup>53</sup> Workers' rights 2014

support the implementation of the recommendations made in the three reports that were launched. However, much as the commission can recommend to parliament effective measures to promote human rights, the parliament has its own procedures it takes to put those measures in force which the commission cannot quicken to have such measures on time. And for the issue recommending compensation, the process of payment is too long which also violates a right to that compensation money. I therefore recommend that there should be a provision that allows the commission to follow up the recommended compensation of an individual in case it is unreasonably delayed.

(f) To educate and encourage the public to defend this Constitution at all times against all forms of abuse and violation. In the 17<sup>th</sup> annual report, a number of communities and schools were educated on the human rights violation and protection. For example in schools, UHRC has been championing the formation of Human rights and Peace Clubs in secondary schools. In order to facilitate the formation of human rights and peace clubs in school, the commission conducts sensitization workshops for teachers and students such as in Muni Girls' Secondary School and Ediofe Girls Secondary school both in Arua.<sup>54</sup> On the other hand workshops and meetings have been conducted in grass root communities such as in markets, trading centers, and landing sites and the commission used film shows to educate the communities which attracted more participants.

(g) To formulate, implement and over see programs intended to inculcate in the citizens of Uganda awareness of their civic responsibilities and an appreciation of their rights and obligations as free people; however the commission does not have powers to hold other stakeholders liable for failing programs especially where it is politically subtaged.

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<sup>54</sup> 17<sup>th</sup> Report

(h) To monitor the government's compliance with international Treaties and convention obligations on human rights;

### **3.3. Powers of the Commission.**

In order for the commission to effectively fulfill the above functions or mandate, the law provides it with wide ranging powers that make it easier for the commission to effectively execute its functions without fear or favour. These powers are stipulated under article 53(1) where in it is stated that in the performance of its functions, the commission shall have the powers of a court to;

(a) To issue summons or other orders requiring the attendance of any person before the commission and the production of any document or record relevant to an investigation by the commission. In the fulfillment of this provision, when a complaint has been lodged with the commission, the commission's tribunals summons the respondent and when the matter has been heard and completed, the tribunal gives orders such as compensation, release, etc.

(b) To question any person in respect of any subject matter, under investigations before the commission. When the respondent is summoned, he/she/company is questioned by the commission to ascertain the truth of the allegation and when the allegation is not true the case is dismissed. For example in the case of *mutaki sylivester v Attorney General*<sup>55</sup> it was found out that the complaint was not true and the commission dismissed it.

The law further stipulates that the commission shall be independent and shall not in the performance of its duties be subject to the direction or control of any person or authority in article 54 of the Constitution.

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<sup>55</sup> UG HRCNAT JINJA

### **3.4. Application of the objectives/functions of the commission and effect on workers' rights.**

UHRC's intervention with workers' rights derives from its general mandate for promotion and protection of human rights in Uganda as stipulated in article 52 of the Constitution. The commission has predominately engaged its mandate to monitor general trends on the realization of workers' rights in the country and reporting on them in its annual reports.

The UHRC commission in its functions is mandated to establish a continuing program of research, education and information to enhance respect of human rights, to formulate, implement and oversee programs intended to inculcate in the citizens of Uganda awareness of their civic responsibilities and an appreciation of their rights and obligations as free people.

In 2014, the commission continued to spearhead the creation of awareness among the people of Uganda for the protection and promotion of human rights, civic obligations and constitutionalism. This was mainly done through education and training, media programs, research and documentation as a major strategy to promote awareness and respect for human rights. Among the topics presented and discussed during the workshops were the concept of human rights and the role of UHRC.<sup>56</sup>

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<sup>56</sup> UHRC 17<sup>th</sup> Annual Report .

The commission publishes monthly magazines known as 'Your Rights' covering different themes as a way of educating our citizens. It also conducts Radio Programs in various languages where human rights topics are presented to the listeners.<sup>57</sup>

For example UHRC runs a total 3,473 radio spots on stations countrywide. 12 newspaper supplements, advertorials and commentaries on specific human rights themes published in three local news papers. Two television talk shows on Bukede T.V, in which viewers gained information on the provisions of the prevention and prohibition of Torture Act<sup>58</sup>.

The commission has convened workshops and conferences to discuss workers' rights. These workshops have served to promote the rights of workers through rising awareness and contributed in identifying crucial trends in the realisation of these rights.<sup>59</sup>

Two workshops focusing on workers' rights were held. From 14th — 15th November 2002, the commission organised and convened a workshop on the theme "Workers' rights are human rights". The workshop brought together leaders and members of workers' Unions. The second workshop took place on the 18<sup>th</sup> and 19<sup>th</sup> September 2003 on the theme "Human rights at work; an obligation of the employers and employees". This workshop was the follow up to the first, which recommended that a workshop be

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<sup>57</sup> Supra 40

<sup>58</sup> 17<sup>th</sup> Annual report

<sup>59</sup> UHRC 6<sup>th</sup> annual report 2003 P. 132

organised and attended by workers, employers and the government to discuss workers' rights.<sup>60</sup>

A report on workers' rights was launched and published for the year 2014<sup>61</sup> containing all the findings on the violation and compliance with human rights in which they found unlawful termination from work, and denial of remuneration. The investigation showed that the respondents were education institutions.<sup>62</sup> However according to the workers rights and the 17<sup>th</sup> report, workers were highly complied with and respected apart from a few employers who made the workers work for long hour contrary to the law and delay of payments.

The UHRC in all its previous reports urged the government to address the need for a minimum wage. The Minimum Wages Advisory Board and Wages Council Act of 1964 cap 221 was enacted to respond to this obligation, however, no statutory minimum wage for workers has been set in that regard.

According to the Director of Labour, a minimum wage was last fixed at sh.6000 in 1984 under Statutory Instrument No.38.<sup>63</sup> The continued absence of a minimum wage is in violation of the ILO Convention No. 26.

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<sup>60</sup> Ibid P. 133

<sup>61</sup> Workers' Rights; a perspective on the enjoyment of the rights of factory workers in Uganda

<sup>62</sup> 17<sup>th</sup>/Annual report

<sup>63</sup> UHRC 6<sup>th</sup> annual report, 2003. P.134

The commission wishes to reiterate its call on government for a minimum wage so that workers are not exploited.

It is no doubt that the Uganda Human Rights Commission has not performed its role in regard to human rights, however the publications and broadcastings do not reach every Ugandan due existence of so many languages over 100 of them which the commission does not publish. Secondary due to illiteracy and poverty in Uganda some people don't access such modes of communication or not able to read. Therefore there should be a local permanent media of communication in every area.

Also much as the commission agitates for minimum wage, it is in my opinion that since Uganda has high rate of unemployment, fixing of the minimum wage will increase more unemployment as most employers will not employ people bellow certain amount and also some employees will not work bellow minimum wage.

The 1995 Constitution of Uganda mandates the commission to promote and protect Human rights. Thus Human rights promotion is one of the major obligations the commission has and these rights include workers rights. It is the proactive strategy aimed at ensuring that the people of Uganda know and appreciate Human rights and respect them.

In the interest of optimally applying the time, human and financial resources of the commission, an internal policy was implemented to limit the involvement of the



commission in the area of investigation and arbitrating labour matters. There was a need for the commission to address labour matters to the institutions primarily responsible for handling such matters, i.e., Ministry of Gender Labour and Social Development, and the industrial court. As such the commission has limited its role to promotion.

Nonetheless, the commission registered 256 complaints only on denial of remuneration. workers rights during the reporting period and these cases were appropriately referred to other institutions.<sup>64</sup>

The UHRC has contributed in the realisation of workers' rights by educating workers on their rights through holding workshops, radio programs, publishing magazines covering different themes on workers' rights.

### **3.5. Problems/obstacles/limitations faced by the commission.**

The impact of the commission's publications has been limited to some extent as most of them are produced in English. However, efforts have been made to plug this loophole by expanding the number of languages in which publications are produced.

Investigations have remained one of the most challenging responsibilities facing the commission. Complainants often provide insufficient information. To overcome this problem, a new detailed form has been designed and it has been ensured that complainants who physically come to the commission are personally interviewed as much as possible by officers handling complaints.

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<sup>64</sup> Supra 64

Many complaints remain pending at the commission because complainants lost interest in them. Complainants lose interest for a number of reasons, when they obtain immediate relief they lose interest in the ultimate solutions which has been sought, other complainants fear pursuing cases against state institutions particularly against military Intelligence, others simply decide not to follow up their complaints, such complainant d not respond to the commission letters.

The commission is also faced with the problem of inadequate funding and shortage of staff in all departments.

The commission despite having powers is limited from handling certain aspects such as;

1. Any matter that may be pending before a court or judicial tribunal.
2. Any matter involving the relations or dealings between the government and government of any foreign state or international Organisation or
3. Any matter relating to the exercise of the prerogative of mercy.

## **CHAPTER FOUR.**

### **CONCLUSIONS AND RECOMMENDATIONS.**

#### **4.0. Research findings.**

The need for workers' rights awareness and implementation emerges from the contradictions of labour laws in place. Discretionary powers have been left in the hands of private investors.

The main objective of this study was to critically analyse the role of UHRC in the realisation of workers rights. The problems/limitations faced by the UHRC were also identified.

The researcher examined different laws, both national and international. He also considered other means of awareness that can be employed in the realisation of workers' rights at their work places.

In the final analysis this study revealed the following facts; Failure of government to fix a minimum wage for workers causing disparities in levels of remuneration between workers in the private sector and those in the public sector. Workers in the public sector continue to work under conditions that do not guarantee them a basic standard of living. This is aggravated due to the fact that existing labour laws are not enforced, causing employers to violate workers' rights. For example the absence of a minimum wage for workers.

Violations of rights to rest and leisure<sup>65</sup>. In most private settings, it was a rule for workers to work during weekends and public holidays without overtime allowances.

It was also found out that some labour law legislation contravenes the rights of workers as provided for under international instruments on workers rights. These included the Trade Unions Act and the legislation governing the public service.

Safe and healthy working conditions for employees were regarded as a privilege by some employers. These employers denied protective wear for workers in hazardous working environments. This exposed workers to infections such as HIV and cancer and inevitably the termination of their service.

The researcher found out that the Ugandan government has endeavored to ensure that its laws and practices are in conformity with international conventions on labour rights. This it did so by ratifying such conventions and those which it did not ratify provided for in the national legislation.

It was also found that the UHRC has played a big role in the promotion and protection of workers' rights through educating workers on their rights and ensuring that the government under takes its obligation of making sure its laws are in conformity with international instruments on labour rights.

However, while the UHRC has the potential to handle workers complaints, they are routinely referred to the Ministry of Gender, Labour and Social Development.

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<sup>65</sup> Workers' Rights report 2014

#### **4.1. Problems encountered during research.**

During my research one of the problems I faced was financial. Money was not enough and or available to transport me to various places of research, maintenance, typing, printing and binding.

Being a full time student, I faced the problem of having to attend all lectures and at the same time go to the field to carry out my research.

I also faced the problem of access to research materials. The relevant books on the subject were hard to access and or were out of print.

#### **4.2. Conclusion.**

Workers rights must be taken to be of paramount importance. Workers should have the freedom to enjoy their rights in accordance with the existing laws. This will bring about proper performance with good service delivery and good quality work. The observance of these rights should be streamlined not to cater for a particular group of employees but should embody all.

Though the UHRC has played a big role in the realisation of workers rights, it feels that workers rights are best addressed to the department of labour under the Ministry of Gender, Labour and Social Development.

Government retains the primary responsibility for the protection and enforcement of workers' rights at work as it is its duty to ensure that its national laws are in conformity with international instruments on labour rights.

#### 4.3. Recommendations.

Trade union formations and recognition should be encouraged for equal bargaining power before terms and conditions in employment contracts are signed which cannot be affected, with absence of a collective voice.

Courses should be also be done by employers and employees to focus on certain modern methods of human resource management, conflict resolution management and collective bargaining. Such an undertaking should however work closely with employers' organisations to strengthen outreach and improve their understanding for the importance of recognising fundamental principles and rights at work.

The appalling circumstances that workers operate under especially in factories are a contributing factor to poverty, even though the economy is following an upward trend. The government should seriously reconsider its position on workers in its deregulation measures. Other than discounting proposals made to improve labour conditions on the grounds of it being costly, the government should incorporate labour matters in its economic policy.

The process of enacting new labour laws ought to be hastened. These laws need to conform to the ILO Convention and Constitution. It is also necessary that new labour laws take into account the concerns of employers and well- intentioned investors. Dialogue on how best to address the interest of major stakeholders

should be fostered under the leadership of the Ministry of Gender Labour and Social Development.

UHRC should place more focus and emphasis on the promotion and protection of workers' rights. It should hold meetings with leaders of trade unions to develop a strategy for promoting and protecting workers' rights in partnership.

UHRC should commence sensitisation on workers' rights countrywide to convince people that workers' rights are human rights and thus should be recognised and respected.

Trade unions should carry out a public relations campaign to overcome the negative attitudes towards trade unions.

The government should priorities labour as a factor of production in order to optimise its contribution to economic development. It should focus on creating opportunities to engage skilled labour that is generated from the increasing educational institutions. It is also imperative that the government is committed to financing and resourcing mechanisms for the administration of labour laws.

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