



**KITUO CHA SHERIA**

The Centre for Legal Empowerment

*We care for Justice*

A HAND BOOK ON  
DHOBI WOMEN AND THEIR RIGHTS

## INTRODUCTION

### DHOBI WOMEN AND THEIR RIGHTS

This brochure seeks to empower the casual women who wake up every day to sit around rich neighborhoods or estates so that they can be picked to do house hold chores, like washing, ironing, cooking and cleaning the compounds, or even baby sitting.

For some time now, this group of women has been suffering in deep silence as they have not had anyone to hear their problems and help them legally. These women are found in all parts of towns and estates and are commonly referred to as - the dhobi women. These women are picked by both families and bachelors and the experience that they go through is so much to bear.

During their day today activities, they undergo rape, detention in police cells after being accused of stealing, lack of pay, or meager salaries, washing dead bodies, washing pets, being beaten by their employers ...only to mention but a few.

# LABOUR LAWS IN KENYA:

There are seven major sources of law governing employment laws in Kenya.

These are:

## 1. The Constitution

- Under Art 27 provides for the right to equality and freedom from discrimination.
- It states that women and men have the right to equal treatment, including the
- Right to equal opportunities in political, economic, cultural and social spheres.
- Article 27(4) of the Constitution states that “the State shall not discriminate
- directly or indirectly against any person on any ground, including race, sex,
- pregnancy, marital status, health status, ethnic or social origin, colour, age,
- Disability, religion, conscience, belief, culture, dress, language or birth.”
- More specifically, Art 41 provides for labour relations.

It states that every person

- Has the right to fair labour practices. Under the Constitution, every worker has
- the right:
- To fair remuneration;
- To reasonable working conditions
- To form, join, or participate in the activities and programmes of a trade union; and
- To go on strike.
- The procedure for going on strike is clear. It is however not provided for in the
- Constitution. The employees are required to provide due notice to the employer
- On their intention to go on strike and the reasons behind their action. Once
- the notice is expired and their grievances have not been met, the employee has a
- Right to proceed with the strike.
- The Constitution also provides that rights of employers. Every employer has
- To form and join an employers organization; and

- To participate in the activities and programmes of an employers Organization.
- The rights of a trade union and employer's organization have also been laid out
- To determine their own administration, programmes and activities;
- To organize; and
- To form and join a federation.

## **Types of Workers**

Workers may be classified into three main categories.

### **1. Permanent worker:**

- Is a person who signs a written employment contract that identifies he or she as a permanent worker. It also includes a person who does not have a written contract but who is paid at the end of thirty days.
- Is expected to work for a probation period, generally from one to three months, before he or she is confirmed and can claim benefits.
- Is required, in the event of resignation, to give at least

one month's notice or one month's salary in lieu of notice.

- In the event of termination, is entitled to one month's notice or one month's salary in lieu of notice unless the worker is dismissed summarily.

## **2. Casual worker:**

- Is a person who works for a short period of time generally not more than twenty-four hours at a time and is paid at the end of each day.
- Has no guarantee of being employed more than twenty-four hours and can be dismissed at only one day's notice.
- The Dhobi Women mostly fall in this category

## **3. Fixed-term contract workers:**

- Is a person employed for one determined fixed period of time which is more than one day. Entitlements are determined by the terms of the contract entered into with the employer or a collective bargain agreement.

- Any employment of three months or longer should have his or her contract in writing.

### **Underlying Principles of Employment**

- The relationship between a worker and the employer is based on a contract.
- Both the worker and the employer should agree upon the terms of employment before the worker begins his or her term of service.
- If a worker joins a union, the terms of employment may be negotiated as part of a collective bargaining agreement.
- It is important to know that an employer cannot impose terms of employment on a worker that are less than the minimum terms required by law.
- Every worker hired for a sum of three months or more must be given a written contract of employment by the employer. It is the legal obligation of the employer to draw up the contract. To signify the workers consent, both the worker and the employer must sign the employment agreement or

- Imprint an impression of his/her thumb, or any finger, in front of someone other than the employer.

### **Legal Duties for Dhobi Women**

Every Dhobi Woman must adhere to the following rules. A worker who fails to follow these rules may be dismissed.

- Arrive at work on time and carry out his/her assigned work fully and responsibly.
- Perform all lawful tasks or assignments that are within the scope of the worker's job description.
- Not drink alcohol or other intoxicating and illicit drugs during working hours.
- Not use abusive language or behavior at the workplace.

### **Maternity leaves.**

- Every woman has a right to take three months maternity leave with full pay. To be entitled such rights, a female employee must give written notice, no less than seven



days in advance at which date she intends to leave and return to work.

- A woman who has taken maternity leave cannot in the same year claim annual leave unless the employer agrees in writing. A woman taking maternity leave does not lose any of her benefits or previous job during that period.
- Male employers also have the right to two weeks paternity leave with full pay.

## **Types of Leave**

### **Annual Leave**

- Every employee is entitled to at least twenty-one working days of leave after completing twelve consecutive working months.
- If an employee is terminated after working at least two consecutive months, he or she must be given at least one and three-quarters (1 $\frac{3}{4}$ ) days of paid leave for each completed month of work. A worker is not entitled to this leave if he was summarily dismissed.
- Public holidays and sick leave days are not counted as

leave days. Public holidays with full pay are: New Year's Day, Good Friday, Easter Monday, Labour Day, Madaraka Day, Idd-ul-Fitr, Mashujaa Day, Jamhuri Day, Christmas Day, Boxing Day and any gazetted public holidays.

- Some industries (such as the hotel, catering, security and others) give workers a leave traveling allowance.

### **Sickness and Sick Leave**

- A worker who becomes ill while at work should take all reasonable steps to inform his/her employer of the illness.
- Once an employer is informed of a worker's illness, the employer must provide him/her with the proper medical attention

### **Overtime Payment**

- Overtime is any period worked in excess of the regular working hours.
- An employer must give the worker 24 hours' notice for overtime requests.
- A worker cannot be forced to work overtime and should

- be adequately compensated for any overtime work.
- Overtime pay is one and a half times the worker's normal hourly rate for any time worked over the normal working hours.
  - If the overtime is on the worker's normal rest day or public holiday, overtime pay is twice the normal hourly rate.
  - If the worker is not employed by the hour, the basic hourly rate is deemed to be one-two hundred and twenty-fifths ( $1/225$ ) of the employer's monthly wage.
  - A worker cannot be asked to work more than one hundred and sixteen (116) hours in any consecutive two-week period. For night workers, it should not exceed one hundred and forty-four (144) hours for two consecutive weeks.
  - An employer can offer time off in place of overtime pay if the worker agrees in writing.

### **Working Hours**

- The normal working hours shall be forty eight hours during a six-day work week (8 hours per day). Certain

types of workers such as watchmen, herdsmen and caretakers may be required to work up to ten hours a day or sixty hours a week.

- Generally, child labour is prohibited. However a child may be engaged to work where the work benefits the child's education and well being and does not interfere with his/her education.
- A child who is aged sixteen or younger should not work more than six hours in one day.
- Every worker must be given at least one full day off each week for rest.

### **Wages/Salary**

- Under the law, every worker is entitled to receive full payment for work done.
- Full pay includes wages, which are payments made on an hourly, daily, weekly or piecemeal basis. Full pay may also be in the form of a salary, which is a fixed payment made on a monthly basis for professional or office work.
- The amount of full pay cannot be less than the standard

minimum rate which is set forth in the Employment Act. On the date of payment, the employer must give each worker a pay slip stating all earnings due and any deductions made for that pay period.

- All wages must be paid in Kenyan shillings. However, a worker can request in writing that the employer pay wages either by cheque or by crediting the wages to the worker's bank account.
- When a worker is absent, the employer with permission from the worker may pay the wages to another person appointed by the worker. Generally, payment of wages is on a working day and during working hours.
- Wages must be paid at or near the place of employment, or at a place agreed between both parties.
- This place of payment cannot be in a place where intoxicating liquor is sold or available for supply, except for parties employed to work in such an establishment. However, exceptions may apply in the following situations: Piecework is paid at the end of the month in proportion to work completed.
- A casual worker is generally paid at the end of each day,

- unless the worker requests otherwise.
- If employed for a period exceeding a month, payment is due at the end of each month. Workers employed for an indefinite length of time, payment is due at the end of the agreed contract, or at the end of the month.
  - In case of summary dismissal, wages are paid up to the date of dismissal.
  - In addition to wages, every permanent worker is entitled to housing accommodation or housing allowance. The rates for housing allowances are found in the current Year's Wage Orders, which are available at the Government Printer.

### **Sexual Harassment**

- The law states that every employee is entitled to employment that is free of sexual harassment. An employee is sexually harassed if their employer, a representative of their employer or a co-worker commits any of the following:
  - Directly or indirectly requests sexual intercourse, sexual contact or any additional form of sexual activity that

contains and implied or expressed promise of special or detrimental treatment in the workplace, or threatens the current or future working status of an employee;

- Uses either written or spoken sexual language;
- Uses visual material of a sexual nature;
- In the event that an employee is subject to sexual harassment, the employer will take disciplinary action as deemed appropriate;

#### **QUICK NOTES FOR DHOBI WOMEN**

- To get contracts before any employment always encourage written ones.
- To get or give notice before leaving work
- To Ask for their Service after being dismissed from work or leaving employment.
- To ask for leave days of 21 days yearly.

## Vision

*“A Society of Justice and Equity for All.”*

## Mission

To empower the poor and marginalized people to effectively access justice and realize human and peoples rights through Advocacy, Networking, Lobbying, Legal Aid, Legal Education, Representation and Research.

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