

**AN EVALUATION OF THE IMPLEMENTATION OF A RIGHT TO FAIR HEARING IN THE
SETTLEMENT OF LABOUR DISPUTES IN UGANDA: A CASE STUDY OF PROCEEDINGS IN
THE INDUSTRIAL COURT OF UGANDA AND PROCEEDINGS BEFORE EMPLOYMENT
DISCIPLINARY PANELS**

COMRADE NUWANDINDA

EKS20B11/020

**A DISSERTATION SUBMITTED TO THE SCHOOL OF LAW, IN PARTIAL FULFILLMENT OF
THE REQUIREMENTS FOR THE AWARD OF A DEGREE OF BACHELOR OF LAWS OF
UGANDA CHRISTIAN UNIVERSITY**

May, 2024



**UGANDA CHRISTIAN
UNIVERSITY**

A Centre of Excellence in the Heart of Africa

DECLARATION

I **NUWANDINDA COMRADE** hereby declare that I am the author of this dissertation and that any assistance I received in its preparation is fully acknowledged and disclosed in this dissertation. I have further cited any sources from which I used data, ideas, words, either paraphrased or quoted directly.

I also certify that this dissertation was prepared by me specifically in partial fulfilment for an award of a degree in law at Uganda Christian University.

Dated this..... Day of2024.

.....

NUWANDINDA COMRADE

EKS20B11/020

APPROVAL

This dissertation by Nuwandinda Comrade under the title '***An evaluation of the implementation of a right to fair hearing in the settlement of labour disputes in Uganda: A case study of proceedings in the industrial court of Uganda and proceedings before employment disciplinary panels.***' has been under my supervision and is approved for submission to the examining authority.

Signature  _____

Owor Kennedy, Esq.

Supervisor/Lecturer of Laws,

School of Law – Uganda Christian University

Date: 08th May 2024

DEDICATION

I dedicate this research to my supervisor Mr. Owor Kennedy, who guided me to carry out research. Without his help, I would not have made it this far. I shall forever be indebted to him. I also dedicate this research my parents Captain (Rtd) Esau & Narongo Esther Tisasira for their unending providence during my law school. Thank you for the support and motivation you rendered to me whenever I needed it. May God continue blessing you.

ACKNOWLEDGEMENT

In the most placid spirit, I humbly thank God the Almighty for having given me the vigour, courage, strength, wisdom and good health throughout this research.

I honestly thank my supervisor Mr. Owor Kennedy for the tireless efforts and time he readily availed in supervising my research. I must acknowledge that this research would not have been a success without his treasured advice and insights. The helpful feedback from him was a great tool of encouragement in overcoming the hardships that threatened the success of this research. Thank you for always being kind to me and I am exceedingly honoured to have had you as my supervisor. Indeed, I cannot thank you enough!

I further thank Ms. Dorothy Amutuhaire, my classmate, for the effort you put in to help me organize my research. You surely came in to help when everything else appeared to be falling apart. I will always acknowledge your effort and will forever be grateful for your help. May the Good Lord reward you abundantly.

And finally, to my special friends, Mr. Andrew Ruyema and Ms. Christine Komuhimbo, the friends I have leaned on whenever there was no one else to lean on during the course of pursuing my degree. I want to say thank you for the love and encouragement. You have been part of what I would call family to me for the four years I have met you. I had a lot to learn from both of you and indeed I shall always be indebted to your love and kindness. Thank you for being special to me.

TABLE OF CONTENTS

DECLARATION.....	i
DEDICATION	ii
ACKNOWLEDGEMENT	iii
TABLE OF CONTENTS	iv
LIST OF ACRONYMS	v
ABSTRACT	vi
CHAPTER ONE	1
GENERAL INTRODUCTION AND BACKGROUND	1
1.0. INTRODUCTION.....	1
1.1. Background of the study.....	2
1.1.1. Historical background.....	2
1.2. Statement of the Problem.....	3
1.3. Objectives of the Study.....	3
1.3.1. General Objective.....	4
1.3.2. Specific Objectives	4
1.4. Research Questions.....	4
1.5. Hypothesis	4
1.6. Significance of the Study.....	5
1.7. Scope of the Study.....	5
1.7.1. Geographical Scope of the research Study	5
1.7.2. Time Scope	5
1.7.3. Content Scope.....	6
1.8. Literature Review	6
1.8.1. Introduction.....	6
1.8.2. Review	6
1.9. Research Methodology	12

1.9.1. Introduction	13
1.10. Research Methodology and Design	13
1.11. Data Collection Methods	13
1.11.1. Data analysis and Processing Procedures	13
1.12. Limitations	14
1.13. Chapter Synopsis	14
CHAPTER TWO.....	15
A GENERAL OVERVIEW OF THE RIGHT TO A FAIR HEARING AND WHAT THIS RIGHT ANTAILS	15
2.0 Introduction	15
2.1 THE RIGHT TO A FAIR HEARING AND ITS CONSTITUENTS	15
2.1.1 THE NATURE OF THE RIGHT TO A FAIR HARING	16
2.1.2 The Biblical Perspective of the Right to a Fair Hearing	16
2.1.3 A RIGHT TO A FAIR HEARING AS PORTRAYED BY VARIOUS AUTHORS OVER TIME	16
2.2 THE SUBSTANTIVE ANALYSIS OF THE RIGHT TO A FAIR HEARING IN THE SETTLEMENT OF LABOUR DISPUTES	17
2.3 Conclusion	24
CHAPTER THREE.....	25
AN ASSESSMENT OF THE LEGAL AND INSTITUTIONAL FRAMEWORK ON THE IMPLEMENTATION OF A RIGHT TO A FAIR HEARING IN UGANDA.....	25
3.0 Introduction	25
3.1 The right to a fair hearing in labour disputes at the international landscape	25
3.1.1 Universal Declaration of Human Rights, 1948.....	25
3.1.2 The African Charter on Human and People's Rights, 1979	26
3.2.3 The ILO Convention on Domestic Workers No. 189 of 2011	27
3.2.4 The ILO Convention No. 158 of 1982.....	28
3.3 The right to a fair hearing in labour disputes at the domestic landscape	28

3.3.1 The Constitution of the Republic of Uganda, 1995	28
3.3.2 The Employment Act, 2006	31
3.4 Conclusion	34
CHAPTER FOUR.....	35
SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS	35
4.0 Introduction	35
4.1 Conclusion	39
4.2 RECOMMENDATIONS	38
BIBLIOGRAPHY.....	39

LIST OF ACRONYMS

DFCU----- Development Finance Company of Uganda

ILO -----International Labour Organisation

JSC-----Judicial Service Commission

KPIs ----- Key Performance Indicators

LDC -----Law Development centre

MTNMobile----- Telephone Network

ABSTRACT

A right to a fair has existed ever since the time of creation. Even in the Bible, God accorded man an opportunity to be heard before expelling him from the Garden of Eden. Therefore, this study aimed at examining the implementation of the right to a fair hearing in the settlement of labour disputes by the various legal forums of settling labour disputes. The specific objectives included; to examine how the right to a fair hearing has been implemented in the settlement of labour disputes by the various legal forums and to suggest appropriate measures or best practices suitable for the implementation of the right to a fair hearing in the settlement of labour disputes by the various legal forums where need be.

The researcher used the qualitative research methodology together with its designs, techniques and methods. This is because the qualitative research methodology together with its designs is good for a subjective inquiry into concepts under study. This therefore enabled the researcher to subjectively examine the implementation of the right to a fair hearing in the settlement of labour disputes in Uganda. The results revealed that in spite of the fact that the employment law requirement mandating employers to give the employees a right to be heard need not be done formerly whereby employers are only required to investigate employee conduct or inability to perform as part of the process and to allow employees to be heard.

The results further indicated that most employers and supervisors are mandated to carry out performance evaluations and assessments in form of appraisals of their employees and supervisees. These are built on the principal of performance measurement through efficient use of resources in accordance with the set-up procedures and guidelines. The study concludes that the researcher takes note of the fact that a large number of the difficulties faced by the employees in trying to access a fair hearing are issues which for since quite a while ago reoccurred and the concerned parties in this case the supervisors, employers and the courts of law have basically not done enough to address or even focus on taking care of such issues. The study recommends that that the uniform standard should be fixed by amending

the Employment Act, 2006 and in addition, that the Courts should also be specific on the standard to be reached at different levels of labour dispute resolution in order to solve the existing confusion

CHAPTER ONE

GENERAL INTRODUCTION AND BACKGROUND

1.1 INTRODUCTION

A right to a fair hearing has existed ever since the time of creation. Even in the Bible, God accorded man an opportunity to be heard before expelling him from the Garden of Eden¹. (Genesis 3:11). A right to a fair hearing takes place in various forms which include but not limited to the following; criminal justice, administration and employment.

Article 28² provides for the right for a fair hearing and its to effect that in determination of civil rights of obligation or any criminal charge, a person shall be entitled to a far, speedy and public hearing before an independent and impartial court or tribunal established by law. Article 40³, provides for workers' rights in such a way that workers shall work under satisfactory, safe and healthy conditions.

However, for purposes of this research study, emphasised on evaluating the implementation of the right to a fair hearing in employment, especially where one is employed under a contract of employment, such an employee has a right to a fair hearing. Much as the terms may sound-alike, a clear distinction has already been drawn as to the definition of contract of employment and contract for service. A contract of employment is defined as one whether oral or written, express or implied where a person agrees in return for remuneration to work for an employer⁴. Some of the tests of the contract of employment under common law include the control testes, multiple and integration tests. In Uganda, there are several laws that govern and regulate employment particularly the aspect of disputes. These include the *Employment Act, 200* and the *Labour Disputes (Arbitration and Arbitration) Act, 2006*.

Often times noted that some disputes can be avoided and this is mainly by considering the manner in which dismissals which eventually lead to such disputes

¹ The Good News Bible, Genesis 3:11

² Article 28, of the constitution of the Republic of Uganda 1995 as amended.

³ Article 40 ibid

⁴ The Employment Act 2006,

are conducted. Some of the ways to avoid such disputes is by according a person being dismissed a right to a fair hearing. Therefore, the basic point of consideration here is the fact that before the employer takes a decision to dismiss an employee, there is an obligation on such an employer to give employee reason for the dismissal. Equally important, this law on the other hand dictates that in such circumstance(s), the employee should be accorded an opportunity to present their defence, either in person or through a legal representative of their choice. This in law becomes the very pendulum of the principles of natural justice– which demands that the other side should be heard.

Therefore, this research is basically intended to evaluate the implementation of a right to a fair hearing in the settlement of labour disputes in Uganda. The study seeks to examine the practicalities of a right to a fair hearing based on its implementation on one hand by the employer and the Courts of law on the other hand. The study interests itself in further evaluating how the courts of law in Uganda have dealt with, and how standard of uniformity has been applied while dealing with labour disputes.

1.2 Background of the study

1.2.1 Historical background

The right to a fair hearing has had a rich historical development. Since the inception, the right sets a yardstick, which has become a mandatory requirement in cases of summary dismissal in employment. During the early stages of employment, the employer(s) was at liberty to dismiss an employee as and when they wished without giving t reasons and/or an opportunity for the employee to be heard. However, with the gradual development of common law, emphasis was put on the principles of natural justice to which the duty to give reasons and a right to a fair hearing are part.

The land mark case to the right of a fair hearing is that of *Ridge v Baldwin*³ in which it was noted that before someone is condemned, he is to have an opportunity of defending himself and in order to do so, he is to be made aware of the charges or allegations which he has to meet. This consequently saw the inclusion of this right in the Employment Act, 2006 which, prohibited termination of the employee's services without according them a chance to defend themselves of the charges laid against them.

With the Colonisation Uganda and through the *1902 Orders in council*, the British laws that were applicable in England could now be applied in Uganda. This evident by having many English laws among which is the right to a fair hearing being reflected in the Constitution of the Republic of Uganda, 1962, 1966 and in the current 1995 Constitution. There was however, still a great need to have several laws modified and included employment laws and eventually in 2006, a new regime of employment laws was ushered in mainly with the *Employment Act, 2006*, the *Labour Disputes (Arbitration and Settlement) Act, 2006* and the other laws coming into place. The enactment of these laws, particularly the *Employment Act of 2006*, saw the inclusion of a right to a fair hearing basically to govern the employers on the process and procedure of dismissing the employees on one hand and to protect the employees from unfair dismissal on the other.

1.3 Statement of the Problem

A right to a fair hearing is a constitutional right that is applicable in labour as well. It should be the standard applicable to both sides presenting a dispute, namely an employer and an employee. It should ideally apply the disciplinary proceedings up to when the dispute is submitted to a labour officer or Industrial Court.

Despite this position, there is an imbalance on the applicability of this right at different labour dispute resolutions. During the disciplinary proceedings, the employer may override this right hence putting the employee at a disadvantage. Additionally, there is no particular standard of assessment followed in carrying out performance appraisal by the employers which eventually see the different modes applied when such matters come before courts of law even when particular set of facts in different matters are more less the same.

Besides the comprehensive legal framework on labour in Uganda, the existing laws are however silent on the standard to be reached of labour dispute resolution. This is partly responsible for the difficulty in resolving labour related disputes. The standard ought to be resolved by amending the *Employment Act, 2006*.

1.4 Objectives of the Study

The objectives of the study will be divided into general and specific objectives.

1.4.1 General Objective

The main objective of this research study is to examine the implementation of the right to a fair hearing in the settlement of labour disputes by the various legal forums of settling labour disputes.

1.4.2 Specific Objectives

- a) To examine how the right to a fair hearing has been implemented in the settlement of labour disputes by the various legal forums.
- b) To suggest appropriate measures or best practices suitable for the implementation of the right to a fair hearing in the settlement of labour disputes by the various legal forums where need be.

1.5 Research Questions

- a) What is meant by the right to a fair hearing in labour disputes and what does the right entail?
- b) How has the right to a fair hearing been implemented in the settlement of labour disputes by the various legal forums?
- c) What are some of the appropriate measures or best practices suitable for the implementation of the right to a fair hearing in the settlement of labour disputes by the various legal forums?

1.6 Hypothesis

With the existing laws in Uganda, there is uncertainty on the application of the right to a fair hearing in labour disputes. There is no specific standard followed regarding this right at the time of dismissal. The employers in most cases do not take it as a mandatory statutory requirement and on the other, hand the various legal forums have no uniform standard applied while dealing with this right when faced with labour disputes.

Unless there's change in the laws requiring a fair hearing in labour disputes at the time of dismissal by the employer on one hand, and by the courts of law on the other hand, when faced with labour disputes regarding this right, we are continuously going to see the right to a fair hearing having no great relevance.

1.7 Significance of the Study

It is argued that the current regime of employment laws particularly regarding a right to a fair hearing is derived from common law and the *Constitution of the Republic of Uganda, 1995 as amended*. The principle was codified and included into the *Employment Act* basically to govern the employers regarding the procedure of carrying out a dismissal and also to protect the employees from unfair dismissal.

This study will therefore seek to analyse the current employment laws and other legal regimes on how they address the principles of natural justice under which a duty to give reasons and a right to a fair hearing fall in order to ascertain whether it is adequately addressed in Uganda.

The findings of this study will also sensitise the employees about their rights especially at the time of dismissal and also sensitize the employers on the proper procedure to follow before dismissing any employee. The study will further help the academia to understand the loopholes curtailing a right to a fair hearing in labour disputes and then the labour practitioners on how to advise their clients who are facing unfair dismissals. The findings of this study will finally help the judiciary to uniformly apply a uniform standard while dealing with labour disputes particularly concerning a right to a fair hearing.

1.8 Scope of the Study

The scope of the study is divided into Geographical, Time and Content.

1.8.1 Geographical Scope of the research Study

This research study focused on the proceedings in the Industrial Court of Uganda and labour disciplinary panels in Uganda.

1.8.2 Time Scope

This research basically focused on how the courts have dealt with labour disputes concerning a right to a fair hearing both before and after the enactment of the *Employment Act of 2006*.

1.8.3. Content Scope

The content scope entailed specific laws and provisions from the *Constitution of the Republic of Uganda*, the *Employment Act, 2006* and other related employment laws, Reference were made to case law. Further references were made to international laws. This study lied in the sphere of employment law.

1.9 Literature Review

This section of the literature review presents a thorough survey and analysis of the available scholarly materials on the implementation of the right to a fair hearing in labour disputes in Uganda. The review of literature in this section reveals the gaps existing in the available scholarly works which gaps this research study intended to address.

1.9.2. Review

This research does not seek to be the first material regarding a right to a fair hearing in labour disputes as many reputable authors have tried to identify an underlying basis for laws on this right. However, the question of whether this right as a mandatory requirement in any dismissal is being properly addressed in Uganda is of the greatest concern for this research. The study in this part mainly deals with understanding the standard applied while dealing with a right to a fair hearing in dismissal matters during employment.

To understand a right to fair hearing, how it gets in employment and how it has been dealt with in handling labour disputes, the researcher will look at various laws at an international level providing for this right for instance; *The Universal Declaration of Human Rights*⁵ which basically deals everyone's protection of a right to a fair hearing,

Article 7⁵ *The African Charter on Human and People's Rights* that deals with a right to have everyone's cause heard, which includes a right to appeal, presumption of innocence, a right to legal counsel and a right to an impartial trial. The researcher

⁵ *The African Charter on Human and People's Rights*

will also look at the *Termination of Employment Convention*⁶ which deals with a right of an employee to defence, the procedure of appeal against termination and a right to notice before termination. Thereafter, the researcher will look at a right to a fair hearing at a domestic level, discussing the scope in which these laws have provided for a right to a fair hearing and how it has been dealt with in dealing with labour disputes in Uganda.

David Green,⁷ defines labour disputes to mean any form of resistance to the treatment of labour as a commodity, either at the workplace or in the labour market as a whole. Basically, the emphasis surrounding this definition is the fact that labour disputes are mainly associated to inhumane treatment of employees at work places in most cases by the employers who mainly treat employees as mere servants who must be used as slaves, treated in which ever manner as a particular employer will.

*Minawa Ebisui, Sean Cooney, Colin Fenwick*⁸, explain that a number of individual disputes arising from day-to-day workers' grievances or complaints has been rising across the world. The causes are complex, and vary across countries and regions. Common features include an increased range of individual rights protections; a decrease in trade union density and/or collective bargaining coverage; higher risks of termination of employment; reduced job quality and security due to greater use of various contractual arrangements for employment and other forms of work; and increased inequality as a result of segmented labour markets. Much as all the above have in one way or the other sparked off labour disputes, there is an urgent need to find out how far the employers have violated the employees' right to a fair hearing under the aspect of termination of employment.

According to *Leslie Iheduru*⁹, a right to a fair hearing is a principle which posits that everyman is entitled to be heard in any cause or matter before any decision is made against him or her and that no man should be a judge in his own case. He notes

⁶ ILO Convention No 152 of 1992

⁷ *David R. Green, lines of conflicts; labour disputes in London, 1790-1870*

⁸ Minawa Ebisui, et al, '*Resolving individual labour disputes: A comparative overview*' 2017, <<https://www.ilo.org>>lang--en> accessed 15 January 2024

⁹ Leslie Iheduru, '*Critical Analysis of the Right to a Fair Hearing of an accused person* <http://www.academia.edu>>accessed 20th February 2024

that this must be applied by courts, tribunals and by any person who has the power to adjudicate on any matter affecting the rights and obligations of an individual. This therefore implies that anyone accused should be afforded an opportunity to present their evidence to support their case and also discover that against them. When the constitution or any other guidelines require a fair hearing, it should be one that is fair, held before a tribunal which meets the modern standards of neutrality. In this, there is an obligation to have a party given an opportunity not only to present evidence, but also know the claims of the opposing party and then adequately prepare to meet them¹⁰.

According to *Halsbury's*¹¹ *Laws of England 4th Edition*, employment law often times requires disciplinary procedures in case there are issues arising from employees regarding their conduct or even standard of work. Disciplinary procedures which include but not limited to performance appraisals should not be viewed primarily as means of imposing sanctions but rather as a way of helping and encouraging improvement amongst workers whose conduct or standard of work is unsatisfactory¹². However there exists no law regarding how these disciplinary procedures should be conducted in that some employers or organisations choose to either have separate or joint procedures as far as issues of conduct and capability of workers are concerned. In fact, some employers and organisations choose to turn performance appraisals into disciplinary hearings.

This was brought to the lime light by the Industrial Court in the case of *UMEME Limited v Harriet Negesa*¹² in which the appellant was an employer of the respondent from 1st March, 2005 up to 26th June, 2016 when she was terminated. Due to poor performance issues, she had been put on a performance improvement plan in 2014 and 2015 in which according to the appellant, she did not improve. Various appraisals showed that she was

not a good performer and on 26th June, 2016 basing on these appraisals, she was terminated. She therefore lodged a complaint to the labour officer for wrongful termination who found in favour of the Respondent giving rise to this appeal. The

¹⁰ *Halsbury's laws of England* (4th edition) vol.43. page 407.

¹¹ *Administrative Proceedings: A fair Hearing* <https://www.law.cornell.edu> accessed 18/February/2024.

¹² Labuor Dispute No,0072/2018

Industrial Court in upholding the decision of the labour officer held that the performance hearing could not be a disciplinary hearing as envisaged under the law because the notice of hearing did not state exactly what was wrong with the performance of the respondent so that she prepares a defence for the same, there was nothing to show that the respondent had given a defence for her non-performance and there was nothing to show that the respondent was advised to call a witness and court therefore found that the respondent was unfairly terminated. For such reasons, the eventual result of most performance appraisals are labour disputes as they end up being unfairly conducted as far as particular employees are concerned hence leaving them grieved. Therefore, it is important to fully understand what these appraisals are and then, find measures to put in place in order regulate the manner of having them properly conducted.

*Prachi Juneja (2015)*¹³, defines performance appraisals to mean the systematic evaluation of employees' performance in order to understand the person's abilities for further growth and development. In Uganda, performance appraisals are very crucial especially when it comes to public service. According to the *Ministry of Public Service*¹⁴, a performance appraisal is seen as the assessment of an individual in relation to the objectives, activities, outputs and targets of a job over a specific period of time.

Gerald Kangabirwe Karyeija (2010),¹⁶notes that a performance appraisal is based on the principle of performance measurement which is varied and includes efficient use of resources and ensuring that money is spent as agreed in accordance with procedures. He goes ahead and notes the two main purposes of performance appraisal which are; evaluation and development. The aim of evaluation is to operate as a basis for personal decision, ensuring impartial distribution of opportunities, avoiding pre judicial treatment of protected minorities, advising employees on job performance, status of their abilities and to document criteria for allocating organizational rewards. On the other hand, the development purpose serves to give

¹³ 'Performance Appraisal,'2015<<https://www.managementstudyguide.com>> accessed 17 February 2024

¹⁴ *Ministry of Public Service Staff Performance Appraisal Guidelines for Managers and Staff*

feedback on performance of employees, identify employee training needs and facilitate communication between employee and employer.

By and large, performance appraisals aim at reviewing the performance of employees and then evaluating them. They further provide justification for salary increment, determine whether an employee should be employed or dismissed depending on their current performance. However, the question of whether they are conducted properly and fairly is more than half the battle concerning their legal aspects.

In the case of *Emily Mbabazi v Rural Electrification Agency and two others*¹⁵, court noted that the law expects that public functionaries would approach the decision-making process with an open mind. Reason and justice and not arbitrariness must inform every exercise of discretion and power conferred by statute. Court went on and noted that the sham appraisals conducted once in the entire four years was clearly intended for satisfying a private or personal grudge of the respondents and so the decision not to renew the applicant's contract was not done within the powers conferred, it was vitiated because it was done for bad motives or improper purpose. Therefore, to say that an appraisal is conducted fairly means that all employees are subject to having their job performance evaluated and appraisal is used to rate every employee for the same reason.

*Ruth Mayhew*¹⁶ states that labour and employment laws do not mandate performance appraisals, but they do prohibit discriminatory employment actions based on non-job-related factors. The fact that performance appraisals are not a mandatory requirement, does not stop the employers from carrying them out, however there is still a great challenge regarding how the appraisals should be conducted that has not been addressed.

Erik Van Vulpen,¹⁷ notes that performance appraisals are done differently, however the employers must understand the best employee performance appraisals which include using a clear outline, much involvement of the employees, giving employees regular feedback and documenting employee's performance appraisal sessions. In the case of

¹⁵ Miscellaneous Cause No.165/2019

¹⁶ 'Legal Aspects of Performance Appraisals 2020.

¹⁷ 'The Ultimate Guide to the Performance Appraisal' (2019)

According to the *Daily Monitor*¹⁸, the process of performance appraisal system starts with setting and agreeing on the objectives which are commonly referred to as Key Performance Indicators (KPIs) against which the employee will be evaluated over the agreed period or performance cycle. Therefore, where an employee sets up KPIs with the employer at the beginning of the performance cycle, he or she has grounds to guide their employer to stick to the agreed KPIs and are only rated against them. This would eventually bring about the standard to apply while assessing performance appraisals.

However, most employers have no specific standard of assessing their employees and failure to have the issue of the standard assessment of appraisals addressed has brought itself with existence of endless woes especially on the side of employees as they at times end up without being given a chance to be heard. The eventual results of this are disputes based on unfair dismissal.

*Cliffe Dekker Hofmeyr*¹⁹, on the question of implementation of the existing laws governing a right to a fair hearing note that an arbitrator has an obligation to ensure that both parties are afforded a fair hearing when determining a dismissal dispute.²²The right not to be unfairly dismissed is embedded in the requirement for notice before dismissal or termination and a right to a disciplinary hearing at a work place. Failure to have these observed has brought about increased number of labour disputes.

*Giles Files (March, 2017)*²⁰explains that, labour law requires employers to allow employees the right to be heard and such employers are only required to investigate employee conduct or inability to perform as part of the process to allow employees the right to be heard and usually employers gather facts which they bring to the attention of the employees, upon which the employees respond to them. These must however only be the reasons that were initially provided for the dismissal.

¹⁸ Moses Sesanga, 'What should I do to get fair performance appraisal?' *The Daily Monitor* (Kampala, 4 October 2019<<https://www.monitor.co.ug>>accessed 20 February 2024

¹⁹ *Cliffe Dekker Hofmeyr (June, 2018) The right to a fair Hearing is a two-way*

²⁰ *Giles Files, Right to be heard: Avoid formal disciplinary hearings, (2017)* <<https://www.gilesfiles.co.za>>accessed 20 February 2024.

*ChrispasNyombi, Alexander Kibandama (2014)*²¹note that all employees must be consulted by the employer on the grounds of their dismissal and they must be given a platform to defend themselves against any of the reasons for dismissal. This was explained by court in the case of *Jabi v Mbale Municipal Council*,²⁵ where it was held that any dismissal without a justifiable cause or reasonable notice would be classified as unfair dismissal. They go ahead to explain that such protection is important for persons with disabilities as well since employers may choose to replace them without a reasonable cause in order to put in place a non-disabled person. Therefore, an employee is entitled to a reasonable notice of dismissal to enable him or her to find alternative employment.

Denial of this would be argued to bring about labour disputes and the increase in a number of labour disputes has in turn given rise to related challenges which include huge expenditure in form of costs, increased number of cases leading to backlog, untimely hearings, long procedures in court and limited access to the necessary remedies. Further still, the fact that there is no law governing this right especially regarding appraisals has left courts of law with no uniformity in making decisions while dealing with matters of such a nature.

Therefore, the study of the literature presented, will provide an in-depth understanding of the implementation of a right to a fair hearing in labour disputes and the challenges faced. The literature will underscore the necessity of setting up a clear standard to follow while dealing with labour disputes dealing with a right to a fair hearing.

1.10 Research Methodology

This section presents the research methodology, the research design, the study population, the study sample, the sampling techniques, the data collection methods, the data collection tools and the data analysis and processing techniques that the researcher adopted while conducting this research study.

²¹ Nyombi Chrispas and Kibandama Alexander, *Access to Employment for Persons With Disabilities in Uganda* (December 15,2014). *Labour Law journal*, vol.65Issue4, pp.248-

1.11 Research Methodology and Design

The study adopted an exploratory research design that was purely qualitative in its approach. The study design was chosen to enable the researcher to elicit and gain an in-depth understanding the implementation of the right to a fair hearing in the settlement of labour disputes by the various legal forums of settling labour disputes, exploratory research was preferred because it allowed the researcher to explore and understand the right to a fair hearing in the settlement of labour dispute. This research was purely qualitative in nature.

To collect and analyze data, content analysis was employed as it aided in the analysis of words and concepts that are related to the topic at hand. The study utilized a checklist of content analysis with statements based on the objectives of the research to help achieve the objectives. This aimed at obtaining data expressed in non-numerical terms which analysed using a qualitative approach. Document review method was used to review documents. This study reviewed and evaluated available document about the topic, documentary analysis involved reviewing of academic documents, reports, articles and academic journals, dissertations, both published and unpublished enabled the researcher to identify the gap in literature on the topic.

1.12 Data Collection Methods

While conducting the research study, the researcher focused on gathering, analysing and processing secondary data only in order to achieve the set objectives of the study.

Secondary data was obtained from secondary sources of data including textbooks, journals, government publications, journal articles, newspapers and the internet sources.

1.12.1 Data analysis and Processing Procedures

The researcher identified the main themes emerging from the secondary collection of data. In the event of processing and analysing the data obtained, the researcher edited the information gathered; identified possible errors that were manifested in the data obtained.

After carrying out a thorough edit of the data, the researcher then proceeded to analyse through a content analysis procedure. The content analysis procedure of the data obtained was conducted in four main steps.

The first step of data analysis involved identifying the main themes emerging from the data obtained, the second focused on coding the main themes identified in the first step, the third step involved the classification of the main themes identified and lastly in the fourth stage, the researcher interrogated the above identified themes into a study report.

1.13 Limitations

The most crucial limitation in the study was the financial factor. I encountered this problem throughout the study because a greater sum of the money was needed for transport, stationery and printing. This was overcome by soliciting finances from relatives as well as being economical with available finances in order to render this study a success.

1.14 Chapter Synopsis

The researcher focused on the practicalities of implementing the requirement of a right to a fair hearing in labour disputes and its relevance in the modern law of employment. Analysis of different employment laws in Uganda and other jurisdictions were made so as to point out the loopholes of the law and the requirement of a right to a fair hearing in labour disputes.

Chapter one discussed the introduction, background, statement of the problem and objectives of the study, research questions and significance of the study, hypothesis and the scope of the study. Chapter two discusses the general overview of the right to fair hearing and what the right entailed.

Chapter three discusses the legal institutional policy and regulatory framework on the implementation of the right of fair hearing in labour disputes in Uganda. Lastly chapter four shall present a summary of research finding and recommendations

CHAPTER TWO

A GENERAL OVERVIEW OF THE RIGHT TO A FAIR HEARING AND WHAT THIS RIGHT ANTAILS

2.1 Introduction

This chapter involves an overview of the right to a fair hearing and what this right entails which include the right to a fair hearing and its constituents, the nature of the right to a fair hearing, a right to a fair hearing as portrayed by various authors over time and the substantive analysis of the right to a fair hearing in the settlement of labour disputes.

Impartial legal along with disciplinary procedures do require the exercise of a right to a fair hearing before any decision is taken. This right is exercised through following the right procedure before coming up with a particular decision. The principle of fair hearing is universal because it cuts across almost all nations, cultures and races around the globe. This principle basically requires that before any decision is taken against a particular individual, he or she should be informed about the reasons for such a decision and then given an opportunity to present their defence which in turn is according such a party a hearing.

2.2 The right to a fair hearing and its constituents

A fair hearing according to *Brian A. Garner*²² is a judicial or administrative hearing conducted in accordance with due process. The right to a fair hearing is comprehensive and very broad in nature whereby it includes the right to a public hearing by a competent, independent and impartial court; it also includes a right to be presumed innocent until proven guilty, the right to legal counsel, and a right not to be subjected to double jeopardy among others²³ Basically, from the above definition, it is important to point out that for there to be a fair hearing, the right procedure must be followed directly from the beginning till the end when a particular decision is taken.

²² Brian A Garner: *Black's Law Dictionary* (9th Edition) page 789

²³ Ronald Naluwairo: *The trials and Tribulations of Rtd. Col. Dr Kiiza Besigye and 22 others: A critical evaluation of the General Court Martial in the administration of justice in Uganda*<dspace.mak.ac.ug/handle/10570/961>accessed 20 April 2024.

2.3 The nature of the right to a fair hearing

2.3.1 The Biblical Perspective of the Right to a Fair Hearing

The laws of both God and man provide for a right to a fair hearing, in that they give an accused person or a defendant an opportunity to freely make their defence as long as they have any. God himself did not send the sinful man out of his cherished Garden of Eden without first according to him a fair hearing, in which Adam and Eve made their explanations regarding the reasons for their disobedience towards God's injunction stopping them from eating any fruit from the tree of life²⁴. This points out the example set by the Almighty God for our guidance in the settlement and dispensation of disputes, which example portrays a particular procedure God followed which was to listen to the defence of the sinful man before he could finally come up with this decision to send his creatures out of his cherished garden.

2.3.2 A right to a fair hearing as portrayed by various authors over time

According to *Leslie Iheduru*²⁵, fair hearing is a principle which requires that everyman is entitled to be heard in any cause or matter before any decision is made against him or her and that no man should be a judge in his own cause. This rule should be applied by the courts, tribunals and any person who has the power to adjudicate on any matter affecting the rights and obligations of an individual and this further extends to disciplinary panels. He goes on to state that under fair hearing, a person will have an opportunity to present evidence to support his or her case and to discover what evidence there is against him or her. The author here is very clear on what a real right to a fair hearing should be and what it entails, whereby he looks at this principle right from the time of hearing at the disciplinary panels up to the time of adjudication in the courts of law and any other legal forums in which such matters are often times finally settled.

*Mayak Sharma*²⁶ notes that the principle of fair hearing covers various stages under which administrative adjudication passes right from notice to the final hearing.

²⁴ Jerusalem Bible (Genesis 2:16-17)

²⁵ *Critical Analysis of the Right to a Fair Hearing of an accused person* <<https://www.academia.edu>> accessed 20 February 2024.

²⁶ *Principles of Natural Justice: in the light of Administrative Law* <<https://www.academia.edu>> accessed 18 February 2024.

According to her, right to a fair hearing includes right to notice, right to present the case and evidence, right to rebut the adverse evidence to which a right to cross examination and legal representation, disclosure of evidence to the party, report of inquiry to be shown to the other party and reasoned decisions are inclusive. The author is very precise as far as the various steps that make up a fair hearing are concerned in that there must be notice to enable one know the case against them so as to enable them prepare their defence to counter the accusations and of course such a person must be legally represented in order to have such a kind of matter go through a smooth hearing that is fair and impartial.

Whenever a constitution requires a fair hearing, it has to be one that is fair, held before a tribunal that meets the contemporary prevailing values of impartiality and justice. In this case, a party must be given an opportunity not only to present its evidence, but also to know the claims of the opposing party in order to meet them²⁷. A fair hearing in this case must specifically address the aspects of impartiality and justice; in fact, various constitutions lay down several procedures to follow in addressing questions of impartiality and justice in line with a right to a fair hearing.

Therefore, the right to a fair hearing has moved in a number of jurisdictions. In view of that, the right to a fair hearing by and large has a broader application than it did previously, applying to wide range of situations and contexts. The overall improvement of the application of a right to a fair hearing has an impact on decision-making body of every organization and institution because they have to bear in mind the need for procedural input on the part of individuals in decision-making process.

2.4 The substantive analysis of the right to a fair hearing in the settlement of labour disputes

Labour disputes are amongst the most frequent and disruptive forms of remonstrations amongst employees. There is almost no week that passes, scarcely a day indeed in which there are no grievances in some direction. They may rise as a result of reduction or against refusal to raise the rate of wages, again by reason of continued abuse of contractual obligations or for any other reason. These disputes bring hardships, divide

²⁷ *Proceedings: A fair Hearing*, <<https://www.law.cornell.edu>> accessed 8 February 2024.

communities and soured relations between employees and employers, if taken lightly²⁸ The author basically addresses some of the causes of labour disputes and their effect in case they are neglected. It is therefore of great importance to pay urgent attention to labour disputes as soon as they come up in circumstances where it is inevitable to prevent them from arising in order to avoid their related effects.

According to *Minawa Ebisui, Sean Cooney and Colin Fonwick*²⁹, the number of disputes arising from day-to-day workers' grievances has been rising across the world. The causes vary across countries and regions with the familiar features including; increased series of individual rights protection, a decrease in trade union concentration, higher risks of termination of employment and unemployment, reduced job quality, among others. The greater convulsion of such disputes is reflected in the progression of processes and mechanisms for preventing and resolving them. The inherent flexibility concept of fair labour practices requires equity and impartial protection of both the employer and employee as this nature of fairness is entrenched on the conflicting rights of employers and employees. The law imposes different obligations regarding a requirement of a fair hearing in employment. The researcher views the necessity of this requirement, but mainly focuses at the time of dismissal of the employee from employment. Broadly speaking, it could be said that if an employer has any grievance with the employee which could subject such an employee to dismissal, it is prudent practice to give a fair hearing to such an employee in order defend his or her case as failure to do this then gives rise to a labour conflict.

To begin with, it is important to note what the meaning of dismissal is, the different categories and the circumstances under which it may take place. Dismissal generally refers to when an employer ends an employee's employment with a valid and just reason or acting reasonably in the circumstances³⁰, from the above definition, dismissal is basically understood as an employee's discharge by the employer from doing a particular kind of work upon such employee's misconduct. The above definition however only describes the context of dismissal from the aspects of validity and reasonableness yet there are other features regarding dismissal like unfair and

²⁸ *'Lines of Conflict: Labour Disputes in London, 1790-1870'* 1998, <<https://www.cambridge.org>> accessed 15 February 2024.

²⁹ *'Resolving individual labour disputes: A comparative overview'* 2017, <<https://www.ilo.org>>lang--en> accessed 15 February 2024.

³⁰ <https://www.jaluch.co.uk>>hr.blast.

constructive dismissal in which there is no sense of reasonableness and validity in carrying them out.

Dismissal may be categorized into different types³¹ which include fair dismissal and that is where an employer has sound and justifiable reasons for carrying out a dismissal for example when there is redundancy of an employee. The other aspect regards unfair dismissal and this includes situations of failure to give an employee the reasons for their dismissal or where the employee fails to follow a right procedure on dismissing an employee, constructive dismissal under which an employee happens to leave the job due to unfavourable conditions at work regarding bad or harsh treatment subjected to them by an employer or any of his agents, and finally wrongful dismissal that normally occurs in the instances of plain breach of the terms of the employment contract in carrying out a dismissal.

According to *Jaluch HR & Training*³², there are several reasons that may bring about dismissal. These include but are not limited to the following; misconduct which may include poor time management, incapability which may result from the employee's continuous ill health, redundancy in circumstances where an employer requires fewer workers especially when the business is closing down, change of location, re organisation of work which makes some kinds of work or professions no more of necessity, statutory breach in which employing a particular person would be in breach of a statutory duty for example employing a driver whose license expired, and any other substantial reason like expiry of a contract, dismissing of temporary employees upon return of permanent ones among others.

*Van Niekerk and Anton Steenkamp*³³ assert that employment law requires employers to give the employees a right to be heard, however this need not be done formerly. To them, employers are only required to investigate employee conduct or inability to perform and as part of the process, to allow employees to be heard. Many a time, employers gather facts and allow the employees to respond to them. In case of dismissal, employers have a statutory right to refer to any alleged unfair dismissal to conciliation and then arbitration or possibly even court adjudication. Such arbitration or adjudication is very important where formal hearing takes place. Under this,

³¹ <https://www.rocketlawyer.com>

³² <https://www.jaluch.cu.uk>

³³ *Right to be heard: Avoid formal Disciplinary hearings*

employers must make a transcript of all the internal procedures available to the arbiter or judge and to the employee as well, since this is of enormous benefit to the former employee. The witnesses of the employer now have to give evidence under oath, perhaps many months after having already done so. Every word will be checked against the transcript to see if the story is exactly the same as before. At this stage, there is no new evidence that is introduced in that employers are bound by their earlier reasons and evidence.

The authors however only recommend formality at the stage of conciliation, arbitration and adjudication. They disregard the organizational and institutional assessments inform of performance appraisals, disciplinary panels and committees and this quite often sparks off labour disputes due to the unfair and unreasonable manner in which they are carried out, without clear and precise guidelines that should regulate how they should be carried out, and as a result employees are normally denied a fair hearing, which ultimately brings about labour disputes.

According to *Chrispas Nyombi, Alexander Kibandama (2014)*³⁴, all employees must be consulted by the employer on the grounds of their dismissal and they must be given a platform to defend themselves against any of the reasons for dismissal. In most cases all employment laws and regulations clearly stipulate that before any dismissal is to crop up, the respective employee must be informed about the reasons for their dismissal and then given a platform to proceed and defend themselves. However, in most institutions and places of work, some employees are normally just dismissed without any justification and affording them any opportunity for a fair hearing. As a result, the aggrieved employees run to courts of law, which eventually bring about unending labour disputes in places of employment and in the labour industry at large.

Furthermore, *Cliffe Dekker Hofmeyr (June, 2018)* on the question of implementation of the existing laws governing a right to a fair hearing note that an arbitrator has an obligation to ensure that both parties are afforded a fair hearing when determining a dismissal dispute³⁵. The right not to be unfairly dismissed is entrenched

³⁴ *Access to Employment for Persons with Disabilities in Uganda* (December 15, 2014). Labour Law journal, vol.65Issue4, pp.248-

³⁵ *The right to a fair hearing is a two-way street*,

(2018) <<https://www.cliffedekkerhofmeyr.com.>>Retrieved on 20th February, 2024.

in the requirement for notice before dismissal or termination and a right to a disciplinary hearing at a work place. According to his view, there must be an impartial hearing on the part of the arbitrator which hearing should begin with notice. However, this hearing should in fact not only be limited to the stage of arbitration, but the whole process right from notice till the final dismissal.

According to *Halsbury's Laws of England 4th Edition*, employment law in most cases requires disciplinary procedures in case there are issues arising from employees regarding their conduct or even standard of work. Disciplinary procedures which include but not limited to performance appraisals should not be viewed primarily as means of imposing sanctions but rather as a way of helping and encouraging improvement amongst workers whose conduct or standard of work is unsatisfactory⁴⁰. However there exists no law regarding how these disciplinary procedures should be conducted in that some employers or organisations choose to either have separate or joint procedures as far as issues of conduct and capability of workers are concerned.

In fact, some employers and organisations choose to turn performance appraisals into disciplinary hearings and this brings about confusion on whether a particular employer is undergoing a performance assessment or disciplinary hearing. This eventually leads to a labour dispute especially where such an employee is dismissed on grounds of poor performance based on assessments and appraisals in which he or she may not be given a fair hearing because in most cases employers do not even know what a performance appraisal is and how such an assessment should be conducted.

Prachi Junega (2015³⁶), defines a performance appraisal to mean a systematic evaluation of employees' performance in order to understand the person's abilities for further growth and development. In Uganda, performance appraisals are very important especially when it comes to public service. According to the *Ministry of Public Service*³⁷, a performance appraisal is explained as the assessment of an individual in relation to the objectives, activities, outputs and targets of a job over a specific period of time. Basically, performance appraisals should aim at evaluating

³⁶ 'Performance Appraisal,' 2015 <<https://www.managementstudyguide.com>> Accessed 17 February 2024.

employees' assessment regarding their performance in line with the assigned responsibilities. From the definitions above one ably understands that performance appraisals are not and should not be disciplinary hearings. It in this regard therefore, that performance appraisals and assessments should not and never be turned into disciplinary hearings.

According to *Gerald Kangabirwe*³⁸, a performance appraisal is based on the principal of performance measurement which is varied and includes efficient use of resources and ensuring that money is spent as agreed in accordance with procedures. He goes on and explains the two main purposes of performance appraisal which are; assessment and improvement. The aim of assessment is to serve as a foundation for personal decision, ensuring impartial distribution of opportunities, avoiding detrimental treatment of protected minorities, advising employees on job performance, position of their abilities and to keep a record of the criteria for allocating managerial rewards. On the other hand, the improvement purpose serves to provide feedback on performance of employees, ascertain employee training needs and aid communication between employee and employer.

According to his view, he critically analyses the modes of handling performance appraisals in order to achieve their specific target goals. He goes on and looks at the benefits of properly accomplished performance appraisals. This is however a challenge in reality especially in the labour industry while dealing with the management of such appraisals in that most employers rely on them as a way of unreasonably getting rid of particular employees based on personal indifferences and grudges. For example, they turn such processes into disciplinary panels in which the whole process and aim of such procedures is abused. This has brought about unending challenges in the field of employment without a solution thereby bringing about an increase in labour disputes. Therefore, there is great need to have this challenge fully addressed.

³⁸ 'Performance Appraisal in Uganda's civil Service' <<https://pdfs.semanticscholar.org>> accessed 20 February 2024.

According to the *Daily Monitor*³⁹, the process of performance appraisal system starts with setting and agreeing on the objectives which are commonly referred to as Key Performance Indicators (KPIs) against which the employee will be evaluated over the agreed period or performance cycle. Therefore, where an employee sets up Key Performance Indicators with the employer at the beginning of the performance cycle, he/ she has grounds to guide their employer to stick to the agreed KPIs and it is only on these that an employee is rated. This would eventually bring about the standard to apply while assessing performance appraisals which eventually are a basis of assessing fairness as far as a fair hearing is concerned.

According to *Smalberger J*⁴⁰, in judging fairness, a court applies a moral or value judgement to establish facts and circumstances and in doing this, it must have due and proper regard to the objectives sought to be achieved by a particular law. However, this has been met with challenging circumstances especially at the level of adjudication in which several employers and organisations have no particular guidelines to govern performance appraisals. As a result, there are different judgements being made by particular judges regarding matters with more less the same facts. This has eventually undermined trust in such courts due to lack of uniformity, thereby bringing about abuse of the principles of natural justice.

A right to a fair hearing and fairness are in no circumstance inseparable since the two make up the facet of procedural fairness. This concept has for so long a time been a great pillar in jurisprudence especially under public law since it enshrines the subject of human dignity. Therefore, the rules of natural justice, due process and rule of law in implementing any decisions that affects the employee ought to be observed by the employers and there is urgent need on the part of all legal forums to have uniformity while dealing with such matters.

According to *Law Lectures for Practitioners 2009*⁴¹, disciplinary dismissals by their nature involve an assessment of the conduct, behaviour or competence of an employee as they involve value judgements on the part of the employer which, if made without reference to all available facts or to some irrelevant facts or made by people who are biased or operating under a conflict of interest might lead to the dismissal of

³⁹ 'What should I do to get fair performance appraisal?' The Daily Monitor (Kampala, 4 October 2019<<https://www.monitor.co.ug>>accessed 25 February 2024

⁴⁰ National Union of Metal Workers of SA vs. Vetsak Co. Operative (1966)17 ILJ 455(A) 495H

⁴¹ *Hong Kong Law Journal*

an employee which is not justifiable, thereby bringing about a lot of devastating consequences to the employee. These include failure to get employed for some time or never to practice in a particular profession anymore. In this regard, it would mean that by their very nature, disciplinary procedures have a very consequential effect on the employee and should therefore be as fair to the most possible manner. This therefore implies that the purpose of setting up procedural safeguards against dismissals is to ensure that there is fairness in all possible ways in instances where a dismissal of any kind is inevitable.

2.5 Conclusion

From the above analysis, it is very obvious that a right to a fair hearing is a mandatory right that is applicable in all matters including employment matters and should in fact be the applicable standard to both sides involved in a dispute, that is the employer and employee. This right should basically apply right from the inner disciplinary proceedings up to the final settlement of the matter, possibly adjudication.

It is however unclear on whether there is a particular standard followed in handling these disputes, in that some employers do turn performance appraisals into disciplinary proceedings and at times dismiss their employees without even ever according them a fair hearing. On the other hand, on the side of the judiciary particularly the courts of law, there is in most cases no uniformity in handling such matters. These are partly responsible for increasing and unending disputes. To this effect, there is need for more scrutiny of the employment laws in order to create a particular standard and uniform procedure to follow to guarantee that there is a hearing which is both fair and impartial.

CHAPTER THREE

AN ASSESSMENT OF THE LEGAL AND INSTITUTIONAL FRAMEWORK ON THE IMPLEMENTATION OF A RIGHT TO A FAIR HEARING IN UGANDA

3.1 Introduction

This chapter engages in a thorough assessment of the legal and institutional framework addressing the implementation of the right to a fair hearing in Uganda. The legal and institutional framework surrounding a right to a fair hearing in labour disputes in Uganda is first of all derived from an international standpoint and down to a domestic perspective.

The general principle overseeing all rights to which a right to a fair hearing is inclusive is that; all human beings are born free and equal in dignity and right. They are endowed with reason and conscience and for this reason, should consequently act towards one another in a spirit of brotherhood⁴². This echoes the necessity of having all fundamental human rights observed and reflected by all persons and authorities. In this regard therefore, of greatest necessity and worth that everyone should be accorded a fair hearing in every dispute with which they are faced.

3.2 The right to a fair hearing in labour disputes at the international landscape.

3.2.1 Universal Declaration of Human Rights, 1948

Uganda is a signatory to this Declaration and it works to recognize all the fundamental human rights that are universally protected. Furthermore, all the rights set forth under this declaration must be observed by all people irrespective of race, colour, sex language, political affiliation, religion, birth or status and national origin.⁴⁸ It is under this Declaration that a right to a fair and public hearing is enshrined. The Declaration clearly stipulates that everyone is entitled to a fair and public hearing by an independent and impartial tribunal, in determination of his or her rights and obligation⁴³.

In matters of employment, everyone has a right to work under just and favourable conditions of work as well as places of work. Furthermore, every person

⁴² The Universal Declaration of Human Rights, 1948, *Art. 1*

⁴³ Article 10

must be protected against unemployment.⁵⁰ Therefore, this treaty basically lays down the fact that everyone has a right to work and is in this regard entitled to a complete protection of his or her rights, amongst which a right to employment free from discrimination is inclusive, breach of which brings about labour disputes. It is on this basis therefore, that in handling such disputes, everyone must be entitled to a fair and public hearing conducted by an independent tribunal or body in determination of their rights and obligations.

3.2.2 The African Charter on Human and People's Rights, 1979

This Treaty was generally put in place to promote freedom, equality, justice and dignity of all people and it further enshrines the principle that every individual is entitled to a hearing. It stipulates that⁴⁴; every individual has a right to have his or her cause heard and this right includes a right to appeal to competent national organs against acts which violate one's fundamental rights which are recognised and guaranteed by the Conventions, laws, regulations and customs in force, the presumption of innocence until proven guilty by a competent court or tribunal, the right to defence and legal counsel, and finally, the right to be tried in a reasonable time by an impartial body which may include a court or a tribunal.

This treaty specifically expounds on the right to a fair hearing by explaining the extent to which this right extends, the various stages involved to come up with an impartial decision as far as a right to a fair hearing is concerned. The implication of this is that breach of any part of the provisions would eventually break the chain of impartiality thereby arousing the feelings of dissatisfaction and loss of confidence in the made decision leading to disputes. In this line, employment is no exception to the above provisions. Therefore, in handling employment matters especially the labour disputes, the victim must be afforded a fair a fair hearing before coming up with a decision to dismiss him or her. Additionally, when carrying out general assessments and evaluations in form of performance appraisals, emphasis must be put on fairness and utmost impartiality. In most cases however, employers never carry out fair performance assessments evaluations in form of appraisals and eventually dismiss employees without affording them a fair hearing hence leading to labour disputes.

⁴⁴ Article 7

3.2.3 The ILO Convention on Domestic Workers No. 189 of 2011.

It is under the International Labour Organisation that the rights of all workers fall, and this very Organisation provides and lays down the different Conventions providing for various features in the field of employment, among which is the *ILO Convention No.189 of 2011*.

This Convention was ratified by Uganda and was basically put in place to provide for decent work for domestic workers. The Convention requires each member state to take measures to ensure in accordance with national laws, Regulations and practices that all domestic workers either by themselves or through their representatives have effective access to courts, tribunals or other dispute resolution mechanisms under the most favourable conditions that are generally available to workers⁴⁵. Furthermore, the Convention goes on to impose an obligation on each member state to take measures aimed at ensuring that domestic workers, just like all other workers generally, enjoy fair terms of employment and decent working conditions⁴⁶.

From the above provision of the Convention, it is important to understand that all workers are entitled to equal treatment as far their employment is concerned and must be afforded a good and favourable working environment, for example in terms of assessments which involve performance appraisal of workers. These must be fairly conducted in order to curb down the dangers resulting from unfair dismissals, which are in most cases the eventual result of denial of a right to a fair hearing. Therefore, measures aimed at promoting a right to a fair hearing must in all circumstances be observed. However, these in most cases have not been observed by most employers and supervisors whereby they basically dismiss the employees as and when they wish, and when it comes to evaluation of employees through performance appraisals, most employers and supervisors, use this opportunity to get rid of such employees against which they have personal grudges and indifferences by unfairly evaluating and dismissing them thereafter, without affording them any hearing.

⁴⁵ Art 16.

⁴⁶ Art 7.

3.2.4 The ILO Convention No. 158 of 1982

This Convention was also ratified by Uganda and it is also known as the *Termination of Employment Convention No. 158 of 1982*. It was put in place to in order coordinate the minimum level of job security in the International Labour Organisation member states. This Convention basically calls for the grant of a fair hearing to a worker and the duty to give reasons to such a worker⁴⁷. It is in this esteem that before any worker is dismissed, such a worker should be informed of all the allegations against them and must be given an opportunity to respond to such allegations.

The Convention further provides for the procedure of appeal against any form of termination where by a worker is entitled to appeal against such termination to an impartial body which includes court, labour tribunal, arbitration committee and an arbitrator whenever they consider that their employment has been unjustifiably terminated⁴⁸. This right must however be exercised in a reasonable time after termination⁴⁹. However, whenever the termination of such employment is found to be unfair⁵⁰ in accordance to national laws and practices, such a decision shall be declared invalid, or reinstatement such a worker shall be ordered or even awarding appropriate compensation or relief⁵¹. The implication of this provision is therefore clearly derived that for a worker to be terminated, such termination must be one that is fairly done in accordance with the governing laws and principles.

3.3 The right to a fair hearing in labour disputes at the domestic landscape.

3.3.1 The Constitution of the Republic of Uganda, 1995

Most importantly is to note that the Constitution is the pre-eminent rule that everyone must follow, from which all other laws derive their legitimacy. It is therefore that any laws or approaches that are conflicting or in repudiation of the provisions of the Constitution are to the degree of their irregularity null and void. In this respect the responsibility of protection of human rights is imposed on every institution by the state.

⁴⁷ Ibid

⁴⁸ Art 8

⁴⁹ Art 8(3)

⁵⁰ Art 9(1)

⁵¹ Art 10.

In the journey to address the issue of human rights, particularly a right to a fair hearing, the Constitution under Chapter four accommodates a number of rights which are to be delighted in by each person in Uganda, among which is a right to a fair hearing. It is to the effect that; a person is entitled to a fair, speedy and public hearing before an independent and impartial court or tribunal established by law⁵².

Further, the Constitution particularly promotes this right in regard to administrative decisions and it denotes that any person appearing before any administrative official or body is entitled a right to be treated justly and fairly and such a person has a right to apply to a court of law as far as any administrative decision taken against him or her is concerned⁵³. In the case of *Emily Mbabazi v Rural Electrification Agency and other*⁵⁴, Court stated that the law expects that the public functionaries would approach the decision-making process with an open mind. Reason and arbitrariness must inform every exercise of discretion and power conferred by the statute. Court went on and stated that employers are legitimately expected to be treated fairly before any decision is taken not to renew their contracts of employment.

Legitimate expectation envisages that if the administration by representation has created expectation in some person, then it will be unfair on the part of the administration to whittle down or take away such legitimate expectation. Court concluded by noting that it is mainly confined to a right to a fair hearing before a decision that results in negative promise of withdrawing an undertaking is taken. In this case the applicant was never accorded a fair hearing and so rules of natural justice were not followed. The implication of this is that before any administrative body or public functionary takes a decision against any person, there must be fully compliance with the principles of natural justice. However, this has in most cases rarely been observed in that several matters to the Industrial Court have mainly been those of unfair dismissal in which there has been no fair hearing.

Additionally, the Constitution provides inter alia that notwithstanding anything in the Constitution, there must be no derogation from the enjoyment of the right to fair hearing⁵⁵ The duty to act fairly represents the standard of procedural administrative

⁵² The Constitution of the Republic of Uganda, 1995

⁵³ Ibid Art 42

⁵⁴ Miscellaneous Cause No. 165 of 2019.

⁵⁵ Supra art 44

justice with which they will require compliance. This was explained by *Megarry VC* in *McInnes V Onslow Fane*⁵⁶ where he stated that;

"If one accepts that 'natural justice' is requirements in different cases, it is capable a flexible term which imposes different of applying to the whole range of situations indicated by the terms such as 'judicial', 'quasi-judicial' and administrative.' This stands for the adherence of all concepts of natural justice in all situations and circumstances."

These provisions of the Constitution eventually lay down the background to the right to a fair hearing upon which various employment Statutes are based. Therefore, from the understanding of the above provisions of the Constitution, a right to a fair hearing and fairness are in no circumstance separable since the two make up the aspect of procedural fairness under natural justice. This concept has for so long a time been a great pillar in jurisprudence especially under public law since it enshrines the subject of human dignity. Therefore, the rules of natural justice, due process and rule of law in implementing any decisions that affects the employee ought to be observed by the employer.

The court in expounding on these provisions, laid down some principles in the case of *Juma& Others Vs Attorney General*⁵⁷, which were relied on with approval in the case *Isaac Nsereko Vs MTN*⁵⁸. In this case, court stated that;

It is an elementary principle in our system of the administration of justice that a fair hearing, within a reasonable time, is ordinarily a judicial investigation and listening to evidence and arguments, conducted impartially in accordance with the fundamental principles of justice and due process of law of which a party has had reasonable motion as to the time, place, and issues or charges, for which he has had a reasonable opportunity to prepare, at which he is permitted to have the assistance of a Lawyer of his choice as he may afford and during which he has a right to present his witnesses and evidence in his favour, a right to cross-examine his adversary's witnesses, a right to be appraised of the evidence against him in the matter, so that he will be fully aware of the basis of the adverse view of him for the judgment, a right to argue that a decision be made in accordance with the law and evidence.

This basically implies that in the exercise of administrative justice, there must be impartiality and utmost fairness in order to bring about satisfaction both on the side of

⁵⁶ (1978)3 ALLER 211 at 219

⁵⁷ (2003) EA 461

⁵⁸ HCCS No.156 of 2012

the person being dismissed and the one dismissing. In the absence of such impartiality and fairness, then such disputes will automatically come up.

3.3.2 The Employment Act, 2006

The law under this Act imposes different obligations on the employer to fulfil before reaching a decision to dismiss an employee. Section⁵⁹ lays down the different obligations which an employer must fulfil before dismissing an employee. These are;

- a) explain to the employee in a language they understand, the reason for which their dismissal is considered;
- b) informing the employee about these reasons in the presence of another person of their choice;
- c) hearing and considering the representations of the employee and that other present person regarding the employee's defence, and;
- d) according such an employee and that other person if any is chosen, a reasonable time within which to prepare their representations.

The key question however is, how has a right to a fair hearing been adhered to in Uganda? First and foremost, an employer must comply with the principles of natural justice while dismissing an employee. The Courts of law have done their level best to adhere to these principles as a way of promoting a right to a fair hearing.

In the case of ***Jabi Vs Mbale Municipal Council***⁶⁰, it was held that it is a fundamental requirement of natural justice that a person properly employed is entitled to a fair hearing before being dismissed on charges involving a breach of a disciplinary regulation or misconduct. The court went on and noted that it would be a different case where the employee is on temporary terms, but an employee on permanent terms is surely entitled to know the charges against him and to be given an opportunity to give any grounds on which he relied to exculpate himself. Court in this case was of the view that where that was not done, then it could properly be said that the dismissal was wrongful. This is in support of *section 66(4) of the Employment Act, 2006* which imposes a punishment to whoever breach of this requirement.

⁵⁹ Employment Act, 2006.

⁶⁰ (1975) HCB 191.

The land mark case regarding a right to a fair hearing is *Ridge Vs Baldwin*⁶¹, where a committee dismissed the chief constable Ridge, without giving him an opportunity to be heard which was a breach of the mandatory obligation under natural justice. It was held that even if the respondents had power of dismissal without complying with the regulations, they were bound to observe the principles of natural justice. It was further stated in the case that, a decision reached in violation of the principles of natural justice, especially the one relating to the right to be heard, is void and unlawful. In the same case, *Lord Reid* laid down the general principle governing natural justice as far as a right to fair hearing is concerned when he stated that the essential requirement of natural justice is that before someone is condemned, such a person should be accorded an opportunity to defend himself and should be made aware of all allegations against him. This is in support of the fact that an employer must hear and consider the employee's representations before reaching a decision to dismiss them as laid down under *Section 66(2) of the Employment Act, 2006*.

The other aspect in which the right has been observed is through the rise of the Courts to ensure its mandatory nature after the post 2006 regime. In ***Ebiju James V Umeme Limited*** It was held that an employer can dismiss an employee summarily if the employee by his conduct indicates that he/she has fundamentally broken his/her contract of service and that courts have termed that as an act of gross misconduct. The court went ahead to clarify on the post 2006 position where it stated that, it is important to note that the post 2006 Employment Act position is that there is a mandatory right to be heard now reserved by Section 66 of the Act for every form of dismissal. Therefore, even if the applicant's conduct was regarded as one that was tantamount to disregarding the essential conditions of the contract of service such as to be regarded as having fundamentally broken the contract of service and thereby giving a justification summary dismissal, the applicant had to be accorded the right to be heard.

The courts of law have obviously constantly emphasized the effect of failure to accord an employee a right to a fair hearing before any dismissal. In *Eng. Pascal R. Gakyaro Vs Civil Aviation Authority*⁶² Court of Appeal observed that the principles of

⁶¹ (1964) AC 40

⁶² CACA NO.60/2006.

natural justice demanded that one should be given an opportunity to be heard in his defence for whatever worth it might be. That the overall effect of a denial of natural justice to an aggrieved party renders the decision taken void and of no effect. This basically implies that failure to observe the right to a fair hearing before dismissing an employee is absolutely wrong and would in effect attract a penalty.

For such a penalty to happen there must be complete denial of a fair hearing in its entirety. The court in the case of *Alex Methodious Bwayo V DFCU Bank Limited*⁶³ precisely laid down what a right to a fair hearing would entail. The court stated that basics of a right to be heard must of necessity include;

- a) Notice of allegations against the employee to be served on him within reasonable time to allow him prepare his defence;
- b) The notice has to set out clearly what the allegations against the plaintiff are and what his rights are at the oral hearing.

Such rights would include the right to respond to the allegations against him orally or in writing; the right to be accompanied at the hearing and the right to cross-examine the defendant's witnesses or call witnesses of his own, and finally, that the plaintiff should be given a chance to appear and present his case before an impartial committee in charge of disciplinary issues of the defendant. Therefore, upon satisfaction of the above contents, then an employee may successfully dismiss an employee if it proven that such an employee is in absolute wrong.

The above position was expounding on the stand of the supreme court of Uganda in the case of *Barclays Bank of Uganda Vs Godfrey Mubiru*⁶⁴ where Justice *Kanyehamba* gave the lead judgement with which Odoki JSC, Tsekooko JSC, Katureebe JSC and Okello JSC concurred; when he stated that where a service contract is governed by a written agreement between the employer and the employee, as in this case, termination of employment or service to be rendered will depend both on the terms of the agreement and on the law applicable. This implied that such termination must be in line with the terms of the contract and the governing law in such circumstances the Employment Act.

⁶³ Civil Suit No. 78 of 2012

⁶⁴ SCCA No.1 of 1998

3.4 Conclusion

From the above legal analysis, it is obvious that several safeguards have been put in place to protect the principles of natural justice, particularly a right to a fair hearing in employment mainly at the time of dismissal. However, what remains unclear is whether there is any clear standard applicable while exercising this right as the courts of law have on several occasions applied different standards which have eventually created a lot of confusion whereby the standard applied in one case may not necessarily be applied in the other even if the disputes rotate around the same facts. This therefore brings about an issue regarding whether the laws aimed at ensuring there is a right to a fair hearing in employment, particularly at the time of dismissal do surely serve the purpose for which they were enacted.

CHAPTER FOUR

SUMMARY OF FINDINGS, CONCLUSIONS AND RECOMMENDATIONS

4.1 Introduction

The primary goal of this research was to examine implementation of the right to a fair hearing in the settlement of labour disputes by the various legal forums of labour dispute settlement. The researcher additionally embarked to look at how this right has been implemented in the settlement of labour disputes. Therefore, this chapter focuses on the findings and recommendations of the study that was done to explore the perceptions of the law regarding the implementation of a right to a fair hearing in handling labour conflicts and disputes within both the national and international framework.

4.2 Summary of findings

The study made discoveries and inferences from which the researcher made suggestions. These are clarified underneath;

In spite of the fact that the employment law requirement mandating employers to give the employees a right to be heard need not be done formerly whereby employers are only required to investigate employee conduct or inability to perform as part of the process and to allow employees to be heard⁶⁵. Many employers have not at all made any efforts to gather facts pertaining the accusations and allow the employees to respond to them. All they do is to summon such employees and dismiss them in most cases without informing them about the reasons surrounding their dismissal.

For instance, this requirement mandates an employer to accord such an employee a hearing even when such an employee's conduct is regarded as one that is tantamount to disregarding the essential conditions of the contract of service for example being viewed as having fundamentally broken the contract of service and thereby giving an employer a justifiable reason for summary dismissal. Such an employee must be afforded the right to be heard⁶⁶. However, a hearing in such circumstances has not been given.

⁶⁵ Van Niekerk, Anton Steenkamp: *Right to be heard: Avoid formal Disciplinary hearings*

⁶⁶ *Ebiju James v UMEME Ltd (Civil Appeal No. 0133 of 2012)*.

In the similar manner, most employers and supervisors are mandated to carry out performance evaluations and assessments in form of appraisals of their employees and supervisees. These are built on the principal of performance measurement through efficient use of resources in accordance with the set-up procedures and guidelines. This nonetheless varies depending on a particular institution with sole purposes of serving as a foundation for personal decision and promoting fair distribution of resources and opportunities.⁶⁷

In spite of this, dealing with the management of performance evaluations and assessments such as appraisals is still an enormous threat on the part of those subjected to them, whereby there is no law or guidelines that must be followed by the employers or supervisors in conducting these assessments and evaluations and therefore, base them on particular institutional organization's private arrangements and as a result, most employers and supervisors conduct them as and when they wish and in any manner convenient to them. More so they do rely on them to unreasonably getting rid of particular employees based on personal indifferences and grudges.

It was therefore discerned that there is broad discretion on the part of employers regarding the manner in which internal dispute resolution mechanisms should be conducted in that they choose to organize the dispute resolution mechanisms in most cases only in a manner convenient to them since they always are the overall decision-making body. Thus, there is nothing like existence of a legal provision laying down how the internal dispute mechanisms may be exhaustively conducted and as a result, there is no will on the employers and any employing bodies to strengthen the effectiveness of internal mechanisms in order to reduce the number of complaints to the judicial bodies.

If in a given situation the *Constitution of the Republic of Uganda, 1995 as amended* is the general law on all rights amongst which is a right to a fair hearing, and it permits expansion of such rights⁶⁸ in light of the more general human rights norm. In such a

⁶⁷ 'Performance Appraisal in Uganda's civil Service'

<<https://pdfs.semanticscholar.org>>accessed 20 February 2024.

⁶⁸ Art 79(1) on functions of Parliament regarding making laws for peace, order, development and good governance.

case, the role of interpretation is guaranteed and given to the judiciary⁶⁹ and standard law forbidding the denial of a right to a fair hearing in employment matters can be viewed as a use of the broader human rights law, with the end goal that the *Employment Act, 2000* provisions are deciphered through the perspective of the *Constitution of the Republic of Uganda, 1995 as amended*.

The guideline of harmonization must be acknowledged for it to be viable. This is through different methods, for example, enactment and establishment of legislations. While the Constitution assumes a vital role as a major resort after all other options have run out, it cannot not have the ability to manage in excess of a bunch of domains at one time. The doctrine of complementarity along these lines comes in to help improve judicial guidance and functional limit at the judicial level. Complementarity in this case gives more victimized employees an opportunity to access justice for the employer's gross crime of denial of a right to a fair hearing, makes remedies progressively available to affected individuals, adds to prevention through the advancement of responsibility and impartiality at the different work places.

It was however observed that the system of such disputes resolution is a sophisticated one, whereby most role players are not capacitated to operate. A case in point is the fact that most workers are not registered with trade unions which gives no room to such unions' representatives to stick their nose in the resolution of such disputes. Besides, most employers and employees have less knowledge of the regulating laws and guidelines, which makes allegiance to such laws so difficult. This is mainly at the level of the internal conflict resolution mechanisms and this has eventually led to several dismissals of workers without in anyway according them any form of hearing.

On the part of the courts of law, it was observed that in handling employment disputes especially those in regarding dismissals and termination in which a fair hearing has been denied, there is no unifying factor in regard to the interpretation of the law, whereby the courts do make un uniform decisions even when the matters are more less based on relatively the same facts. Therefore, there is no uniform standard

⁶⁹ The judiciary has the mandate to interpret the laws made by Parliament under Article 79 of the Constitution of the Republic of Uganda, 1995.

of application of the law regarding a fair hearing by the courts of law in handling labour disputes.

4.3 Recommendations

The researcher prescribes that in spite of the fact that there several labour dispute resolution mechanisms, all plan to ensure protection of the human individual and their separate ways to deal with that end contrast. These distinctions must be respected all together for each particular mechanism to accomplish its protective purpose. The reason and extent of these mechanisms of labour dispute resolution and their distinctive chronicled starting points and improvement must be viewed while deciding how a right to a fair hearing should be determined. Their distinction in application amongst them must be considered while addressing their complementarity in the resolution of such disputes. The procedural guidelines of determination should give a demonstration of how vital this distinction can be and eventually give a proper meaning and determination of a right to a fair hearing in handling labour disputes.

At the moment there are no clear guidelines to govern how internal disputes should be resolved, in particular a right to a fair hearing. Therefore, the researcher recommends that whenever an organization or employer provides internal means of redress, such means should be accompanied by all the necessary guarantees that will put a stop or reduce the number of disputes to arbitration in situations where an employer is arbitrarily dismissed or terminated without a fair hearing. In the same lane, Parliament⁷⁰ which is mandated to make legislations for peace and proper governance of Uganda should come out to make a law regulating how the internal dispute resolution process at places of work should be conducted emphasizing the need to accord a respective employee a fair hearing in evaluation and assessment of their performance at the place of work.

The researcher further recommends that a law should also be legislated to guide the Courts of law in evaluating whether performance evaluations and assessments are properly conducted by the respective supervisors and employers in case related matters are brought before such courts in which a particular person alleges to have

⁷⁰ Article 79 of the Constitution of the Republic of Uganda

been unfairly dismissed or terminated based on such performance evaluations, so as to create uniformity in handling such disputes and see no more the different modes being applied when such matters come before courts of law, where particular set of facts in different matters are more less the same since the law is not specific on the standard to be reached of labour dispute resolution since this is partly responsible for the increased labour disputes.

Therefore, the researcher recommends that the uniform standard should be fixed by amending the Employment Act, 2006 and in addition, that the Courts should also be specific on the standard to be reached at different levels of labour dispute resolution in order to solve the existing confusion.

4.4 Conclusion

Conclusively, the researcher takes note of the fact that a large number of the difficulties faced by the employees in trying to access a fair hearing are issues which for since quite a while ago reoccurred and the concerned parties in this case the supervisors, employers and the courts of law have basically not done enough to address or even focus on taking care of such issues. Surely, in the event that the law has not been given impact by these parties, at the appropriate stages emerges with respect to whether it should be called law regardless if any exists or what should be done in a particular situation where there exists no law to address it? In spite of the presence of the legitimate laws in some circumstances, a great deal is as yet to be desired as far as their implementation mechanisms and additionally execution is concerned.

BIBLIOGRAPHY

Text books

Brian A. Garner, *'Black's Law Dictionary'*, 10th Edition.

List of Legislations

- The Constitution of the Republic of Uganda, 1995 as amended.
- ILO Convention No.156 of 1982.
- Universal Declaration of Human Rights, 1948.
- African Charter on Human and People's Rights, 1979.
- The Employment Act 2006.

List of Case law

- Ridge v Baldwin (1964) AC 40
- UMEME Limited v Harriet Negesa Labour Dispute No.007/2018
- Emily Mbabazi v Rural Electrification Agency and two others
Miscellaneous Cause No.165/2019
- Donna Kamuli v DFCU Bank LDC 002/2015
- Jabi v Mbale Municipal Council (1975) HCB 191
- Alex methodiousBwayo v DFCU Bank Ltd, Civil Suit No.78 of 2012

Encyclopaedias

- Halsbury's laws of England (4th edition) vol 43, para 407
- The Good News Bible

Journals Articles

- David. R. Green, 'Lines of Conflict: Labour Disputes in London, 1790-1870' (1998)
- NyombiChrispas and Kibandama Alexander, Access to Employment for Persons With Disabilities in Uganda (December 15, 2014). Labour Law journal, vol.65Issue4, pp.248-258.
- MinawaEbisui, et al, 'Resolving individual labour disputes: A comparative overview' 2017.
- Prachi Junega, *Performance Appraisal*, (2015).
- Moses Sesanga, *What should I do to get fair performance ppraisal?*
- Ruth Mayhew, *Legal Aspects of Performance Appraisals*.

- Erik Van Vulpen, *the Ultimate Guide to the Performance Appraisal* (2019).
- Cliffe Dekker Hoffmeyr, *The right to a fair hearing is a two-way street*, (2018).
- Giles Files, *Right to be heard: Avoid formal disciplinary hearings*, (2017).
- Leslie Iheduru, *Critical Analysis of the Right to a Fair Hearing of an Accused person*.