

Employment Issues

Employment issues are commonplace across workplaces. These can be extensive in nature. For the most part, many of these emerge as a consequence of the abuse or exploitation of the conditions of service of workers. Generally, employers stand to be accused of not adhering to and observing the conditions of service, or acting at will in the absence of a collective bargaining agreement. This sets the stage for workplace tensions to exist, and for less than a favourably relationship to be the norm between employer- management and employees.

While there is labour legislation in place as is the case in some jurisdictions to direct, control and monitor the behaviour and actions of employers, it appears that some are willing to ignore the law and perform acts which violate the rights of workers. It is expected that where such injustices are perpetrated against labour and proven to have been committed, the offending employer (s) then becomes subject to the penalties as set out in the law. Based on the many complaints that are thrown up, it would seem that some employers are able to escape from accounting for their transgression, while many employees are left to bear the pain of the injustices inflicted upon them.

In some cases, the slow nature of the justice system is said to be responsible for the extensive delays in the dispensing of justice. It is regrettably that displaced or aggrieved employees should have to wait in excess of ten years to have a matter resolved. This is an affront to workers who are left to suffer in silence while employers and business enterprises continue as though it is business as usual. The aggrieved or offended employees certainly do not have any control over the prevailing circumstances. They are to be cautioned that it is in their interest to ensure that they have a contract of employment, prior to the start of their engagement with the employer. This will always prove to be an important piece of evidence in a matter which is being adjudicated. Employee should be mindful that the contract identifies who is their employer, the terms and conditions of service with specific reference to the job description, remuneration and employment status; being fulltime, part-time or temporary employee.

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Employees are faced with a myriad of employment issues, and it is expected that these are investigated by the employer. Occupational safety and health issues which include that of unsafe workplaces becomes a source of many complaints and grievances that are put forward by employees. Other frequent matters which emerge are discrimination, harassment, bullying, wrongful dismissal, under payment, non-payment for overtime work and compensation for on an injury sustained on the job. Of this list, wrongful dismissal as an act of the termination of employment, presents as a cause of concern for workers. This occurs where an employer resorts to firing or laying off an employer for wrongful reasons. In the absence of a contract of employment or where there is no collective bargaining agreement in place, employers use this opportunity to exercise unilateral authority to terminate an employee. This is basically is an indiscretion which is perpetrated without regard to the law, consultation or due process being observed.

It is important for employees to know and understand that it is against the law for an employer to terminate the services of an employee because the individual took time off from work to vote in national elections, to perform the duties as juryman and to do any form of national duty. There is a longstanding issue within the private sector, where employers refuse to pay employees who are called up to do national duty. This is said to be the experience of some sports persons who work in the private sector. As is the practice within the Public Sector, it is expected that employees are given time off with pay. This is form of exploitation that needs to be address.

The exploitation of workers sometimes goes unnoticed. Labour unions are often hard pressed to have some of the complaints and grievances addressed, as some employers fail to engage with trade unions under the guise that there is no bargaining unit at the workplace. In the absence of trade union recognition legislation, this invariably put trade unions on the back foot. The list of common types of exploitation includes no written employment contract, being underpaid against the established sector wage or national minimum wage, the demand placed on employees to work overtime and without overtime pay, the demand to work excessive hours that go beyond eight hours a day or forty hours a week, working seven days a week without two days given for rest, having a reduce lunch hour, forced to do work which does not form part of the job description, not providing

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workers with vacation leave, workers being subject to sexual advances by the employer.

In the case of migrant workers, it is expected that they have the same minimum employment rights as local workers. Unfortunately, there is the practice of the withholding of their travel documents. There is the claim that some are required to pay a sum of money to get a job and thereafter have to give back part of their paid to the employer.

Much of what has been identified here, is known to have been existing for some time now. In progressive societies, such is to be abhorred. Moreover, there is a need to correct these transgressions against labour. It is not enough for this to be known, while at the same time nothing is being done in any haste to correct it. For this to continue, it represents a slap in the face labour, and makes a mockery of the noble intention of the authorities to protect, uplift and empower workers.