

#### **Labour & Business Consultancy**

"Turning The World of Labour & Business for the Best"

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SOME CHALLENGES POSED BY LABOUR BROKING,
ARTIFICIAL INTELLIGENCE AND GLOBALISATION TO
THE WORLD OF DECENT WORK:
EXISTENTIAL THREAT/AMARGEDDON TO
TRADE UNIONS AT THE WORKPLACE AND
SOME SOLUTIONS UPDATED 2025

#### LABOUR BROKING THREAT

- Labour broking refers to a situation where a middle person (natural or company) places an employee with an employer under a triangular relationship in terms of which the labour broker purports to be the employer for such an employee.
- In reality the client who pays the labour broker running a briefcase or purse company is the one who pays salaries or wages to employees placed by a labour broker in what may be like a love triangle where the labour broker may masquerade as the employer.
- Labour broking is one of the major threats to decent employment in that employees are short-changed by the labour broker and client of the labour broker.
- The whole framework of labour broking is like commodification of employees by the labour broker and client of that labour broker who is the real employer.
- Labour broking may be viewed as bidding human beings for sale or a ransom by a labour broker to the client where the employee provides work.
- Zimbabwean labour law has not legalised labour broking.
- An attempt to legalise labour broking in Zimbabwe was made via Labour Amendment Bill, 2021 but it was later aborted and abandoned when Labour Amendment Act No. 11 of 2023 was passed as law by the Parliament of Zimbabwe effective 14 July 2023.
- Some solution: lobbying parliament to pass laws that protect labour rights. Representation of labour before parliament so that members of parliament with labour background or interests can protect labour rights as they pass laws. Constructive social dialogue between employees/workers/workers committees/trade unions and employers/employers' organisations. Workers/employees/workers/trade unions/employers are encouraged to

engage in labour research to understand labour trends and changes.

## DISADVANTAGES OF LABOUR BROKING TO EMPLOYEES

- Lack of job security on the basis that is the commercial contract between the labour broker and client is terminated, employees employed via a labour broker can lose jobs.
- Employees employed under a labour broker can be deprived of the fundamental labour rights of employees in terms of section 65 of the Constitution of Zimbabwe as well as sections 2A,3, 4, 5 and 6 of the Labour Act.
- Employees employed under a labour broker can be denied organisational rights like the right to belong to a workers committee provided for in terms of section 23 of the Labour Act.
- Employees employed under a labour broker may be deprived of the fundamental right to belong to a trade union of their choice protected in terms of section 65 of the Constitution of Zimbabwe as read with section 29 of the Labour Act.

## DISADVANTAGES OF LABOUR BROKING

- Employees employed under a labour broking arrangement can be denied social security rights like the right to a pension, medical aid and other forms of social security.
- Employees employed under a labour broker may be discriminated against by the employer in violation of section 56 of the Constitution of Zimbabwe as read with section 5 of the Labour Act.
- Labour broking is some form of human trafficking because the labour broker can move employees from one workplace to another.
- Employees employed under a labour broker may be denied the right to benefit from a collective bargaining agreement for the improvement of conditions of employment, the promotion of fair labour standards and the promotion of participation by employees in decisions affecting their interests in the workplace applicable to that employer or industry in violation of section 2A (1) (c), (d) and (e) of the Labour Act as read with section 65 of the Constitution of Zimbabwe.

#### LESSONS FROM SOUTH AFRICA

- South African labour law strictly regulates labour broking by providing that both the labour broker and client where employees are placed bear the legal obligation of employer equally such that employees are protected from being dumped by the labour broker.
- Also South African labour legislation provides that employees employed via a labour broker enjoy the legal right to benefit from any collective bargaining agreement applicable to other employees employed by the same employer without any discrimination.

## ARTIFICIAL INTELLIGENCE AND TECHNOLOGY

- The advent of artificial intelligence creates a potential loss of jobs by employees. Trade union membership is under serious threat from job losses caused by artificial intelligence (AI) because without membership a trade union is an empty shell. Change is inevitable and the only thing that does not change is change itself. Some trade unions which fail to progressively change and adapt to positive change RISK becoming white elephants or empty noise (brutum fulmen). There is no room for sleeping on duty by trade unions as lazy trade unions may end up losing membership and turn into a biblical monument pillar of salt like Lot's wife in Genesis 19:26 which say "But Lot's wife looked back, and she became a pillar of salt."
- Artificial intelligence can cause an employer to do away

- with work for employees which can be performed by way of a technology gadget.
- Artificial intelligence can lead to job displacement for employees.
- Artificial intelligence raises ethical issues including data privacy, algorithm bias and potential misuse of artificial intelligence technologies.
- Artificial intelligence can inherit biases from their training data resulting in discriminatory practices against employees.

## BIAS AND DISCRIMINATION CAUSE BY ARTIFICIAL INTELLIGENCE

- Bias can be worsened if the people inputting the data have some form of bias, whether conscious or unconscious
- Artificial intelligence can lead to unfair discrimination against employees in violation of legally protected labour rights.
- If the training data contains biases, artificial intelligence will perpetuate such biases.
- Artificial intelligence can lead to unfairness in situations like hiring and lending.

# ADVANTAGES OF ARTIFICIAL INTELLIGENCE

- Artificial intelligence can lead to poor quality of work and lack of originality, lack of emotion and lack of creativity when misused.
- Technologies have limitations like system error and inaccuracies.
- Artificial intelligence potentially diminish human creativity via the use of automation by technology.
- Artificial intelligence can lead to unsafe transmission of sensitive data
- Security risks can arise because of the use of artificial intelligence.
- Advantage artificial intelligence are that it diminishes human error, facilitates faster decision-making, automates repetition, provides digital assistants, identifies patterns and identifies better human workflows.

### GLOBALISATION THREAT AND ADVANTAGES

- Globalisation creates a threat to job security in that protection of worker rights becomes difficult if an employee works from one particular country which is different from the country where the employer is based or located.
- Globalisation can lead to exploitation of workers by unscrupulous employers.
- Unemployment may arise as a result of globalisation.
- Globalisation can increase the rate of environmental degradation and trade imbalance.
- Also globalisation creates inequality between developed nations and developing nations.
- Some advantages of globalisation is that it promotes access to new markets, leads to economic growth in the global village, increases competition which is the lifeblood of commerce and leads to cost reduction.

### **END**

THANK YOU/SIYABONGA/TATENDA/ASANTE SANI





IECHE nambers Incorporating Labour Law Consultancy, Labour Consultancy Zimbabwe, Labour Association Zimbabwe, Zimlaw Industrial Relations and Labour Law Research Institute and Centre for Conciliation, Mediation and Arbitration in Zimbabwe.

Conducting Labour, Collective Bargaining, Employment Code of Conduct and Disciplinary Training.

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#### PROPER AND LAWFUL WAY TO CONDUCT A DISCIPLINARY HEARING AT THE WORKPLACE. DOS &DON'TS

- Overview of disciplinary Hearing
- Authority in work- place hearing
- Dealing with application by Lawyers
- Do's and don'ts in Hearings
- Investigating, Compiling Evidence and cross examination
- Minute recording

- Role of a chair person
- Rules of evidence
- Cross examination and re-examination
- Finding determination and writing findings
- Drafting charge sheets
- Investigating labour matters

BY SENIOR CONSULTANT AND LEGAL RESEARCHER: CALEB MUCHECHE LLM COMMERCIAL LAW Specializing in Banking, Company and Labour Law (South Africa), LLM LABOUR LAW Specializing in International Labour Law, Collective Labour Law, Individual Labour Law, Industrial Relations Law and Alternative Dispute Resolution Law (Zambia), LLB Hons (UZ-Zimbabwe).