

Retrenchment Trends in Tanzania amidst COVID – 19

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Abstract:

COVID-19 pandemic has caused tremendous effects to the world of work globally and Tanzania is not exceptional. Due to containment measures adopted production and consumption of goods and services has been disturbed causing disruptions in demand and supply chain. This has made organizations to undergo retrenchment due to operational requirements. Whereas labor laws provide for protection of employees' rights during the retrenchment exercise, the practice has proven to be otherwise. This paper employed qualitative methodology and conducted an in-depth interview to twelve purposeful selected respondents from education and tourism sector and legal experts, to analyze the situation in Tanzania. The key finding is despite the fact the employees are knowledgeable of employers breaching of their rights, they are not willing to take legal action due to the promised reemployment. It is recommended to review the labor laws to make them proactive, engage in bilateral negotiations in cases where labor laws are silent, social security funds have to be responsive in such uncertainties and the government has to oversee that employers get prepared for such quandaries.

Key Words: covid- 19; labor laws; procedural justice; retrenchment.

1. Introduction:

The world faced unprecedented challenges in the wake of the devastating COVID-19 pandemic, which began in 2019. The virus profoundly disrupted every aspect of human life—socially, politically, economically, and culturally. In response, societies turned to social distancing as a survival strategy, which involved avoiding crowds and staying indoors, among other precautionary measures. Countries that implemented the most stringent social distancing models enforced complete lockdowns, restricting access to public spaces and tightly controlling access to essential services. In contrast, less restrictive approaches allowed income-generating activities to continue, though often only until dusk. Some countries, such as Tanzania, adopted a more open approach with precautionary measures. While there was no full lockdown, strict preventive protocols were implemented, including social distancing, hand washing, mask-wearing, and banning gatherings that could not maintain appropriate physical distancing. Schools and higher learning institutions were also closed in this model.

Whether through total, moderate, or minimal lockdowns, the economic impact of the COVID-19 pandemic was far more severe than the Great Depression of the 1930s, primarily due to widespread business closures and mass layoffs (Bell, Bloom, Blundell, & Pistaferri, 2020). Sectors heavily reliant on human labor, such as hospitality, manufacturing, real

estate, agriculture, education, and administration, were among the hardest hit, leading to significant threats to employment (ILO, 2020). The International Labour Organization (ILO) projected that more than half of the global workforce was at risk of losing their jobs (ILO, *ibid*). For example, the United States Department of Labor, as reported by Al Jazeera (2020), noted that "about 5.24 million Americans filed for initial jobless benefits in the week ending April 11, 2020." While those already employed faced the threat of job loss, the situation was even direr for graduates and job seekers. In China, approximately 8.7 million graduates were left stranded at home, waiting for recruitment programs to resume (Al Jazeera, 2020). Africa also experienced significant job losses, with more than 500,000 workers having lost their jobs by April 2020 (theeastafrika.co.ke, 2020). In Kenya, nearly half a million people were at risk of unemployment, while in Uganda, around 5,000 companies were forced to shut down. Governments across the continent were urged to find measures to support their workforce, including options such as granting annual leave or reducing working hours (*ibid*).

Cities, which collectively house approximately 600 million people and account for about 50% of the region's GDP, were profoundly impacted by the disruptions in the labor sector caused by the COVID-19 pandemic (UNECA, 2020). Although Tanzania did not implement a full lockdown during the pandemic, the economic downturn was unmistakable (The Launchpad, 2020). This downturn was driven by several factors, including the negative externalities of global and domestic measures to combat the pandemic, such as the suspension of transportation and trade, border and airport closures, and the prohibition of large gatherings. These measures severely affected import and export activities, tourism, hospitality, education services, and the movement of goods and people (Henseler, Maisonnave and Maskava, 2022). Consequently, many organizations and institutions resorted to downsizing through layoffs, creating a vicious cycle of reduced production, consumption, and income. In an effort to contain costs and sustain their operations, businesses around the world, including those in Tanzania, turned to retrenchment as a survival strategy (Rundshagen, 2020; Lee et al., 2022). This was an inevitable response to low production levels that rendered many organizations unable to cover associated costs, including employee salaries. The private sector was particularly hard-hit, compared to the public sector (Henseler, Maisonnave and Maskava,

2022; Lau et al., 2022). Sectors such as tourism, travel, aviation, hygiene, and logistics in Tanzania were severely affected and resorted to retrenching their workforce.

It is essential to acknowledge that Tanzanian labor laws establish clear procedures for terminating employment due to operational requirements, such as retrenchment. However, some employers failed to comply with these legal and procedural guidelines, resulting in wrongful retrenchments, unfair terminations, and severe consequences for employees. These included financial hardship, the inability to support their families, and psychological distress (Ke1 et al., 2022). This paper aims to examine the retrenchment procedures that occurred in Tanzania during the COVID-19 outbreak, specifically assessing whether employees' rights were adequately protected. The study seeks to raise awareness among both employees and employers about labor law provisions to ensure that retrenchment processes are conducted in compliance with legal standards, thereby avoiding potential legal complications in the future. Additionally, it will inform workers of their rights, empowering them to defend those rights should they be threatened.

2. Literature Review:

Retrenchment refers to the termination of employment due to technological, economic, or structural operational requirements within an organization. According to Kraus et al. (2020) and Gates (1977), retrenchment is typically enacted when an organization needs to reduce expenses due to organizational or environmental factors, leading to a reduction in its workforce. This practice differs from dismissal, which occurs when an employment contract is terminated due to employee misconduct (Martinez, 2021; Schendel, Patton, & Riggs, 1976). Retrenchment is also referred to as rightsizing, downsizing, downshifting, or layoffs.

Ideally, retrenchment should be considered a last resort. During periods of economic downturn, organizations are encouraged to explore alternative measures before resorting to workforce reductions. These measures can include adjusting working hours, freezing salaries, implementing leave without pay, eliminating overtime, or even adopting job-sharing arrangements. However, these decisions should be made through bilateral negotiations between employers and employees (ATE, 2020; Holt, 1990). The reasons for retrenchment can best be described by the Two-Dimensional-Demand

Model propounded by Mankiw (2018). This model shows how several factors in production process can affect demand and supply. Production is largely determined by demand. Demand on the one hand means the amount of goods and services which consumers are able and willing to buy at a particular price, and it is largely affected by income level (other factors being consumer preferences and others) *ceteris paribus*. When people's income rises, their ability to purchase goods in larger quantities increases, thereby driving up demand (Jappelli & Pistaferri, 2010; Compliments of CommonSenseEconomics.com, 2013). Conversely, when income levels fall, demand decreases. On the supply side, factors such as natural disasters and rising production costs can reduce the availability of goods and services. When the price of production inputs increases, production costs also rise, leading to a reduction in supply. Firms typically calculate the average cost of production to determine the prices they will charge. Therefore, when production costs increase, the higher prices result in reduced supply and consumption (Whelan & Msefe, 1996). During the COVID-19 outbreak, both demand and supply were significantly affected by containment measures such as lockdowns and quarantines. On one hand, the increased costs of raw materials and disrupted supply chains raised production costs, leading to decreased production. In turn, firms had to resort to layoffs as a survival strategy. On the other hand, the pandemic severely impacted individuals' incomes, which led to a decline in purchasing power, further reducing demand. The Two-Dimensional-Demand Model explains that under these circumstances, retrenchment became an unavoidable response. As both supply and demand were disrupted by the pandemic, companies faced economic challenges that necessitated workforce reductions in order to maintain operations—exactly what transpired during the COVID-19 outbreak.

Several factors must be carefully considered before and during a retrenchment exercise to ensure it is conducted ethically and in compliance with best practices. The International Labour Organization (ILO, 2020) and Coffie (2016) suggest that organizations should first explore alternatives such as offering early retirement options for elderly employees, implementing hiring freezes, eliminating non-essential staff positions, or providing retrenchment benefits before resorting to full-scale retrenchment. These practices are part of a broader strategy to reduce the impact on employees.

Moreover, the retrenchment process must align with the country's labor laws. Scholars such as ILO (2020), Milulu (2013), Holt (1990), and Maphosa (2009) outline key considerations that must be factored in during retrenchment. These include: (i) considering redeployment opportunities for affected employees, (ii) establishing a fair selection criterion, such as the Last In, First Out (LIFO) principle, (iii) exploring the option of voluntary redundancies, (iv) ensuring procedural and substantive fairness, (v) planning for retrenchment as soon as it is contemplated, (vi) involving employees in the decision-making process regarding retrenchment options, (vii) ensuring retrenchment is carried out in the least disruptive manner, and (viii) maintaining effective communication throughout the process. In general, providing early notification to employees and exhausting all possible alternatives before implementing retrenchment enhances the perceived fairness of the process among those affected. When these steps are followed, employees are more likely to view the retrenchment as a necessary and fair action rather than an unjust or hasty decision.

Retrenchment can have significant adverse economic and social effects on those affected (Coffie, 2016; Hall & Goodale, 1986). These consequences often include a reduction or complete cessation of income, which leads to diminished purchasing power and lower consumption rates. For student-employees, retrenchment may also mean the end of their education. Furthermore, retrenchment can cause emotional distress, including feelings of rejection, loss of self-esteem, insecurity, resentment, and a sense of powerlessness. Given these potential repercussions, both international and national labor laws have established clear guidelines for retrenchment processes, aiming to provide justice and balance for both employers and employees. These legal frameworks seek to ensure fairness and mitigate the negative impact of retrenchment on workers while allowing employers to manage their operational requirements.

According to English labor law, several laws guide retrenchment or dismissal for operational requirements. These include the Trade Union and Labor Relations (Consolidation) Act, the Collective Redundancies and Transfer of Undertaking (Protection of Employment) Regulations 1996 (SI 1996/2587), as well as the 1999 and 2007 regulations, and the Employment Rights Act. These laws outline important legal requirements for

retrenchment, such as the proper notification time based on the number of employees to be retrenched, severance payment procedures, selection criteria, and the necessity of justifying the reason for termination (Ramafalo & Choma, 2015). These regulations are designed to ensure fairness in the retrenchment process, protecting employees' rights while also providing employers with the framework to carry out retrenchment in compliance with the law.

In Tanzania, retrenchment is guided by the Employment and Labour Relations (Code of Good Practice) Rules, G.N. No. 42, 2007 and the Employment and Labour Relations Act CAP 336 R.E. 2018 (URT, 2007; URT, 2018). These laws outline the procedures for retrenchment, the steps to be taken, and the avenues available for employees to seek redress if they are dissatisfied with the process. Before initiating retrenchment, employers are required to consider all alternatives, such as transferring employees or offering early retirement. The laws also stipulate the establishment of justifiable selection criteria, including Last-In-First-Out (LIFO) and First-In-First-Out (FIFO). Furthermore, proper timing of retrenchment and efforts to minimize its impact on employees, such as providing adequate time for employees to seek new employment and ensuring severance pay, are crucial elements in the retrenchment process. These guidelines are designed to protect employees' rights while allowing employers to manage their workforce effectively during difficult economic times.

During retrenchment the following factors must be considered; (i) giving notice to the prospected employees to be retrenched or laid off, (ii) transparent selection of the retrenched, (iii) the expected timing of retrenchment, (iv) provide any other necessary information timely, (v) consultation with the trade union, (vi) pay all necessary dues such as severance pay calculated by taking the Gross Monthly Salary divide by twenty six (26) working days multiplied by seven (7) times the number of years of service up to a maximum of ten (10) years, (vii) pending salary, (viii) pending annual leave, (ix) pending in lieu of notice termination (x) any other pending payments (for sudden termination), (x) repatriation fee when termination area is different from recruitment area and (xi) certificate of service. In case there is disagreement between the employees and employers, mediation is called for failure to which arbitration is sought from the Commission for Mediation and Arbitration [CMA] (Rule

12 of Labor Institution [mediation and arbitration] Rules GN No. 64, 2007).

However, the presence of these laws alone does not guarantee their effective implementation. The study by Vishwakarma (2014) found that India has plenty of private and public sector retrenchment guiding laws but workers are unaware of them causing unfair retrenchment. The same was found by the study by Sharma, Kakkar & Issa (2016) who conducted a literature review on about 35 publications on effects of retrenchment to employees. All reviewed articles found notable economic, social, and psychological effects to the retrenched employees caused by the abuse of retrenchment laws.

A study by ILO (2022) discovered that many employers did not adhere to the labor laws when retrenching their workers amidst the COVID 19 pandemic. One of the commonly violated law was on notify the employees prior the termination of employment contract. Another violation experienced was delay in paying employees necessary dues such as severance pay. The International Trade Union Confederation (2020) recorded a number of cases in which employees complained not being paid their dues which complicated their lives during the retrenched period. The delay was accompanied by either nothing or empty endless promises which left the retrenched at limbo.

Indeed, while Tanzanian labor laws and international standards emphasize that retrenchment should follow clear, justifiable criteria such as Last-In-First-Out (LIFO) or First-In-First-Out (FIFO), the reality often deviates from these principles. In many cases, employees faced discriminatory practices during the retrenchment process, which included nepotism, favoritism, and arbitrary decision-making. These practices not only undermined the fairness of the process but also violated workers' rights, causing deep resentment and mistrust among employees. Such discriminatory practices, which can include the dismissal of employees based on personal biases rather than objective, lawful criteria, are harmful and contrary to the principles of fairness and equality enshrined in both national and international labor laws. For instance, the United Nations Human Rights Council (2020) has highlighted these issues as major violations of workers' rights, as these actions go against the principles of non-discrimination, fairness, and procedural justice. Moreover, arbitrary dismissals during retrenchment can

lead to disputes concerning both interest (e.g. disagreement over the need for layoffs) and rights (e.g., disputes over the legality of the dismissals and the entitlements owed to the retrenched employees). These disputes further complicate the retrenchment process and can lead to prolonged legal battles, straining both employers and employees.

In sum, while retrenchment is often a necessary response to economic downturns, it must be conducted in a transparent, fair, and legally compliant manner to avoid the violations of employees' rights and the risk of disputes and litigation.

A study by Sanjaja et al. (2021) found that the presence of unregulated labor laws among entrepreneurs affected employees amidst COVID 19 outbreak whereby workers could just show up to work and find the workplaces locked without notice or with ambiguous notifications. In some circumstances trade unions were not even capable of defending their fellow workers. The study however blamed the presence of unregulated labor practices amidst COVID-19 and urge the government to intervene in such crises.

Some cases of retrenchment during COVID 19 were characterized as discriminatory especially for the whistleblowers. This is said to have been used as a retaliation strategy to the employers who wanted to silence them. A study by ILO (2020) has reported several cases in different countries. Kirk (2021) also found out that many employers took unilateral actions of dismissing their employees without first discussing their intention with their employees prior.

The gap that can be observed from the literature is limited attention in investigating retrenchment practices during COVID-19 in Africa and especially in Tanzania. Tanzania is among the third world countries that were also hit by COVID 19 and suffered adverse impacts. For instance, the GDP decreased by 1.88% in 2020 which impacted production and prices of goods and services. Reduced trade, movement of people, goods and services, transportation and manufacturing across the country meant that companies and enterprises had to cut running costs to service. Sectors such as tourism and hospitality were hard hit (Henseler, Maisonnave and Maskaeva, 2022; Eric and Hubbard, 2020). Despite, no much attention has been given in examining the retrenchment procedures employed and its impact to the working force. This study has embarked on address that gap.

3. Theoretical Review:

The theory of Procedural Justice places fairness of procedures at the center of administrative actions. It explains how a person forms justice perception by examining how procedures were taken then ascribe whether they were fair or not. Thibaut and Walker (1975), and Leventhal (1980) provide several criteria that ensure procedural justice. These include involvement of those concerned in deciding the procedures to be taken, consistency of treatment, ethical and moral treatment, impartiality, use of accurate information and room to appeal an aggrieved decision. Adherence to these propositions will determine fairness of procedures resulting to justice. Despite the criticism against the theory that it results to the tyranny of the procedures that cannot work under the free market administrative environment (Hayek, 1973; Kurdoglu, 2019), the propositions of the theory are very significant is ensuring fairness of procedures in administering labor matters. The theory has therefore guided the current study on assessing how retrenchment of workers in Tanzania was carried out during COVID- 19. Using these theoretical propositions, the researcher examined procedures taken to retrench workers to see whether justice was served in the process.

4. Materials and Methods:

This is a cross-sectional qualitative study that employed data collected through in-depth interviews and through document review. The study was conducted in Dar es Salaam and Arusha Tanzania. Participants for the study were employees and employers from companies and enterprises whose business were the most affected by COVID-19, that is, education and tourism. Data was collected from thirty-six participants including 5 members from managerial positions and 30 employees of which 15 from education and 15 from tourism industry who were interviewed face to face and others via telephone. Specifically, 15 pre and primary school teachers, 2 school administrators, 15 tourism companies' employees and 3 administration staff were involved in the study. One labor law expert was also interviewed to give a legal perspective on the subject matter. To the retrenched or laid off employees, they were asked questions on how they were retrenched and whether their rights were safeguarded. To the owners, questions regarding how they conducted the retrenchment procedures as per regard to the labor laws were asked. Lastly the legal perspective on the

whole process of retrenching or laying off workers was obtained from the labor law experts. Data was also collected via the review of documents such as ILO and WHO reports, international and national labor laws, and from publications on retrenchment and COVID-19. Data was analyzed through thematic analysis with the help of NVIVO-12 software and results presented as text and quotations.

5. Findings and Discussion:

5.1. Tanzania's Legal Framework on Retrenchment:

Retrenchment under the labor laws is regarded as dismissal for operational requirements (ILO, 1982). In this situation an organization or firm is required to cut-off its workforce to cope with technological changes or economic crisis it is facing so as to continue surviving. Any other dismissal falls under disciplinary category in which employees dismissed this way do not deserve some of the compensations like their retrenched counterparts. Tanzania has established laws, rules and institutions to guide employment matters including retrenchment, both in private and public institutions/organizations. Private institutions are guided by The Employment and Labor Relations Act, Cap. 336, of 2004 (RE,2018), The Employment and Labor Relations (Code of Good Practice) Rules, 2007 (GN No. 2007), the Labor Institutions Act, 2004, the labor institutions (General) Regulations, (GN No. 45 of 2017). The Labor Institutions Wage Order, 2013 (GN No.196 of 2013), The Labor Institutions (Mediation and Arbitration) Rules (GN No. 64 of 2007), The Labor Institutions (Ethics and Code of Conduct for Mediators and Arbitrators) Rules (GN No. 66 of 2007), the Labor Institutions (Mediation and Arbitration) Rules, 2007 (GN No. 67 of 2007) and the Labor Court Rules, 2007 (GN No. 106 of 2007). On the other hand, public institutions are guided by the Public Service Act, No.8 of 2002, the Public Service Regulations, 2003 (RE 2022), the Public Service Scheme of Service, 2003, the Local Government (Teachers Service Scheme) 2006 and the Public Service Negotiation Machinery Act, 20033.

Tanzanian Labor laws has specified different types of leave entitled to an employee. These include, maternity leave (84 days for single child and 100 days for twins) which is provided to female employees and paternity leave (3 days) to male employees who bare children for a 3 years circle; compassionate leave provided in terms of sickness or death and sick leave of up to 126 days divided like the first 63 days with full pay and the other

63 days with half pay (ELRA, 2004). Also every employee is entitled to 28 days annual leave which is paid every other year. Further, as per section 30 (2) of ELRA, 2004 an employee can also agree with an employer to take an unpaid leave at any time, without affecting his/her paid annual leave. This means that the laws prohibit any unilateral action by the employers in deciding matters related to the lengthy of their service. It also means that any changes made regarding employees' rights must be mutually agreed and put into writing. It is imperative to point out that the laws however do not specifically speak on pandemics, so this is left to the discretion of the employers and employees to have mutual agreement on how to deal with such matters.

However, the laws provide for cases where an automatic termination occur. This is when there occurs loss or death of a sole business owner whose demise causes the source of salary to cease (Employment and Labor Relations Code of Good Conduct, Rules, 2007, 5(1)). On the other hand, in cases where the employer fail to continue with the usual number of employees and needs to retrench in order to save the business, ELRA, 2004 section 38 (1) requires such employer to observe the following:- (i) to give sufficient notice to the employees and trade union on the intention to retrench as soon as the employer contemplate to do so; (ii) to disclose all relevant information for consultation purposes, (iii) to communicate the following prior; the reason for intended retrenchment, any measure to avoid or minimize the intended retrenchment, the method/criteria of employee selection, timing of retrenchment, severance pay; (iv) to undertake a joint problem solving to decide on possible alternatives, selection criteria and steps to be taken; (v) to give retrenched employees the priority when rehiring opportunity occurs. (vi) to pay all mandatory benefits to retrenched employees which include, pending salary, pending unpaid annual leave, payment in lieu of notice or termination, severance pay and repatriation to the place of domicile; (vi) in case whether there is disagreement on these provisions, to call for mediation.

5.2. Retrenchment Practices in Tanzania amidst COVID - 19:

After the country was hit by the pandemic, the education and tourism sectors took more or less similar measures as a response. In the education sector for instance, teachers were sent on leave immediately after

government announcement to close all schools in March 2020, meaning that the leave was automatic and mandatory. Different schools responded to the situation differently. In some schools, school management called for meetings to discuss the situation and agree on the way forward whereas in others unilateral action was taken by employers by only announcing the commencement of the leave. Some schools paid teachers all accrued salaries and debts, others paid them no money but distributed them the stored student food while others asked parents to pay certain amount of fees to sustain teachers during this difficult time. In the worst-case scenario some school administrators sent the teachers and other employees on leave empty handed with promises to be compensated when schools reopen (Case 1).

In the tourism sector the stoppage of tourists flow affected income to most tourist companies in the country. The gap was felt by the employers who not only became incapable of sustaining their facilities but also maintain their workforce. This resulted to an automatic retrenchment or leave for unknown period of time (Case 5). Just like in the education sector, some employers in the tourism sector summoned all employees to discuss way forward while some unilateral action to retrench their workers without common agreement. Depending on capability of the company, some employees were paid all their accrued salaries, others sent employees on leave with quarter or half pay while others sent employees on leave with nothing but promises to get paid when the pandemic is over and situation becomes better.

As stated already, ELRA, 2004 posits that changes of matters written in the contract of employment have to be decided upon mutually. According to the interviewed labor law expert, labor laws are silent on how employers should respond specifically on pandemics, but there are different perspectives which employees have to opt including employee engagement, sympathy and empathy, act in utmost good faith, participation and involvement, workers consultation, employee assistance, support program and redeployment (Epvate & Fortune International, 2020)

5.3. Respondents' Understanding on the Labor Laws:

In this objective, the researcher wanted to know respondents' understanding of the labor laws provisions regarding retrenchment. As pointed out earlier, labor laws provide for actions and sanctions

applicable in any labor matter in cases of commission of omission. When employees know these laws, they can stand for their rights when they are infringed (Willison et al. 2002). Specifically, questions were directed on mentioning any known labor law or legal provision on retrenchment and assess fairness of the procedure taken. Generally, the findings discovered unsatisfactory level of awareness and knowledge on labor laws pertaining to retrenchment in Tanzania among the respondents. Awareness of labor laws refers to the situation whereby a person is informed of existence of the laws but cannot specifically name precisely the provisions of the said law or interpret them correctly. For instance, when asked whether there were any laws violated amidst the retrenchment exercise, one respondent from the tourism sector had this to say,

The laws requires the employer to call us to discuss and together we agree on the way forward. This never happened and we were just informed via WhatsApp or email message that we have to go on leave without pay until further notice. Some of our supervisors could not be reached as sometimes their phones only rang for a long time without response while others switched of their mobile phones (Case 4).

Another respondent (Case 7) from the tourism sector also lamented that he wished they had workers representatives who could speak to management on their behalf but they did not have one, only their spokesperson who was not formally recognized by their employers and could not help them.

Despite the fact that awareness of the existence of such laws is a step towards justice, this becomes insufficient because only being aware cannot inflict enough confidence to demand ones' rights. In the education sector for instance, most interviewed retrenches were aware the existence of laws guiding retrenchment but could not name specific laws or even provisions that guide the procedure. This made them vulnerable to lose their rights against their employers.

Knowledge refers to theoretical or practical understanding of a labor laws, being able to state their provisions in detail and provide current interpretations (Russo, ,2016). Knowledge of labor laws is among elements of competence which give consumers of such laws ability to know their rights and demand for justice when violated (Willison, *ibid*). The findings show limited knowledge among the respondents understudied which exposed them to the vulnerability of injustice

possibilities. Majority of the interviewed employees in the education sector were knowledgeable of some labor laws whereas some were just aware of their existence. Lack of knowledge of the labor laws governing retrenchment among the respondents made them slaves of their managers to the extent of defending them with an expectation of rehiring (Case 6). The vulnerability of being rehired after the pandemic blindfolded the retrenches and muted them to demand their dues. This was meant to maintain the good relationship with the employers who would not consider those who pretended to be more concerned with their rights (Case 2). This can be interpreted as lack of understanding of the labor laws which provide consideration of rehiring as a right and not a favor to be provided as token of loyalty during retrenchment.

These findings therefore show limited understanding of labor laws on retrenchment among the understudied respondents. Whereas some of the respondents were only aware of the existence of some laws, this did not warrant them justice since they were not confident enough to apply the laws to demand their rights as they did not know exactly what the laws demanded. This led to many retrenched employees losing their rights without their outstanding dues being paid or having information on when that will happen; or being informed on how retrenchment process was deliberated upon and accomplished.

5.4. Employee Perception on the Retrenchment Exercise:

Labor laws provide clear guidelines on the steps to be taken and the rights to be upheld when employment is interrupted. Respondents were asked to evaluate the fairness of the retrenchment procedure and the protection of their rights, with this assessment based on the principles of procedural justice and the relevant labor law provisions.

The primary legal concerns raised by workers revolved around compensation, notice provisions, and alternative employment. For instance, in relation to notice, some employees—particularly those who were close affiliates of the management—were given formal notice, while in other cases, employees simply received an email announcing the commencement of leave “until further notice” (Case 6; Case 8). Although the sudden onset of the COVID-19 pandemic did not afford employers sufficient time to consult or prepare, there were alternative methods that could have been

employed to communicate this information more effectively and transparently.

I am not saying that employers had to start holding meetings all over to discuss retrenchment procedures with their workers. There are plenty of means that could have been used provided the advancement in science and technology. Moreover, we used to go to work several days before the retrenchment and we could hear rumors that the company is collapsing, why didn't they inform us? (Case 4).

In some organizations the management were vigilant enough to respond justly by summoning all teachers and discuss the way forward. In school C for instance a few representative employees were summoned in a meeting to negotiate on behalf of other teachers. In the tourism sector the situation was different as some companies' management took unilateral action.

A lack of consistency in how employers implemented retrenchments during the COVID-19 pandemic was also evident. Regarding compensation, the Employment and Labor Relations Act (ELRA) of 2004, Section 44, mandates that employers pay any remuneration for work performed before termination, as well as accrued annual leave pay, notice pay, severance pay, and transport allowances prior to retrenching an employee. As previously noted, the COVID-19 pandemic had a profound impact on both employers and employees. While many organizations faced significant losses and were unable to retain workers, others were forced to close for safety reasons. In both scenarios, an economic crisis ensued, and the means to support employees were severely disrupted. In such circumstances, employers who proceeded with retrenchments were required to honor all the outlined entitlements, including severance pay, repatriation, and settling any outstanding debts. When payment of these entitlements was not feasible, a mutually agreed-upon solution between employers and employees, or management, was to be negotiated.

From the studied cases, some employers acted with empathy and sympathy while others did not. One private school owner (School A) provided plots of land for its employees to cultivate until school reopens. Another school (School C) offered a help to settle teachers medical bills during the retrenchment period. Other schools even provided short seminars or advice on how to find alternative employment during this time. However this was practical to a few schools that have

capability and willingness to do so. In such schools these interventions were mutually discussed and agreed upon between both parties. In other schools, employees did not receive any of their outstanding dues as required by law. This also was the case in most of the tourist companies' employees where workers were dismissed with nothing but empty promises. All these practices signify the violation of procedural justice which posits that consistency to all affected by a decision gives recipients a feel sense of justice (Leventhal, 1980).

Partiality and cronyism were prominent features of the retrenchment process. Respondents, particularly in the tourism sector, expressed concerns about the selection criteria used to determine which employees would be retrenched and who would be considered for alternative employment. For instance, some respondents complained that management retained their close affiliates while employees perceived as troublemakers were the first to be let go.

Employers have various criteria they can use to select employees for retrenchment. Research by Coffie (ibid) identifies several such criteria, including performance evaluations, client feedback, peer assessments, and aptitude tests. Tanzanian labor laws specify criteria such as Last-In-First-Out (LIFO), First-In-First-Out (FIFO), the need to retain key roles, special skills, qualifications, and affirmative action considerations. However, in cases of mass retrenchment, the law mandates bilateral negotiations rather than unilateral actions by employers. When these criteria are disregarded, the retrenchment process is perceived as wrongful, as it can be seen as a tool for punishment or an "undercover blackmail" strategy, particularly when promises of reemployment are made but not fulfilled.

Procedural justice requires transparency in the processes used to make such decisions. Failure to uphold this transparency leads to grievances and the denial of rights for those affected (Coffie, 2016). Deliberate absenteeism of the managers during the pandemic was also reported during the pandemic. This was made allegedly to avoid retrenched workers who needed clarification about their fate. The most modest way this was implemented is lockdown of the work premises and barring anybody from the premises. This means communication was halted and no answers could be found. In despair people stopped to visit the places after several failed attempt and decided to look for an alternative employment from elsewhere, waiting

for the government to intervene. Communication shape people's perception of fairness but also legitimize decision made (Tyler & Lind, 1992). Whereas communication was a catalyst to foster transparency and build trust among the employees and employers of the retrenchment procedure, its absence only left room for feeling of injustice for employees.

5.5. Is Retrenchment the Only Solution?

International labor laws generally position retrenchment as a measure of last resort that a company may resort to for survival. Similarly, many countries enshrine this principle in their labor regulations, cautioning employers to adhere strictly to these guidelines. The rationale behind this provision is that abrupt and ad hoc retrenchments can lead to significant financial losses for companies, particularly when rehiring becomes necessary.

For instance, in February 2020, Singapore's Minister for Manpower, Josephine Teo, highlighted the "apparent short-sightedness" of employers engaging in such practices. She illustrated a scenario where companies, after retrenching employees and providing them with their full entitlements and generous severance payments, later rehired them at the same salary. This cycle not only burdens the company financially but also results in substantial losses. This call for employers to practice responsible retrenchment following options such as flexible work schedule and in cases where retrenchment is inevitable it has to be carried out fairly and with high degree of sensitivity.

The Association of Tanzanian Employers [ATE], 2020 list the following as alternatives; bilateral meetings between employers and employees on salary cut, leave or other flexible arrangements; introduction of contracts for specific task; consideration of working from home and reviewing and updating contracts and company policies on absence or sickness leaves.

Other options can be leave without pay such as sabbatical leave or voluntary leave where employees can still be employees by the respective company but with no salary. Voluntary retrenchment is also a possible alternative where employees decide to leave the organization on their own. The instance of voluntary retirement can be implemented during pandemics such as COVID-19 however, this require perseverence since all necessary compensations might not be payable at the time of leaving. Responding to this the interviewed

legal expert commented that, Other options can be leave without pay such as sabbatical leave or voluntary leave where employees can take the unpaid leave but still be employees of such company. Voluntary retrenchment is also a possible alternative where employees decide to leave the organization on their own. The instance of voluntary retirement can be implemented during pandemics such as COVID-19. However, this require perseverance to the employees since all necessary dues might not be paid timely provided loss accrued by the organization (Case 6).

Procedural justice necessitates the provision of an opportunity for parties to appeal decisions when they feel aggrieved. One significant issue that arose during the COVID-19 pandemic retrenchments was the lack of an avenue for employees to appeal decisions made by their employers. The Employment and Labor Relations Act, 2004, established the Commission for Mediation and Arbitration (CMA) as the appellate body for employees in the private sector. Aggrieved employees, or trade union representatives on their behalf, can seek redress through the CMA. However, during the COVID-19 pandemic, retrenched employees in the tourism and education sectors were unable to appeal their grievances regarding retrenchment, as they were never formally retrenched but rather placed on hold, awaiting rehire.

The participants interviewed had varying perceptions about appealing their grievances to the CMA. Some were unaware of the appeal process, others were unwilling to pursue an appeal, while some expressed a readiness to do so, provided they received guidance on the procedure. In response to this issue, Case 10 remarked

Why should send my employer to court. I have been promised to be among the first to be rehired when the pandemic is over and situation improves. The last thing I will do is to so someone who gives me bread, I will be crazy doing that.

Room to appeal allow the aggrieved part to seek redress from a neutral and independent party and thereby to any irregularities and serve justice to the deserving one. According to the PSDCGP, 2007, the appealing process should check whether the procedure was both substantially and procedurally fair and all the mitigation factors were considered. This study findings show that the appealing process was not known to some of the respondents while some saw no need to

appeal. This resulted to rights' infringement of some of the workers.

6. Conclusion and Recommendations:

It is an indisputable fact that COVID-19 had a profound impact on businesses in Tanzania and globally, particularly in the tourism and education sectors, to the extent that retrenchment became a survival strategy. While labor laws in Tanzania do not specifically address retrenchment procedures in the event of pandemics like COVID-19, they do clearly outline the steps to be followed when organizations face operational challenges that necessitate layoffs. The findings of this study reveal that retrenchment during the COVID-19 crisis was carried out in a wrongful and unlawful manner within the sectors under investigation. Practices indicative of procedural injustice, such as favoritism, communication breakdowns, denial of workers' legal entitlements, lack of transparency in the selection criteria for layoffs, and failure to provide proper notice, were widespread. These issues were further exacerbated by workers' limited awareness and understanding of their rights in the context of retrenchment

This study contributes valuable insights into the challenges employers face when they fail to plan ahead or rely on rigid procedures to guide daily operations. The findings reinforce the theoretical assumptions of procedural justice, which emphasize the importance of adhering to established procedures, even in times of emergency, to prevent perceived injustice. However, the application of this theory becomes problematic when the situation is sudden and unplanned, leaving insufficient time to consult all relevant parties, engage in meaningful discussions, and reach a consensus on the way forward. Nevertheless, transparent communication remains essential to mitigate perceptions of injustice. For policymakers and lawmakers, the COVID-19 pandemic has underscored the necessity of proactive planning for uncertain events. Workers' rights must be legally and ethically safeguarded, even in times of such unpredictability.

First, social dialogue should be central to the formulation of policy measures, as it fosters trust and collaboration among stakeholders. Second, there is a need for a thorough review of existing laws and policies to integrate proactive guidelines, rather than relying solely on reactive measures during challenging times. Third, Social Security Funds, which serve as safety nets,

must play an active role in supporting their members during periods of economic distress, as this aligns with their core purpose. Fourth, businesses and organizations, particularly privately owned schools, are strongly encouraged to maintain savings that will enable them to navigate such crises. Employees have expressed concerns that their employers' inability to provide even a single month's salary, despite the substantial profits these institutions generate, highlights a significant weakness. Therefore, the government is urged to implement stringent capital control measures, compelling these institutions to establish savings accounts or maintain adequate emergency funds for unforeseen circumstances

7. Declarations:

Funding: Not applicable

Ethical Approval:

(a) Full name of the committee that approved the research

-Not applicable

(b) Confirmation that all research was performed in accordance with relevant guidelines/regulations applicable when human participants are involved (e.g. Declaration of Helsinki, or similar)

- The research was conducted according to scientific principles agreed by the scientific community

(c) If a study was granted exemption from requiring ethics approval, the reason for this should be explained in sufficient detail.

- Not applicable

Informed consent:

- Verbal consent was obtained from the study's respondents before commencement of data collection.
- Generally, this article does not contain any studies with human participants performed by any of the authors.

Author's contribution: The paper was authored by only one person, AMBILIASIA MOSHA who was responsible for all the activities of conducting this study.

Conflict of interest: No conflict of interest involved.

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