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**The views expressed in this paper are those of the author and  
do not necessarily reflect the views of  
the Commission on Legal Empowerment of the Poor**

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### **List of acronyms**

AGOA	Africa Growth Opportunity Act
CBOs	Community Based Organisations
COFTU	Central Organization of Free Trade Unions
GOU	Government of Uganda
ILI	International Law Institute
ILO	International Labour Organization
ICLS	International Conference on Labour Statisticians
MGL&SD	Ministry of Gender Labour and Social Development
MSEs	Micro and Small Enterprises
NGOs	Non Government Organisation
NOTU	National Organisation of Trade Unions
NSSF	National Social Security Fund
PEAP	Poverty Eradication Action Plan
PLA	Platform for Labour Action
PRSP	Poverty Reduction Strategy Paper
SDIP	Social Sector Development Investment Plan
UBOS	Uganda Bureau of Statistics
WIEGO	Women in Informal Employment: Globalizing and Organizing

## **Executive Summary**

This paper<sup>1</sup> takes into consideration the mandate of the Commission on Legal Empowerment of the Poor (Legal Empowerment) and makes an assessment of the decent work agenda in Uganda to identify the current work deficits and the progress made to address these deficits in Uganda. This assessment is used to inform recommendations on how a decent work agenda can be advanced, both within the informal and formal economies while addressing the costs of working informally, or “decent work deficits.” It explores how workers within the informal economies can be equally protected by legislation in Uganda without impeding economic growth and business competitiveness.

This paper has been arrived at based on secondary sources of data mainly through a desk review of the existing literature on the subject and the experiences of the author. It is divided into four sections. In section one is an introduction which also gives a brief description of employment and poverty in Uganda and defines key concepts used in the paper. Section two discusses the decent work deficits in Uganda, mainly; unemployment and underemployment, lack of social protection, child labour, lack of respect of labour rights and gender inequalities. Section three discusses the progress made by the Government of Uganda to address the deficit and section four proffers recommendations and has the conclusion.

For clarity, the following key concepts are defined; formal economy, informal economy, decent work, decent work deficits and social protection.

Uganda’s income poverty figures stood at 38% in 2003 with 42% and 12% among the rural and urban dwellers respectively. In Uganda, the majority of the poor are those in agriculture and mainly those solely engaged in crop production. Pastoralists, fishermen and their families as well as estate workers, trade and hotel sectors have also been highlighted as poor occupational groups. The unemployment rate for the country is estimated at 3.2% (346,000) and it is higher in urban areas than in rural, and amongst women compared to men. The rate of underemployment is widespread in Uganda affecting 65% of employed persons and the visible underemployment is estimated at 15% and is highest amongst youth.

Uganda does not have a social protection policy and the current formal social security arrangements do not cater for the informal sector. Overall, social security arrangements are inadequate in meeting the domestic capital formation and social insurance needs of Uganda because of its limited scope. Some categories of workers such as low paid and migrant workers are often exposed to harsh conditions, lack personal security, live in unsanitary conditions and, women in particular, are vulnerable to sexual harassment. Informal sector workers, low paid workers, the urban unemployed, plantation workers are some of the vulnerable groups in Uganda and their vulnerability arises mainly out of poverty. The fact that a good number of these workers are also paid in cash with very minimal wages render it difficult for them to have formal social security arrangements.

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Child labourers are another of the main vulnerable groups in Uganda. It is estimated that 2.7 million children are working in Uganda of whom 54% are aged 10-14 years, primary school-going ages, and 20% in every five working children have no education. With regard to working children, 18% were in plantations and more than 50% worked as child domestic workers.

Although Uganda has ratified a number of United Nations human rights instruments and ILO Conventions on the rights of workers and its Constitution also provides for a comprehensive range of human rights as required under the different conventions, workers rights are not yet fulfilled / respected. The absence of a minimum wage has also led to exploitation of workers.

A number of policies are in place such as the Poverty Eradication Action Plan, Social Sector Development Investment Plan, Gender policy and National Plan of Action on Women as well as the National Policy on HIV/AIDS and the World of Work all of which prescribe principles and guidelines to address work deficits. However, their impact has not been visible on the lives of workers.

The paper demonstrates that although efforts have been put in place to address decent work deficits on the one hand, on the other they have remained and thus the need for further action. To inform the next steps the following recommendations are proposed:

**Defining and profiling the informal sector in Uganda.** This is necessary because the definition of the informal sector varies. In order to have relevant policies to address the needs of workers in the informal economy there is need for clarity on the definition of the informal economy in the Ugandan context. This is critical to ensure that the policies promulgated are inclusive of all workers both in the formal and informal economy. It is also essential that the different sub-sectors are mapped because they may require different interventions.

**Elimination of child labour should be achieved through legislation and enforcement, awareness raising and education.** Although the Government has made some progress on the issue there is an urgent need to ensure enforcement of legislation, strengthening community monitoring mechanisms and policy implementation monitoring. The Secretaries of Children at the Local Council Village level should be facilitated to monitor at the village level and to ensure that children are not engaged in child labour. The critical role that Faith Based Organisations, NGOs and CBOs can also play in this process should also be defined and implemented.

The provisions on child labour are scattered in the Constitution, the Children's Act, the Employment Act and the related Labour Unions Act and Labour Disputes Act, respectively. This has led to inconsistencies and there is need for harmonisation, amendment and enactment of legislation.

The importance of awareness raising on the issue of child labour among the public cannot be underestimated for purposes of economic growth, development of skills and basic knowledge and most importantly, to improve the child's living condition in the future. A national and massive awareness campaign on child labour should be launched where parents are reminded of their obligations to take children to school, teachers to offer quality education and the Government to ensure that Universal Primary and Secondary Education absorbs all children. Education cannot be separated from the elimination of child labour. Programmes should be put into place to ensure that children acquire basic education while, at the same time, their parents/guardians have a source of income. The Universal Primary and Secondary Education should have a specific strategy for incorporating children withdrawn from the worst forms of child labour.

Fixing of Minimum Wages under the Statutory Machinery provided under the Minimum Wages Advisory and Wages Councils Act is an important and necessary safeguard for all unskilled workers especially those who may not be covered by collective bargaining. There are proponents and opponents of minimum wages worldwide. However, decent work does not permit exploitation of workers and there is a need to have a minimum wage in Uganda.

In order to promote employment, it is noted that although unemployment rates appear to be low, in a number of instances national statistics are understated. It is important for Uganda to comprehensively address the issue of unemployment. It is recommended that Government and urban local governments should provide adequate land for the location of enterprises and markets and enough space for the operations of the informal sector including urban street vendors, hawkers and small scale informal industries. The restrictive urban regulations should also be amended to remove repressive policies and stop irrational harassment; develop basic infrastructure specifically for the benefit of informal enterprises; as well as promote improved access to appropriate or better technology. Enhancement of technical and management skills through training programmes designed for specific types of informal operations and improving access to markets, including at the international level is essential.

Allowing and promoting urban agriculture in the city, municipality and towns can also create employment; even in crowded areas, people can often find space to grow vegetables or raise animals to supplement the food they buy. Urban and peri-urban agriculture can supplement those on non-living wages to sustain themselves and the social networks.

Establishment of macro-economic policies that encourage growth, job creation and labour policies that do not discriminate against the urban and rural poor such housing and urban infrastructure development, home based industries should be promoted. The policy should lay strategies for allocation of public expenditure to promote women's economic opportunities especially access to productive resources such as Uganda's land fund and gender sensitive budgeting. Local savings should also be mobilised to generate capital for mortgage financing. The reforms in the social security sector are envisaged to contribute to this and thus the recommendations in the report of the Social Security Transitions Stake holder group should be implemented.

Good governance also ensures that all persons with qualifications and skills have access to employment. Good governance assumes that corruption will be minimized, the views of the poor will be taken into account and the voices of the vulnerable heard in the process of decision-making. Good governance should also ensure that adequate resources are committed to employment creation and that employment opportunities are availed to all without discrimination for both skilled and unskilled.

**Enforcement, education and recognition of labour rights are also recommended.** Uganda's labour laws promote the rights of workers. However, the level of enforcement of, and adherence to, these laws is in limbo. Work deficits can be reduced when the labour laws are adhered to by both the employers and employees and this includes ensuring that labour disputes are fairly heard. The commercial justice system is deemed by many especially within the informal sector as being expensive, slow and corrupt. Labour rights can also be recognized when workers are sensitized on their rights at work. This can be done through civic education using the structures of labour unions and NGOs. The Labour Disputes (Arbitration and Settlement) law is an opportunity for the labour officers to resolve disputes nearer the people. They, however, lack facilities and resources to carry out their work. The Government should allocate resources for labour dispute resolution. The Industrial court should be facilitated to develop regulations and a chief judge be appointed to preside over the court to enable the law to be functional.

## 1.0 Introduction

*‘The Commission on Legal Empowerment of the Poor (Legal Empowerment) seeks to explore how nations can reduce poverty through reforms that expand access to legal protection and economic opportunities for all’. It is based on the conviction that poverty can only be eradicated when government gives all citizens especially the poor a stake in the economy and hence access to user and property rights as well as other legal protections<sup>1</sup>.*

Taking into consideration the mandate of Legal Empowerment, this paper makes an assessment of the decent work agenda in Uganda so as to identify the current work deficits and the progress that has been made to address these deficits in Uganda. This is used to inform recommendations on how a decent work agenda can be advanced, both within the informal and formal economies while addressing the costs of working informally, or “decent work deficits.” It explores how workers within the informal economies can be equally protected by legislation in Uganda without impeding economic growth and business competitiveness.

This paper was researched using secondary sources of data mainly through a desk review of the existing literature on the subject and the experiences of the author. It is divided into four sections. Section one is the introduction which also gives a brief description of employment and poverty in Uganda and defines key concepts used in the paper. Section two discusses the decent work deficits in Uganda which are mainly unemployment and underemployment, lack of social protection, child labour, lack of respect of labour rights and gender inequalities. Section three focuses on the progress made by the Government of Uganda to address the deficit and section four proffers recommendations and has the conclusion.

For clarity, the following key concepts are defined; formal economy, informal economy, decent work, decent work deficits and social protection.

### **Formal and informal economy**

The formal economy refers to the official economy, as recognized by the government and based on paid employment. Work in this economy is recorded in official statistics.<sup>2</sup> It comprises of regulated enterprises (operating out of factories and/or offices) and of regular, stable and protected employment.

On the other hand, the term **informal economy** has varied in contemporary debates and it is used interchangeably with the ‘informal sector’. The term “informal sector” was first highlighted in the International Labour Organisation (ILO) documents in 1972 to describe the employment of the working poor in Kenya, which was outside the scope of regulation and protection.<sup>3</sup> Since then the definition has evolved over time and, in 1993, the International Conference of Labour Statisticians (ICLS) adopted an international statistical definition of the ‘informal sector’ **‘to refer to employment and production that takes place in small and/or unregistered enterprises.’** In 1997 an International Expert Group on Informal Sector Statistics (Delhi Group) came up with a harmonised definition that defined the informal sector to include **‘private unincorporated enterprises (excluding quasi-corporations), which produce at least some of their goods and services for sale or barter, have less than five paid employees, are not registered, and are engaged in non-agricultural activities (including professional or technical activities).’<sup>4</sup>**

The above definitions excluded a number of sub-sectors and the ILO came up with a broadened definition of what constituted informal employment; i.e. ***'households and those workers in the formal sector, but who operate outside the scope of the regulations and legislation in this sector'***<sup>5</sup>. In 2003, the ICLS again broadened the definition to include certain types of informal wage employment outside informal enterprises: this larger concept is referred to as informal employment.

The above has led to the emergence of three schools of thought as to what exactly comprises the informal economy; the dualist school, structuralist school and the legalist school.

The ***dualist school***, advanced by the ILO in the 1970s, subscribes to the notion that the informal sector is comprised of marginal activities – distinct from and not related to the formal sector – that provide income for the poor and a safety net in times of crisis<sup>6</sup>. According to this school, the persistence of informal activities is largely due to the fact that not enough modern job opportunities have been created to absorb surplus labour, due to a slow rate of economic growth and/or to a faster rate of population growth. The ***structuralist school***, popularized in the late 1970s and 1980s, subscribes to the notion that the informal sector should be seen as subordinated economic units (micro firms) and workers that serve to reduce input and labour costs and, thereby, increase the competitiveness of large capitalist firms. In contrast to the dualist model, different modes and forms of production are seen not only to co-exist but also to be inextricably connected and interdependent. Accordingly, the nature of capitalist development (rather than a lack of growth) accounts for the persistence and growth of informal production relationships.<sup>7</sup> On the other hand the ***legalist school***, advocated for in the 1980s and 1990s, subscribes to the notion that the informal sector is comprised of micro entrepreneurs who choose to operate informally in order to avoid the costs, time and effort of formal registration. According to economist, Hernando de Soto, micro entrepreneurs will continue to produce informally so long as government procedures are cumbersome and costly. In this view, unreasonable government rules and regulations are stifling private enterprise.<sup>8</sup>

In recent years, a group of informed activists and researchers, including members of the Global Research Policy Network and Women in Informal Employment Globalizing and Organizing (WIEGO) have worked with the ILO to broaden the concept and definition of the 'informal sector' to incorporate certain types of informal employment that were not included in the earlier concept and definition. They seek to include the whole of informality, as it is manifested in industrialized, transitional and developing economies and the real world dynamics in labour markets today, particularly the employment arrangements of the working poor. The idea is to extend the focus from enterprises that are not legally regulated to employment relationships that are not legally regulated or protected. It therefore focuses on the nature of employment in addition to the characteristics of enterprises. The informal economy is seen to comprise of all forms of 'informal employment' that is, employment without formal contracts (i.e., covered by labour legislation), worker benefits or social protection – both inside and outside informal enterprises. These include self-employment in informal enterprises; workers in small unregistered or unincorporated enterprises; own account operators; unpaid family workers; wage employment in informal jobs; and workers without formal contracts, worker benefits or social protection for formal or informal firms, for households or with no fixed employer. These include employees of informal enterprises and other informal wage workers such as: casual or day labourers; domestic workers; unregistered or undeclared workers; temporary or part-time workers; and industrial outworkers (also called home workers).<sup>9</sup>

The informal sector in Uganda dates back to the 1970s, gaining more visibility in the 1980s and consolidating in the 1990s. Many factors have contributed to this development, including the economic crises of the 1970s and 1980s resulting from the expulsion of enterprising Indians, the collapse of the formal economy, political instability<sup>10</sup>, retrenchment, downsizing the public service workforce, lay-offs in public sector organizations, demobilization of servicemen, the increasing number of school drop-outs, on-going rural-urban migration, the increasing entry of women and children to the sector, frozen vacant positions in the public sector,<sup>11</sup> and the automatic entry of illiterate people into the sector<sup>12</sup>.

Attempts to define the informal economy have adopted the narrow definition of Micro and Small Enterprises (MSEs). The Micro Enterprises are said to employ less than five people while Small Enterprises employ between 5-20 people<sup>13</sup>. The Labour force survey defined the informal sector as businesses undertaken by households with or without fixed location<sup>14</sup>. This definition however could easily exclude some of the sole proprietorships and informal partnerships that make up the majority of the self-employed in Uganda. Studies in Uganda have classified the informal sector into the following sub-sectors:

**Food sellers:** those selling raw, cooked, semi or fully processed foods;

**Non food sellers:** those selling commodities such as cloths, soap, paraffin, matches, crockery, bags, books, pens, whether in shops or as mobile hawkers;

**Service providers:** Tailors, touts, barbers, porters, taxi operators and motorcyclists ferrying people;

**Soft manufacturers:** bicycle and garage repair shops, craftsmen, and weavers, those involved in making pots, light carpentry; and

**Hard manufacturers:** hardware welders, those making gates, coffins, furniture and other metal work.<sup>15</sup>

The informal sector has also been defined as that traditional economy which is dynamic and evolves.<sup>16</sup> The informal sector is estimated to be growing at an annual rate of 25%.<sup>17</sup> It employs about 20% of the working-age population, and approximately 60% of those engaged in it depend on their business for at least half of their income. There are about 800,000 informal sector enterprises in Uganda providing opportunities to an estimated 1.5 million people. This amounts to about 90% of the total of non-farm workers.

As demonstrated above, the definitions of the informal economy vary depending on national and local contexts and there is a need for Uganda to define the composition of its informal economy. Uganda's draft employment policy describes the informal sector in terms of its characteristics as that which employs less than five persons, is mostly family owned, has low investment, utilizes low technology, is labour intensive and where operating skills are acquired on the job through apprenticeship schemes.

## Decent work and decent work deficits

The first expression and formal mention of 'decent work' was in the Director General's Report to the International Labour Conference in 1999, where it was referred to as '**productive work under conditions of freedom equity, security and dignity, in which rights are protected and adequate remuneration and social coverage are provided**'. Decent work is an overarching theme of the ILO's policy and must be understood in relation to the ILO's four strategic objectives of: the promotion of labour rights; employment; social protection for vulnerable situations; and social dialogue.<sup>18</sup> Other attributes to decent work include productive and secure work, respect of labour rights, provision for an adequate income, union freedom, collective bargaining and participation<sup>19</sup> balancing work and family, education for children, absence of child Labour, gender equality, ability to compete in the market place and ultimately human dignity<sup>20</sup>.

On the other hand decent work deficit refers to absence of sufficient employment opportunities, inadequate social protection, the denial of rights at work and shortcomings in social dialogue. It has been described as a measure of the gap between the world of work and the hopes that people have opportunities for a better life<sup>21</sup>.

## Social protection

A study to inform the development of a framework for social protection within the context of the Poverty Eradication Action Plan (PEAP) in Uganda defines social protection as all public and private initiatives that provide income or consumption transfers to the poor, protects the vulnerable against livelihood risks, and enhance the social status and rights of the marginalized groups.<sup>22</sup>

## 1.2 Employment and poverty in Uganda

*'Most of the poor live in the informal economy, and work in small informal businesses and there are correlations between poverty and informality'*<sup>23</sup>.

Uganda's income poverty figures stood at 38% in 2003 with 42% and 12% among the rural and urban dwellers respectively.<sup>24</sup> The majority of the poor are those in agriculture and mainly those solely engaged in crop production. Pastoralists, fishermen and their families and estate workers, trade and hotel sectors have also been highlighted as poor occupational groups.<sup>25</sup> The status of poverty and employment in Uganda is summarized in table 1 below.

**Table 1: Employment and poverty status.**<sup>26</sup>

Activity	Population 2002/3	Proportion under poverty 2002/03
Self employment in agriculture	57.7%	48.8%
Self employment outside agriculture	25.2%	20.6%
Government employment	4.8%	15.5%
Private employment	6.7%	21%
Not working	5.6%	39.4%

Poverty assessments carried out among the urban poor in Uganda indicated that poverty was characterized by: hunger and lack of food; escalating unemployment and poor wages for the employed; limited income, funds and capital; and limited access to, and shortage of, land. Lack of access to markets, low prices and exploitation, ignorance /lack of information, death of a family member/widowhood, high /unfair taxes and dues, poor health and diseases, lack of credit facilities, casual /poorly paid work and other factors linked to gender inequalities such as oppression of women and poor planning at the household level were the other causes of poverty in urban areas<sup>27</sup>. The vulnerability of the urban unemployed, low paid workers, informal sector workers, beggars and squatters are enhanced by poverty.<sup>28</sup> In rural areas poverty is marked with households in crop agriculture.<sup>29</sup> Self employment in agriculture accounts for 50% and non-agricultural enterprises provide an average share of 15%.<sup>30</sup>

The key policy strategy envisaged to transform Uganda into a modern economy by 2017 is PEAP, an equivalent to the Poverty Reduction Strategy Paper (PRSP). It is structured under five pillars namely: economic management, enhancing production, competitiveness and incomes; security, conflict resolution and disaster management, good governance, and human development.<sup>31</sup> Under Pillar two on enhancing production, competitiveness and incomes, agriculture which provides the majority of employment in Uganda is recognized as a critical sector for Uganda's growth. In addition, actions are to be taken to enhance productivity of workers and continued monitoring of working conditions as well as encouragement of labour intensive methods of work in the public sector.<sup>32</sup> The need for social protection for vulnerable groups, including street children, using community based approaches is highlighted as a key priority area. The Government also commits to meeting its pension obligations.<sup>33</sup> It further acknowledges that visible unemployment is highly prevalent in Uganda.<sup>34</sup>

## 2.0 Decent work deficits in Uganda

In Uganda work deficits are reflected in the rates of unemployment and underemployment; lack of adequate social protection; the prevalence of child labour; non-observance of workers rights; and gender related deficiencies as elaborated below.

### 2.1 Unemployment and under employment

The unemployment rate for the country is estimated at 3.2% (346,000) and it is higher in urban areas than in rural, and amongst women compared to men.<sup>35</sup> This figure reflects the economically active populations who were without work seven days before the interview and were willing to work and start work within a week of the labour force survey interview, and had not taken any steps to look for work or start some form of self employment in the four weeks prior to the interview. This is illustrated in Table 2.<sup>36</sup>

**Table 2: Unemployment status in Uganda<sup>37</sup>**

Region	Male	Female	Total
Kampala	10%	22.5%	16.5%
Central(Excluding Kampala)	2.5%	5.2%	3.9%
Eastern	2.1%	2.4%	2.3%
Northern	0.9%	1.1%	1.0
Western	2.2 %	1.9%	2.1%

The majority of the unemployed are in Kampala, the capital city of Uganda. The highest unemployment rate was among those with secondary education and above who formed 12.2% of the 346,000, followed by those whose educational level was below secondary at 2.3 %, and those without schooling at 1.8%. It is also noted that Uganda's PEAP indicates that open unemployment was rare.<sup>38</sup> However, these statistics may be underestimated because in upcoming towns a good number of the youth are unemployed and the labour force survey indeed indicates that the unemployment rates were observed in the age groups of 20-29 years. Further. A number of districts in Northern Uganda facing conflict were not captured. Amongst the youth the unemployment rate was higher at 5.3% and female youth had an even higher unemployment rate of 22%.<sup>39</sup>

Education is not only an important aspect and index for national development, it is also vital for achieving a good quality of life for people and contributes to several development areas including sustainable development.<sup>40</sup> Lack of basic education can lead to unemployment due to lack of adequate skills/requirements to work. Job creation without a labour force with the necessary skills to match does not solve the unemployment problem. A large proportion of the Ugandan labour force is unskilled. The importance of developing skills to follow a country's development plan can not be ignored<sup>41</sup>. Due to lack of education/skills, many people have opted to operate within the informal economy because they are unable to access formal employment. A study carried out in Lira in Northern Uganda revealed that 86% of the respondents were self employed and 57% worked alone. 61.3% resorted to activities in the informal sector such as food selling, non food sale, service provision like bicycle repair and soft manufacturing, because they could not find other work. 53% learnt their skills on the job, 29% from friends and family members and only 15.5% learnt their skills through formal education. The majority of respondents had dropped out of school at primary school (30%) and secondary school (33%) level.<sup>42</sup> This data confirms the link between education and the growth of the informal sector in Uganda. The levels of unemployment have also affected the negotiation and bargaining powers amongst workers.

Data on underemployment in Uganda is based on whether a person worked less than 40 hours in a week during the last seven days.<sup>43</sup> The rate of underemployment is widespread in Uganda affecting 65% of employed persons, the majority of whom (3/4) are in agriculture, 16 % in elementary occupation and service workers. It is also noted that 43% are paid employees, 62% unpaid family workers and 86% self employed<sup>44</sup>. The national visible underemployment is estimated at 15% and is also highest amongst youth.<sup>45</sup> Underemployment however is higher amongst men than women in rural areas and is almost the same in urban areas. It is evident that certain categories of the population, women and youth, particularly those engaged in the informal sector are highly vulnerable to unemployment and/or underemployment which results in low incomes and poverty<sup>46</sup>.

## **2.2 Lack of social protection**

Decent work is said to exist in relation to the objective of social protection when workers benefit from protection in the event of health contingencies, work related injuries, diseases and incapacity, as well as from old age and survivors pension. Working conditions, social protection and the health and safety situation of workers are precarious in most African countries, particularly in the rural and informal sectors. The increasingly widespread use of new technologies, chemicals and pesticides, and the rising levels of pollution and environmental degradation are resulting in risks which are all the more serious because workers concerned have inadequate information on them.

The concept of social protection involves providing and enhancing the economic and social welfare of the nationals of a country. It includes social insurance, social assistance and social equity. However, although the ILO has set standards of social protection through the ILO Social Security Convention, the current system in Uganda falls short of the set standards. Social security in Uganda like elsewhere in sub-Saharan Africa was designed to cater for the formal public and private sector employees. It was envisaged at the time, that it would evolve in order to be relevant and responsive to the changing social security needs of all citizens as well as to the domestic capital formation challenges of the economy.<sup>47</sup> Uganda has two main social security arrangements: one for private formal employment and the other for civil servants. The public and private sector systems of social security differ greatly both in kind and eventual benefits. The National Social Security Fund (NSSF) is a contributory funded provident fund that pays benefits in a lump sum and only covers employees of firms that have five or more employees in the private sector. In addition, the benefits available are also limited to old age, invalidity and survivor benefits. Many formal sector employees do not subscribe to NSSF. The benefits under the public service pension scheme cover severance package, gratuities, and monthly pension and survivors benefits. A heavy burden is also placed on the tax payers through the public service fund which is non-contributory and not funded but charged on the recurrent budget. The Government pension scheme has not been able to meet pensioner obligations on time and suffers from limited funding, problems with affordability and sustainability, coverage and arrears. To date the pension arrears stand at a 320 billion Uganda shillings liability and only 50 billion has been earmarked for the financial year 2006/2007.<sup>48</sup> In addition, a number of benefits prescribed by ILO are not catered for, namely; medical care, sickness, employment injury, unemployment, family benefit and maternity. Some in-house schemes are also not funded and are not separated from the employer. Other schemes are neither contributory nor funded. The taxation treatment is not uniform. The current system also suffers from excessive direct government control and lack of competition within the sector.

Uganda does not have a social protection policy although social development has been mainstreamed in the PEAP review process and a Social Sector Development Investment plan is in place. The economically vulnerable, chronically poor and marginalized do not have access to social security. There is little or no provision of social aid. This situation is exacerbated by the lack of an independent regulator of social security<sup>49</sup> and the lack of public knowledge on the right to social security.

The challenge of protecting workers in the informal sector from exploitation and unsafe work environments is recognized by the Government.<sup>50</sup> Although this sector accommodates many Ugandans, the labour standards regulating the sector are weak. In addition some categories of workers such as low paid and migrant workers are often exposed to harsh conditions, lack personal security, live in unsanitary conditions, and women are vulnerable to sexual harassment.<sup>51</sup> Informal sector workers, low paid workers, urban unemployed, plantation workers are some of the main vulnerable groups in Uganda and their vulnerability arises mainly out of poverty.<sup>52</sup> The fact that a good number of these workers are paid in cash<sup>53</sup> and earn very minimal wages renders it difficult for them to have formal social security arrangements.

The current formal social security arrangements do not cater for the informal sector which includes both the self employed and the small businesses with less than five employees. In Uganda, vulnerability has traditionally been mitigated by cultural community mechanism such as non-formal and kinship-based social security where the surviving family members automatically took over responsibility of orphans through the extended family structures. However, such systems are currently under threat<sup>54</sup>. The majority of the workers survive on voluntary assistance from relatives and well wishers during their old age, a mechanism which is not sustainable. Although there are informal mechanisms for social security among the some informal sector sub-groups, their impact and effectiveness has not been explored. Employers of small enterprises are also not in a position to meet the legal requirements of 10% contributions for their employees due to the limitation in capital bases and profit margins of these firms. Consequently they have not been eager to subscribe to formal systems of social security.

Overall, social security arrangements are inadequate in meeting the domestic capital formation and social insurance needs of Uganda because of its limited scope.

### **2.3 Child labour**

Child labourers are one of the main vulnerable groups in Uganda. It is estimated that 2.7 million children are working in Uganda, of whom 54% are aged 10-14 years – also primary school-going ages<sup>55</sup>. Indeed, one in every five working children (20%) has no education. From this percentage of working children, 18% were in plantations and more than 50% were child domestic workers<sup>56</sup>.

The major causes of child labour can be categorized into three; economic, social and political. The economic causes include poverty where children are forced to work to supplement the family income or to pay school fees. The existence of employment opportunities and child exploitation by local and international private employers also lead children to work. One of the social causes of child labour can be attributed to the HIV/AIDS pandemic which has left at least 2.1 million (16.4%) children as orphans which means that many homes are headed by children who are forced to look for means of sustenance. Other social causes include early marriage, unwanted pregnancies, rural-urban migration, family size and the breakdown of the extended family systems. The political causes include the inadequate enforcement of the law. Despite the fact that various laws have been enacted in Uganda to ensure the primacy of child's rights in even the worst circumstances, there is still a gap in the enforcement of the law against child labour. In addition, it is difficult to monitor such sectors such as agriculture and domestic work. Armed conflict is another factor, where children who have been victims of war, have fled fighting in the villages and, in order to fend for themselves, have taken up child labour activities.

### **2.4 Lack of respect and the promotion of workers rights**

Uganda ratified the ILO Right to Organize and Collective Bargaining Convention which provides for workers' rights to freedom of association and collective bargaining as well as workers' (unions) protection against anti-union discrimination.

Uganda's Constitution also provides for a comprehensive range of human rights as required under the different conventions. Despite these provisions in Uganda over the years, the right to freedom of association by workers has continuously been threatened. Some employers/enterprises have also not allowed social dialogue to prevail. This has occurred mainly in the hotel and the fishing industry as well as some garment industries as illustrated in some of the Newspaper reports.

In 2001, the Minister of Gender, Labour and Social Development at the time, Zoe Bakoko Bakoru, ***warned employers who did not recognize the trade union movement. She said that being in a trade union was a fundamental right guaranteed by Article 40 of the constitution and employers should not think that it is a mere privilege***.<sup>57</sup> Recent reports have confirmed that the labor situation had not improved. The Minister of Trade and Industry, Ms Janat Mukwaya, has also recently warned some unscrupulous employers who were blocking workers from organizing and forming trade unions. She specifically made reference to the hotel industry.<sup>58</sup> According to Mr. Lyeilmoi Ongaba, the Secretary General of the National Organisation of Trade Unions (NOTU), ***There is a lot of resistance from some employers who are refusing workers to form trade unions.*** According to him the worst hit sectors were building and construction, fisheries, beverages and telecommunication.<sup>59</sup>

Trade unions in Uganda have also tirelessly demanded that the Government fixes the minimum wage immediately to protect workers against exploitation by investors. According to newspaper reports, Dr. Sam Lyomoki, a workers' MP, said that current economic policies were reducing workers to "slavery and brutality," and that workers should be mobilized throughout the country to struggle against such policies.<sup>60</sup>

The current minimum wage established under the Act and stands at Shs. 60/= (US \$0.03) per month having been originally set at Shs. 6,000/= (US\$3.25) per month under S1 No. 38 of 1984 but subsequently reduced under the Currency Reform Statute 1987. This legal wage rate of Shs. 60/= has been in force for more than 20 years and has been overtaken by the prevailing economic realities and as a result workers' rights to adequate wages have been abused, and the exploitation of workers continues. A Minimum Wages Advisory Board established under the Act in 1995 found that the economy could support a minimum wage of between Shs. 80,000/= (US\$43) and Shs. 100,000/= (US\$55) per month at that time and accordingly recommended to the Government to establish a minimum wage of Shs. 75,000/= (US\$40) per month.

There are also many incidents of non-payment of wages, unlawful dismissal/termination and non-payment of terminal benefits. This is evidenced in the number of workers seeking legal aid from NGOs. In 2004 alone, for example, 246 clients sought legal support and representation from Platform for Labour Action (PLA) and in 2005, 640 sought legal aid to resolve labour related claims.<sup>61</sup> These abuses are common in many formal workplaces affecting, for example, teachers, security guards, flower farm workers and big enterprises such as fishing.

Uganda, similar to other countries, faces the 'representational gap' mainly due to casualisation of labour and shifts to contractual forms of employment. A study carried out amongst informal sector workers in Lira Municipality revealed that 81.5% of 200 respondents did not belong to a trade union or work related organization.<sup>62</sup>

In addition, the majority of workers are in the informal sector where only 14% of the working population is in paid employment and 90% in self employment as own-account workers and unpaid family workers<sup>63</sup>. Consequently, there is lack of organisation of workers in these sectors. This is aggravated by the fact that workers within the informal economy are not recognized and/or protected by legislation due to the nature of their work.

The extent of abuse of workers rights is illustrated by the following case study on the Tri-star Apparel Company that produced goods for export to the USA through the African Growth and Opportunity Act (AGOA) and as a result being exempt from paying taxes and tariffs on certain goods, including apparels. The case gained widespread publicity in Uganda:

***'Another tell-tale [sign] that Tri-star was hurtling to bust was its notorious labour relations record. Allegations of worker maltreatment lingered even after management said it would improve their conditions after the first workers strike on October 21, 2003 that resulted in the dismissal of hundreds.'*<sup>64</sup>,**

***'Instead, for the brief period the company existed, it was more known for it's mistreatment of workers than export clothes. Initially 1000 girls were recruited from across the country, trained and offered jobs but that number kept diminishing and by its closure about 350 were employed.'*<sup>65</sup>**

Interviews<sup>66</sup> with the workers who were laid off in Tri Star Apparel in 2003, are summarized below:

- *Poor working conditions:* These included standing for long hours without breaks, denial of sick leave and pass-approved and timed toilet breaks;
- *Abuse and sexual harassment:* Individual cases of physical and verbal abuse as well as sexual harassment by the Tri-star supervisors;
- *Long working hours:* The girls were forced to work for more than 10 hours a day without payment for overtime, and consideration of the negative health effects. They were often threatened with dismissal for failure to put in the extra hours and to meet the company's unrealistic targets;
- *Unlawful dismissals:* Prior to the unlawful termination of the 265 female workers, some other employees were subjected to unlawful summary dismissals, either because they fell sick at work, refused to submit to their supervisors' sexual advances, failed to work extra hours or meet unrealistic targets; and
- *Denial of the right to associate:* According to the workers, the actual lay off was sparked by the demand for the right to unionise. The women exercised their right to withdraw labour by not working and staying in the dormitory until their demands were met by the employers.

To date, the newspaper reports indicate that the company has closed down. ***'After limping for six years, the Tri-star Apparels plant in Bugolobi, popularly known as AGOA has finally wound up. The plant's management has suspended operations and sent workers home without any explanations'***<sup>67</sup>. However, an employee at the company, who took part in the Legal Empowerment/ILI-Uganda National consultation process, confirmed in November, 2006, that, contrary to general belief, the company was still in operation and supplying clothes locally.

The civil and political rights of workers have also not been adequately fulfilled. The survey carried out in Lira Municipality amongst 200 informal sector workers revealed that 38% of the respondents had partial knowledge on their civil and political rights and 36% did not have any idea of what participation in politics meant.<sup>68</sup> Only 45% had ever got involved in actual political activities.<sup>69</sup> This confirms the level of exclusion of these workers in governance.

It is important to note that though the Ugandan Labour Laws do not expressly provide for workers within the informal economy, both the Employment Act and the Occupational Safety and Health Act 9/2006, in defining workers/employees, do not differentiate between the formal or informal economy.

Under the Employment Act, an employee is defined as a person who enters into a written contract with the employer for a contract of service. Further, under the Occupational Safety and Health Act 9/2006, a worker is defined as a person who performs work regularly or temporarily for an employer and includes a public officer. By implication, all workers may be covered by the legislation.

The Occupational Safety and Health Act 9/2006 appears to be the only Act that protects workers within the informal economy as most workers within the informal economy are contracted orally. Under the law of contract, however, both written and oral contracts are binding and therefore enforceable. Nevertheless, oral contracts are limited by the difficulty of proof especially when wages are paid in cash and with no receipts.

Workers in the informal sector do not enjoy the rights provided for not only under the Employment Act but also under all relevant laws relating to labour. Most employers within the informal economy do not follow legal processes to register and operate their business. This has partly been due to burdensome procedures which make entry to, and participation in, the formal sector lengthy, complex and expensive. Presently Uganda is one of the lowest rated with regard to property registration. Registration takes an average of 227 days to meet the government requirements. Overall, Uganda is assigned 107<sup>th</sup> place in the “Doing Business” table, three notches lower than last year.<sup>70</sup> With such complex and burdensome requirements, most people opt not to register their businesses or enterprises.

## **2.5 Gender and the decent work agenda in Uganda**

There is a link between gender and the informal economy just as there is between the working poor and the informal economy.<sup>71</sup> In Uganda, the majority of unpaid family workers are women accounting for 40.5%, while they comprise 51.9% of own account workers and 74.6% of subsistence agricultural workers.<sup>72</sup> Women have been noted to participate less in the labour market and face lower wages compared to men.

One in every five employed Ugandans earned US\$ 11, of which 28.1% were female and earned less than US\$10 a month, 26.4% earned less than US\$ 21 a month, while 8.1% earned more than US\$ 21 but less than US\$32 a month. Those who earned more than US\$ 54 constituted 37% in urban areas and 23% in rural areas, and only 11% earned more than US\$ 108. These statistics portray that a good percentage of Ugandans, both male and female, do not earn enough to get to get their families over the minimal poverty line. This has been partly attributed to different educational levels and discrimination against women in labour market institutions. Although men worked longer hours on economic activities, women worked longer hours where domestic tasks are considered.<sup>73</sup>

Women working in areas of construction, industrial production and agricultural production face discrimination in the form of economic marginalization, low wages, insecure employment, low representation and underemployment in the labour market. The above situation is exacerbated by the lack of an appropriate minimum wage in Uganda as elaborated above.

Further, although opportunities for women to get into the workplace exist, this has not rid them of their domestic responsibilities and leads to some of them leaving their young children on their own, or with other children when they go out to work. This is mainly because workplaces lack childcare facilities and many private employers are ignorant of the benefits of such facilities in the workplace.<sup>74</sup>

## **2.6 Lack of security, safety and health in the informal sector work place**

Safety, poor working conditions, abuse of workers rights, lack of capital, lack of proper work tools and the difficulty of collecting payments from customers are some of the major challenges facing urban informal sector employees.<sup>75</sup> The working conditions in most urban informal economy sites are appalling – long working hours with no rest as well as lack of adequate toilet facilities, storage space for their goods and child care facilities. The study carried out in Lira revealed that the poor hygiene among informal sector workers affected women most because many of them carried their children to their workplace and therefore in some cases, diarrhoea and other related diseases suffered by the children were easily transmitted to the mothers.<sup>76</sup> 49% of respondents reported harassment by municipality and market management. High and unregulated taxes, high rent, load shedding (especially for those who work at night) and a reduction in the number of customers were some of the other insecurities that informal sector workers were faced with.<sup>77</sup>

## **3.0 Assessment of progress towards decent work in Uganda**

This section makes an assessment of the progress made by the Government of Uganda to create decent work with the view of arriving at appropriate recommendations for future initiatives. It covers the extent to which steps have been made by the Government to promote labour standards, social protection eliminate child labour and address work related gender concerns.

### **3.1 Promotion of labour standards/ rights**

The 1998 ILO Declaration on Fundamental Principles and Rights at Work marks a renewal of the universal commitment to respect, promote and realize the fundamental principles and rights at work which encompass elimination of forced labour, the right to organize and collective bargaining, equal remuneration, non-discrimination and abolition of the worst forms of child labour<sup>78</sup>.

Uganda has made positive steps towards the promotion of labour standards to protect the rights of workers by ratifying key ILO Conventions and enacting relevant legislation to transform the Conventions into municipal law. Ensuring that all Ugandans enjoy their rights and opportunities and access to education, health services, work, shelter, clothing and food security among others is one of the national objectives and directive principles of state policy under Uganda's 1995 Constitution<sup>79</sup>. It stipulates economic rights to include the right to work under safe, satisfactory, and healthy conditions, equal pay for equal work, the right to rest and reasonable working hours as well as paid holidays. In addition, it provides for the rights of workers, namely, the right to join trade unions; collective bargaining and representation; withdrawal of labour; and maternity and post-natal protection by employers.<sup>80</sup> It therefore incorporates the principles of the International Covenant on Economic, Social and Cultural Rights which provides for the right to work, the enjoyment by every person to just and favorable conditions of work and the protection of young persons from economic and social exploitation.<sup>81</sup>

Uganda has also ratified the ILO Convention on the Right to Organize and Collective Bargaining and a Labour Unions law is in place which regulates their establishment, registration and management amongst others.<sup>82</sup> However, as mentioned earlier, despite the existence of an adequate legal regime, enforcement has been limited. Many workers in Uganda do not belong to a labour union.

Another ratified instrument is the ILO Tri-partite Consultation (International Labour Standards Convention) that requires each member of the ILO to undertake to operate procedures which will ensure effective consultations with respect to matters concerning the activities of the ILO between representatives of government, workers and employers.<sup>83</sup> The Government of Uganda, through its Ministry of Gender, Labour and Social Development, recognizes the NOTU as a representative Organization of employees, and the Federation of Uganda Employers as the representative organization for Employers. The Government consults the two organisations before arriving at decisions related to ratification or denunciation of Conventions. The recent Labour Unions Act also recognizes the Central Organization of Free Trade Unions (COFTU) as a second federation for workers unions in Uganda.

The Employment Act has provided for the rights of workers such as the right to rest, the entitlement to annual and sick leave amongst others<sup>84</sup>. To ensure enforcement and compliance with the Employment Act, labour officers are empowered to engage in labour inspection which includes securing the enforcement of legal provision relating to the conditions of work and the protection of workers. The labour officers are also empowered to supply technical information and advice to employers, employees and their organisations concerning the most effective means of complying with the legal provisions. The Act establishes a Labour Advisory Board which is mandated to advise the Minister on matters concerning compliance with the obligations of membership to the ILO. This provides an opportunity to remind the Minister through the Advisory Board of the provisions and commitments on decent work. The Act further empowers the Minister, on recommendation of the Labour Advisory Board, to make regulations governing the employment of persons with disabilities, apprentices and other categories of employees who in the opinion of the Minister need special protection under the law<sup>85</sup>. Although the Employment Act could be drawn on to regulate the informal sector, the circumstances in the informal sector are quite different, for example the issue of leave and rest may not easily be applicable to the informal sector where working for long hours is necessary to make ends meet, particularly where a business is run by one person. The study in Lira municipality revealed that 54.7% of the respondents who fell sick and took days off work closed down the business because they had no assistance.<sup>86</sup> The nature of employment in the informal sector also does not give room to workers to unionise.

In relation to forced labour, Uganda ratified the Forced Labour Convention which requires states to undertake to suppress the use of forced or compulsory labour in all its forms within the shortest possible period. The Constitution prohibits holding any person in slavery or servitude and requiring any person to perform forced labour.<sup>87</sup> The current Employment Act also prohibits forced labour<sup>88</sup>.

On the issue of child labour, Uganda has ratified the United Nations convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, which recognizes the right of the child to be protected from economic exploitation, and performing any work that is likely to be hazardous, interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral or social development. The laws also call for the fixing of minimum ages for admission to employment<sup>89</sup> as well as regulation of hours and conditions of employment, and providing for appropriate penalties for enforcement.<sup>90</sup>

The country has also ratified the two key ILO Conventions on child labour. The Minimum Age Convention calls upon member states to pursue a national policy designed to ensure the effective abolition of child labour and to raise progressively the minimum age for admission to employment, or work to a level consistent with the fullest development of young persons. The Worst Forms of Child Labour Convention prohibits: the engagement of children in any forms of slavery; using children for prostitution or pornography; using a child for illicit activities such as drug trafficking; or work, which by its nature, or the circumstances in which it is carried out, is likely to harm the health, safety or morals of the child. As stated earlier, Uganda's Constitution prohibits slavery<sup>91</sup> and the engagement of children in hazardous or dangerous work is also prohibited<sup>92</sup>. Pornography is criminalized under the Penal Code.<sup>93</sup> The Constitution specifies an age limit of employment of children in hazardous work at not less than 16 years while the Children's Act also prohibits harmful employment for all children<sup>94</sup> and empowers Local Councils to safeguard children and promote their welfare within their areas.<sup>95</sup>

The Employment Act<sup>96</sup> broadly defines light work as work which is not physically, mentally and socially injurious to a child. Hazardous work is also defined and prohibits the employment of all children under the age of 12 in any business, undertaking or workplace.<sup>97</sup> It provides safeguards for the employment of children between 12 and 18 years and further permits employment of children between 12 and 14 years in light work carried out under the supervision of adults, and does not affect the children's education.<sup>98</sup> It provides for the employment of children in section 32 (4) where it is stated that children are not to be engaged in any employment or work which is injurious to their health, dangerous or hazardous or which is otherwise unsuitable.<sup>99</sup> Children between 16 and 18 years may be employed in accordance with the Act but the work must not be injurious to their health, dangerous or hazardous or otherwise unsuitable. It is important to note that Uganda, at ratification of the ILO Minimum Age Convention, reserved the age of 14 which is allowed for developing countries as the minimum age of admission to employment. Uganda also has a child labour policy.

The Government of Uganda, through the education policy, aims to provide basic education, particularly primary education. With the implementation of universal primary education, there has been a milestone as to the number of children being enrolled in primary schools each year. However, dropout rates remain high. The government has also come up with strategies aimed at ensuring increased access to post-primary education. With the education policy in place, the issue of unemployment due to lack of skills and qualification could be progressively addressed.

Uganda has also ratified the ILO Minimum Wage Fixing Machinery Convention which requires member states to put in place mechanisms by which minimum wage rates can be set for employees, and the Minimum Wage Advisory Boards and Wage Councils Act is in place providing for the establishment of the boards. However, as mentioned earlier, in view of the extensive time lapse and the developments within the labour market, the prevailing minimum wage is not commensurate with the existing standards of living. Also, Minimum wages are not easily enforced in the informal economy except if prescription is made according to sub-sectors.

The Occupational Safety and Health Act addresses the occupational safety and health related issues for all workers in Uganda. A 'worker' is defined in the Act as any person who performs work, regularly or temporarily for an employer.<sup>100</sup> It covers all working environments and workplaces including all places where workers are found as a consequence of their work. Presumably the Act therefore regulates the safety and health of those in the informal economy. The Minister is empowered to make regulations for the implementation of this law.<sup>101</sup> This provision could be drawn on to provide for the workers in the informal economy through regulations specifically tailored to their situation, and ensure their wellbeing. However, in a number of instances it is the responsibility of urban councils to provide the necessary services in workplaces in the informal economy and they need to be reminded to fulfill their obligations.

The Labour Disputes (Arbitration and Settlement) Act is also in place and establishes the industrial court and takes the labour services nearer to the people through enhancement of the powers of the Labour Officer in labour dispute resolution. It should be noted that the Industrial Courts lacks a Chief Judge and has not been well facilitated to enable it perform its functions.

The above infers that Uganda has an adequate legal regime to address the work deficits yet, overall, it is acknowledged that when laws are enacted they have not been adequately enforced.<sup>102</sup>

### **3.2 Efforts to address unemployment through employment creation**

For decent work to prevail, employment (wages or self-employment) should be available for people seeking it. This decision should be voluntary (excluding forced or compulsory employment, bonded or slave labour), in accordance with the minimum age of access to employment (banning child labour), and including the voluntary decision to work full or part-time. In Africa, opportunities for decent employment and income are extremely scarce for the vast majority of the population and this has been mainly attributed to: low economic performance and high population growth; civil strife and armed conflict in the region; debt and its adverse effects; low absorption capacity within the labour market; difficulties encountered by women, young persons and vulnerable groups in gaining access to training systems and employment; low literacy rates among adults; and inadequacy of technical and vocational training.<sup>103</sup>

Uganda is no exception to the above and has no employment policy. However the Ministry of Gender, Labour and Social Development developed a draft policy which has been shuffled back and forth between the Ministry of Finance and the private sector. The overall objective of this draft policy is to promote opportunities for men and women to work in decent workplaces where they can achieve high productivity and economic growth. The policy is a response to the employment crisis which is characterized by soaring unemployment and high poverty levels. Comprised of 14 goals the draft National Employment Policy among others has the following strategies that are in line with the theme of this paper:

**An Employment-Intensive strategy** which aims at promoting full employment as a basic priority of Uganda's economic and social policies, and to enable all people to attain secure and sustainable livelihoods through freely chosen productive employment and work. Targets are expected to be set towards employment generation for all, and employment creation is to be made a criterion in selecting public investment projects/ programmes. Specific studies aimed at identifying areas that are inhibit employment generation in both the formal and informal sectors are to be undertaken;

**Improvement of urban informal, micro and small-scale enterprises** is another key strategy of the draft employment policy and some of the guiding principles are; addressing the legal, regulatory and administrative issues that impinge on the performance of the informal sector, and the provision of incentives such as access to land, zoning, training facilities among others. A number of strategies are enumerated. The policy also aims at strengthening informal sector associations in policy analysis and providing legislative incentives as well as creating a one-stop office similar to Uganda Investment Authority for medium-large enterprises to promote the rapid growth of small sector enterprises and is envisaged to streamline legal and regulatory issues, land ownership and other issues that pose barriers to sector's development;

**Promotion of farm and non-farm rural employment** is another strategy and the policy recognizes that 80% of the livelihood of Uganda's population is dependent on agriculture. It therefore aims at increasing agricultural productivity, food security and promoting agro-processing industries, increasing people's incomes and reducing poverty, boosting foreign exchange earning and diversifying the country's exports through the promotion of non-traditional crops;

**Labour Market Information** on the private and public sector, as well as the dominant informal sector, has been identified as severely lacking by the Ministry of Gender, Labour and Social Development. As a result of this gap the employment service is inadequate. Data relating to labour, employment and industrial relations in both the formal and informal sectors is therefore expected to be collected, analysed, stored and disseminated on a continuous basis.;

**Provision of clear legislation and guidelines** on the collection and use of data and information on labour, employment and industrial relations has also been highlighted. Surveys, research and the development of early warning indicators capturing the employment dynamics of the economy are crucial and would accordingly re-orient efforts towards the development of the required growth; and

**Mainstreaming of Special Groups** has been acknowledged by the Ministry of Gender, Labour and Social Development and it notes that certain cultural practices, customs and norms discriminate against women, and acknowledges the need of affirmative action for vulnerable groups. To achieve this, there will be facilitation of the participation of both men and women in formal and informal education, training, public awareness campaigns and decision-making in employment matters. The designing of programmes that involve, and benefit, the most disadvantaged groups, especially women, children and persons with disabilities is also noted.

Another strategy highlighted is education, training and management development. The objective here is to raise the country's skill base to match the demands of a fast growing economy as a strategy to increase labour productivity and hence employability. Other initiatives mentioned include: accelerating growth and development in the private sector; improving labour administration; and improving occupational safety and health to ensure the protection, maintenance and promotion of safety, health and well-being of all workers, in all occupations. The Ministry acknowledges that working conditions and environment are conducive to good health and productivity. Addressing HIV/AIDS and the work place and the protection of children Against child labour is also recommended. If adopted by cabinet, the policy would demonstrate Uganda's commitment to the promotion of decent work.

The Government is also promoting labour-based programmes in local construction as well as implementing the Elimination of Child Labour Programme<sup>104</sup>.

In an effort to create jobs, Uganda has been promoting private investments although this has not yet led to increases in wage employment.<sup>105</sup> In some instances, these promotions have led to concerns on the respect of labour rights in Uganda. The Tri-Star case study is an example of this.

***'The government should pursue the management of Tri-star Apparels to recover all the loans that it gave the company, said the presidential adviser on AGOA, Ms Susan Muhwezi. Given the array of subsidies, reports indicate the firm has never paid back the loan; \$5 million, and the sudden closure now casts doubt on whether the government will ever recover its monies, 'so the government must ask the company to pay back it's loans.'***  
***She asserted that the company had "achieved something for the country," pointing out that for the first time it exported garments with Made in Uganda labels. However some observers have pointed out that the development will expose the government's reckless use of public resources'***<sup>106</sup>

According to newspaper reports of 2004, the company has a contract with Sunquest Apparel, a US based company, to supply apparel for US consumers. The reports also indicated that they were to supply to JC Penny, Walmart and Target. To prop it up, the Government of Uganda guaranteed Tri-star a loan of \$5 million [Shs 9.2 billion] from the Uganda Development Bank, waived taxes on all its equipment imports, offered free premises and contributed a substantial subsidy towards the training of workers. It is unclear though whether the company has ever made any profits since its inception.<sup>107</sup> Although it is assumed that it was creating wage employment, in 2003 alone, it laid off 265 female workers out of 1000 workers at the time. By the end of 2004, it was employing approximately 2000 workers. To date, it is not clear whether the jobs are still in place as illustrated in the news paper reports:

***'The government has decided to take over the collapsed Tri-Star Apparels factory in Bugolobi, largely to bring it back to its feet. The decision was taken in an impromptu meeting between President Yoweri Museveni, the finance minister and a number of key government officials including AGOA presidential advisers, the investment advisor and the Tri-star Managing director, Mr. Velupilai Kanathan.***

***It's unclear whether the government will acquire all the shares or only a certain percentage and through what mode. Likelihood is that the size of debt which has piled over the last five years or so could be determined to be equal to the value of the firm's assets in which case the government could acquire the plant at no cost.***<sup>108</sup>

In this case, the objective of job creation did not yield much of a positive impact on the economy. In further attempts to enhance economic development and employment, there has been the promotion of the hotel and tourism industry through joint ventures and allocation of land for investment, and the encouragement of the existence of NGOs which have all created wage employment.

### **3.3 Efforts to address social protection**

Social protection should be available to all workers whether they work formally or informally. A policy framework to guide development in the social development sector is in place. Feeding into the PEAP, the Social Development Sector Strategic Investment Plan (SDIP) 2003-2008 was conceived as a response to the need for effective coordination of the social development sector operations and improved service delivery.<sup>109</sup> It articulates interventions and strategies that enhance the participation of the poor and vulnerable groups in development work to improve their productivity and livelihoods. It also aims to create an enabling environment for increasing employment opportunities, productivity for improved livelihoods and social security for all.<sup>110</sup> The SDIP places child labour on the national development policy agenda. It is important to note that the mere existence of good policy frameworks does not necessarily guarantee social protection.

The National Policy on HIV/AIDS and the World of Work recognises that the HIV/AIDS epidemic affects the most productive of the labour force in Uganda, that is, the age ranges of 15-49.<sup>111</sup> The policy aims at providing a framework for prevention of the further spread of HIV/AIDS, and mitigation of the social and economic impact of the epidemic within the world of work.<sup>112</sup> The policy is framed to promote decent work in the face of the epidemic and covers all workplaces, both formal and informal. The policy provides an opportunity for employers and workers to take action within their organisations, and for civil society, to develop and implement sustainable innovative HIV/AIDS prevention and care projects and activities.<sup>113</sup> Although a positive step, it leaves doubts on how the policy will be implemented in the informal sector especially with responsibility being placed on employers.

The government has initiated reforms on social protection through the Social Security and Pensions Sector Stakeholder Transition Group (STG) whose main objective was to ensure that the proposed reforms would accelerate the domestic capital formation in order to contribute to the process of achieving economic transformation. Secondly, it was expected that the reforms would adequately respond to the current and future needs of the working and retiring population in Uganda. The STG identified the fact that there are substantial social protection needs that have not been met, and there are several fundamental challenges which include financing, political commitment, sustainability, and administrative capacity in targeting the vulnerable.<sup>114</sup>

The group prepared a report which contains recommendations with far-reaching implications for the current contributors to, and beneficiaries of, the existing social security and pension schemes. These recommendations include constitutional recognition of social security rights for all Ugandans regardless of whether they are civil servants; the need for detailed actuarial study to determine the appropriate level of contribution to match the proposed benefits; a study to quantify the monetary, social and economic implications of the reforms; the conclusion of a tripartite agreement/charter between workers, employers and government; the amendment of the NSSF Act broadening the range of allowable benefits and the contributors' right to opt for pension as well as voluntary contributory schemes for public servants; the drafting and enactment of a new and consolidated enabling law through a consultation process and sensitization of stakeholders, public servants, armed forces and the general public; and the establishment of an independent and consolidated regulatory authority to register and regulate all existing social security and pensions' institutions.<sup>115</sup>

However these have not yet been implemented. In its PEAP, the government is committed to reforming the pension sector and a social protection task force is in place to spearhead the reforms.

### **3.4 Efforts to address gender inequalities in the work place**

The Constitution of Uganda provides for equality before and under the law in all spheres of political, economic, social and cultural life and prohibits discrimination on grounds of sex, race, color, ethnic origin, tribe, birth religion, social economic standing, political opinion or disability and further defines discrimination as giving different treatment to different persons based on the above attributes.<sup>116</sup>

A Gender policy is also in place and it acknowledges that within households, decisions over the allocation of resources tend to privilege boys and as a result girls tend to drop out of school earlier.<sup>117</sup> The factors that affect the education of women by limiting entry at primary level or causing high drop-out rates were identified to include social and cultural factors such as those relating to the patrilineal society where the education of boys is favoured over that of girls; there are more social demands on girls, often compelling them to drop out of school to assume domestic duties.<sup>118</sup>

The Government of Uganda is committed to addressing gender concerns nationwide evidenced by the presence of a gender policy and the National Action Plan on Women. The overall goal of the gender policy is to mainstream gender concerns in the national development process in order to improve the social, legal, civic, political, economic and cultural conditions of people in Uganda, and in particular women.<sup>119</sup>

The National Action Plan on Women aims to achieve equal opportunities for women by empowering them to participate in, and benefit from, the social, political and economic developments of Uganda. The policy identifies four priority areas for advancing the position of women - Poverty, income generation and economic empowerment; Reproductive health and rights; Legal framework and decision-making; and the Girl child and education. The policy enumerates a number of measures that have been introduced by the government to address wide-spread poverty and the social concerns of the most vulnerable groups.

The above policies are generic and the labour force participation rates of both male and female are almost similar.<sup>120</sup> It should be noted that women make up 1.5 % of Government permanent employees, and men 3.4%. With regard to permanent employees in the private sector, female representation comprises 1.3% and men 2.7%.<sup>121</sup> Opportunities for females in formal employment need to be scaled up. As mentioned earlier, mainstreaming of special groups is one of the goals of the Ministry of Gender, Labour and Social Development in the Draft Employment Policy.

#### **4.0 Recommendations and Conclusion**

Although efforts have been put in place to address decent work deficits, in practice the deficits still exist and there is a need for further action. To inform the next steps, the following recommendations are proposed:

##### **4.1 Defining and profiling the informal sector in Uganda**

The definition of informal sector varies. In order to have relevant policies to address the needs of workers in the informal economy, it is important for clarity on the definition of the informal economy in the Ugandan context. This is critical to ensure that the policies promulgated are inclusive of all workers, both in the formal and informal economy. It is also essential that the different sub-sectors are mapped because they may require different interventions. The expanded definition by the Global Research Policy Network and WIEGO, which was worked on with the ILO, seems to be more inclusive.

##### **4.2 Elimination of child labour through legislation and enforcement, awareness raising and education**

***‘Eliminating child labour will permit more investment in human capability, promote the ideals of decent and dignified work, and help alleviate poverty. Conversely, development increases household incomes, promotes better access to education and creates decent work for adult family members, thus in turn helping to eliminate child labour’<sup>122</sup>.***

As mentioned earlier, the Government of Uganda over the years has realized the necessity of protecting children from hazardous employment. They have attempted to do this through legal instruments that have been issued to protect children from exploitation. Despite this, child labour is still prevalent with approximately 2.7 million children working. This calls for the urgent need to ensure enforcement of legislation, strengthening community monitoring mechanisms and policy implementation monitoring. The Secretaries of Children at the Local Council Village level should be facilitated to monitor at the village level and to ensure that children are not engaged in child labour. The critical role that Faith Based Organisations, NGOs and CBOs can play should also be defined and implemented.

The provisions on child labour are scattered in the Constitution, the Children’s Act, the Employment Act and the related Labour Unions Act and Labour Disputes Act, respectively. This has led to inconsistencies and, as a result, a lack of comprehensiveness and justice to the efforts made to eliminate child labour especially the worst forms as it is recognised in the ILO Conventions. Harmonisation, amendment and enactment of legislation are critical to align, for example, the minimum age of admission to employment with the ILO Convention 138 on Minimum Age for Admission to Employment (1973).

The laws should also be reformed to take into account the provision that calls upon member states to pursue national policies designed to ensure the effective abolition of child labour, and to progressively raise the minimum age for admission to a level consistent with the fullest development of young persons.

The importance of awareness raising on the issue of child labour among the public through civic education cannot be underestimated for purposes of economic growth, development of skills and basic knowledge, and most importantly to improve the child's living condition in the future. A national and massive awareness campaign on child labour should be launched where parents are reminded of their obligations to take children to school, teachers to offer quality education and the Government to ensure that Universal Primary and Secondary Education absorbs all children.

Education cannot be separated from the elimination of child labour. Programmes should be put into place to ensure that children acquire basic education while at the same time, their parents/guardians have a source of income. The Universal Primary and Secondary Education should have a specific strategy for incorporating children withdrawn from the worst forms of child labour.

#### **4.3 Fixing Minimum Wages**

Fixing of minimum wages under the statutory machinery provided under the Minimum Wages Advisory and Wages Councils Act is an important and necessary safeguard for all unskilled workers especially those who may not be covered by collective bargaining. There are proponents and opponents of minimum wages worldwide. However, a minimum wage in Uganda is important for the elimination of the exploitation of workers.

#### **4.4 Promotion of employment**

Although unemployment rates appear to be low, in a number instances national statistics are understated and Uganda needs to comprehensively address the issue of unemployment. Employment for all can be achieved when people have access to basic education which enables them to acquire skills to access employment. The government, through the education policy, aims to avail basic education to all. On the other hand, those gaining education need to be able to find employment. The following strategies are recommended:

Government and urban local governments should provide adequate land for the location of enterprises and markets and enough space for the operations of the informal sector, including urban street vendors and hawkers and small scale informal industries. These should further offer the requisite services toilet and storage as well as security to urban informal workers;

The restrictive urban regulations should also be amended to remove repressive policies, stopping irrational harassment and developing basic infrastructure specifically for the benefit of informal enterprises as well as providing improved access to appropriate or better technology;

Technical and management skills should be enhanced through training programmes designed for specific types of informal operations, and the improvement of access to markets, including at the international level, is essential;

Allowing and promoting urban agriculture in the city, municipality and towns can also create employment because even in crowded areas, people can often find space to grow vegetables or raise animals to supplement the food they buy. Urban and peri-urban agriculture can supplement those on non-living wages to sustain themselves and the social networks;

The establishment of macro-economic policies that encourage growth, job creation and labour policies that do not discriminate against the urban and rural poor, such as housing and urban infrastructure development and home based industries, should be promoted. The policy should lay strategies for the allocation of public expenditure to promote women's economic opportunities especially access to productive resources such as the Uganda's land fund and gender-sensitive budgeting. Local savings should also be mobilised to generate capital for mortgage financing. The reforms in the social security sector are envisaged to contribute to this and the recommendations in the report of the Social Security Transitions Stake Holder Group should be implemented;

The Government has developed a draft employment policy which lays down a number of strategies to address unemployment and regulatory deficits in the informal sector. Cabinet should expeditiously adopt this policy and resources should be committed by government towards its implementation; and

Good governance ensures that all persons with qualifications and skills have access to employment. Good governance assumes that corruption will be minimized, the views of the poor are taken into account and the voices of the vulnerable heard in the process of decision-making. In relation to employment for all, good governance should ensure corruption is minimized, adequate resources are committed to employment creation and that employment opportunities are availed to all without discrimination, for both the skilled and unskilled.

#### **4.5 Enforcement, education and recognition of labour rights**

Uganda's labour laws promote the rights of workers. The challenge is the level of enforcement and adherence to these laws. Work deficits can be reduced when the labour laws are adhered to by both the employers and employees and this includes ensuring that labour disputes are fairly heard. The commercial justice system is deemed by man, especially within the informal sector, as being expensive, slow and corrupt. Labour rights can also be recognized when workers are sensitized on their rights at work. This can be done through civic education activities and working with the structures of labour unions and NGOs. The Labour Disputes (Arbitration and Settlement) law is an opportunity for the labour officers to resolve disputes nearer the people. Unfortunately, more often than not, they lack facilities and resources to carry out their work. The government should allocate resources for labour dispute resolution and the Industrial court facilitated to develop regulations, as well as appoint a chief judge to preside over the court to enable the law to be functional. The District Labour Offices should also be facilitated to enable them carry out their work of labour inspection and dispute resolution.

#### **4.6 Development of a social protection policy.**

As mentioned earlier, Uganda does not have a social protection policy. This should be developed and implemented. The informal sector workers should be part and parcel of this process. The recommendations of the STG report mentioned in section 3.3 should also be implemented.

## 4.7 Conclusion

This paper has analysed the work deficits in Uganda and made an assessment of the efforts made by the Government of Uganda to address them. It has proposed solutions to address the deficits in both the formal and informal economies. It is anticipated that the paper will form a basis for discussion at the national level and in further discussions within Legal Empowerment. The reduction of work deficits will only be achieved when labour rights are realized, child labour is eliminated, social protection and social security are strengthened, and when employment is availed to all.

## END NOTES

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  - <sup>2</sup> Pahl and Gershuny ,1980
  - <sup>3</sup> ILO 1972
  - <sup>4</sup> (ILO (2002b) No.1Page; 5
  - <sup>5</sup> ILO (2002a)
  - <sup>6</sup> Hart, K. (1973) 61–89.
  - <sup>7</sup> Castells, M. and A. Portes
  - <sup>8</sup> De Soto, H.
  - <sup>9</sup> Martha Alter Chen 2005: 7
  - <sup>10</sup> Okumu.: 1994.
  - <sup>11</sup> Ssemogerere, G. 1996
  - <sup>12</sup> Katabira, S. 1995
  - <sup>13</sup> UBOS and MGL&SD : 5
  - <sup>14</sup> Page 3
  - <sup>15</sup> Platform for Labour Action and American Jewish World Services:
  - <sup>16</sup> Focus Group discussion
  - <sup>17</sup> Katumba, B. M. 1998.
  - <sup>18</sup> Werner Sengenberger, 2/2001 : 39, ILO June 1999
  - <sup>19</sup> Inter American Research and Documentation Centre on Vocational Training ( Cinterfor/
  - <sup>20</sup> Inter American Research and Documentation Centre on Vocational Training ( Cinterfor/
  - <sup>21</sup> . ILO :2001
  - <sup>22</sup> Uganda Poverty Status Report, 2005 : 143,, The National Employment Policy Draft June 2002
  - <sup>23</sup> Legal Empowerment
  - <sup>24</sup> Uganda Poverty Status Report, 2005. : 14 &15.
  - <sup>25</sup> PEAP : 20
  - <sup>26</sup> Adopted from PEAP : 22
  - <sup>27</sup> UPPAP 2002.:22
  - <sup>28</sup> UPPAP, 2002; 167
  - <sup>29</sup> PEAP: 14
  - <sup>30</sup> PEAP: 23
  - <sup>31</sup> PEAP 2004/05- 2007/8 : 1
  - <sup>32</sup> PEAP : xx
  - <sup>33</sup> PEAP : xxv
  - <sup>34</sup> PEAP : 6
  - <sup>35</sup> UBOS: Uganda Labour Force Survey 2002/2003 economically active (employed or unemployed ) for more than a certain number of months during the reference period
  - <sup>36</sup> UBOS Report on the Labor Force Survey: 31
  - <sup>37</sup> Adopted from Labour Force Survey : 34
  - <sup>38</sup> PEAP: 24
  - <sup>39</sup> Page 32
  - <sup>40</sup> .Uganda Poverty Status Report, 2005: 124
  - <sup>41</sup> Uganda Poverty Status Report, 2005 : 65

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- 42 Platform for Labour Action and American Jewish World Services  
43 UBOS: Report on the Labor Force Survey: 40  
44 UBOS: Report on the Labor Force Survey: 41  
45 This refers to person who worked less than 40 hours a week in a particular activity  
46 .Uganda Poverty Status Report, 2005 : 64  
47 Social Security Transition Stakeholder Group Report 2004  
48 Ministry of Public Service Presentation, October 2006  
49 PEAP : 47  
50 SDIP : 8  
51 SDIP : 8  
52 SDIP : 7  
53 PEAP: 43  
54 SDIP: 7  
55 UBOS and ILO/IPEC 2000/2001  
56 UBOS and ILO/IPEC 2000/2001  
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58 Daily Monitor Friday October 20<sup>th</sup> 2006 : 7  
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61 Platform for Labour Action , Annual Report 2004 and 2005  
62 PLA and AJWS: 2005  
63 UBOS: Report on the Labor Force Survey: 20  
64 Keene-Mugerwa 2004  
65 Daily Monitor, October 19<sup>th</sup>, 2006: 3  
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67 Daily Monitor, October 18<sup>th</sup> 2006 : 2  
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71 Global Employment Forum Session iii-c: Informal Economy: Formalizing the Hidden  
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72 UBOS: Report on the Labor Force Survey: 14&16  
73 UBOS: Report on the Labor Force Survey  
74 UWONET Page 8 and 21  
75 Gould-Werth : 2005  
76 Platform for Labour Action and American Jewish World Services  
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78 East African Human Rights Foundation "A regional Approach to Integrating International  
Labour Standards"2004 p. 23  
79 Constitution of the Republic of Uganda, 1995, Objective XIV  
80 Article 40.  
81 Art 7 and  
82 Labour Unions Act 2 of 2006 Short Title  
83 Article 2(1)  
84 Sections 51, 54 and 55  
85 Section 34  
86 Platform for Labour Action and American Jewish World Services  
87 Art 25( 1) &(2)  
88 Section 5  
89 Article 32  
90 Article 32 (2) (a), (b) and (c)  
91 Article 25  
92 Article 34 (4) of the Constitution and section 55 of the Employment Act  
93 Section 139  
94 S.8  
95 Children Act, Section 10  
96 Act No 6 of 2006  
97 Employment Act, 2006 section 32(1)

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- <sup>98</sup> Section 32 (2)  
<sup>99</sup> ibid section 34(4)  
<sup>100</sup> Act No. 9 of 2006, section 2  
<sup>101</sup> Section 119 (1)  
<sup>102</sup> SDIP : 9  
<sup>103</sup> ILO December 1999:  
<sup>104</sup> GOU , 2005 : 64  
<sup>105</sup> PEAP : 25  
<sup>106</sup> Daily Monitor, October 19<sup>th</sup>, 2006: 3  
<sup>107</sup> Daily Monitor, October 18<sup>th</sup> 2006 : 2  
<sup>108</sup> Daily monitor October 24<sup>th</sup> 2006  
<sup>109</sup> SDIP : vii  
<sup>110</sup> SDIP, page 12  
<sup>111</sup> Page i  
<sup>112</sup> Page i  
<sup>113</sup> Page : 17  
<sup>114</sup> STH Report Pge 8  
<sup>115</sup> Ibid  
<sup>116</sup> Art 21(1), ( 2) & (3)  
<sup>117</sup> UNICEF, page 127  
<sup>118</sup> National Strategy for Girls' Education in Uganda, page 5  
<sup>119</sup> Page 5  
<sup>120</sup> Labour Force Survey : 2003 : 25  
<sup>121</sup> Labour Force Survey : 2003 : 20  
<sup>122</sup> ILO June 1999

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