HAS POVERTY A FEMININE FACE? AN ANALYSIS OF THE IMPACT OF LABOUR LAWS ON THE ECONOMIC RIGHTS OF UGANDAN WOMEN

(SUSTAINABLE DEVELOPMENT GOAL 1)

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(SUSTAINABLE DEVELOPMENT GOAL 1)

BY

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Abstract

This research focuses on the elimination of extreme poverty as the goal No 1 of the Sustainable Development Goals. It proposes that the economic rights of women are made the solution. UN member countries have set into action plans and strategies to achieve the SDG (Sustainable Development Goals)\textsuperscript{1}, which is to serve as a blue print for Economic development. However, the achievement of these goals is possibly more challenging for Least Developed Countries including Uganda whose majority population (women) are poverty stricken because of numerous factors.

This research also seeks to examine the impact of labour law as well as economic and socio-cultural factors on the economic rights of Ugandan women and women in general. In particular, how that can hinder their roles in achieving SDG1 by 2030.

The author carried out her research in Uganda working with various women and labour related organisations. As a result, the 3-month field research showed that the effect of inappropriate legislation and policies, ineffective implementation mechanisms and archaic cultures have a significant effect on the economic rights of women in Uganda. Meanwhile the influence of international laws such as Labour Law, is minimal on the impact on the economic growth of the average woman in Uganda. Comparing Uganda with two other countries (Kenya & Ghana) for a

\textsuperscript{1}According to the UNDP “The Sustainable Development Goals (SDGs), otherwise known as the Global Goals, are a universal call to action to end poverty, protect the planet and ensure that all people enjoy peace and prosperity by 2030. These 17 Goals build on the successes of the Millennium Development Goals, while including new areas such as climate change, economic inequality, innovation, sustainable consumption, peace and justice, among other priorities”. ‘Sustainable Development Goals’ (UNDP, 2016)

http://www.undp.org/content/undp/en/home/sustainable-development-goals.html accessed 7\textsuperscript{th}-16\textsuperscript{th} March 2016.
larger perspective showed that, the challenge is not only limited to least developed countries but
developing countries also face similar obstacles.

It was concluded that, for SDG1 to be achieved in Uganda and the world at large by 2030, extra
resources should be invested into the economic growth of women.
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LIST OF ABBREVIATIONS AND ACRONYMS

AU-African Union
CEDAW- Convention on the Elimination of Discrimination Against Women
COMESA- Common Markets for Eastern and Southern Africa
DGF- Democratic Governance Facility
EAC-East African Community
FUE-Federation of Uganda Employers
ILO- International Labour Organisation
ILS- International Labour Standards
LAB-Labour Advisory Board
LC- Local Council
LDCs- Least Developed Countries
MGLSD-Ministry for Gender, Labour and Social Development
MGLSD-ESP-Ministry for Gender, Labour and Social Development-Expanding Social Protection
MUBS-Makerere University Business School
NAWOU-National Association of Women Organisations Uganda
NGO-Non-Governmental Organisations
PLA- Platform for Labour Action
SDG-Sustainable Development Goals
UHRC- Uganda Human Rights Commission
UFZA-Uganda Free Zone Authority
UIA- Uganda Investment Authority
UWEAL- Uganda Women Entrepreneurs Association Limited

WDG- Women Democracy Group
CHAPTER 1

INTRODUCTION

1.1 Background

According to the United Nations, “Poverty is more than the lack of income and resources to ensure a sustainable livelihood”;\(^{2}\) its manifestations include hunger and malnutrition, limited access to education and other basic services, social discrimination and exclusion as well as the lack of participation in decision-making”.\(^{3}\) Consequently, targets 1.2 and 1.4 of the ‘Sustainable development Goal’\(^{4}\) 1, which seeks to end poverty in all its forms everywhere, provides that:

‘by 2030, reduce at least by half the proportion of men, women, and children … living in poverty in all its dimension according to national definitions…[and] ‘ensure that all men and women…have equal rights to economic resources, as well as access to basic services, ownership and control over land and other forms of property, inheritance, natural resources…’.’\(^{5}\)

The specific mention of women is key because, generally, women across the globe have been discriminated against in relation to economic activities. According to Susan Marlow,

‘a cursory examination of the contemporary socio-economic ordering within developed economies (and, indeed, more so within developing economies) reveals persistent indicators of female subordination. These range across economic subordination (women are overly represented in low status, low paid work), social/political subordination (women are under-represented in positions of power and influence) and cultural/symbolic/physical subordination (that which is associated with the feminine is linked to weakness, women are

\(^{2}\)Poverty - United Nations Sustainable Development' (United Nations Sustainable Development, 2016)

\(^{3}\)ibid

\(^{4}\)ibid (n 1)

still commonly represented as objects to the male subject and are also more likely to suffer domestic violence and sexual assault).\(^6\)

Further, it is acknowledged that ‘African women constitute the poorest in the world’,\(^7\) and because of several factors such as legal, socio-economic, culture and even religion most women have become economically unstable. However, research into South African jurisprudence shows that legal reforms in inheritance law, family law, and even political quotas for example helped to eradicate discrimination which had a positive impact on the economic lives of South African women.\(^8\) Therefore, to resolve the issue of poverty and achieve SDG 1 by 2030, it is only prudent that women are placed at the centre of the solutions developed, especially in terms of economic resource mobilisation. This is because, aside being the poorest in the world, the pressure of dependency in society lies on the shoulders of women; family members, members of the community etc all depend heavily on women for economic, emotional, social and cultural support. A literature review of Land and Gender Surveys in Uganda, showed that “…approximately 30% of households in Uganda are headed by females, [however]…female-headed households have less land than male headed households”.\(^9\) In this context, poverty then to a significant extent has a feminine face and should be tackled as such.

\(^6\) Susan Marlow, 'Feminism, Gender and Entrepreneurship', \textit{Perspectives in Entrepreneurship} (1st edn, PALGRAVE MACMILLAN 2012) p.60


\(^9\) Margaret A. Rugadya, Herbert Kamusiime and Charles Mukasa, 'Literature Review: Land and Gender Surveys in Uganda' (Uganda,2016) p. 6
1.2 Uganda in Context

Uganda was chosen as a case study for this research as it is one of the least developed countries in Africa per the United Nations Committee for Development Policy.\textsuperscript{10} It was included in the list of Least Developed Countries as at 1971.\textsuperscript{11} Also, according to the United Nations Conference on Trade and Development Report 2013 criteria for least developed countries,\textsuperscript{12} Uganda’s economy meets all the criteria, as most of the country’s population live in ‘extreme poverty’.\textsuperscript{13} As, SDG 1 seeks to eradicate extreme poverty for all people everywhere, Uganda is one of the countries worth looking at. The ‘history of Uganda has little documentation and the information about its history has been collected either by cultural and/or archaeological interpretation’.\textsuperscript{14} Uganda is a ‘landlocked country lying astride the equator more than 80km to the Indian Ocean’.\textsuperscript{15} The total area of the country is about 241,000 sq. km roughly the size of the UK but includes some 44,000 sq. km of inland water’.\textsuperscript{16} Uganda has ‘potential mineral resources in the area yet to be recovered and has large areas yet to be explored or underutilised geologically’.\textsuperscript{17} See Appendix 1 for pictures of Uganda

The ‘Country gained its independence on the 9\textsuperscript{th} October 1962 from the British government during the colonial era and has experienced about 8 changes of government mostly through military coup d’états’.\textsuperscript{18} The most infamous of ‘Uganda’s military governments were that of Idi Amin, who seized power in 1971 and killed many people and committed many


\textsuperscript{11} ibid


\textsuperscript{13} Note A: Extreme poverty is currently measured as people living on less than $1.25 a day, SDG 1.1

\textsuperscript{14} The Economist Group, ‘Country Profile Uganda' (The Economist Intelligence Unit Limited 1999) page 4.

\textsuperscript{15} ibid p.21

\textsuperscript{16} ibid

\textsuperscript{17} ibid

\textsuperscript{18} ibid
atrocities'.\textsuperscript{19} Yoweri Museveni the current president of Uganda was sworn in as president in January 1986,\textsuperscript{20} which means he has been ruling for 30 years. During his regime, the current constitution was drafted and came into force in 1995, although there had already been two constitutions before this.\textsuperscript{21}

The economy of Uganda has suffered mainly because of its geographical location, the political instability the country experienced and the outbreak of diseases such as HIV/AIDS, which has affected demographic patterns in the country. The ‘UN in 1994 put Crude birth and death at 51\% per thousand population and 22\% per thousand population respectively and life expectancy at birth was put at 40 years.\textsuperscript{22} This has had a dire effect on the economic growth of Uganda as most of its active workforce was lost through these deaths.

The Ugandan economy is basically dominated by Agriculture which employs about 80\% of the workforce with ‘food crop production the most important economic activity as it accounts for a quarter of GDP compared with only 5\% for cash crops and manufacturing output contributes only about 9\% of GDP.\textsuperscript{23} The presence of the Asian community in Uganda today cannot be ignored as they have played a very active role in building Uganda’s commercial and industrial activities when they were migrated into the country during the colonial era.\textsuperscript{24} Their presence can still be felt today as they own many companies and as such have impacted immensely on the economy and culture\textsuperscript{25} of the people. Uganda is known as ‘the Pearl of Africa’ because of its beautiful landscape which is dotted with hills and mountains in the

\textsuperscript{19} ibid (n 9) 5  
\textsuperscript{20} ibid (n 9) 6  
\textsuperscript{21} Note B: The two constitutions, the first was the federal constitution imposed by the UK in 1962 which was changed into the 1962 constitution of Mr. Obote one of their ex-presidents. (E.I.U, p. 6)  
\textsuperscript{22} ibid (n 9) 18  
\textsuperscript{23} ibid (n 9)18  
\textsuperscript{24} ibid  
\textsuperscript{25} Note C: The Eastern Ugandan communities wear Saria (Indian traditional outfit) as their traditional outfit
Eastern and Western parts with rivers, lakes, and waterfalls.\textsuperscript{26} It has wonderful vegetation ranging from forest to savannah, with diverse kinds of wildlife; this has made their tourism industry one of the fastest growing sectors.

The transportation system in Uganda is not too good, although it has seen some improvements; it has suffered a great deal in terms of trade activities and tourism. It mostly depends on Kenyan road networks for international trade activities; in effect, the country has limited access to the international trade community which gives Kenya the upper hand when it comes to international trade. To improve her international trade and relations, Uganda is a member of the EAC which is made up of Kenya, Tanzania, and Uganda\textsuperscript{27}, she is also a member of COMESA – Regional preferential trading area\textsuperscript{28} as well as the AU – which promotes solidarity for higher standards of living.\textsuperscript{29}

Land is a very important asset in Uganda, just like in most African countries, as its role in the economy of such countries cannot be underestimated. It is disheartening that even though most women cultivate the land, they do not own it. They are disenfranchised when it comes to the acquisition of land because of the land tenure system, which is ‘a mixture of traditional practices, colonial regulations, and post-colonial legislation’.\textsuperscript{30} These land tenure practices vary depending on the region in which you are located but the widely practiced customary tenure initially did not recognise the rights of individuals to own land although individuals may use land subject to the approval of family, clan or community but in the 1995 constitution one can acquire certificates for ownership in order to convert the tenures to freehold through registration.\textsuperscript{31} Also, there is the ‘Milo system where the nobility received

\textsuperscript{26} Note D: River Nile a notable one and Lake Victoria
\textsuperscript{27} ibid (n 9) 11
\textsuperscript{28} ibid
\textsuperscript{29} ibid
\textsuperscript{30} ibid (n 9) 28
\textsuperscript{31} ibid (n 9) 28
freehold rights to large estates and the old customary rights of farmers were translated into tenancies’ but the current constitution approves of three tenures which are Customary, Freehold and Leasehold.\(^{32}\)

The current population of Uganda is 38,319,241\(^{33}\), as at 2015 the population of Kampala which is the capital is 1.936 million.\(^{34}\) The urban population is 16.1% of total population, the rate of urbanisation estimated (2010-2015) is 5.43% annual rate of change and the sex ratio of the total population estimated in 2016 is 0.99 male(s)/female.\(^{35}\) This means that most of Uganda’s population is rural rather than urban and that there are slightly more women than men.

Uganda has a diverse culture as it has about 28 ethnic groups; ‘Baganda 16.9%, Banyankole 9.5%, Basoga 8.4%, Bakiga 6.9%, Iteso 6.4%, Langi 6.1%, Acholi 4.7%, Bagisu 4.6%, Lugbara 4.2%, Bunyoro 2.7%, other 29.6%’.\(^{36}\) The ‘English language happens to be the official national language taught in grade schools, used in Courts of law and by most newspapers and some radio broadcasts; and Luganda is the most widely used by indigenous language as well as the Swahili and Arabic’.\(^{37}\) Ugandans are religious in nature; ‘most of them being Christians’.\(^{38}\) Education in Uganda was greatly affected during the Idi Amin era but as at 2015, it has been estimated that most citizens aged over 15 years can read and write.\(^{39}\) A total of 73.2% of the population are literate with 82.6% of males and 64.6% of females as at 2015, leaving a difference of 18% between men and women, a huge gap which

\(^{32}\) ibid
\(^{34}\) ibid
\(^{35}\) ibid
\(^{36}\) ibid
\(^{37}\) ibid
\(^{38}\) ibid
\(^{39}\) ibid
has a substantial impact on the economic activities of women in Uganda. The unemployment rate of the youth (age 15-24) was estimated at 5.4% as at 2013 meaning that, in world terms, Uganda is in the 125th position. (See the graph below)


**Figure 1**: The Population of Uganda in 2016

The graph shows that Uganda’s population is a youthful one as at 2016 and there is a cause to worry if unemployment is prevalent among the youth, how then achievable is the SDG 1 in Uganda?

Through its geographical, demographical, historical and traditional culture, Uganda, has been exposed to many political and economic challenges which the country still faces. This goes a long way to affect the economic lives of women especially.

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40 ibid
41 ibid
43 ibid
In the following chapters, some of the findings from the field research in relation to women’s labour rights in Uganda and the legal system will be discussed. Since the law is not the only factor restricting economic activities of women in Uganda other significant factors which are socio-economic factors, traditional culture and religion will also be discussed thoroughly. Possible suggestions will then be given for law and cultural reforms which would enable policy makers to make good policy reviews so that we can be sure that indeed by 2030 SDG 1 can be achieved in Uganda and the world at large.

1.3 Research Objective

This research seeks to examine the impact of labour law on the economic rights of Ugandan women and women in general and how that can affect their role in fulfilling the SDG 1. This research will analyse the role of law mainly labour law in resolving the problem; because when societal provisions break down and culture intimidates, one should be able to fall on the provisions of law for protection. Therefore, if the law does not have the necessary provisions to protect the citizens, it renders them vulnerable. That is why the Ugandan labour laws will be examined to identify ambiguities in the law that need to be reviewed and updated to suit the current labour needs of its citizens (specifically women). Nonetheless, in as much as the role of law is very important in building a very strong society and economy, the role of culture cannot be underestimated. The research thus aims to also identify the role of culture as well as economic and social factors in eradicating poverty among Ugandan women and women at large to meet SDG target 1.2 and 1.4 by 2030.

To provide a wider context, the legislation from other neighbouring countries will also be compared to that of Uganda. Kenya will be compared with Uganda as there is a lot of competition in terms of trade between Uganda and Kenya. Most investors prefer to trade with
Kenya rather than Uganda because the former has robust trade regulations. Also, the labour laws of Ghana, a West African country will be compared to that of Uganda. This is to put the research into context by avoiding a comparison of Ugandan’s economy to bigger economies in the Western world rather than those in Africa who seem to have risen above the extreme poverty rate.

1.4 Legal Research Questions

Why is International Labour Law less impactful at domestic level in Uganda? How can International Labour Law influence such Domestic laws in Uganda in the fulfilment of SDG 1.2 and 1.4? What other factors affect the economic growth of women in Uganda? Thus, the research aims to answer the following questions:

I. What is the scope of International Labour Law to influence women’s economic empowerment?

II. What is the extent to which International Labour Law impacts domestic laws in Uganda?

III. How accessible is the Legal Sector to the Ugandan woman?

IV. To what extent do Socioeconomic Factors and Traditional Culture impact on the economic rights of women in Uganda?

V. What is the impact of domestic labour law, employment and inheritance law on Ugandan women in fulfilling SDG 1.2 and 1.4?

VI. What is the degree to which empowerment of women can help achieve SDG 1.2 and 1.4?
1.5 SCOPE OF RESEARCH

This dissertation is a product of a 3-month field research carried out by the author in Uganda, where she worked with UWEAL, a ‘non-partisan and non-profit making organization firmly placed in the private sector to assist and provide necessary support through capacity building, networking and to advocate for favorable policies through which women entrepreneurs can flourish’.\textsuperscript{44} UWEAL is based in Kampala the capital city of Uganda. Members of the organisation include; individual women, women groups, corporate members and districts (Chapters) in different sectors like education, agriculture, manufacturing, construction, art and crafts, textiles and trade. Their vision is to “envisage a wealthy woman responsibly contributing to national economic development”.\textsuperscript{45}

This research seeks to study the areas of discrimination against women in Ugandan labour, inheritance and employment laws and assess the impact of International Labour Law on domestic law and how it influences the economic lives of Ugandan women and other women across board, in achieving the Sustainable Development Goals Number 1. The author acted in the capacity of a volunteer legal researcher studying the impact of national labour and inheritance laws as well as governmental policies and their impact on women entrepreneurs and workers.

The researcher’s assignment included researching and presenting an outline of the Uganda Labour law and the challenges it poses to Ugandan women entrepreneurs and workers, the difficulties in accessing the Ugandan judicial system, looking at some case studies and some governmental policies that are insufficient in providing the economic needs of these women. Also, to review the legal framework of Uganda inheritance law and women land rights in

\textsuperscript{44} UWEAL available at \url{http://www.uweal.co.ug/about.html} accessed 5 December 2016
\textsuperscript{45} ibid
Uganda. Information was gathered from several individuals, organisations and institutions in Uganda. Governmental organisations (MGLSD, MGLSD-ESP, Ministry of Finance, Planning and Economic Development, UFZA, UIA), NGO’s/Civil Society Organisations (UWEAL, PLA, CHALLENGES WORLDWIDE, NAWOU, Kiyindi Women Fish Processors Association etc.), Institutions (MUBS), International organisations (ILO Uganda) and many other individual workers/entrepreneurs.

1.6 Methodology

Doctrinal, Socio-legal and Empirical qualitative research were employed in writing this field dissertation. The importance of the role of International Labour Law on the domestic law was unveiled through the review and critical analysis of international and national/regional legal instruments, relevant national regulations, policies, and research papers of experts in the field. The empirical qualitative legal research was carried out to gain firsthand experience of the national context. For this reason, informal interviews were carried out with resource people from MGLSD, MGLSD-ESP, Ministry of Finance, Planning and Economic Development, UFZA, UIA, UWEAL, PLA, Challenges World Wide, NAWOU, MUBS, Kiyindi Women Fish Processors Association etc. Also, practical information was gathered from experience gained by living and engaging market women and traders in communities. The Socio-legal research process involved the observation of the law in action in Uganda by reviewing case studies involving labour laws and women. Daily tasks in UWEAL (such as attending the 4th National Monitoring Steering committee meeting program on Ugandan Women in Trade) added considerably to the research process.
1.7 Research Limitations

In the conduct of the field research the following challenges were encountered and thereby acted as limitations to this dissertation;

I. Knowledge Gap: Even though lots of respondents were willing to share information the researcher found out that most of them were not familiar with national labour legislation that had a direct impact on them. Therefore, information given by respondents in these areas was insufficient.

II. Location of assignment: Because the placement organisation was in Kampala the researcher was limited by funds and was unable to go into the rural parts of Uganda to interview the most vulnerable groups suffering deficiencies in the labour laws. And had to rely on the very few rural women who visited the placement organisation (UWEAL).

III. Duration of stay: The 3 months’ period was woefully inadequate as the researcher was unable to interview/visit all the organisations that could have aided the research process.

IV. Desk research: The researcher found the 15,000-word count a limitation, there was more relevant information that could have been added to the thesis. Also, there are inadequate books and publications on Uganda as a country.
1.8 Organisation of Paper

The dissertation is divided into five chapters which are further divided into sub-sections. Chapter One provides a background and introduction to the work, explaining the rationale behind the research, the purpose of the field dissertation, the legal questions being examined, and the methodology used in answering the legal question. The second chapter discusses the position of women labour rights under International Labour Law and Uganda labour law revealing the grey areas in the laws and the extent of the impact of International Labour Law on Uganda labour law. Chapter three goes on to critically examine the inheritance law in Uganda and the socio-economic and traditional culture that influences the economic lives of women in Uganda. The fourth chapter will then look at the accessibility of the judicial system in Uganda and the connection between the labour rights of women in Uganda in achieving SDG 1.2 and 1.4. The concluding chapter, which is the fifth chapter summarises observations made by the researcher through the course of the paper and aims to make constructive and implementable recommendations that could aid in the realisation of SDG 1.2 and 1.4 in Uganda and other countries.
CHAPTER 2
THE POSITION OF UGANDAN WOMEN LABOUR RIGHTS UNDER CEDAW AND ILO

2.1 Introduction
Per the research objectives, this chapter discusses the extent to which Ugandan women enjoy the rights allocated to them under some international labour laws. Although a general overview is given, a critical analysis is made regarding the Convention of the Elimination of all forms of Discriminations against women (CEDAW) and the International Labour Organisation (ILO). These two international laws have been highlighted because CEDAW is the international body that overlooks the general rights of women and ILO seeks to ensure social justice for workers including women. The analysis will consider Uganda’s performance in the areas of these laws in relation with the position of Ghana and Kenya.

2.2 International Law and Women
The ‘general rights of women especially their labour rights are promoted and protected under many international laws which regard some of these rights as fundamental concepts’. Some of these laws have also played roles in bridging the economic gap between men and women. These laws include but are not limited to ‘UDHR (1948)’ in which Article 2 states: “Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction

shall be made based on the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty”.

There’s also CEDAW (1979)\textsuperscript{49}, ICCPR (1966)\textsuperscript{50}, ICESCR (1966)\textsuperscript{51} and the Convention on the Political Rights of Women (1952)\textsuperscript{52}.

These Conventions show that there have been efforts from international bodies to entrench the rights of women in legal documents especially their economic rights. Article 3 of the ICESCR for example, oblige ‘State parties to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present Covenant’.

Based on these provisions, one would have thought that the problem of inequality against women especially in terms of economic resources would have been resolved. Unfortunately, as with international laws, ratification and implementation are usually challenging.

Most countries which ratify these international laws are either expected to incorporate or translate them into national laws for effective implementation, however, research has revealed that the countries are reluctant in doing so. Even those who do, adulterate the provisions when translating them into national laws. Thus, they lose their worth before they become national laws hence ineffective, and this is where the major problem is. Furthermore, the categorisation of some of the conventions by some Nation States as important and others less important is very worrying. For example, conventions like the ‘UNDHR and ICCPR are

\textsuperscript{48} ibid

\textsuperscript{49} Convention on the Elimination of all Forms of Discrimination against Women (1979) Art.11(1,2,3) available at \url{http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm}

\textsuperscript{50} International Covenant on Civil and Political Rights (1966) Art.1 available at \url{http://www.ohchr.org/en/professionalinterest/pages/ccpr.aspx}

\textsuperscript{51} International Covenant on Economic, Social and Cultural Rights (1966) Art. 10 (2) available at \url{http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx}

seen as positive rights and very important whiles the others like ICESCR, CEDAW etc. are seen as negative rights and unimportant. Therefore, more states would ratify the so-called positive rights rather than the negative ones. Philip and Ryan also argues for the “support of the equal status of and the importance of ESR, since as of June 2012, only 160 states were parties to the ICESCR, compared with 167 parties to the ICCPR”. Even States which end up ratifying do not strictly perform their obligations towards these conventions. According to Philip and Ryan,

“…states and international community continue to tolerate all too often breaches of economic, social and cultural rights, which if they occurred in relation to civil and political rights would provoke expressions of horror and outrage and would lead to concerted calls for immediate remedial action. In effect, despite the rhetoric, violations of civil and political rights continue to be treated as though they were far more serious and more patently intolerable than massive and direct denials of economic, social and cultural rights…”

Consequently, women in some developing and least developed countries are still unable to enjoy their rights under such international laws and are incapacitated by some national laws in terms of their economic activities.

2.3 The implementation of the Convention of the Elimination of all forms of Discriminations against women (CEDAW) in Uganda.

Any time women’s rights are in dispute, the convention to rely on is CEDAW because it is the international law that protects women’s rights in its entirety; especially discrimination against women in all forms. The convention;

55 ibid
56 ibid
57 ibid (n 45) 278
provides the basis for realising equality between women and men through ensuring women’s equal access to, and equal opportunities in, political and public life...education, health and employment...to take all appropriate measures, including legislation and temporary special measures so that women can enjoy all their human rights and fundamental freedoms...the treaty affirms the reproductive rights of women and targets culture and tradition as influential forces shaping gender roles and family relations.\textsuperscript{58}

Countries that ‘have ratified the convention are legally bound to implement its provision and a quadrennial report is required of them by the CEDAW committee’.\textsuperscript{59} Article 11 and 13\textsuperscript{60} of the convention secures the economic rights of women. The ‘Ministry for Gender, Labour and Social Development (MGLSD) through the help of government, is the main implementation body of CEDAW legally, socially, economically and politically in Uganda after the country ratified the convention in 1985’.\textsuperscript{61} Even though Uganda has ratified the convention without any reservations, a report submitted to the CEDAW committee in the year 2000 stated that there were still violations of the convention. Some of the issues involving the violation of Article 11 and 13 of the convention include; ‘higher rate of unemployment among women, no policy for child care facilities for working mothers, women working in the informal sector not being covered under social security, the unrecognition of women’s work by law or customs and so they are not protected under law e.g. domestic workers etc.’.\textsuperscript{62} Surprisingly 10 years down the line, in a 2010 report submitted to the CEDAW committee, while there have been some improvements there is still “persistent discrimination against women in the

\textsuperscript{59} ibid
\textsuperscript{60} ibid (n 10)
\textsuperscript{62} ibid (n 54)
labour market in particular\textsuperscript{63} and the situation at present is no different. This is because the implementation of CEDAW requires ‘financial expenditures by states as it has to provide material resources, design fiscal policies or undertake programmes and projects to fully achieve the economic rights of these women’.\textsuperscript{64} Unfortunately, this is a challenge of most developing and Least Developed Countries as they do not have such resources to fully implement the convention.

\textbf{2.4 The International Labour Organisation (ILO) and Uganda}

Even though Uganda has some good laws and has ratified some ILO Conventions most of its national labour, employment and inheritance laws need to be revised to include certain provisions which would improve the economic lives of its citizens especially women. The ILO as an organisation aims to ensure the promotion of “social justice and internationally recognised human and labour rights, pursuing its founding mission that social justice is essential to universal and lasting peace”.\textsuperscript{65} They are very much concerned with the rights of women when it comes to work hence there are certain conventions set out by them to cater for the labour needs of the working woman. For it became ‘very necessary for the rights of women to be embedded in legislation for its proper enforcement in the achievement of equal opportunities at work and enabling an environment for economic activities’\textsuperscript{66} Table 1 below

\textsuperscript{64} Good man p. 181 -184
shows some International Labour Standards (ILS)\(^{67}\) relevant to the promotion of the economic activities of women.

**ILS THAT PROMOTE THE LABOUR RIGHTS OF WOMEN**

C131 - Minimum Wage Fixing Convention, 1970 (No. 131)\(^{68}\)

C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)\(^{69}\)

C100 - Equal Remuneration Convention, 1951 (No. 100)\(^{70}\)

C003 - Maternity Protection Convention, 1919 (No. 3)\(^{71}\)

C103 - Maternity Protection Convention (Revised), 1952 (No. 103)\(^{72}\)

C183 - Maternity Protection Convention, 2000 (No. 183)\(^{73}\)

C118 - Equality of Treatment (Social Security) Convention, 1962 (No. 118)\(^{74}\)

C004 - Night Work (Women) Convention, 1919 (No. 4) and Revised in 1948 (No. 89)\(^{75}\)

C149 - Nursing Personnel Convention, 1977 (No. 149)\(^{76}\)

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\(^{67}\) **NOTE E**

International Labour Standards are Legal instruments drawn up by the ILO’s constituents (governments, employers and workers) and setting out basic principles and rights at work. They are either conventions, which are legally binding international treaties that may be ratified by member states, or recommendations, which serve as non-binding guidelines < http://www.ilo.org/global/standards/introduction-to-international-labour-standards/conventions-and-recommendations/lang--en/index.htm


Most of these ILS stated in Table 1 above gives specific protection to the labour rights of women, therefore we can conclude that on a general note women’s economic/labour rights have been identified and most importantly legalised. All things being equal, if ratification and implementation of these laws are done appropriately, then one can say that the position of
women’s rights internationally is secured and safeguarded. Regrettably, this is not so because there are several issues that prevent the rapid ratification and effective implementation of these conventions.

2.5 Challenges of the implementation of ILS

These conventions have been criticised over the years to use the soft law approach instead of the hard law approach’.\(^{86}\) This means the wording of these conventions is either suggesting or persuading member states to implement the conventions, for instance, the use of ‘shall’, ‘May’ etc. The ‘soft law’ approach, which many international laws adopt has been criticised by many as very ineffective, thus most of these international institutions have been referred to as ‘toothless dogs’. According to Snidal and Abbot, “Prosper Weil asserts that, the increasing use of soft law might destabilise the whole international normative system and turn it into an instrument that can no longer serve its purpose”.\(^{87}\) Others have also argued that the ILO conventions are neither ‘soft laws’ nor ‘hard laws’ since they have the status of treaties once ratified.\(^{88}\) Somewhat the challenge is with the “sanctions imposed for violations of the conventions that are weak”.\(^{89}\) The enforcement powers or penalties for members who fail to comply with the standards is on adverse publicity ‘name and shame’. In addition, ‘the ILO has limited legal powers and its major means of enforcement in member countries is by moral

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\(^{86}\) Hard law as defined by Abbot and Duncan Snidal as “legally binding obligations that are precise (or can be made precise through adjudication or the issuance of detailed regulations) and Soft law as defined by same people as the weakening of “legal arrangements along one or more of the dimensions of obligation, precision, and delegation”.


\(^{89}\) ibid
suasion and technical assistance to foster the adoption and implementation of ILS’. Therefore most countries do not see these conventions as obligations they should strictly implement even when they have ratified them.

Another challenge is when member states are expected to translate or incorporate these laws as they deem fit. Most member states take advantage of this fact and implement the standards to suit their self-seeking interests and not up to the standards of the ILO. For example, the ILO Convention No. 103 states the numbers of days for maternity leave as not less than 14 weeks but in section 2 of the same article, each member is given the freedom to specify the length of the maternity leave period. Comparing the labour laws of Uganda, Kenya and Ghana, Uganda has its maternity leave as 60 working days (8 weeks 4 days), about 6 weeks short of what has been specified by the ILO. Kenya also specifies 3 months (12 weeks) as the period of maternity leave, so does Ghana, making both countries short of 2 weeks of the specified provision by the ILO. This shows that although the laws in Ghana and Kenya do not reflect exactly the provisions of the ILO, it has a greater impact on the laws of these countries than it has in Uganda. Thus, where there is ‘no will power’, most of these conventions are under implemented.

Article 10 of Convention 183 on Breastfeeding Mothers is of concern. This provision gives a woman ‘one or more daily breaks or daily reduction of hours to breastfeed her child’.

“While the first maternity protection convention 1919 specifies two and half-hour nursing breaks and the maternity protection recommendation, 1952 called for one and half hours per

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91 Convention No. 103 Art 3(1)
92 ibid Art 3 (2)
93 The Employment Act, 2006 Art. 56
94 The Employment Act, 2007 Art 29(1)
95 Labour Act,2003 Art 57 (1)
96 ibid (n 54) Art. 10
day, the current convention leaves it to national law and practice to determine the duration."  

Thus members would take advantage of this fact and ratify the conventions that do not suit the interest of the worker. This is not to say that it is not good for member states to choose conventions that will benefit their workers, though. For instance, in Ghana, the Labour Act stipulates that an hour during working hours should be allowed for the mother to nurse her baby. But the Ugandan Employment Act and Kenya Employment Acts are silent on this provision, there’s “no provision in the law regarding nursing breaks for new mothers”. And they cannot be penalised as they have the authority to implement the provisions of the convention as they deem fit.

Furthermore, is the issue of resources; some member states see the implementation of most of these labour standards as very expensive. The financial burden on most of the member states especially the least developing and developing ones makes it very difficult for them to ratify some of these ILS. A convention like the Equality of Treatment (Social Security) Convention, 1962 comes with lots of benefits to the worker which is accompanied by lots of financial burden on member states that ratify it. It is therefore not surprising that (Uganda, Kenya and Ghana) have not ratified this convention. Out of the 177 technical conventions, Uganda has ratified 20, Kenya 40 and Ghana 41 shown in table 4 below. This implies that members will rather not ratify the conventions that come with heavy financial burdens than ratify them and struggle to implement them.

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97 ibid (n 39) p.24
101 Equality of Treatment (Social Security) Convention, 1962 Art 2
Others also argue the fact that, strictly implementing the ILS would mean stringent national labour laws which they fear will drive investors away and so would prefer to have fair provisions in their national labour acts in order to attract investors, an incidence that has come to be known as a ‘race to the bottom’.

“For instance, Ugandan President Museveni admitted that he sacked 265 women workers on strike in the clothing company Tri-Star in October of 2003 because he felt that the strike could deter investors”.

Finally, is the challenge of supranational laws also known as regional agreement such as European Court of Human Rights, Inter-American Court of Human Rights, International Court of Justice, International Criminal Court, AU etc. which perform similar functions as the ILO. Hence these countries would choose the implementation of provisions within their regions than that of the ILS. These are some of the challenges that face the implementation of international women conventions and deter countries from ratifying some of these ILS especially the technical ones that come with financial burdens or even implementing those they have ratified diligently. Worse of all members are at liberty to denounce conventions that they think are not useful over a period after ratification.

The previous arguments notwithstanding, women’s rights have been secured internationally. There are arguments that have justified the use of soft law:

As an interim step toward harder legalisation and that it facilitates compromise, and thus mutually beneficial cooperation, between actors with different interests and values, different time horizons and discount rates, and different degrees of power”, therefore states are more likely to ratify conventions with the soft law undertone.

\[\text{References}\]

103 ibid (n 73)
104 ibid
106 ibid (n 70) p.423
The main aim of the ILO is to cooperate between “governments and employers’ and workers’ organisations in fostering social and economic progress through their tripartite system”.\textsuperscript{107} They have continually and successfully offered ‘technical assistance to most of the countries that need them’.\textsuperscript{108} The ILO to ensure that women rights internationally have Action Plans and policies for Gender Equality. Each action plan has distinct phases and each phase is a build up from the previous phase, it:

Identifies gender mainstreaming as the strategy to promote equality between women and men…the Action Plan also facilitates effective and gender-responsive delivery of the Decent Work Agenda…the Action Plan reflects the cross-cutting nature of gender equality in accordance with the 2008 ILO Declaration on Social Justice for a Fair Globalisation and the 2009 Global Jobs Pact…\textsuperscript{109}

One can confidently say that at least international bodies have made efforts and played their parts in the promotion and implementation of women’s economic and labour rights. The argument now is what national jurisdictions, or the member states of the ILO are doing to improve the economic and labour rights of women. What role is Uganda playing to promote women’s labour and economic rights?

2.6 The Ratification of ILS for Female Workers in Uganda

The World Bank update on Ugandan economy revealed that “Overall, the economy is estimated to have grown in the range of 4.5 to 5% during the current financial year 2015/16.\textsuperscript{110} This growth rate is much lower than 5.4% which was anticipated in the previous

\begin{footnotesize}\begin{itemize}
\item[108] ibid
\end{itemize}\end{footnotesize}
Although the development of a country’s economy is not solely reliant on their ability or inability to ratify and implement the ILS, however, the ILS plays a very strong role in contributing to the development of the economies of its member states. Because the efficient regulation of a country’s labour market has a direct impact on its economy. Even though Uganda has ratified some of the ILS, it is evident that there are still a lot more of these conventions that need to be ratified and implemented by the country.

The ratification of an International law is the first step to its implementation; it is disturbing that Uganda as a country has not ratified most of the ILO conventions. How then can these laws be incorporated or translated into their national laws? Below are some of the ILS which has a direct impact on Female workers and entrepreneurs and their ratification status in Uganda.

<table>
<thead>
<tr>
<th>ILO CONVENTION</th>
<th>DATE RATIFIED</th>
<th>STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>C026 - Minimum Wage-Fixing Machinery Convention, 1928</td>
<td>04 Jun 1963</td>
<td>In force</td>
</tr>
<tr>
<td>C045 - Underground Work (Women) Convention, 1935</td>
<td>04 Jun 1963</td>
<td>In force</td>
</tr>
<tr>
<td>C087-Freedom of Association and Protection of the Right to Organise Convention, 1948</td>
<td>02 Jun 2005</td>
<td>In force</td>
</tr>
</tbody>
</table>

111 ibid
112 Table 2 shows how many International labour laws Uganda has ratified and compares it with those ratified by Ghana and Kenya to ascertain how far behind or in front they are.
114 ibid (n 61)
115 ‘Convention C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)’ (ilo.org, 2016)
<table>
<thead>
<tr>
<th>Convention Number</th>
<th>Convention Title</th>
<th>Status</th>
<th>Date In Force</th>
</tr>
</thead>
<tbody>
<tr>
<td>C111</td>
<td>Discrimination (Employment and Occupation) Convention, 1958</td>
<td>In force</td>
<td>02 Jun 2005</td>
</tr>
<tr>
<td>C100</td>
<td>Equal Remuneration Convention, 1951</td>
<td>In force</td>
<td>02 Jun 2005</td>
</tr>
<tr>
<td>C003</td>
<td>Maternity Protection Convention, 1919</td>
<td>Not ratified</td>
<td></td>
</tr>
<tr>
<td>C103</td>
<td>Maternity Protection Convention (Revised), 1952</td>
<td>Not ratified</td>
<td></td>
</tr>
<tr>
<td>C183</td>
<td>Maternity Protection Convention, 2000</td>
<td>Not ratified</td>
<td></td>
</tr>
<tr>
<td>C118</td>
<td>Equality of Treatment (Social Security) Convention, 1962</td>
<td>Not ratified</td>
<td></td>
</tr>
<tr>
<td>C004</td>
<td>Night Work (Women) Convention, 1919 and Revised in 1948</td>
<td>Not ratified</td>
<td></td>
</tr>
<tr>
<td>C149</td>
<td>Nursing Personnel Convention, 1977</td>
<td>Not ratified</td>
<td></td>
</tr>
</tbody>
</table>

accessed 2 December 2016

116 ibid (n 52)
117 ibid (n 53)
118 ibid (n 54)
119 ibid (n 55)
120 ibid (n 56)
121 ibid (n 57)
122 ibid (n 58)
123 ibid (n 59)
<table>
<thead>
<tr>
<th>Protocol/Convention</th>
<th>Ratification</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>P089 - Protocol of 1990 to the Night Work (Women) Convention (Revised), 1948</td>
<td>Not ratified</td>
<td>-</td>
</tr>
<tr>
<td>C045 - Underground Work (Women) Convention, 1935</td>
<td>Not ratified</td>
<td>-</td>
</tr>
<tr>
<td>C171 - Night Work Convention, 1990</td>
<td>Not ratified</td>
<td>-</td>
</tr>
<tr>
<td>C177 - Home Work Convention, 1996</td>
<td>Not ratified</td>
<td>-</td>
</tr>
<tr>
<td>C175 - Part-Time Work Convention, 1994</td>
<td>Not ratified</td>
<td>-</td>
</tr>
<tr>
<td>C189 - Domestic Workers Convention, 2011</td>
<td>Not ratified</td>
<td>-</td>
</tr>
</tbody>
</table>

Table 2: Ratification of ILS on Female workers by Uganda.

From the table above, it is evident that Uganda has not ratified most of the international laws that will enable women empowerment in the labour market and as such internationally they are lagging, which means that the ILO has negligible impact on their national jurisprudence and this may have a likely impact on their economy.

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124 ibid (n 60)
125 ibid (n 61)
126 ibid (n 62)
127 ibid (n 63)
128 ibid (n 64)
129 ibid (n 65)
2.7 Total ratification of ILS by Uganda in comparison to Kenya and Ghana

The table below compares the number of ratifications done by Uganda to that of Kenya and Ghana and the number of conventions not ratified by these countries.

<table>
<thead>
<tr>
<th>Country</th>
<th>Membership</th>
<th>Fundamental</th>
<th>Governance</th>
<th>Technical</th>
<th>Ratified</th>
<th>Not ratified</th>
<th>In force</th>
<th>Denounced</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uganda</td>
<td>1963</td>
<td>8</td>
<td>3</td>
<td>20</td>
<td>31</td>
<td>59</td>
<td>30</td>
<td>1</td>
</tr>
<tr>
<td>Kenya</td>
<td>1964</td>
<td>7</td>
<td>3</td>
<td>40</td>
<td>50</td>
<td>54</td>
<td>41</td>
<td>9</td>
</tr>
<tr>
<td>Ghana</td>
<td>1957</td>
<td>8</td>
<td>2</td>
<td>41</td>
<td>51</td>
<td>55</td>
<td>40</td>
<td>11</td>
</tr>
</tbody>
</table>

Table 3: Ratifications of ILS by Uganda, Kenya and Ghana

Kenya appears to be the youngest member of the ILO among these three countries but happens to be the one with the highest number of conventions in force. This clearly reflects in their economy; according to a publication by the World Bank as at “March 31, 2016, Kenya’s economic performance remains solid, with the growth rate expected to improve from 5.6% in 2015 to 5.9%.” Ghana, which happens to be the next country with the highest number of the conventions in force also has a strong economy and a review of their economy by the World Bank showed that “Ghana’s economy grew by 4.9% during the first quarter of 2016 higher than 4.1% during the same period in 2015 supported by the strong services sector performance”. As these two countries are developing countries it is essential to compare them to Uganda, a least developing country which happens to be the country with the lowest number of the conventions in force.

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2.8 Conclusion

There are several provisions in international laws that aims to protect and secure the economic rights of women. But most of these laws like CEDAW and ILO are faced with certain challenges that prevent the achievement of these goals. Some of these challenges are the wording of the provisions which allows nations states to implement the laws as they deem fit. Furthermore, the sanctions for violation is not strong enough to deter nations from violating the provisions as it’s only a matter of “name and shame”. Also, most of the laws which has direct influence on the economic rights of women such as ESCR are accompanied with financial obligations which most nations find very difficult to implement. Above all nation states choose which conventions to ratify and as it turned out in the case of Uganda most of those conventions with financial obligations that has direct impact on the economic rights of women has not been ratified. As such the impact of these international laws have very little influence on the economic rights of Ugandan women.
CHAPTER 3

THE RIGHTS OF UGANDAN WOMEN UNDER NATIONAL LABOUR LAWS AND THEIR ACCESSIBILITY TO THE LEGAL SYSTEM IN UGANDA

3.1 Introduction

After analysing the position of Uganda women under some international labour laws, this chapter discusses the rights provided them under national laws and access to the legal system in Uganda. Like the previous chapter comparisons are made with Ghana and Kenya.

3.2 Ugandan Labour Laws and Women

Uganda’s labour market is regulated by their ‘Constitution, Employment Act 2006, Labour Unions Act 2006, Labour Disputes Act 2006, Occupational Safety and Health Act 2006, Equal Opportunities Commission Act 2007, National Social Security Fund Act 1985, Trade Unions Act 1976, Workers Compensation Act 2000, Employment (Employment of Children) Regulations 2012’. ¹³² There are other bodies tasked with the responsibility of regulating the market such as employers’ organisation (e.g. Federation of Uganda Employers) whose “mission is to enhance member’s competitiveness through policy advocacy, promotion of best human resource practices and provision of business development services”. ¹³³ There is also the Labour Advisory Board (LAB) “whose job it is to advise the minister of labour on labour legislation and employment matters. In addition, the industrial court that “hears and arbitrates on all trade disputes referred to it by the minister responsible for labour”. ¹³⁴ So there are many more organs and bodies who aid in the functionality of Uganda’s labour

¹³³ ibid
¹³⁴ ibid
market. It looks like a well collaborated system of laws and regulations, but are these bodies functional in promoting a free and fair labour market?

An examination of these national laws shows that though there are laws which protect women’s labour rights, most of the national laws do not reflect important provisions covering women in international laws. This could be okay if the national laws adequately protected women labour rights, however, this is not the case. That said, the gap between national labour law and international labour law, could be linked to the fact that they have not ratified most of these international laws as discussed in chapter 2. Even the ones that are ratified, and are in force, are not reflected in the national labour laws fully, which makes it an issue. A major challenge is the minimum wage for Ugandan women. Although Uganda has ratified the C026-Minimum wage fixing machinery which entreats states to fix a minimum wage, her “legal minimum wage remains outdated back to 1984.” Generally the wages remain very low in Uganda; initiatives have been taken to formalise the fixing of the minimum wage but so far it has not succeeded”. The minimum wage is ‘6,000 Ugandan Shillings (USh) per month equivalent to $ 2.4 per month back in 1984, which will be $ 1.68 per month currently, an amount way below the estimated amount measured by the SDG for people living in extreme poverty (less than $ 1.25 a day or $ 38 per month)’. The impact is that most investors who come to the country exploit a substantial number of the indigenous workers but cannot be litigated. This is not unexpected as in Ugandan jurisprudence minimum wage is ‘fixed by the president and minister for labour through a wages regulation order made by

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135 ibid (n 100) Art. 1
137 ibid
138 ibid (n 1)
Meanwhile, in Kenya’s jurisprudence, the wage rates are determined by ‘Wage Councils constituted in accordance with Labour Institutions Act 2007’. A similar system runs in Ghana where the ‘national daily minimum wage (increased from ghc 7 to 8 ghc in January 2016), is set by the National Tripartite Committee and headed by the Minister for Employment & Social Welfare’. “Minimum wage rate may also be determined under collective agreements… it applies to all of Ghana except the free trade zones where employers are free to negotiate and establish contracts of employment including wage levels that are consistent with ILO conventions”. Figure 2 below shows the wages of Uganda, Kenya and Ghana in context: Poverty Line, Minimum Wage, Living Wages (Individual and Typical Family), Real Wages (of Low, Middle and High-Skilled Workers).

<table>
<thead>
<tr>
<th>Countries</th>
<th>National poverty line</th>
<th>Minimum wage</th>
<th>Wage (low skilled)</th>
<th>Wage (medium skilled)</th>
<th>Living wage (Individual)</th>
<th>Living wage (Typical families)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uganda</td>
<td>9.3</td>
<td>15.7</td>
<td>26.9</td>
<td>1.7</td>
<td>53.3</td>
<td>52.8</td>
</tr>
<tr>
<td>Kenya</td>
<td>118.7</td>
<td>210</td>
<td>356</td>
<td>247.1</td>
<td>91.6</td>
<td>118.7</td>
</tr>
<tr>
<td>Ghana</td>
<td>276.5</td>
<td>276.5</td>
<td>276.5</td>
<td>276.5</td>
<td>276.5</td>
<td>276.5</td>
</tr>
</tbody>
</table>

142 ibid
From the graph above, it is obvious that when a country does not have appropriate labour legislation, it tends to have an adverse impact on their economy as Uganda tends out to be the country with the lowest wages. Regrettably, women are the most affected by the economic situation in Uganda due to an ineffective legislative system.

Another area worth looking at is the plight of Domestic workers in Uganda. In most parts of Africa especially Eastern and Western Africa, ‘domestic workers range from gardeners, maids, nannies, housekeepers, cleaners, cooks etc. Most of these people happen to be females who bring their experience and skills to work in households’. Under ‘Article 38 3(a) of the Employment Act 2006; there is no permit requirement for one to be recruited as a domestic servant for employment’. This is not only sad but also makes the sector unregulated which creates unfair working conditions as most domestic workers often work very long hours and under harsh conditions. Some even work without contracts and end up being exploited and because they are not regulated, there is no fixed wage rate. According to a publication on Domestic Work in Uganda;

Wages usually depend on what the employer is willing to pay or what the domestic worker is willing to accept. In other words, an employer can set a very small pay for a domestic worker since there is no legal obligation thereafter. When domestic workers enter the labour market, they usually don’t know what their rights are. Domestic workers are usually paid between USh 4,000 (US$ 1.78) and USh 10,000 (US$ 4.44) per month.146

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143 Note D
This graph was derived from an original graph displaying Uganda - Wages in Context: poverty line, minimum wage, living wages (individual and typical family), real wages (of low-, middle- and high-skilled workers) compared, available at http://mywage.ug/home/salary/wages-in-context accessed 2 December 2016.
144 ibid
146 ibid (n 139)
This amount is far below the estimated amount by the SDG for people living in extreme poverty as earlier stated. Thus, domestic workers in Uganda who are mostly women can be said to be living in abject poverty. One must note that when domestic workers sector is not regulated it does not only affect the workers but the employers as well. In a situation where the employee chooses to stop working without a prior notice to the employer, it goes to distort a lot of things in the household, or even in the case of theft, the employer is faced with the challenge of whom to report the incident to.147

Albeit this plight, domestic workers are not wholly unprotected by the law. In the case of an incident, a domestic worker may report the issue to the District Labour Officer.148 The officer will first call the employer to settle the matter and if the complaint is not resolved then the matter is taken before the Labour Commissioner’.149 However, these complaints are almost non-existent as domestic workers are usually not aware of this provision or do not have the means to contact these bodies. This situation is not unique to Uganda. In Ghana, ‘there is no specific law that protects domestic workers’,150 only casual and temporary workers are covered under the Labour Acts 2003.151 But Kenya, on the other hand, passed the “Domestic Workers’ Law in June 2011 following the decision of the Ministry of Labour to adopt the International Labour Organisation convention on domestic workers.”152 Which means the influence of the ILO conventions on national laws is visible once they are ratified by the countries as it really serves as a standard for national jurisprudence.

147 ibid
148 ibid
149 ibid
151 Labour Acts 2003, Art. 74-78
As the ratification of a convention is the first step to its implementation it becomes very worrying that Uganda as a country has not ratified most of the ILS convention like those in fig 6 above. This has equally reflected in their national labour laws which do not entirely protect women workers. The researcher found out that the presence of the ILO in Uganda is minimal and that in Uganda they only have a few projects operating in the same office and are not under an authorization to act on behalf of ILO. It is the ILO office in Dar es Salaam which takes care of Uganda, Kenya, Tanzania and Rwanda. On a general standard, one can say that there is still a lot to be done about labour rights of women under Uganda national labour law. This is not to say that it is solely the labour laws that incapacitate the economic rights of women. Other factors contributing to this are discussed in the following chapters.

3.3 Accessibility of the Legal System by Ugandan Women

In Uganda, the legal sector is made up of several institutions concerned with the provision of legal services, the administration of Justice and the execution of legal instruments or orders. The Ugandan Constitution of 1995 mandates the Ministry of Justice and Constitutional Affairs, Judiciary, Parliament, Uganda Police Force, Uganda Law Reform Commission and the Uganda Human Rights Commission to oversee the legal sector. There are other bodies involved in legal sensitization and advocacy such as legal educational institutions, the Law Development Center, professional bodies such as the Uganda Law Society, the Judicial Service Commission and other organisations. The legal system in Uganda is made up of laws from the legislature (legislation and delegated legislation), judiciary (judicial precedents and English common law) and African customary law.

154 ibid
(ecclesiastical law and religion); all these laws are stipulated in Section 16 of the Judicature Act 1996. Any of these laws when breached are to be adjudicated in the Ugandan courts of law.

In order of hierarchy, the first of these courts is the ‘Supreme Court’, which is the highest court of appeal in the land; second is the Court of Appeal referred to as the Constitutional Court. Then the ‘High Courts made up of the ‘General Court Martial (deals with cases involving the military) and Industrial Courts’. Fourthly is the ‘Chief Magistrate Courts; made up of the Local Council Courts (III, II, I) and finally the Subordinate Courts which includes Magistrates Grade I, II & III’. The High Court is of relevance to this paper as the Industrial Courts; Commercial and Family Divisions of the Courts are responsible for adjudicating issues pertaining to economic resources. The Industrial Court which was established under the Labour Disputes (Arbitration and Settlement) Act is to arbitrate labour disputes referred to it under the Act. The Industrial Court “draws its inspirations from the ILO mission: “bringing decent work and livelihoods, job-related security and better living standards to the people of both poor and rich countries, and the Uganda Judiciary Vision “Justice for All”. Thus their mission is “to effectively and efficiently deliver and adjudicate labour justice for all in line with International Labour Organisation standards and National Development Plan. Below is the structure of the Ugandan Court System.

156 ibid
157 ibid
158 ibid
159 ibid
162 ibid
Figure 3: The Ugandan Court System

It is interesting to note that ‘Uganda has a formal and informal court system; the former by the constitution and the latter by judicial powers, Statute 1987’.\textsuperscript{164} The informal system is made up of ‘the LC Courts at the village level; these courts and the Lower Magistrate Courts are the most accessible to women’.\textsuperscript{165} The members of these courts can only adjudicate specific issues as their powers are limited to mostly domestic and petty theft cases’.\textsuperscript{166} The ‘link between the two systems is by appeals from the LC III Court to the Chief Magistrate Court’.\textsuperscript{167} As to whether these courts are readily accessible to women when their rights to economic resources are breached is an issue of concern if women economic empowerment is to be secured in its entirety. Accessibility here means all the procedures involved until the final judgement; since the judicial process is wide and comprises services provided by the police, prisons, legal aid providers etc. Each of these groups would have to provide their services efficiently, devoid of corruption and discrimination if one hopes to achieve impartial judgement but records have shown in Uganda that this is a challenge. Before one files a suit, one may have to lodge a complaint with the police services. In an interview with Grace Mukwaya and Lydia Bwiite of Platform for Labour Action Uganda, they stated that some of these police personnel who happen to be mostly male try to frustrate women by not taking serious complaints related to household issues, unpaid work and sexual harassment.\textsuperscript{168} Some demand huge sums of money or even other unofficial demands to help these women.\textsuperscript{169} Those who cannot meet the demands of these police officers give up on the process of seeking justice entirely. The other issue is about the resources of getting a lawyer to represent

\textsuperscript{164} ibid
\textsuperscript{165} ibid
\textsuperscript{166} ibid
\textsuperscript{167} ibid
\textsuperscript{168} Vera Hayibor, Interview with Grace Mukwaya and Lydia Bwiite ‘Platform for Labour Action’(2016)
\textsuperscript{169} ibid
one in the courts. ‘Widows in the North without land cannot provide for their family, not to talk of affording legal advice to access justice’.\textsuperscript{170}

Most of the services provided by lawyers are very expensive and most of these women who already have limited resources are unable to pay for such services. Although there are legal aid providers whose main targets are to provide legal services for women, they become overwhelmed with numbers of cases such that, they are unable to work on all the numerous cases. Those that can get assistance from the legal aid providers are faced with another challenge of having to travel from whichever part of Uganda they are to the capital city as most of these courts are situated in Kampala. This they are unable to do because of household duties and limited resources. Unfortunately, most women are not even aware of the legal processes to fight for their rights and just suffer in silence and some that are aware are intimidated by the process as they may be uneducated. The various barriers discussed above makes it very difficult for women to access the legal system however those who can defy all the odds to access the system are faced with the issue of adjudication as the cases below will reveal that most rulings are often not in favour of women and for one to be successful will involves a lot of resources which most women do not have.

### 3.4 Some Labour Cases Involving Women

The challenges women face at work cannot be disputed; sadly, most of these injustices are not brought to book. And the evidence is that very few labour cases involving women are on record. Some of these cases and the judgements are analysed below.

\textsuperscript{170} 'Resolving Land Disputes and Rebuilding Lives in Post-Conflict Uganda' (\textit{BMS World Mission, 2016})
3.5 Doreen Rugundu v International Law Institute

In this case ‘Doreen who was offered a contract to work at the International Law Institutes had her contract cancelled even before she could commence work’. 172 ‘There was no explanation given as to why the contract was cancelled and she filed a case of wrongful termination of contract against her employer to be at the High Court and was successful’. 173 ‘But the employer appealed the Court of Appeal and the decision of the High Court was overturned; reason being that there was no contract between the two parties in the first place’. 174 There was a second appeal to the Supreme Court but they ruled in favour of the employer. 175 Stating that “under the provisions of Section 24(1) of the Employment Act to terminate the contract by giving the appellant seven days' notice or pay her seven days' wages in lieu of notice; the respondent gave the appellant a notice of over 4 months.” 176 So the courts refused any form of compensations to Doreen not taking into consideration that she suffered general damages for disappointment, embarrassment and inconvenience, costs of the suit etc.

3.6 Bank of Uganda v Betty Tinkamanyire

‘Betty who has been working with the bank for ten years and had four years until retirement was given a letter of retirement’. 178 This ‘untimely retirement letter given to her came with no explanations as to why she was being dismissed from work; she filed a suit against her
employer at the High Court to be reinstated plus cost of damages’. The alternative is to compensate “for involuntary or forced retirement which she considered to be unfair, unjust, arbitrary, harsh, wrongful and illegal and which resulted in her loss of reputation, employment, all leading her to suffer mental anguish”. Her employer “denied liability asserting that it was within its rights to terminate the respondent’s employment and claimed that the action was done lawfully”. Fortunately for her ‘she was successful in the High Court and Court of Appeal when her employer Bank of Uganda appealed to these courts’.

3.7 Gladys Aserua Orochi v Kabale District Local Government Council

‘Gladys (plaintiff) a public servant was serving in the capacity of Chief Administrative Officer to Kabale District Local Government Council (defendant)’. ‘She was sent on a forced leave and when she sued her employer, allegations were brought against her as to the reason why such actions were taken’. The ‘Tribunal vindicated the plaintiff of all the allegations put up as the reasons for her removal from office’. But the “Defendant’s District Service Commission determined to retire the plaintiff from service in the public interest”. The ‘Court concluded that the Defendant was liable to the plaintiff thus she was successful in the suit and is by reason thereof awarded the costs of the suit’. The cases above have a common denominator of unlawful dismissal; it’s rather unfortunate most women do not have the resources to go through the entire process of adjudication because it is complex and expensive. Hence access to economic resources is very important.

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179 ibid
180 ibid
181 ibid
182 ibid
184 ibid
185 ibid
186 ibid
187 ibid
188 ibid
as the lack of these resources have a negative impact on all facets of the lives of these women including justice.

3.8 Conclusion

The discussion above shows how the relationship between international laws and Ugandan labour laws have direct impact on the economic rights of Ugandan women. Because Uganda has not ratified most of the international labour standards it has not been incorporated into their national laws and as such workers cannot enjoy the benefits and the protection these international provisions offer. The most affected group of workers are domestic workers as most of their laws have not been ratified unfortunately most women happen to fall under this category. Thus, the labour rights of most domestic workers are not recognised and taken for granted; it is therefore not surprising that there is so much abuse of domestic workers in Uganda who are mostly women.

The chapter also reveals the complexities in the accessibility of the legal systems in Uganda; right from the stage of reporting a case to the final stage of adjudication in court. Most women are mostly intimidated by the process either because they are illiterates or for lack/insufficient resources and would rather suffer the injustices meted out to them than to seek justice. This goes to explain why there are very few labour cases involving women on record.
CHAPTER 4
THE IMPACT OF INHERITANCE LAW, SOCIO-ECONOMIC AND TRADITIONAL CULTURE ON THE ECONOMIC RIGHTS OF WOMEN IN UGANDA

4.1 Introduction
Critically examining the laws in Uganda has shown how most of these laws meant to protect women have rather discriminated against them in terms of economic resources. Unfortunately, there are other factors besides law that restrict women’s access to economic resources. Some of these factors are socio-economic while others are cultural and traditional norms and these factors are intertwined. The picture below shows how women till the land yet do not own it.

Pic 1\textsuperscript{189}: Women’s Land, Inheritance and Property Rights in Uganda

\textsuperscript{189} landportal.info, ‘Women’s Land, Inheritance and Property Rights in Uganda’
accessed 23 December 2016.
4.2 Property Rights of Women in Uganda

The right to property is very critical in any African society as these properties are assets for future economic activities. It is therefore necessary to assess the rights of women in acquiring property in Ugandan society. One may argue that the Ugandan constitution gives some form of protection to the property rights of women. Legislation such as the Succession Act, Marriage Act, and Land Act etc. which may seem to protect the rights of these women are somewhat discriminatory; the implementation processes also end up endangering women’s property rights. A report on the concluding observations of the CEDAW Committee on Uganda noted that although

…Article 33 (6) of the Constitution prohibits laws, customs or traditions which are against the dignity, welfare or interest of women, their concern is that mechanisms to enforce such constitutional provisions on non-discrimination are not widely known and are inaccessible to women.\(^{190}\)

For example, a 'Marriage and Divorce Bill was introduced in 2009 to amend the Domestic Relations Legislation; this legislation is to disallow forced marriages where deceased relative inherits the widow and all properties, this bill till date is pending as it has met a lot of opposition’.\(^{191}\) This bill also “provides for the types of recognised marriages in Uganda, marital rights and duties, recognition of cohabitation in relation to property rights, sets grounds for breakdown of marriage, and provides for rights of parties on the dissolution of marriage”.\(^{192}\) This ‘bill has still not been passed as some religious fundamentalists find it

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offensive to religion’. This means that some marriages that are recognized in Uganda have still not been legalised, and the marital rights of women especially in terms of property acquisition after divorce or death are still not legitimate. Note the following:

Equally unsatisfactory is the fact that in Uganda, partly owing to the phenomena of legal pluralism, even where the relevant statutory laws are protective of women’s rights to matrimonial property, their implementation is hindered by customary law practices, socialization, and the generally weak economic capacity of many women in the country.

It is undisputable that there are still customs that oppress and marginalise women’s right to property in Uganda. Even the ‘lawful marriages in Uganda are contracted under specific legislation; secular marriages by the Marriage Act, Marriage and Divorce of Mohammedans Act for Muslim marriages, customary marriages under the Customary Marriages (Registration) Act and the Marriages of Africans Act regulates African marriages’. Most of these “outdated laws are not explicit on the sharing of property to benefiting the woman as proposed by the constitution but rather focused on procedural matters relating to how marriages are contracted than property sharing”.

4.3 Women’s Land Rights

Land is a crucial economic asset in most parts of Africa and Uganda is no exception. The economic empowerment of women in Uganda cannot be complete without looking at the land rights of these women. The issue of land ownership has a great impact on the economic lives of Ugandan women because of its importance to access other economic resources. Most women are engaged in agricultural productivity; they till the land and harvest the crops but do

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193 Ibid (n 4) p 204
195 Ibid (n 4) p. 203
196 ibid
not own the land. Since most cultures and families would prefer male children to inherit the
land rather than their female children:

Access to land is secured through donation or inheritance, by membership within a
family, purchase and borrowing. Donation is one major means through which land is
customarily acquired under prescriptions guided by customs and practice: a grown
son receives a share of his father’s land, on which he can build a house for himself,
his wife and children. The implication is that only sons can and do receive donated
land to expand the clan.¹⁹⁷

The belief is that a woman would eventually marry out of the family and must not take any
assets as the man she will marry is expected to cater for her. Agriculture is the major income
generating work for women in Uganda but because they do not own the land it is very
difficult to grow cash crop. They are left with the choice of growing food crops which take a
shorter period to grow but do not generate much income. Restie Katusiime made a similar
argument about women’s cooperatives in Uganda; that because most women are ‘involved in
non-industrial products like handicrafts and farming they are unable to fetch high prices on
income hence not able to invest and develop’.¹⁹⁸ Apparently, most landowners can dictate to
these women what kind of crops should be cultivated on their land. Therefore, the issue of
women’s access to land is more traditional than legal. The ‘violation of customary laws
where clan (mainly men since Uganda has a patriarchal society) authorities who have the
power to enforce rules governing customary tenure fail in their duties to protect women and
children’.¹⁹⁹ In the advent of land reforms²⁰⁰, many years of sensitisation and the fight for

¹⁹⁷ ibid (n 7) p.15
¹⁹⁸ Restie Jolly Katusiime, Problems faced by Women’s Cooperatives in Uganda (Linda Mayoux ed, 1st edn,
Institute for African Alternatives 1989) p. 72
¹⁹⁹ Focus on Africa Brief; Uganda, ‘Women and Customary Land Rights’ (Land and Natural Resource Tenure in
accessed 23 December 2016.
²⁰⁰ Note
CEDAW acknowledged there has been legislative reforms that have been undertaken and the adoption of a wide
range of legislative measures. Specific reference is made to: a) The Land Act Amendment (2004) available at
http://www2.ohchr.org/english/bodies/cedaw/docs/co/CEDAW-C-UGA-CO-7.pdf
women’s right, it is still very difficult for the Ugandan woman to own land through inheritance. Women could find themselves in a situation where they ‘lose land probably because their husband may have mortgaged or sold it even though the Land Act of 1998 states obligatory that spousal consent must be sought before such actions are taken’. 201

Unfortunately most women are cohabitating with men they call their husbands, over 60% of women are reported not to be legally married in Uganda. In the case of divorce, the woman ends up losing everything as the law does not protect her because she is not legally married. A woman can only own land if she has the financial resources to acquire it. The issue of women accessibility to land does not end here as we will still see its essence in almost all the economic activities women partake in the paragraphs to follow.

4.4 Challenges of Female Entrepreneurs in Uganda

Most women do not have enough resources to start their own businesses. Access to loans from the banks is extremely difficult as most of these women do not have collaterals requested by these banks to get the loans. Even some women who are married have their assets and properties registered in the names of their husbands because of societal norms and cultural practices. The man must give his consent before assets such as cars; house etc. can be used as collaterals for loans while the man can freely use these properties for loans without consent from the woman. When these loans are obtained, the men end up having the upper hand as to how or what the money should be used for, limiting the woman’s capability of utilizing the loan to start or grow her business as planned. This discourages most of them from going for these loans and therefore, they make very little investments in their businesses hence low output. There was a commendable move by the government of Uganda in introducing an interest-free credit program where women could go for loans. Regrettably,

201 ibid (n 4) p.201
most of them are unable to access the system, as the ‘facility is designed for groups of 10 and above to be able to access it’.\(^{202}\) This is not appropriate as it is very difficult to go around and about looking for people with similar interest as yours to go for such loans. It has led to the springing up of many female groups and once you do not belong to any of these groups which are mainly concentrated in the capital city you are left out. Women in rural areas who need this credit program the most are faced with the challenge of having to go through several procedures to be able to access the credit. These people must travel every day to the city as Uganda is not properly decentralised. By the time they are done with the procedures they are told the funds have run out. So, before those at the grassroots could benefit from these credit facilities it has dried out leaving the rural folks poorer and more frustrated.

Furthermore, female entrepreneurs face the problem of making resources available for regulatory and legal fees, tax, certificates and license fees. Besides the challenge of resources, some are unaware of the regulations and procedures of registering their businesses, the acquisition of certificates and licenses which make their operations legal to open them up to the bigger market. This exposes them to scammers who pose as officials from these institutions and dupe them of heavy sums of money. The sad bit is that they still end in the hands of the law as they are found guilty of not satisfying all requirements for the establishment of their businesses.

There is also the issue of education where some of the female entrepreneurs in Uganda are illiterates; this disenfranchises them. They get intimidated in the regulatory environment and would prefer to run small scale businesses rather than go into commercial businesses that involve so many regulatory procedures. For instance, a research conducted showed that

\(^{202}\)STEP-BY-STEP GUIDE FOR ACCESSING FUNDS UNDER UWEP (UGANDA WOMEN ENTREPRENEURSHIP PROGRAMME (UWEP), 2016)

women could have free access to trade across the Ugandan and Rwandan borders if their products of trade were less than a certain amount, this was put on a billboard on the Ugandan border. But because most of these women could not read the official language of their country, they resorted to using illegal routes. The illegal routes endanger their lives and goods; most goods get stolen and the women are attacked or raped sometimes. But when later this information was given to them they now started trading across the border successfully because most of the goods they traded fell under the requirements.

4.5 Challenges of Female Employees in Uganda

The challenges of female employees at work cannot be ignored; it is an area worth looking at if we want the holistic empowerment of women economically. Most women encounter sexual harassment, low wage and are undermined at their places of work. Some pregnant women face the challenge of losing their jobs if they do not return to work per the specified dates that are given by their employers. As earlier on stated this is a fallout from the ILO giving countries the authority to set such days for their country and the fact that Uganda has not even ratified the maternity convention. Employers then get the room to twist these laws to their favour as some of these employment policies do not favour women. There’s also the situation where most employers prefer male to female employees for the fear of their absence from work due to pregnancy or household contingencies which according to their society is the sole responsibility of the woman. Most of these women could be sacked because of the issues mentioned above. The unfortunate thing is that most of them start their jobs without contracts. This makes it very difficult for legal actions to be taken against such employers for the injustices meted out to them. Even though the low wage issue cuts across gender because Uganda does not have an official minimum wage, women end up being the most exploited. For instance, in the semi-skilled and unskilled sectors, such as domestic work, agriculture,
mining, quarry etc. women still earn the least in these sectors. Such acts are mostly perpetuated by foreign investors as they know there are no legal provisions for them to be brought to book.

4.6 Challenges of both Female Entrepreneurs and Employees in Uganda

There is the challenge of mobility for both female entrepreneurs and employees, to the extent that they are not flexible with economic prospects. Women are burdened with the management of their households; a situation known as ‘unpaid labour’. Joan Vanek inscribed that, ‘the view that American women spend less time in housework than their forbears because of the introduction of labour saving appliances is not entirely true’. 203 This is the same for women across the globe as they still spend lots of time doing housework. Some women are unable to work because they are occupied with household labour, “…not only did women work harder than men, but they contributed more to the well-being of the family”. 204 This obligation limits their freedom of movement in the labour market. For example, a woman would rather stay with her husband and family as most customs demand than to travel or relocate to access job opportunities. Most female entrepreneurs in Uganda go into business just to cater for social obligations; they reap their profits to take care of the family and hardly will reinvest such monies to expand their small-scale businesses. One Joyce Laker said, “to develop a country starts from a household and a household that earns every day is a developed country”, 205 it is, therefore, necessary for every woman to work to be able to contribute to the nation by extension.

Last and most dangerous of these challenges is the poverty mentality of most of these women. This can be linked with their socialisation that it is the man who ought to be rich to

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205 Vera Hayibor, Interview with Santa Joyce Laker, 'Challenges of Female Entrepreneurs in Uganda' (2016).
be able to cater for their needs and that of their children. Even female entrepreneurs who own small-scale businesses do not see themselves as entrepreneurs at all; they only see their businesses as a means of survival. The danger in this is that the businesses are not manned well; as they are unable to separate savings, expenses, and profits. The result is the collapse of these subsistence businesses. But if they come to accept that they are entrepreneurs and can also acquire or make money they will invest more into these businesses and make lots of profits. Unfortunately, some have come to accept the myth that African women are meant to remain poor, and until this line of thought is changed most African women will remain poor and the achievement of the SDG 1 will be far from being realised.

4.7 Conclusion

The economic rights of women in Uganda could not have been discussed without looking at the impact of inheritance law (such as marriage and divorce rights, land rights and property rights) as it has immense influence on the daily economic activities of the average woman in Uganda. The inheritance laws as discussed are very discriminatory towards the very women it was meant to protect; even bills that were formed to correct the injustices in these laws are still pending because it met opposition by members of parliament made up of mostly men. We saw how most women were in illegalised marriages they are unaware of, how difficult it is for a woman to own property especially land as they most common means they can own it is to buy it with the resources they almost do not have.

The chapter also discussed the impact of other factors that influence the economic rights of women aside laws (social, economic and traditional culture); interestingly all these factors intertwine even with the law to affect the economic rights of women in Uganda. This chapter saw the challenges there were for a woman who want to engage in any economic activity
whether to be an entrepreneur or a worker for someone else. The challenge of capitals, legalities involved, the battle of illiteracy, sexual harassments, low wage, discriminations, flexibilities of labour, poverty mentality and many more that could not be captured in this paper. All these challenges properly examined could be traced to traditional culture as is it is the very basis and source for law formulation in most countries and cannot be mutually exclusive of these laws.
CHAPTER 5

OBSERVATIONS, CONCLUSIONS AND RECOMMENDATIONS

5.1 Observations

The researcher found that Uganda is a Least developing country as it has suffered a great deal from political instability, war and diseases. In addition to this is the challenge of insufficient legislation, ineffective implementation mechanisms and some archaic cultural practices which has had an impact on the economic performance of the country. Also, the average Ugandan lives in poverty and there are still quite a number who live in abject poverty especially those in the northern part of the country.\(^{206}\) Even though both genders experience economic hardship, evidence has shown that extreme poverty is prevalent among women as most of their economic rights are insecure and infringed upon. From the previous discussion, it is palpable that the influence of International Labour Law in Ugandan jurisdiction is infinitesimal, hence the negative economic impact on women. However, the suggested recommendations below when considered and executed would help improve and secure the economic activities of women towards the achievement of the SDG 1.

5.2 Recommendations on International and National laws

Firstly, focus is placed on women’s empowerment in the achievement of the SDG 1 in LDC because generally, many of the female population are economically the poorest in the world. Meanwhile, when it comes to working they are the most devoted to work and catering for the family thus the nation at large. This is not to say that there is no poverty in developing and

developed countries, but because of their efficient laws, governmental policies and implementation mechanisms, it is minimised. To achieve the SDG 1.2 and 1.4, Uganda must review its labour laws and tailor them to suit international standards taking into consideration the economic needs of its citizens, and the UN must resort to the holistic empowerment of women especially in LDCs like Uganda. It is only then that the issue of poverty will be addressed adequately across the world by 2030 as projected by the UN. For, a woman, economically empowered, is two or three more people empowered.

Secondly, international bodies in their own capacities have tried to secure the rights of women through International Laws, however, some of these laws have deficiencies particularly in their implementation procedures. As seen, Uganda has ratified some of the ILO conventions and CEDAW; the two major bodies that have an interest in the economic rights and general rights of women respectively. But the challenge is that the ILO has allowed the Nation States to make certain critical decisions relevant to the implementation of the conventions. In as much as this could be a good thing, it has a negative impact, as most Nation States tend to twist laws to suit their own interests instead of that of the worker. Unfortunately, in Uganda, there is no official ILO office; it is the Dar es Salaam office which takes care of Uganda, Kenya, Tanzania and Rwanda. There are only a few projects operating in Uganda, this means the influence of the ILO is minimal. For a greater impact, the ILO must be officially present in such countries that need them the most. The ILO must be officially present in countries that are most challenged when it comes to the implementation of their conventions and put more resources into the achievement of the objectives of these conventions. It should also take into consideration specific challenges peculiar to Uganda and provide the necessary assistance to resolve such challenges.
As Uganda has also not ratified most of the conventions that protects and improves the economic lives of its people especially women and are unable to implement those they have ratified; they would have to ratify and write reports to the bodies in the ILO for any form of assistance to implement those conventions. The ‘authorised body in Uganda which monitors the government’s compliance with international conventions is the UHRC, but it has not been able to perform this function to the maximum’.  

This is because of challenges such as the “restriction on freedom of assembly and expression, donor influence on the human rights organisations, lack of capacity and skills, lack of human rights defenders’ protection, high staff turnover in the organisation, legal restrictions and limited or lack of funds”. The government must endeavour to work hand in hand with the UHRC to overcome these challenges so it can perform its duties in securing the rights of citizens.

Thirdly, in respect to CEDAW, Ministry for Gender, Labour and Social Development lacks adequate funds to carry out all the programmes and projects meant to promote the rights of women as the Ministry is faced with the challenge of resources and must depend on donor agencies to fund its activities. A publication on journalism in Uganda remarked thus “Journalism in Uganda tackles many different topics, but coverage of violations of CEDAW is lacking”. The successful implementation of CEDAW in Uganda will mean that the government would have to increase the budget of the ministries and agencies that promote the rights of women. The ‘influences of journalism in sensitising the populace on international and domestic legislation, that protect women from discrimination cannot be


208 ibid

underestimated’. Therefore, ‘the media should be equipped to report and create the awareness on gender issues and the challenges women face within communities’. 

Most of the domestic laws in Uganda such as the Mohammedan Act, Penal Code Act, Succession Act, and Divorce Act etc. are archaic and restrict the rights of women. It is undeniable that most of the constitutionality of some of these laws have been challenged in various cases like “Uganda Association of Women Lawyers and Others v Attorney General” and Law Advocacy for Women in Uganda v Attorney General. Most of the pending bills which promote the rights of women should be passed by parliament like the Muslim Personal Law Bills and the Marriage and Divorce Bill. The Employment Act should be reviewed to cover both skilled and unskilled workers to meet the standard of the ILO provisions so that domestic workers can be regulated as most women fall under this working category. The Employment Act should also be reformed to put obligations on employers to employ a certain quota of qualified females in their organisation to curtail the high unemployment levels among women. Finally, most of the domestic laws must be revised; the Minimum Wage must be set for all sectors to meet the present needs of citizens. As culture is dynamic, traditional cultures that do not allow the girl child to inherit land should be forced through customary laws to change this position; for if ‘you give a woman land she would feed a nation’. As these laws are in the process of reformation the court system should also be made more accessible to women; since the ‘LC Courts and Lower Magistrate Courts which are mostly accessed by women are fading out’. The MGSLD must intensify its gender sensitisation towards the mainstreaming of gender issues in the judiciary.

210 ibid
211 ibid
212 Uganda Association of Women Lawyers and Others v Attorney General available at http://www.ulii.org/node/15805
214 ibid (n 10)
5.3 Recommendations on Governmental Policies

The government must address the grassroots causes of female discrimination. Most of the policies/legal deficiencies can be linked to the fact that even at decision-making levels in governance there’s little female representation. A report by the Women Democracy Group (WDG) noted that “…out of 1,306 candidates contesting for the open Member of Parliament seats, only 83 (6.8%) are women…”. The Ugandan society is patriarchal making it very difficult for women to occupy leadership positions. In the advent of civilisation and advocacy of the rights of women, most of these systems are changing but at a very slow pace. Thus, most women do not even have the self-esteem, never mind the resources and support from society, to even stand for such leadership positions. Therefore, most of the decisions especially on legislation pertaining to women lack the inputs of the women themselves. How then can these legislations and policies be efficient and sufficient to cater for the holistic empowerment of the female worker/entrepreneur? Deliberate efforts must be made by the government to mainstream women into Governance. This can be done by introducing a quota system where a percentage of qualified women will be given ministerial appointments, directors on boards etc. thus giving them the necessary support to represent their kind in all sectors. It should also have gender sensitive budgeting which is more realistic to the empowerment of women to a required standard.

There is also the challenge of decentralisation as most of the state institutions and organisations that help in the protection of women’s rights are concentrated in the capital.

city, Kampala. There must be proper decentralisation by the government so that the masses in the rural areas can have access to such institutions.

5.4 Recommendations on Socio-Economic and Cultural Challenges

There may be Legal and policy deficiencies, but one will realise that the economic and socio-cultural challenges cannot be ignored as they play a significant role in the economic lives of women in Uganda. This includes but not limited to inefficient capital and inaccessibility of loans and credit facilities, sacrifices of unpaid labour in households and immobility of women for job opportunities across the globe, injustices and discrimination faced by women at the workplace, challenge of property rights and lack of access to land as an asset to other economic activities and inaccessibility of the justice system. Government should come up with specific policies towards women. For example, the issue of the interest-free loans restricted to groups of 10 and above; what then happens to individuals who also want to invest in their own businesses? What should be done is the creation of an efficient monitoring system and technical assistance given to those who take the loans so that the investments made in their businesses would yield results. There should be programmes on literacy, business and marketing for female entrepreneurs and economic empowerment programs depending on what they can do; capacity building, networking and sources for the women to lift information from.

The medium for announcing these programs should be favourable since most women are unaware of these programmes even their rights due to illiteracy and/or lack of information. There should be enough sensitization and education on the rights of women and the mechanism for such sensitisation should be localised. The medium should be through the local languages and there should be interactions between the appropriate organisation or
institutions with the grass root people and not just some selected beneficiaries who do not even know the situation on the grounds to represent the interest of these rural folks.

There are lots of female organisations as well as NGO’s in Uganda who have put in lots of efforts to fight for the rights of women. The challenge with these female organisations is funding and access to government machinery for information and support. The issue with the NGO’s is sustainability and favourable environment for operation. Women groups must strengthen their collaborations with the government to get the necessary information needed for women empowerment. They must also be strategic in their advocacy on the implementation of a national legal framework that protects women. The NGO’s must be self-sufficient so that they can finish programmes and projects that they start with these women and not leave them half way into such projects.

There is potential in women in Developing and Least Developed Countries to grow their country because they are devoted to working and taking care of the family. Therefore, the issue may not necessarily be that women do not earn or do not have access to resources as much as men do, but for the fact that there is higher dependency ratio on them than the resources available therefore it tends not to be enough.
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Images/ Videos

Uganda in Pictures 1 -13 (Photographs by Hayibor, Vera, August-September 2016)

Appendix 1

Uganda in Pictures\(^{216}\)

1. Lake Victoria

2. Fort Portal Crater Lake

\(^{216}\) Uganda in Pictures 1-6, Vera Hayibor (August-September 2016)
3. Source of River Nile

4. Sezibwa Falls
5. Tea Plantation

6. Some Local dishes (Matooke, Chapati, Pilau)
7. Queen Elizabeth National Park

a. Lion

b. Buffalo

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ibid (n 216)
c. Elephant

d. Antelope
e. Bird Nest (Kazinga Cannal)

f. Hippopotamus (Kazinga Cannal)
g. Different Bird Species (Kazinga Cannal)

h. Monkeys (By the road to Queen Elizabeth National Park)
Some Notable places

8. Entebbe International Airport

9. Makere University

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218 ibid (n 216)
10. Acacia Mall

11. Mandela National Stadium
13. Female Traders along Mbarara road

12. A Traditional Marriage Ceremony

13. A Traditional Ugandan dance

219 ibid (n 216)
220 ibid