



COMPENDIUM OF LABOUR RIGHTS

WOMEN@WORK CAMPAIGN



AMINA MAMA
WA AFRIKA





“We are very proactive. We are strong women. We are great managers. We are great policy makers. We can be a great force for Africa.”

– Joy Ndungutse and Janet NKubana, sisters and co-founders of Gahaya Links Cooperatives, created to turn ancient basket weaving skills into a source of livelihood for thousands of women living rural areas in Rwanda who were returning refugees or survivors of the genocide



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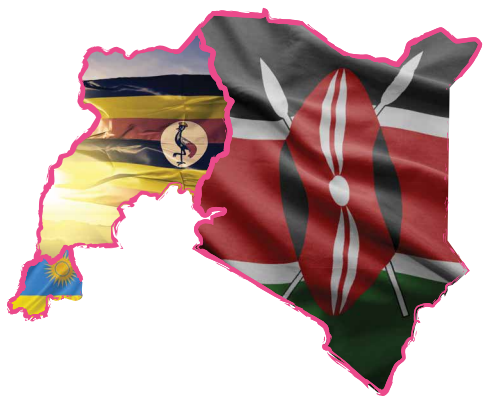
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RELEVANT INTERNATIONAL LEGAL PROVISIONS

1. Equal pay – Right to pay
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About this Compendium

This compendium is a collection of gender responsive labour laws and policies at the national, continental and international level. It serves as a reference document for workers to guide them in the process of knowing, understanding and asserting their rights. The compendium is not a comprehensive treatise on labour laws and policies but rather focuses on areas that disproportionately impact women in the world of work. At the national level, the document compiles laws and policies from Uganda, Rwanda and Kenya in response to Akina Mama wa Afrika's areas of engagement in the Women@Work Campaign.

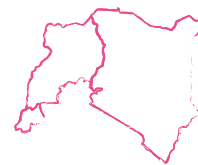
Background

The Women@Work Campaign is an initiative by Hivos that seeks to propel decent working conditions for women who earn their living in global production chains most notably flowers, fruits and vegetables grown for export. Through the Women Leadership Project, Akina Mama wa Afrika contributes to the campaign through building the capacity of women workers to participate in critical decision making spaces to demand and influence changes in policy and practice to enable them enjoy their economic and social rights both at the workplace and in the wider economy. The project is implemented in partnership with Uganda Workers' Education Association (UWEA) in Uganda, The African Women's Development and Communication Network (FEMNET) in Kenya, and Rwanda Women's Network and Rwanda Workers' Trade Union Confederation (CESTRAR) in Rwanda.

Introduction

In most countries in Africa, women still earn lower wages than men. This is due in part to the continuing discrimination that women face and the legacy of historical structural oppressions that have barred women from participating in the world of work. The migration of women from the private sphere to the public to earn a living has been met with exploitation and abuse as their labour is devalued. Furthermore, the low status of women in society often compels them to offer their labour within very poor working conditions as the market is oversupplied with cheap labour willing to work at whatever cost. Women are therefore ripe for exploitation which merits the need for them to have additional protections in the workplace.

In this compendium, we explore the legal regime governing labour rights in Uganda, Kenya and Rwanda in regard to the following areas: non-discrimination, contracts, equal pay & right to pay, minimum wage, working hours and weekly rest, right to leave, maternity leave, health and safety, sexual harassment, and right to organise; as these are imperative for ensuring that women are treated fairly in their workplaces. We do so by making reference to the most important legal instruments at three levels: international, regional, and national, focusing on the provisions that are crucial to ensure women's rights within labour relations.



LEGAL REGIME ON LABOUR RIGHTS

At International Level

International Labour Organization (ILO) with the following conventions: *Right to Organise and Collective Bargaining Convention* (No. 98), *Equal Remuneration Convention* (No. 100), *Discrimination (Employment and Occupation) Convention* (No. 111), *Workers with Family Responsibilities Convention* (No. 156), *Maternity Protection Convention* (No. 183) and *The Convention Concerning The Elimination Of Violence And Harassment In The World Of Work* (No. 190).

At Regional Level

Protocol to the African Charter on Human and People's Rights on the Rights on Women in Africa. (Popularly known as the Maputo Protocol on Women's Rights) (2003), which has been signed by Uganda (18/12/2003), Rwanda (19/12/2003), and Kenya (17/12/2003); and ratified by Uganda (22/07/2010), Rwanda (25/06/2004), and Kenya (06/10/2010).

At National Levels

Uganda: The Constitution of the Republic of Uganda (1995), the Employment Act (2006), the Labor Union (Arbitration and Settlement) Act 2006, Labour Unions Act 2006, Occupational safety Act, 2006, Employment (Sexual harassment) Regulations, 2012

Rwanda: Law **N° 66/2018 OF 30/08/2018** regulating labour law in Rwanda

Kenya: Employment Act, Chapter 226, Revised Edition 2012 [2007], Occupational Health and Safety act 2007, Sexual Offences Act 2006.

WHAT ARE LABOUR RIGHTS?

Labour rights simply refer to the protection of and respect for human rights at the workplace. The United Nations (UN), through its governing body the International Labour Organization (ILO), has set minimum standards as core labour standards to be respected by all United Nations Member states. They include:

- Freedom of association and the effective recognition of the right to collective bargaining: workers should be free to form and join trade unions free from government or employer influence.
- The elimination of all forms of forced or compulsory labour: includes security from prison labour and slavery, and prevents workers from being forced to work under duress;
- Effective abolition of child labour: implementing a minimum working age and certain working condition requirements for children; and identifying the worst forms of child labour.
- Non-discrimination in respect of employment and occupation, basically there should be equal pay for equal work.



NATIONAL LEGAL PROVISIONS

1. Non-Discrimination in the Work Place.

Uganda	Rwanda	Kenya
<p>Section 6 – Discrimination in employment</p> <p>(3)Discrimination is unfair treatment because of things like disability, religion or sex (in this case, being female).</p> <p>(7) All employers must pay the same amount of money or salary for both men and women who are doing the same jobs or work.</p>	<p>Article 9 – Protection against discrimination in the workplace</p> <p>This law states that employers must give employees equal opportunities (chances) at the workplace. So it is not allowed to treat employees unfairly because eof their religion, family background, political ideas or thie sex (male or female). It also includes making sure that employees are paid the same for doing the same amount or level of work or job.</p>	<p>Section 5 – Discrimination in employment</p> <p>(2)An employer shall encourage and provide the same opportunity in employment and remove all unfair treatment in the workplace.</p> <p>(2)Employers shall not treat any employees unfairly and they shall not pressurise and disturb both employees or people that want to be employed by them because of reasons such as their tribe, political ideas, disability, sex (male or female);</p> <p>(b)this rule applies to hiring, promoting, firing, employment conditions or work environment etc.</p> <p>(5)An employer shall pay his employees equal money or salary for the same kind of work or job.</p> <p>(6) This law makes it a crime if an employer fails to do any of the things mentioned above.</p>

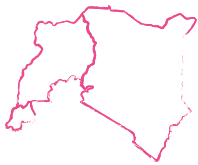


2. Contracts

What is a contract of employment?

It is an agreement between an employer and employee that puts in place the conditions for your work including payment for work done, working hours, payment for working above the usual amount of time agreed, and how to reach an agreement in case of a disagreement between employer and employee. Contracts of employment can either be oral which means just spoken, or written. Sometimes contracts are clear on the conditions of work (express) and sometimes, the conditions are just created while the work is being done (implied).

Uganda	Rwanda	Kenya
<p>Section 2</p> <p>The Ugandan law states that a contract of service is any spoken or written agreement between your an employer who agrees to give you work and yourself(an employee) who agrees to work for an amount of money or payment, whether the conditions of this agreement are clear from the start or simply come out of an understanding between two of you.</p> <p>It includes also a contract for training for a job.</p> <p>It also states that a boss or employer may be a person or a company or organisation.</p>	<p>Under Rwandan law, an employment contract is an agreement between an employer who agrees to give you work and an employee who agrees to work for an amount of money or payment.</p>	<p>The Kenyan law states that a contract of service is any spoken or written agreement between your an employer who agrees to give you work and yourself(an employee) who agrees to work for an amount of money or payment for a specific amount of time, whether the conditions of this agreement are clear from the start or simply come out of an understanding between two of you.</p> <p>It includes also a contract for training for a job, whether this is paid or not paid.</p> <p>It does not include a contract of service for work in another country (abroad).</p>
<p>Section 4</p> <p>The law states that every agreement or part of an agreement that removes or reduces the rights of an employee given to them by the Employment law of the country is illegal and cannot be enforced.</p> <p>It also states that any part of an agreement that stops an employee from complaining about an employer to a labour officer or opening a case under this law or giving evidence in connection with any case under this law is illegal and cannot be enforced;</p>		<p>Section 7</p> <p>The law also states that all contracts of this type shall be in line with the Kenyan Employment Act.</p>
<p>Section 23</p> <p>All contracts of service must agree with or be in line with this law.</p>		<p>Section 9</p> <p>States that a contract of service for a period amounting to 3 (three) months or more OR an agreement to do specific work that cannot easily be completed in less than 3 months or more should be in writing.</p>



3. Equal Pay – Right to Pay

In order to ensure fair treatment of women in the work place, it is important that employers recognise or give the same weight to women's work as they do to the work of men. Women should be paid the same as men for doing the same or similar type of work as a man. The laws that talk about this are:

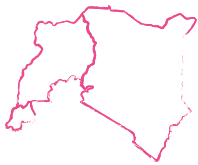
Uganda	Rwanda	Kenya
Article 6 (7) The law says that every employer must pay the same for men and women doing work that is the same or similar.	Article 9 An employer must give employees the same pay for doing work that is the same, similar, interchangeable or even different but being of the same value.	Article 5 (5) An employer shall pay their employees the same for doing work that is the same or similar.



4. Wages

Wages mean a fixed regular payment (money) for work done.

Uganda	Rwanda	Kenya
<p>Section 41 – Entitlement to wages</p> <p>(1) Payment of wages must be done directly to the employee in currency recognised by that country as money</p> <p>(2) Payment of wages by bank cheque or money order or to the employee's bank account or other method can only be done where the employee has already agreed to that in writing.</p> <p>(6) If a worker has worked with the same employer without change for three months, she must get her full wages even if she is absent from work due to causes such as unusual events preventing her from reaching the workplace or orders to attend court or another body that can make such an order. Also, in case of death of family member or a relative that depends on that worker for a maximum of 3 days per occasion of death and a total of 6 days per calendar year.</p> <p>(7) If such a worker is absent from work for any of the above reasons, they must get their full wages and the employer cannot deduct from their pay.</p> <p>Section 43 – Payment of wages</p> <p>(4) Where there is no written agreement:</p> <p>(a) A worker working one day at a time should be paid their wages at the end of the work day;</p> <p>(b) An employee paid by the hour, day, or week should receive the pay at the end of that hour, day, or week;</p> <p>(c) A worker that is paid every two weeks or monthly should be paid at the end of every two weeks or month;</p> <p>(d) A worker to be paid by the piece of work to be done or by results should be paid at breaks of not more than two weeks.</p> <p>Sections 45 & 46</p> <p>No deductions can be made from an employee's wages except as allowed under the Employment Act, any other law.</p> <p>Deductions for the purpose of paying the employer, their agent or another person for helping to get the employee that job/work are not allowed.</p> <p>Employers must provide work tools, safety gear and equipment for their employees without pay and cannot make a deduction from their salary for this purpose. Deductions from wages for the payment of court debts can only be for not more than 2/3 of the total pay for that period.</p>	<p>Article 70 – Intervals in payment of salary:</p> <p>(1) A worker employed on hourly or daily basis should be paid every day;</p> <p>(2) A person hired for one week should be paid every week;</p> <p>(3) A person hired for two weeks should be paid every fifteen days;</p> <p>(4) A worker hired on on a one-month basis should be paid every month .</p> <p>Article 73 – Seizure and assignment of salary</p> <p>An employer is not allowed to take a worker's payment or fine their employee.</p> <p>Deductions can only be made where they are compulsory deductions or other charges agreed to in the employment contract.</p> <p>They are also allowed where they are done by court order or a transfer agreed to by the employee.</p> <p>The employer cannot deduct more than a half (1/2) of an employee's salary for refunding of any money borrowed by the employee, payment relating to court judgement or in case of transfer of contributions to an organisation to which the employee is a member and the employer must not charge any interest on such amounts.</p>	<p>Section 17 – Payment, disposal and recovery of wages, allowances, etc.</p> <p>(1) An employer must pay wages to the employee and this can be done in cash, to the bank account indicated by the employee, by cheque, postal order or money order to the employee.</p> <p>Where the employee is not around, the employer may pay to a person agreed to in writing by the employee to receive the wages.</p> <p>Section 17 (10) makes it a crime to refuse to pay an employee's wages.</p> <p>(11) Employers are not allowed to stop or try to choose the way an employee spends his or her payment/wages. THEY are not allowed to try to make the employee spend their wages in any way that brings profit to the employer.</p> <p>Section 18 – When wages or salaries due</p> <p>(2) payment in form of wages or salary shall be made: —</p> <p>(a) in the case of a casual employee (one given work and paid from day to day), at the end of the day;</p> <p>(b) in the case of an employee employed for a period of more than a day but less than one month, at the end of that period;</p> <p>(a) in the case of an employee employed for a period going past one month, at the end of each month or part thereof;</p> <p>(b) in the case of an employee employed for an unlimited period (without a specified end) at the end of each month or that period (whichever date comes sooner) or for an employee on a journey, and for an employee employed on a journey, to be paid on completion of the journey.</p>



The Minimum Wages Bill, 2015, is a proposed law that wants to protect workers from abuse or being taken advantage of by setting a uniform lowest possible payment amount for different areas of work in both government and private sector.

On the 19th of February 2019 the Ugandan Parliament agreed to the proposed law which also wants to put in place a government body responsible for setting the minimum wage and regularly changing it. for

The proposed law (Bill) sets the minimum wage at Ugx. 130,000 (\$35) per month.

It also states that employees would be allowed to organize and bargain for minimum wages where they do not exist and that if an employer fails to provide the minimum wage s-/he is would have to either pay a fine or go to jail.

This is only at the proposal stage (a bill in Parliament) so it is not yet law.

Article 68 – Minimum wage

The Rwandan law states that it is the Minister in charge of labour who sets the minimum wage. However, Rwanda has not yet set a new minimum wage in line with the new law so the minimum wage is still at Rwf100 per day as it was set in the 1980s. This is out of touch with the current economic conditions in the country and needs to be updated.

Kenya: The Labour Institutions Act (No. 12 of 2007)

The Labour Institutions Act states the rules of the National Labour Board, Industrial Court, as well as Labour Administration and Inspection.

This Act works together with the The Regulations of Wages (Agricultural Industry), (Amendment) Order 2017 sets the specific minimum wages.

This is the law applicable to minimum wages in the agricultural sector.

As seen in the image below the minimum wage for an unskilled worker is 6,415.55 KSh per month and 269.40 KSh per day. For the minimum wage for different types of employment, consult the image below.

4. Working Hours And Weekly Rest

The law should ensure that workers are given enough rest time and that they only work for a limited number of hours in order not to be taken advantage of and/or overworked. This is more difficult to do in certain workplaces for example those that use shift work. Women workers are especially at risk since they also continue to have care roles in the family or home that are not paid or recognised.

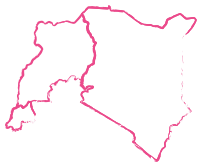
Uganda	Rwanda	Kenya
<p>Section 51 – Weekly rest</p> <p>(1)Employees have a right to a rest of 24 consecutive hours where one works six days a week. This day of rest is to be agreed upon by the employer and the employee.</p> <p>Section 53 – Working hours</p> <p>The highest number of hours an employee shall work is 8 hours a day and 48 hours in a week.</p>	<p>Article 43 – Working hours</p> <p>The maximum working hours are forty-five (45) hours a week. But an employee can work extra hours upon the agreement with his/her employer.</p> <p>Article 44 – Weekly rest hours</p> <p>An employer must allow an employee a break of not less than twenty-four (24) hours a week.</p>	<p>Section 27 – Hours of work</p> <p>(1)an employee shall have the right to at least one rest day in every period of seven days.</p>



5. Right To Leave

In addition to having enough rest and a maximum number of continuous working hours, an employer should grant her/his workers annual leave and time away from work on public holidays unless they are given extra compensation for working on such days.

Uganda	Rwanda	Kenya
<p>Section 54 – Annual leave and public holidays</p> <p>(1)In this section –</p> <p>(a)An employee shall, once in a year, be entitled to a holiday with full pay in this way: seven days for every continuous four months’ period of work. This leave is to be taken at such time during the year as may be agreed between the employer and employee; and</p> <p>(b)An employee shall be entitled to a day’s holiday with full pay on every public holiday during her employment or receive another day off work with full pay in case she has to work on the public holiday. Unless:</p> <p>(1)The worker receives pay at not less than double of the usual rate of payment for working during a public holiday.</p>	<p>Article 46 – Annual leave</p> <p>An employer must give the a new employee yearly leave after 12 months of continuous service (including probation time). Unless the employee has a contract that is better for them, annual leave equals to one and a half (1½) working days per month of work. That is, after a year of work, an employee has a right to an annual leave of 18 days.</p> <p>Article 53 – Official public holidays</p> <p>An employee has the right to official public holiday and benefits from his/her full salary. An employee who works on official public holiday is entitled to a rest equivalent to an official public holiday on which he/she has worked in a period not exceeding thirty (30) days.</p> <p>Article 51 – Circumstantial leave</p> <p>An employee has the right to leave and to her full salary in case of fortunate or unfortunate events that have occurred in his/her family.</p> <p>An Order of the Minister in charge of labour decides what is circumstantial leave and the method of granting it.</p>	<p>Section 28 – Annual leave</p> <p>This gives the employee the right to not less than 21 working days of leave with full pay after every 12 consecutive months of service with her/his employer.</p>



6. Maternity Leave

As said by the International Labour Organisation, it is important that women in the work force are allowed to take enough maternity leave to reduce the discrimination that women workers face as mothers and care givers which sometimes includes firing or refusing to hire pregnant women. Protection of working mothers also helps to make sure both mother and child are safe and healthy before and after giving birth.

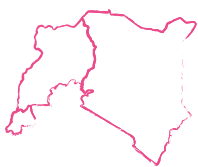
Uganda	Rwanda	Kenya
<p>Section 56 – Maternity leave</p> <p>(1) A pregnant female employee has the right to sixty working days maternity leave from work with full pay. Out of this maternity leave, at least four weeks shall be taken after the miscarriage or child birth.</p> <p>(1)A pregnant female employee has the right to return to the job she had before she left for maternity leave, or another job that is acceptable and in any case the conditions must not be of less advantage than what would be expected if she had not left for maternity leave.</p> <p>(2) If the mother or child fall sick from the pregnancy or child birth and it makes it hard for the mother to return to work in the required time, this time shall be extended to eight weeks after the date of childbirth or miscarriage.</p> <p>The employee that wants to use any of their rights in this area must bring medical certificates to prove the medical conditions.</p>	<p>Article 56 – Maternity leave</p> <p>A female employee who has given birth shall have a maternity leave of at least twelve (12) back-to-back weeks. Out of these 12 weeks at least 2 weeks can be enjoyed before delivery.</p> <p>Article 57 – Additional leave in case of complications related to delivery</p> <p>If a female employee who has given birth has difficulties related to that, and if there is proof from a medical doctor, then the employer must give this mother extra leave of not more than one (1) month.</p>	<p>Section 29 – Maternity leave</p> <p>S. 29 (1) A female employee shall get three months maternity leave with full pay.</p> <p>S. 29 (2) A pregnant female employee has the right to return to the job she had before she left for maternity leave, or another job that is acceptable and in any case the conditions must not be of less advantage than what would be expected if she had not left for maternity leave.</p>



7. Health & Safety

Another important part of treating women fairly in the work place is making sure they work in a safe and healthy place, especially pregnant or breastfeeding women.

Uganda	Rwanda	Kenya
<p>NATIONAL</p> <p>Uganda: The Occupational Safety and Healthy Act 2006</p> <p>Section 13</p> <p>The Ugandan law states that every employer must make sure the health and safety of their workers and people in their work space.</p> <p>Section 19</p> <p>States that an employer must give workers enough of the right and necessary protective clothing and equipment whenever it is needed.</p> <p>Employment Act, 2006</p> <p>Section 11 – Powers of labour officer</p> <p>(1)A labour officer is allowed to close a workplace where he or she believes there is an immediate danger to the health and safety of the workers.</p> <p>(2)A labour officer can force an employer to remove any problem in the way a workplace is set up or the working methods which may create a threat to the health or safety of the workers.</p>	<p>Article 77 – General health and safety conditions in the workplace</p> <p>(1)An employer must make sure the health and safety in his/her workplace for employees and people that come to the workplace.</p> <p>(2)An employee must not pay for anything connected to making sure the workplace is healthy and safe to work in.</p> <p>Article 79 – Personal protective equipment</p> <p>An employer must provide every person entering an area in the work place where he/she is likely to be in danger of injury or harm from contamination, with the necessary safety equipment and instructions for their use and make sure that they are used.</p> <p>Article 81 – Preventing and fighting occupational accidents and diseases</p> <p>In order to prevent and fight work accidents and diseases, an employer must do the following:</p> <p>(1) find out the danger of work accidents and diseases;</p> <p>(2)put in place a work health and safety law and supervise its use;</p> <p>(3) prevent dangers of work accidents and diseases;</p> <p>(4)to reduce in the best possible way the dangers of work accidents and diseases;</p> <p>(5)to fight work accidents and diseases;</p> <p>(6)to change methods of work health and security of employees with new technology.</p>	<p>The Occupational Safety and Health Act, 2007</p> <p>For women workers in the flower sector, the law states that:</p> <p>PART II: GENERAL DUTIES: Section 6</p> <p>The duties regarding health and safety are placed on an 'occupier' which means any person in actual occupation of the work place and this includes an employer but for our purposes, we shall refer to the duties as those of the employer.</p> <p>(1) An employer shall ensure the safety, health and welfare at work of all persons working in his or her workplace.</p> <p>(2)This duty includes making sure the health and safety of workers is protected through doing the following;</p> <p>(b)putting in place methods for making sure the health and safety of workers connected to the use, handling, storage and transport of items and substances;</p> <p>(d)the provision of such information, instruction, training and supervision as is needed to make sure the safety and health at work of every person employed;</p> <p>(e)put in place a safe way to enter and exit the work place that does not put people's safety and health in danger ;</p> <p>(g)informing all workers of any dangers coming from new technologies.</p> <p>(g) making sure every worker takes part in looking at, changing and putting into action the health and safety plans of the workplace.</p> <p>(5) An employer must make sure that any work that may cause an immediate and serious threat to the safety and health of workers is stopped and the workers are evacuated as needed.</p> <p>(7) Failure to do your duty as an employer under this law is illegal and punishable by payment of a fine or imprisonment or both.</p>



8. Sexual Harassment

Sexual harassment is a common problem suffered by women everywhere, including in the workplace. It includes unwanted sexual moves, being asked for sex or sexual acts and other spoken or physical conduct of a sexual type together with statements indicating or threats of losing your job if you do not accept to give those sexual favours. All of these things make it hard for women to be safe and take part in their work in the same way as men. All workplaces need to make sure sexual harassment is completely removed from the workplace.

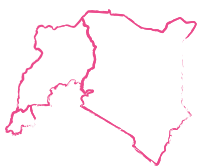
Uganda	Rwanda	Kenya
<p>Section 7 – Sexual harassment in employment</p> <p>(1) Sexual harassment in the workplace includes: –</p> <p>(b) When an employer directly or indirectly asks an employee for sexual intercourse, sexual contact or any other type of sexual activity together with the following:</p> <ul style="list-style-type: none"> i. an open and clear or indirect and suggested promise of better treatment at the workplace; ii. an open and clear or indirect and suggested threat of negative treatment in the workplace; iii. an open and clear or indirect and suggested threat about the current or future employment of the worker (for example remaining in employment or being fired) ; <p>OR</p> <p>When an employer</p> <ul style="list-style-type: none"> a) uses spoken or written language of a sexual nature; b) uses visual material of a sexual nature; or (c) shows physical behaviour of a sexual nature. <p>Which directly or indirectly forces the employee to undergo or experience behaviour that is unwelcome or causing hurt to that employee and has a negative effect on that employee's employment, job performance, or job satisfaction.</p> <p>(2) If an employee is sexually harassed as described above by the employer or employer's representative, the employee can make a complaint with a labour officer and the labour officer has the powers to make certain orders in that respect.</p> <p>(3) An employer's representative means a person who is employed by that employer, who either has authority over the employee alleging sexual harassment or is in a position of authority over other employees in the work place of the employee alleging sexual harassment.</p> <p>(4) Every employer who employs more than 25 (twenty-five) employees must put in place ways to prevent sexual harassment at their work place.</p> <p>The Employment (Sexual Harassment) regulations of 2012 create specific rules related to sexual harassment which, among others, requires employers to create a sexual harassment committee and policy.</p>	<p>Article 8 – Prohibition of sexual harassment</p> <p>(1) Sexual harassment of any type against an employee under your authority is prohibited.</p> <p>1) It is not allowed to fire an employee for reporting or giving testimony on sexual harassment by his/her supervisor.</p> <p>2) If there is evidence that an employee has quit due to sexual harassment against him/ her by his/her supervisor, that resignation is considered as unfair dismissal/ firing.</p>	<p>Section 6 – Sexual harassment</p> <p>(1) An employee is sexually harassed if their employer or that employee or a representative of that employer or a co-worker—</p> <ul style="list-style-type: none"> (a) directly or indirectly asks an employee for sexual intercourse, sexual contact or any other type of sexual activity together with the following: i. an open and clear or indirect and suggested promise of better treatment at the workplace; ii. an open and clear or indirect and suggested threat of negative treatment in the workplace; iii. an open and clear or indirect and suggested threat about the current or future employment of the worker (for example remaining in employment or being fired) ; <p>OR</p> <p>When an employer</p> <ul style="list-style-type: none"> a) uses spoken or written language of a sexual nature; b) uses visual material of a sexual nature; or (c) shows physical behaviour of a sexual nature. <p>Which directly or indirectly forces the employee to undergo or experience behaviour that is unwelcome or causing hurt to that employee and has a negative effect on that employee's employment, job performance, or job satisfaction.</p> <p>(3) An employer who employs twenty or more employees shall, after consulting with the employees or their representatives if any, issue a policy statement on sexual harassment.</p> <p>(4) An employer shall bring to the attention of each person under the employer's authority the sexual harassment policy statement.</p>



9. Right to Organize

The right to organise is highly important as it allows workers to negotiate and push for their rights as workers and to make sure that better conditions are established in the work place. Organising through trade unions or labour groups is a useful way to create fair work conditions, especially for women workers as they tend to be most disadvantaged in the workplace.

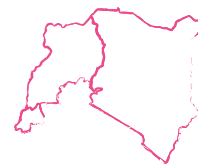
Uganda	Rwanda	Kenya
<p>Labour Unions Act 2006,</p> <p>Section 3</p> <p>Gives employees the right to organise themselves in any labour union (group)</p> <p>Section 4</p> <p>Stops the employer from blocking the right of the employees to organise.</p> <p>Employment Act, 2006</p> <p>Section 76 – Industrial action</p> <p>States that employees shall not be fired or punished in any way for being part of or organizing a strike where a notice of 21 working days was given to employer.</p> <p>The Labour Disputes (Arbitration and Settlement) Act, 2003</p> <p>Specifically deals with workers' unions and any conflicts or disagreements between workers and their employers.</p>	<p>Article 10 – Right to freedom of opinion and association</p> <p>Employees and their representatives have the right to express their opinions as to working conditions and organization.</p> <p>Article 83 – Employees' right to freedom of association an employee has the right to:</p> <p>(1)join others in forming a trade union;</p> <p>(2)join a trade union of his/her choice;</p> <p>(3)participate in lawful activities of a trade union.</p>	<p>Section 4 - Employee's right to freedom of association</p> <p>(1)Every employee has the right to—</p> <p>(a)participate in forming a trade union or federation of trade unions;</p> <p>(b)join a trade union; or</p> <p>(c)leave a trade union.</p>



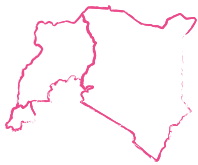
10. Rights Upon Termination and Dismissal

It is important to prepare as workers for the possibility of disagreements arising in the workplace and above all, to know the rights and duties of both employers and employees and how to make sure both are followed throughout the period of employment from point of joining to the point of leaving employment.

Uganda	Rwanda	Kenya
<p>Constitution</p> <p>Article 42</p> <p>It says that any person appearing before any body with management powers must be treated fairly and in line with the law and that they have the right to go to a court of law in case a decision is taken against them.</p> <p>Employment Act</p> <p>Section 2</p> <p>‘Dismissal’ means the ending of an employment relationship by the employer because of bad conduct by the employee which can be proved.</p> <p>‘Termination’ means to the ending of an employment relationship by the employer for excusable or sensible reasons other than bad conduct.</p> <p>‘Summary termination’ means the ending of an employment relationship by the employer with less or no notice period.</p> <p>Section 68</p> <p>An employer must prove reasons for termination, and if they fail to do so, the termination is considered to be unfair under the law.</p> <p>Section 75</p> <p>Unfair termination includes all of the following situations:</p> <ol style="list-style-type: none"> Any reason connected to a female employee’s pregnancy Taking leave in line with the law Membership in a labour union or group An employee’s race, colour, HIV status etc. Temporary absence from work for less than three months for a valid or sensible reason such as illness or injury, and others. 	<p>Article 24</p> <p>Reasons must be given in writing for termination of employment. Termination cannot be done while an employee is on leave or on suspension.</p> <p>Article 26</p> <p>An employer may terminate without notice in case of acts really bad conduct but they must give the employee 48 hours notice indicating the evidence of the really bad conduct and clear reasons for the termination indicated.</p> <p>The Minister in charge of labour creates the list of acts that can be referred to as really bad conduct.</p> <p>Article 30</p> <p>Ending of employment unlawfully means the employer must pay damages to the employee.</p> <p>Damages may not be less than the employee’s 3 month salary or more than their 6 month salary unless the employee has worked with the same employer for more than 10 years in which case the damages cannot go over their 9 month salary.</p> <p>Article 31</p> <p>The ending of employment because of money reasons, changes in the work technology or sickness for an employee having worked for at least twelve back-to-back months means that employee must get a special payment called ‘terminal benefits’.</p>	<p>Section 41</p> <p>The Kenyan law on employment says that all employers must do the following in order to provide a fair and lawful process before dismissing an employee on grounds of bad conduct, physical failure to perform duties or poor performance:</p> <ol style="list-style-type: none"> The employer must explain to the employee in a language they understand, the reasons why the employer wants to dismiss the employee. The employee may have a person present with him or her during this explanation. The employer must give an opportunity to the employee to explain him or herself or respond to the reasons for the dismissal and the employee may bring a person of their choice to assist them through this process. The employer must give the employee enough time to prepare for his or her presentation responding to the reasons for the dismissal. <p>Section 43</p> <p>An employer must prove reasons for termination, and if they fail to do so, the termination is considered to be unfair under the law.</p> <p>Section 44</p> <p>Summary dismissal means the ending of an employment relationship by the employer with less or no notice period and it is only allowed where the employee acts in a way that shows that he or she is in the wrong on very important parts of the employment contract.</p>



Uganda	Rwanda	Kenya
<p>Section 66</p> <p>Ugandan employment law says that all employers must do the following in order to provide a fair and lawful process before dismissing an employee on grounds of bad conduct or poor performance:</p> <ol style="list-style-type: none"> The employer must explain to the employee in a language they understand, the reasons why the employer wants to dismiss the employee. The employee may have a person present with him or her during this explanation. The employer must give an opportunity to the employee to explain him or herself or respond to the reasons for the dismissal and the employee may bring a person of their choice to assist them through this process. The employer must give the employee enough time to prepare for his or her presentation responding to the reasons for the dismissal. <p>DISPUTE RESOLUTION</p> <p>Section 12 and 14</p> <p>An employee may make a complaint to the labour officer responsible for the area where the workplace is located:</p> <ol style="list-style-type: none"> For any disagreements between employers and employees related to the employment Where the employer refuses to follow the conditions of the employee's employment contract Where an employer does not follow the law in any of the above processes for ending the employment of an employee. As well as any other dispute that may arise in the work relationship. 	<p>DISPUTE RESOLUTION</p> <p>Article 102</p> <p>Disagreements between employers and employees are settled by employee's representatives.</p> <p>If that fails, then the matter is sent to the labour inspector of the area where the work place is located, if that fails then to the labour inspector at the national level and if that fails then it is sent to court. However, the court can refuse to take the case if it realises that the earlier steps have not been followed.</p> <p>Article 103</p> <p>Group employment disagreements are sent to the labour inspector of an area, if that fails to solve the issue then it is sent to the labour inspector at national level and if that fails then to the Minister in charge of labour.</p>	<p>Section 44) 4) a)</p> <p>Ending of employment without notice can be done in cases of very serious poor conduct which shall include the following acts:</p> <ol style="list-style-type: none"> Being absent from the workplace without leave or lawful reason; (b) failing to work because of being drunk at the workplace; (c) failing to respect lawful orders; and others listed. <p>Section 46</p> <p>Unfair termination includes all of the following situations:</p> <ol style="list-style-type: none"> Any reason connected to a female employee's pregnancy Taking leave in line with the law Membership in a labour union or group An employee's race, colour, HIV status etc. <p>Section 47</p> <p>An employee with a complaint about the ending of their employment relationship may present a complaint to the labour office.</p> <p>DISPUTE RESOLUTION</p> <p>Section 87</p> <p>Whenever—</p> <ol style="list-style-type: none"> an employer or employee fails or refuses to perform the conditions under the employment contract; or any question, difference or disagreement comes up as to the rights or failures of either party; or touching any bad conductor unfairness or any injury to the employee, <p>the employee may complain to the labour officer or open a case in the Industrial Court.</p> <p>(2) No court other than the Industrial Court shall listen to any complaint or case of the nature described above.</p>



Relevant International Legal Provisions

WAGES	
ILO Convention	Maputo Protocol
<p>[C095 - Protection of Wages Convention, 1949 (No. 95)]</p> <p>Article 1</p> <p>Wages means a payment in money accepted by the employee from the employer or set by law to be paid in line with a spoken or written agreement in which the employee agrees to do work in return.</p> <p>Article 3</p> <p>1. Wages payable in money must be paid only in what is recognised as money in that country and not coupons or vouchers or any document which claims to represent money.</p> <p>Article 5</p> <p>Wages shall be paid directly to the worker concerned unless there are laws, a collective agreement or court decision that says something else or where the worker himself or herself has agreed to a different arrangement.</p> <p>Article 6</p> <p>Employers are not allowed to stop or try to change the way an employee wants to spend his or her payment/ wages</p> <p>Article 8</p> <p>1. There cannot be any deduction from an employee's payment unless this is allowed by the country's laws, a collective agreement or a court decision.</p> <p>2. Where the deduction is allowed, the workers are to be told the reasons and the amount of deductions that are to be made.</p> <p>Article 13</p> <p>1. Payments in cash must be made only on working days and at the workplace or near it unless the law, a collective agreement or court decision says otherwise or where other methods known to the workers are considered to work better.</p>	
<p>C131 - Minimum Wage Fixing Convention, 1970 (No. 131)</p> <p>This law asks states that accepted it to put in place a body responsible for creating a minimum wage (lowest possible payment for particular work) and that can also look into this issue and adjust the minimum wage regularly. (Only Kenya has accepted this law)</p>	



Work Hours and Rest

ILO Convention

C001 - Hours of Work (Industry) Convention, 1919 (No. 1)

Convention Limiting the Hours of Work in Industrial Undertakings to Eight in the Day and Forty-eight in the Week

3. The competent authority in each country shall decide what separates 'industry' from commerce and agriculture.

Article 2

(c) where persons are employed in shifts it is allowed to employ them for over of eight hours in one day and forty-eight hours in any one week, as long as the average number of hours over a period of three weeks or less does not go past eight per day and forty-eight per week.

Maputo Protocol



Non- Discrimination

ILO Convention

Discrimination (Employment and Occupation) Convention, 1958, (No. 111)

Article 1

(1)Discrimination is any form of unfair treatment in the workplace because of things such as your religion, political ideas, or sex (in this case, being female). It can include the denial of opportunities at work.

Article 2

Every country that accepts to be part of this law is supposed to make sure that they put in place ways of promoting equal treatment of all employees and remove unfair treatment (discrimination).

Maputo Protocol

Article 2 – Elimination of Discrimination Against Women

(1)This law says that all countries that accept to be part of the law, including Uganda, shall fight unfair treatment of women through different methods including making laws that help women. These different ways include:

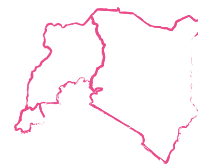
- (a)putting equality of women and men in their local laws and making sure these laws are followed;
- (a)putting laws and other rules that protect women from unfair treatment especially practices or other things which can cause harm to women;
- (b)think of women and plan for the country in a way that takes care of women's special issues whether it is in making laws or creating government programs;
- (c)to make sure that in areas where women are unfairly treated, the government steps in to instead help those women to catch up to the men using special benefits;
- (d)help all other attempts made to reduce unfair treatment of women locally, in the region or in Africa.

Article 3 – Right to Dignity

- (1)Every woman shall have the right to be respected as a human being and for her rights to be protected.
- (3)all countries that have accepted this law are supposed to take action to make sure women are not disrespected, abused or taken advantage of.
- (4)all countries that have accepted this law are supposed to take action to make sure women are respected and protected from violence including sexual and verbal violence.

Article 4 – The Right to Life, Integrity and Security of the Person

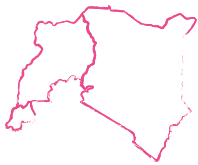
- (1)countries that have accepted this law are supposed to do the following:
 - (a)to put in place laws that stop all types of violence against women including unwanted or forced sex both in private places like homes or public places like workplaces or offices;
 - (b) put in place whatever changes to they system are necessary to make sure violence against women is prevented, stopped, punished and ended completely;
 - (c)find out the reasons why there is violence against women and the results of this violence in order to take action to put an end to it;
 - (d)to encourage the idea of peacebuilding through formal education and sensitisation of communities in order to remove dangerous parts of traditional and cultural beliefs and practices which encourage the continuation of violence against women;
 - (a)punish people that cause violence against women and put in place programs that help the women victims to recover fully;



Article 13 – Economic and Social Welfare Rights

Countries that accept this law shall put in place ways to make sure that women get the same opportunities as men at work. In order to make this happen, the countries shall do the following:

- (a) encourage women can equally get employment opportunities as men;
- (b) encourage payment of the same amount of money (salary) to women and men where the same level of jobs or work is done;
- (c) make sure the practices of hiring, promoting and firing women are done in clear ways and to punish people that commit sexual harassment in the workplace;
- (b) make sure that women are free to chose the type of work they do and for the government to protect them from abuse and being taken advantage of by employers;
- (d) create the environment to encourage and support the jobs and type of money-making activities that women do, especially the kind of work that is mainly done outside offices;
- (e) create a system that provides protection and government assistance for women doing work that is usually outside of offices and is not known to the government;
- (f) to set the lowest age at which people are allowed to work and stop the hiring of children younger than that and to stop, fight and punish the taking advantage of children especially girls;
- (g) do what it takes to see, accept and show the monetary value of work done by women in homes;
- (h) make sure there is enough paid leave for before and after giving birth both in government sector and private sector jobs;
- (i) make sure that tax laws are enforced equally for both women and men;
- (j) make sure that women who earn salaries also get the same allowances and any extra money to cater for their families as that given to men;
- (k) to accept that both parents, women and men, have an equal duty to take care of their children and that the country and the private sector have a duty of support in this responsibility;



Equal Pay

ILO Convention

(C100 - Equal Remuneration Convention, 1951 (No. 100))
Article 2(1)

Every country that accepts this law shall use all the methods available to it to encourage and make sure that men and women are paid the same for similar work or jobs

Maputo Protocol

Article 13 (b)

Every state that accepts this law must encourage the right to same payment for men and women doing the same or similar work or jobs.

Right to Leave

ILO Convention

C132 - Holidays with Pay Convention (Revised), 1970 (No. 132)

Convention concerning Annual Holidays with Pay (Revised), 1970 (Entry into force: 30 Jun 1973)

Article 3

1. Every worker shall have the right to a yearly paid holiday of a specified period.
2. Each country that accepts this law shall decide the minimum length of such yearly paid holiday.
3. The holiday shall not be less than three working weeks for one year of work.

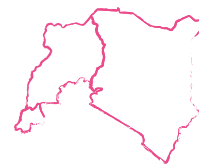
Article 6

1. Public and customary holidays, whether or not they fall during the yearly holiday, shall not be counted as part of the minimum yearly holiday with pay.
2. Under limited conditions set by the relevant body, failure to work due to sickness or injury may not be counted as part of the minimum yearly holiday with pay.

Article 7

1. Every person taking the minimum yearly holiday shall receive at least his normal or average pay calculated in a manner set by the relevant body.

Maputo Protocol



Maternity Leave

ILO Convention

International Labour Organization: C183 – Maternity Protection Convention, 2000 (No. 183)

Article 3

Every state which accepts this law shall talk with representatives of employers and employees in order to pick the right ways to make sure pregnant or breastfeeding workers are not made to do work that is dangerous for the health of either the mother or the child.

Article 4 – Maternity leave

(1) When a doctor's certificate or other document is shown to prove the expected delivery date, a woman shall be given a period of not less than 14 weeks for maternity leave.

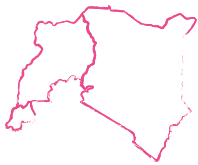
(4) There shall be compulsory maternity leave of six weeks after childbirth, unless the government and representative of employees and employers agree to something else.

C183 - Maternity Protection Convention, 2000 (No. 183) has not been ratified by any of the countries, although they all provide for maternity leave in national acts.

Maputo Protocol

Article 13 – Economic and Social Welfare Rights

Uganda, Rwanda, and Kenya must make sure both the private and government sector provide enough and paid maternity leave for before and after birth.



Health & Safety at Work

ILO Convention

C155 - Occupational Safety and Health Convention, 1981 (No. 155)

Article 3

(c) Under this law, workplace means all places where workers need to be or to go for their work and which are under the control of the employer;

(e) the word health not only means not being sick but also includes physical and mental conditions which are directly connected to safety and hygiene at work.

Article 4 Principles of National Policy

2. The reason for this part of the law is to prevent accidents and injury to health that is connected to work, by doing the best to reduce the causes of dangers to health at the work place.

Article 13

A worker who has removed herself from a work situation which she believes to present an immediate and serious danger to her life or health must be protected from unfair results of such a decision.

Article 16

1. Employers must make sure that by all means possible, their work places, machines, equipment and work processes are safe and cause no danger to health.

2. Employers must make sure that by all means possible, chemical, physical and biological materials under their control do not cause danger to health of the workers when protection methods are made available.

3. Employers must provide, where necessary, enough and acceptable protective clothing and protective equipment to prevent, as far as possible, risk of accidents or of negative effects to health.

Article 18

Employers must provide, where necessary, for methods to deal with emergencies and accidents, including enough first-aid plans.

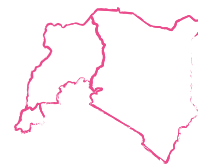
Article 19

(d) there should be plans to make sure that workers and their representatives are given necessary training in work safety and health;

Article 21

Work safety and health plans must not include any expenses for employees or workers.

Maputo Protocol



Sexual Harrassment

ILO Convention

The Convention Concerning the Elimination of Violence and Harassment in the World of Work

The Convention, though not yet ratified was adopted during the 108th ILO session. Uganda, Kenya and Rwanda voted for its adoption.

Article 2: Scope

1. This laws protects employees, trainees, interns, fired workers, people working for free, people looking for jobs etc.
2. This law is for all sectors, whether private or government, both in the offical and non-official or out of office sectors, and whether in town or village areas.

This law covers sexual harassment and violence:

- a)In the workplace, including public and private areas;
- b)In places where the worker is paid, takes a rest break or a meal, or does their sanitary, washing and changing of clothes;
- c)During work-connected trips, travel, training, events or social activities;
- d)Through work-connected communications, including those that operate using information and communication technologies;
- a)In accommodation provided by the employer-; and
- b)When travelling to and from work.

Article 4 (2)

Each country shall take up in line with its law, the country's situation and after talking with employers' and employees' representatives, a plan to prevent and stop violence and sexual harassment in work places. Such plan must include violence and harassment that includes non-employees and the plan should include the following:

- a)stopping violence and harassment using the law;
- b)making sure that there are government plans looking into violence and harassment;
- c)putting in place a plan for ways to make sure violence and harassment in the work place are prevented and fought;
- d)putting in place or strengthening methods of enforcing and measuring progress;
- e)making sure there is access to solutions and support for victims of violence and harassment;
- f)Providing for punishments;
- g) coming up with sensitisation methods such as tools, guidance, education and training, and raising awareness, in ways that reach out to all the different people; and
- a)making sure there are working methods of inspection and investigation of cases of violence and harassment, including through labour offices or other bodies.

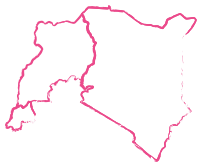
Maputo Protocol

Article 3 – Right to Dignity

(4)Countries that allow this law must take up ways to make sure every woman's right to respect and protection from violence is enforced.

Article 13 – Economic and Social Welfare Rights

(c)make sure that there is clarity in the hiring, promoting and firing women and that sexual harassment in the work place is fought and punished.



Article 10 on Enforcement

Each country that accepts this law must put in place ways to:

(b) make sure there is easy access to proper and working solutions and safe, fair and working methods for reporting cases and solving cases of disagreements related to violence and harassment in the work place such as:

i) complaint and investigation procedures, as well as, where proper, methods for solving disagreements at the workplace level;

ii) methods for solving disagreements that are outside of the workplace structure;

i) courts or tribunals;

ii) protection against victimization of or revenge against complainants, victims, witnesses and whistle-blowers; and

iii) legal, social, medical and administrative support methods for complainants and victims;

(c) protect and keep hidden the privacy of those persons involved and confidentiality, to the extent that is possible and proper,;

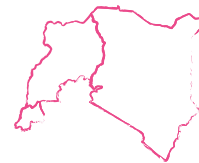
(d) provide for punishments, where proper, in cases of violence and harassment at work;

(e) make sure that victims of violence done specifically to women and harassment at work have working access to safe, working and in line with women-sensitive methods of solving disagreements, support, services and solutions;

(f) notice the results of domestic violence and, so far as is reasonably possible in the circumstances, reduce those effects in the of work place;

(g) make sure that workers have the right to remove themselves from a work situation which they have good reason to believe carries an immediate and serious danger to life, health or safety due to violence and harassment, without being revenged against or suffering any other unfair results, and the duty to inform management; and

(h) to make sure that labour offices and other bodies responsible in this field have the power to deal with violence and harassment for example by giving orders to stop work in case of immediate danger to life, health or safety.



Right to Organise

ILO Convention	Maputo Protocol
<p>International Labour Organization: C098 – Right to Organise and Collective Bargaining Convention, 1949 (No. 98)</p> <p>Article 1</p> <p>(1) Workers must have enough protection against acts which fight unions and labour groups in the work place.</p> <p>(1) This protection shall apply more with acts meant to—</p> <p>(a) make the employment of a worker conditional upon not joining a union or leaving its membership;</p> <p>(b) cause the firing of or other disadvantage because of union membership or because of participation in union activities outside working hours or, with the consent of the employer, within working hours.</p>	



Rights Upon Termination and Dismissal

ILO Convention	Maputo Protocol
<p>International Labour Organization: C158 – Termination of Employment Convention, 1982 (No. 158)</p> <p>Article 4 Justification for termination</p> <p>An employer shall not be fired/terminated unless there is a valid reason connected with the ability of the worker to do their work, their behaviour or because of the working requirements of the work place.</p> <p>Article 5</p> <p>Unfair termination includes all of the following situations:</p> <ul style="list-style-type: none"> a) Absence from work because of maternity leave b) Membership in a labour union or group c) An employee's race, colour, HIV status etc. d) Being employee's representative e) Race, colour, sex, marital status, pregnancy, religion, poitics etc. and f) (Article 6) Temporary absence from work because of illness or injury, and others. <p>Article 7 Procedure before or at termination</p> <p>An employer shall not be fired because of bad conduct or poor performance without allowing him or her the chance to defend himself or herself against the reasons given.</p> <p>Article 8 and 9: DISPUTE RESOLUTION</p> <p>A worker who is unfairly fired/terminated must have the chance to appeal against that decision to an body such as court or a tribunal which must look into the reasons for the decision to decide if they were fair and can be allowed to stand.</p> <p>Article 10</p> <p>Where it is found that the termination or firing was unlawful, this body must state that it was unlawful and order or suggest that the worker to be re-hired and if they cannot do so, they must order payment of enough money or any other solution that fits the circumstances.</p> <p>Article 11 on notice period</p> <p>A worker that is being fired or terminated must be given notice of a sensible time period unless they are guilty of serious poor conduct of a type that would make it unfair to expect the worker to continue in the work place during that time.</p>	





Plot 222 Mama Africa Close,
Off Kiwatule Road, Ntinda Kigoowa
P.O.BOX 24130, Kampala-Uganda
Tel: +256 414 543 681

Email: amwa@akinamamawaafrika.org

Website: www.akinamamawaafrika.org

Facebook: Akina Mama wa Afrika, **Twitter:** amwaafrika