

# 1. Structure and Rule of Law

## 1.1 Importance of Rule of Law

- a. Law sets Boundaries that promotes society's good and rights and duties of individuals
- b. Rule of Law is Conducive for a life of peace of mind, business and fulfilment of aspirations
- c. Breach of Rule of Law is recipe for all kind of disasters: national, personal and business



# 1. Structure and Rule of Law

## 1.2 Different Laws

- a. Legislations: Statutory law made by Parliament, Provincial & Local-level Govt legislatures
- b. Subsidiary Legislations: Regulations made by Head of State through NEC, Minister, etc
- c. Other Laws: Contract, Rules of Association, Awards, Court Case Precedents, Custom

# 1. Structure and Rule of Law

## 1.3 HR Laws

- a. Employment Legislations: National Parliament (and NEC) only have the authority to make
- b. Registered Awards: Industrial Agreements or Determinations of Industrial Tribunals
- c. Employment Contracts: Contract document, Policies, Precedents, Custom

## 2. Public Sector HR Laws

### 2.1 Public Sector Employment

- a. Public service oriented: Government departments, provincial administration, govt authorities
- b. Semi-public service oriented: statutory bodies, may charge a fee to service users
- c. Contract Officers: some 'public service' features would be missing in their contracts

## 2. Public Sector HR Laws

### 2.2 HR Laws for Public Sector Employment

- a. Government Departments: Public Services (Management) Act, Public Service General Orders, Agreements between DPM and PEA, Offers and Acceptance
- b. Statutory Bodies: Enabling Act of Parliament, Regulations made under the Act, Employment Contracts, Offers and Acceptance
- c. Contract Officers: Public Services (Management) Act, Public Services (Management) (Employment of Departmental Heads) Regulation, Public Services (Management) (Employment of District Administrators) Regulation, Public Services (Management) (Employment of Provincial Administrators) Regulation, Public Services (Management) (Engagement of Non-Citizens) (Amendment) Regulation, Regulatory Statutory Authorities (Appointment to Certain Offices) Act, Regulatory Statutory Authority (Appointment to Certain Offices) Regulation, Employment Contracts
- d. Legislations of General Application: Public Employment (Non-citizens) Act, Salaries & Conditions Monitoring Committee Act, Public Services Conciliation & Arbitration Act, Superannuation (General Provisions) Act, Workers Compensation Act, Income Tax Act

## 2. Public Sector HR Laws

### 2.3 Statutory Regulator of Public Sector HR Laws

- a. Government Departments: Department of Personnel Management, DPM Secretary, Departmental Head, Provincial Administrator, District Administrator, Public Services Commission, Redundancy Monitoring Committee, Minister for Public Service
- b. Statutory Bodies: Governing authority of Body, Chief Executive Officer, DPM Secretary, Registrars of public Educational Institutions, Appeal Bodies
- c. For Everyone: Appointing authorities (like the NEC), Ministerial Executive Appointments Committee, Provincial Executive, SCMC, Public Services Conciliation and Arbitration Tribunal

# 3. Private Sector HR Laws

## 3.1 Private Sector Employment

- a. Profit, Charity oriented: companies, associations, firms, NGOs, churches, sports clubs, etc
- b. Semi-public service oriented: State enterprises, NGOs, may/may not charge service users
- c. Miscellaneous situations: self-employed, piece-rate work, family business, volunteers

# 3. Private Sector HR Laws

## 3.2 HR Laws for Private Sector Employment

- a. Legislations - General: Employment Act, Employment of Non-Citizens Act, Industrial Relations Act, Superannuation (General Provisions) Act, Workers Compensation Act, Income Tax Act, Industrial Safety, Health and Welfare Act, HIV/AIDS Management and Prevention Act, Company Constitutions, Rules of Association
- b. Legislations - Industry-oriented: It depends; e.g., Civil Aviation Act, Mining Act, Security (Protection) Industry Act, Merchant Shipping Act,
- c. Registered Awards: Minimum Wages Board Determination, Papua New Guinea Trade Union Congress General Employment (Amending) Award, Port Moresby Common Rule, Lae Common Rule, Enterprise Agreements,
- d. Employment Contract: contract documents, standard conditions of employment, company policies, HR manual, code of ethics, grievance procedures,



# 3. Private Sector HR Laws

## 3.3 Statutory Regulator of Private Sector HR Laws

- a. Department of Labour: Labour Secretary, Labour Officer, Industrial Safety Officer,
- b. Employer Organization: Board or committee of employer, shareholders, Chief Executive Officer, Registrars of private Educational Institutions, Appeal Bodies (if any)
- c. Other Regulators: Internal Revenue Commission (superannuation, tax), Industrial Registrar, Workers Compensation Office, Industrial tribunal, mine inspectors, maritime safety officers

# 4. HR Court Processes

## 4.1 HR Court Processes

- a. Appeal/Review: internal process, right must be given by law, reinstatement possible
- b. Industrial Process: industrial dispute, claim for changed conditions, reinstatement possible
- c. Court Action: judicial review, damages claim, declaratory orders

# 4. HR Court Processes

## 4.2 HR Court Processes in Public Sector

- a. Staff Appeals: Public Services Commission, Statutory Bodies, personnel matters
- b. Arbitration Tribunal: claim for changed conditions, DPM, determination
- c. Judicial Review: National Court, PSC or appeal body or tribunal, reinstatement
- d. Claim for Damages: District or National Court, notice of claim, compensation

# 4. HR Court Processes

## 4.3 HR Court Processes in Private Sector

- a. Grievance Process: internal process, where provided for, personnel matters
- b. Arbitration Tribunal: industrial dispute, Labour Dept., award
- c. Judicial Review: National Court, arbitration tribunal, reinstatement possible
- d. Claim for Damages: District or National Court, compensation