



PLATFORM FOR LABOUR ACTION

"Advocates for vulnerable and marginalized workers"

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REPORT ON EMERGING ISSUES ON THE RIGHT TO WORK IN UGANDA

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SUBMITTED BY: PLATFORM FOR LABOUR ACTION

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- 1 This report is the submission of Platform for Labour Action (PLA) a National Civil Society Organization that has been working to promote the rights of vulnerable and marginalized workers in Uganda since 2000 by a group of women activists. This was in response to the absence of an appropriate voice to address the rights of vulnerable and marginalised workers.
- 2 PLA has a theory of change and its overall is to empower communities through awareness raising on issues which affect vulnerable workers; provide free legal aid to enable access to justice; legal advocacy; policy engagement and social development sector budget monitoring, capacity development; and bridging the gap to access services including education, health, legal services among vulnerable target groups. We address the root causes of child exploitation and provide options to the vulnerable children through the rights based and livelihood programmatic approach. These strategies result into protection of human rights and improved livelihoods of vulnerable and marginalized workers in Uganda. Our work is structured under three thematic areas namely 1) Human Rights, Accountability and Social protection; 2) Research and Knowledge Management; 3) Institutional development.
- 3 PLA is a duly registered legal aid service provider under the Advocates Act (Pro-bono Services to Indigent Persons) Regulations and has been proffering legal aid services since 2002. PLA's legal aid programme aims at contributing to the enhancement of access to justice for the vulnerable and marginalized workers in Uganda.



THE RIGHT TO WORK

A. EXECUTIVE SUMMARY

- 1 The working population of Uganda is 13.9 million; 85 percent of these are employed in the informal sector which is characterized with low pay, exploitation, poor working conditions, lack of employment contracts and social protection.
- 2 The high levels of unemployment and rapid growing populations are factors that have led to transnational movement of women and youth in search of better lives and employment opportunities¹ some of whom have ended up victims of trafficking in persons.
- 3 Despite accounting for the majority of the workforce, the informal sector is insufficiently supported.² Operators in the informal economy lack skills, safe work places and social security. The sector has low productivity and is not regulated giving rise to a population of vulnerable and marginalized workers. 36%³ of the Ugandan labour force is categorized as working poor with 28.1% engaged in elementary occupation which includes domestic workers, drivers, car washers, street vendors, 21.3% are plant and machine operations, 27.1% in crafts and related workers, service works 16.1% and this includes barbers, waiters and waitresses, persons selling goods in kiosks, shops, etc. Overall 24% of women in employment also face physical violence in addition to economic abuse that deprives them of their self-esteem and hinders their productivity.⁴
- 4 Under Article 12 of the East African Common Market Protocol, partner states are required to harmonize their labor laws and policies to facilitate free movement of labor within the East African Community. Kenya and Tanzania have already set minimum wages. Despite, this and strategic litigation, advocacy engagements on the issue and initiation of the Private Members Bill on the Minimum Wage in Parliament in 2012, to date Uganda still does not have an appropriate minimum wage.

B. National Legal Framework

¹ United States Department of State, *2013 Trafficking in Persons Report - Uganda*, 19 June 2013, available at: <http://www.refworld.org/docid/51c2f37c18.html> [accessed 30 July 2014]

²The Uganda Employment policy (2010)

³ Uganda Bureau of Statistics Labour Conditions Survey 2010

⁴Uganda Demographic and Household Survey 2011



- 5 Workers rights within the Ugandan context are enshrined with the Constitution 1995 under Article 40 which calls for the enactment of laws by Parliament to provide for the right of persons to work under satisfactory, safe and healthy conditions; ensure equal payment for equal work without discrimination; to ensure that every worker is accorded rest and reasonable working hours and periods of holidays with pay, as well as remuneration for public holidays.
- 6 Article 40(1) of the constitution is reflected in the following laws which expound on workers' rights
 - The Employment Act No.6 (2006) which provides for workers rights and employers obligations
 - The Workers Compensation Act (Cap 225) which provides for the compensation of workers injured in the course of employment
 - The Occupational Safety and Health Act No.9 (2006) which provides for workplace safety and health
 - The Labour Unions Act No. 7 (2006) which provides for the establishment registration and management of labour unions
 - The Labour Disputes(Arbitration and Settlement)Act No. 8 (2006) which provides for industrial relations and the settlement of disputes
 - The National Social Security Fund Act(2011) which provides for the pension of workers in the private sector
 - The Minimum Wages Board and Wage Councils Act (Cap 221) which provides for the establishment of minimum wage advisory boards and wage councils for the regulation of the remuneration of workers.

C. Policy Framework

- 7 On a policy level, Uganda has in place an
 - The Vision 2040
 - The National Employment Policy 2010,
 - The National Development Plan (2011/12-2015/16)
 - The Social Development Sector Strategic Investment Plan 2 (2011/12-2015/16).
 - The National Social Protection Policy (2015).
- 8 These policies are all good on paper but the Government should take more concerted efforts to giving them full effect.

D. International and Regional Framework



- 9 Uganda is a UN member state and is signatory to key UN treaties and bound by the obligations placed upon it as a consequence. Uganda is also a state party to the International Labour Organisation ILO.
- 10 As such Uganda is bound by the conventions and treaties to which it is signatory all of which recognize workers rights.
- 11 Regionally, Uganda is a member of the East African Community and is signatory to the East African Community Charter and the Common Market Protocol all which recognize and call for the harmonization of labour laws and policies across the region for improved integration.

E. EMERGING ISSUES

a) Youth Unemployment

- 12 Increasing youth unemployment persists in Uganda; according to the Uganda Bureau of statistics, youth unemployment stood at 64 percent of the unemployed population in 2012.
- 13 Although the Government has overtime implemented some interventions to address the problem of youth unemployment including schemes such as the Youth Livelihood Fund and skills development programmes for young people, these have had little effect because they are mainly accessible to the youth in urban settings and most times have stringent criteria attached to them. This has rendered them ineffective in combating youth unemployment.
- 14 **Recommendation: Government should prioritise the implementation of the National Employment Policy and take all the necessary action to curb youth unemployment.**

b) Limited Social Protection

- 15 Social protection coverage is still low in Uganda, with the majority of the workers in the informal sector excluded from the Contributory National Social Security Fund scheme, there is still inadequate protection for workers injured in the course of employment and delays and bureaucracy in accessing pensions by retired civil servants. Government recently launched the National Social Protection Policy in 2016.



16 Recommendation: The Government should commit to implementation of the National Social Protection Policy and strengthening social protection mechanisms including the review of the Pension Sector.

c) Lack of a Decent Minimum Wage,

17 The prevailing minimum wage rates were set in 1984 and currently amounts to Six thousand Uganda Shillings. The lack of a decent minimum wage has left the majority of Ugandan workers at the mercy of unscrupulous employers who often pay low wages in order to maximize profits. This has also contributed to the high unemployment rate as there is a surplus of cheap labour.

18 A minimum wage advisory board was appointed in June 2015 and reports that a study is being conducted to inform the minimum wage. There is however apprehension since there was a minimum wages advisory board constituted in 1995, it conducted studies and made recommendations for the revision of the minimum wage which were never adopted. There have also been calls for amendment of the Minimum Wages Advisory Boards and Wage Councils Act and a Private Members Bill entitled the Minimum Wage Bill was filed in December 2015.

19 Recommendation: The Government should commit to the revision of the minimum wage and implement the recommendations of the Minimum wage Board once made in consultation with all stakeholders to ensure protection of workers and afford them decent lives.

d) Labour Migration;

20 Labour export is first gaining rank as the biggest export in Uganda replacing coffee. This has seen a large number of Ugandans seeking employment abroad with remittances of over \$24 million being realized in 2014/15.

21 However, there is growing concern over the human rights situations in some of the countries where Ugandans go to work especially those in the Middle East. There have been shocking reports of forced labour, physical and sexual abuse, exploitation and torture. This is more prominent with women recruited to do domestic work; given the private nature of their work which is in private homes.



- 22 Labour migration has also been blighted by human trafficking where people are being tricked into slavery and bondage under the guise of securing them employment abroad.
 - 23 The problem is further compounded by a lack of reliable data and statistics on Ugandans working abroad. There are also weaknesses in monitoring and offering consular support to Ugandan workers who find themselves stranded or abused in foreign countries.
 - 24 Uganda had concluded a bilateral agreement with the Saudi Arabian government for the recruitment of domestic workers but following widespread dissent, a ban has been placed on the exportation of domestic workers for the time being.
 - 25 **Recommendation: The Government should strengthen the monitoring and regulation of recruitment agencies to combat trafficking in persons.**
 - 26 **Recommendation: The Government should ensure that bilateral agreements entered into with other countries for the export of labour take into account the workers' rights and ensure that there is adequate protection for the workers before they are concluded.**
- e) **Weak Labour Administration Systems**
- 27 Access to justice for workers remains a challenge to the majority of workers especially the low income earners and those engaged in the informal sector. Although there are labour administration structures in place, these structures including the labour officers who are supposed to be the first court of instance in all employment related disputes by law; are weak; given that there are only 48 labour officers serving over 112 districts faced with perennial underfunding.
 - 28 The Industrial Court was revived in 2014 following an 8 year hiatus during which labour cases piled up in the mainstream courts leaving workers without recourse. The court has however continued to be plagued by the ghosts of underfunding, a large quorum factors and uncertainty of tenure for the Judges which have contributed to its inefficiencies. Proposed amendments to the law creating the Industrial Court were submitted but are yet to be adopted. For now, the court is operational but is still constrained to address all the cases pending before it.



- 29 **Recommendation: Government should review the structure and composition of the Industrial Court with a proposal to bring it under the mainstream Judiciary.**
- 30 **Recommendation: The Government should also increase funding to the Industrial Court and the Labour Office.**
- 31 **Recommendation: The Government should recruit more labour officers and inspectors to ensure that each district has a labour officer. This shall contribute to increased enforcement of the law and resolution of labour disputes.**