



**Advocating for domestic workers in Rwanda:
CLADHO- IDAY International, June 2015**

Ending violence and abuse addressed to domestic workers through regulations and education in Rwanda.

The political and legal framework desk review of domestic work in Rwanda

Kigali, July 2015

Done by CDP-Rwanda, Ltd; commissioned by
CLADHO and IDAY-International; Funded by the European Union

In partnership with:



and



Foreword

The participation and great collaboration of various organizations and individuals were very important in this desk review and analysis of the political and legal framework of domestic work existing in Rwanda.

As a result, CLADHO and IDAY International in partnership with NCC and CESTRAR have identified and highlighted policies and legal instruments that protect or promote the rights of domestic workers such as right to education, right to be protected against all forms of violence and abuse at work place including sexual and gender based violence, right to access social security and health care insurance schemes, right to be protected against occupational health and safety risks at the workplace, right to form trade unions, etc.

The information provided in this document, will inform implementing partners, domestic workers, domestic work employers, and policy makers on existing policies and legal instruments that have been ratified at international and regional levels but also adopted and/or in force in Rwanda.

On behalf of CLADHO and all its human rights member organizations, I would like to extend sincere gratitude to the following: HAGURUKA that advocates for the right of child and FAWE advocating for and promoting girls' education, and some of private organizations advocating for domestic workers such as COSYLI, INZIRA Y'AKAZI, M&J enterprises, etc.

Many thanks to our key partner organizations namely CESTRAR and NCC who have been involved in this desk review and analysis of the political and legal framework of domestic work in Rwanda since the project started to be implemented. I also address gratitude to the Government of Rwanda representatives who provided valuable information and guidance in this process respectively: the NCC, MIFOTRA, RNP, MINIJUST, RSSB; I also sincerely recognized the role played by some of development Partners' representatives: ILO, European Union, UNDP and WDA in this process.

Finally, all these processes could not be possible without the technical support of IDAY International based in Belgium and in Rwanda through CLADHO, and the funding from the European Union, our highly valued donor. As the chair person of the civil society human rights organizations umbrella (CLADHO) I deeply thank them.

Mr Jean Leonard SEKANAYANGE

Chair person of CLADHO

Kigali-Rwanda

This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of CLADHO/IDAY and can in no way be taken to reflect the views of the European Union.

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Acronyms

| | |
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| ALP | Accelerated Learning Programme |
| CAS | Committee on the Application of Standards |
| CDWs | Child Domestic Workers |
| CEACR | Committee of Experts on the Application of Conventions and Recommendations |
| CESTRAR | Centrale Syndicale des Travailleurs du Rwanda |
| CFLI | Canada Fund for Local Initiatives |
| CLADHO | Collectif des Ligues et Associations de Défense des Droits de l'Homme au Rwanda |
| CLMS | Child Labour Monitoring Information System |
| COSYLI | Conseil National des Organisations Syndicales Libres au Rwanda |
| CPCs | Child Protection Committees |
| CRC | Convention on the Rights of the Child |
| DOL | (US) Department of Labour |
| DWs | Domestic Workers |
| EAC | East African Community |
| EDC | Education Center Inc. |
| EDPRS | Economic Development and Poverty Reduction Strategy |
| EICV | Enquête Intégrale sur les Conditions de Vie des Ménages |
| GoR | Government of Rwanda |
| GBV | Gender Based Violence |
| ICESCR | International Covenant on Economic, Social and Cultural Rights |
| ICRP | Integrated Child Rights Policy |
| ILO | International Labour Organization |
| IPEC | International Programme on the Elimination of Child Labour |
| IPU | Inter-Parliamentary Union |
| MIFOTRA | Ministry of Public Service and Labour |
| MIGEPROF | Ministry of Gender and Family Promotion |
| MINECOFIN | Ministry of Finance and Economic Planning |
| NCC | National Commission for Children |
| NCHR | National Commission for Human Rights |
| NEP | National Employment Program |
| NISR | National Institute of Statistics of Rwanda |
| NPECL | National Policy for the Elimination of Child Labour |
| OHS | Occupational Health and Safety |
| REACH | Rwanda Education Alternatives for Children |
| RNP | Rwanda National Police |
| RSSB | Rwanda Social Security Board |
| RWAMREC | Rwanda Men's Resource Center |
| SFR | Strive Foundation Rwanda |
| SYTRAMER | Syndicat des Travailleurs Ménagers du Rwanda |
| ToR | Terms of Reference |
| TVET | Technical and Vocational Education and Training |
| UN | United Nations |
| UNCRC | UN Convention on the Rights of the Child |
| USAID | United States Agency for International Development |
| WDA | Workforce Development Authority |

1. Introduction

The Domestic Workers Baseline Survey conducted in Rwanda in 2015 is a joint initiative of CLADHO and IDAY International, with a close collaboration of other Partners like CESTRAR and the National Commission for Children (NCC).

The outcomes of this research will be utilized to inform policy makers about the domestic workers living and working conditions and to point out issues related to domestic workers' rights violation including sexual and gender based violence and abuse, with a special focus on child domestic workers.

The Baseline Survey will help to address the problems faced by domestic workers in Rwanda, in terms of improvement of their working and living conditions, access to social security schemes and health insurance in particular, implementation of their right especially the right to education for Child Domestic Workers, right to form trade unions and to be protected against occupational health and safety risks at the workplace.

The present chapter of the baseline survey is related to the political and legal framework desk review on domestic work in Rwanda. This document is based mainly on secondary data sources complemented by semi-structured interviews with key informants from various relevant institutions and individual experts (labor leaders, other government policy-makers, private domestic work employment agencies, trade unions and other relevant civil society organizations).

This political and legal framework of the domestic work starts with an analysis of the international context of domestic work and the high level policy instruments and international legal instruments that exists.

In a following chapter we will analyze the regional context of domestic work that includes the policy framework of domestic work in Rwanda and then the legal framework of domestic work in Rwanda. Finally we will present the major domestic work issues and gaps that have been identified through this policy and legal framework analysis.

This desk review has also highlighted policies and legal instruments existing in Rwanda to protect domestic workers in general and child domestic workers in particular against all forms of abuse at workplace and to promote their rights especially the right to education.

1.1. Purpose of the domestic work political and legal framework desk review

The initial specific objectives of the Political and Legal Framework Desk Review as described in the ToR, were the following:

- 1) **To analyze current policies and legal framework related to child rights**, integrated child rights policy, the labor law in Rwanda, GBV law, and all policies and conventions that may support the program of preventing, fighting or stopping the child violence and abuse of child domestic workers in Rwanda through advocacy, regulations, and education;
- 2) **To conduct a desk review and produce a document on legal and political framework situational analysis** that include implementation status and gaps in combating child rights violence and child abuse in Rwanda.

However CLADHO, after consultations with its stakeholders revised the objectives of the Political and Legal Framework Desk Review by extending them to Domestic workers in general with only a special focus to child domestic workers.

1.2. Methodology

The desk review for this Domestic work policy and legal framework has been an intensive literature search, review, and synthesis of relevant documents concerning the political and legal framework of domestic work in Rwanda and child domestic labor in particular, focusing on the specific rights they should enjoy.

It has also analyzed gaps of issues not addressed in the existing policies, regulations or implementation mechanisms that should be done for domestic workers' interests in Rwanda. The following data collection methods and steps have been used for this purpose:

- a) **Desk review of documents at global, regional and country levels:** Relevant information related to Domestic Workers' political and legal framework have been as much as possible collected using internet, national library sources, written reports available in the relevant institutions etc.
- b) **In-depth interviews with selected key informants:** These interviews with key informants helped to ensure that there is no important information left behind while compiling data gathered from documents review and analysis. It was also a good opportunity to seek their views as well as their opinions on specific issues regarding domestic work that fall into their respective mandate, area of interventions or initiatives.
- c) **Data triangulation:** Collected information was organized and grouped in thematic sections for easy analysis.
- d) **Data analysis:** Collected information was explored, summarized and compared from various sources of information related to domestic workers' policies and legal instruments protecting and/or promoting their specific rights.
- e) **Draft report write-up:** After organizing, structuring and analyzing available information, draft report was written and submitted to CLADHO for observations.

2. International context of domestic work

2.1. High level policy Instruments

1) The Universal Declaration of Human Rights

This UN Universal Declaration of Human Rights was adopted by the UN General Assembly on 10 December 1948. It was conceived as “a common standard of achievement for all peoples and all nations”¹. It is the most universal human rights document in existence, which delineates the thirty fundamental rights that form the basis for a democratic society.

The Universal Declaration of Human Rights is not a formal Treaty in itself, but a fundamental constitutive document of the United Nations, which is respected worldwide.

Regarding the domestic work context, the Universal Declaration of Human Rights states especially in its articles 23, 24, 25 and 26 the social rights that every human being should enjoy and that every State should consequently promote and protect where necessary.

Some of these social rights are applicable to Domestic work environment, namely and not exhaustively the right to just and favorable conditions of work; the right to just and favorable remuneration ensuring an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection; the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay; the right to a standard of living adequate for health and well-being and the right to education.

¹ United Nations, The International Bill of Human Rights, Geneva, 1991

2) The ILO Declaration on Fundamental Principles and Rights at Work

Adopted in 1998, the Declaration requires ILO member States to respect, promote and realize the following four fundamental principles:

- *Freedom of association and the effective recognition of the right to collective bargaining*
- *The elimination of all forms of forced or compulsory labour*
- *The effective abolition of child labour*
- *The elimination of discrimination in respect of employment and occupation*

Whereas ILO Conventions apply only to those member States which ratify them, the Declaration is relevant to all member States (including Rwanda) by virtue of their membership and Constitutional obligations towards the ILO. As such, the Declaration represents a political commitment by governments to respect, promote and realize the Declaration's principles. Declarations are generally statements of endorsement that reaffirm the importance which the parties attach to certain principles and values.

Consequently, whereas ILO Conventions, if ratified, require governments to respect their strict legal detail, the **ILO Declaration on Fundamental Principles and Rights at Work** is intended to focus on the steps taken by governments to promote its four fundamental principles described above.

3) The ILO Resolution concerning the elimination of child labor (GB 267-3-ILO Governing Body)

Adopted by the ILO Conference at its 83rd Session (June 1996), the Resolution invites governments and, where appropriate, employers' and workers' organizations, to take action towards the effective elimination of child labour, including the immediate elimination of the most intolerable forms of child labor. It calls for a wide range of actions, including educational and developmental policies and programmes, health care plans, increased international cooperation to help countries develop and implement programmes to eliminate child labour, support and funding for the ILO's International Programme for the Elimination of Child Labour (IPEC), effective implementation of national legislation and participation in standard setting on new international labour standards on child labour.

4) The International Programme on the elimination of child labour

The ILO's International Programme on the Elimination of Child Labour (IPEC) was created in 1992 with the overall goal of the progressive elimination of child labour, which was to be achieved through strengthening the capacity of countries to deal with the problem and promoting a worldwide movement to combat child labour.

IPEC's work to eliminate child labour is an important facet of the ILO's Decent Work agenda.

The rationale is that child labour not only prevents children from acquiring the skills and education they need for a better future, it also perpetuates poverty and affects national economies through losses in competitiveness, productivity and potential income. Withdrawing children from child labour, providing them with education and assisting their families with training and employment opportunities contribute directly to creating decent work for adults.

The Programme has set priority targets for accelerated action against the worst forms of child labour, which are defined in the ILO Convention on the worst forms of child labour, 1999 (N° 182).

Since it began its operations in 1992, IPEC has worked to achieve this in through:

- Country-based programmes which promote policy reform, build institutional capacity and put in place concrete measures to end child labour; and
- Awareness raising and mobilization intended to change social attitudes and promote ratification and effective implementation of ILO child labour Conventions.

These efforts have resulted in hundreds of thousands of children being withdrawn from work and rehabilitated or prevented from entering the workforce.

2.2. International legal instruments

2.2.1. International Labor Organization instruments

The most important international legal instruments related to domestic work environment are those adopted by the International Labor Organization Conference, which once ratified by a Member State obliges its Government to take specific steps to implement their respective provisions.

Most widely, the framework for the regulation of international labour standards is hinged on the following:

- 1) membership of the ILO, which imposes on a member State a duty to protect the labour force and promote the aims and objectives of the organization within its jurisdiction;
- 2) the ratification of Conventions and Recommendations;
- 3) the adoption of Declarations by the International Labour Conference; and
- 4) the supervisory mechanism of the ILO through its Committees such as the Committee of Experts on the Application of Conventions and Recommendations (CEACR) and the Committee on the Application of Standards (CAS).

ILO standards can take the form of either Conventions or Recommendations. They are negotiated by the Organization's tripartite constituents – representatives of governments, employers and workers of ILO member States – at the International Labour Conference, which meets annually. Conventions are international treaties which are open to ratification by ILO member States. When a State ratifies a Convention, it is obliged to bring national legislation and practice into line with the provisions of that Convention, and to report to international supervisory bodies on the steps it has taken to respect the obligations that it has entered into.

Recommendations establish guidelines to influence the action of member States, but are not open to ratification. Many Recommendations accompany a Convention on the same subject and aim to give detailed guidance to States on the means of implementing the requirements laid down in a Convention².

Box 1: International labour standards

The ILO instruments include the following that can serve as good tools to improve the legal environment and work practices of any Member State which is committed to organize domestic work, and especially in most of African countries where domestic workers constitute in reality a significant but invisible workforce.

2.2.2. The ILO Convention (C 189) concerning Decent Work for Domestic Workers

The ILO Convention 189 (commonly known as “**the Domestic Workers Convention, 2011**”) and its accompanying **ILO Recommendation 201**, all concerning decent work for Domestic

² ILO/IPU, “Eliminating the worst forms of child labour, A practical guide to ILO Convention N° 182”, Geneva, 2002

workers, were adopted on 16 June 2011 during the 100th session of the International Labor Conference, held in Geneva (Switzerland).

The government, worker and employer delegates at the 100th annual Conference of the International Labour Organization (ILO) adopted by a large majority this historic set of international standards aimed at improving the working conditions of domestic workers worldwide. It was the first time that the standards system of the ILO were moved into the informal economy.

The Convention is an international treaty that is binding on Member States that ratify it, while the Recommendation 201 provides more detailed guidance on how to apply the Convention.

The Domestic Workers Convention, 2011 defines **“domestic work”** as work performed in or for a household or households and the term **“domestic worker”** means any person engaged in domestic work within an employment relationship. While the new instruments cover all domestic workers, they provide for special measures to protect those workers who, because of their young age or nationality or live-in status, may be exposed to additional risks relative to their peers, among others.

The new ILO standards set out that domestic workers around the world who care for families and households, must have the same basic labor rights as those available to other workers including reasonable hours of work, weekly rest of at least 24 consecutive hours, a limit on in-kind payment, clear information on terms and conditions of employment, as well as respect for fundamental principles and rights at work including among others freedom of association and the right to collective bargaining.

The Convention is therefore a clear framework that may guide governments, employers and workers willing to promote decent work for domestic workers anywhere in the world. In fact it was adopted following several ILO researches and wide consultations and discussions among the ILO’s tripartite constituents, namely the representatives of government and employers’ and workers’ organizations.

The ILO Convention 189 sets international standards to guarantee minimum labor protection to Domestic Workers comparatively with similar categories of workers, while allowing for considerable flexibility in its implementation.

In fact, the ILO estimates that domestic workers make important contributions to the functioning of households and labor markets even that they are often excluded from social and labor protection and face serious decent work deficits.

Regarding the child domestic workers (CDWs) in particular, the Domestic Workers Convention sets the minimum age of employment and prohibits children in hazardous work and regulates working hours, different kinds of leaves, health insurance, among other decent work standards.

Finally the ILO calls all the ILO Member States to quickly ratify and implement the new Convention to ensure that the entire spectrum of labour and social rights of domestic workers will be respected, including minimum age and protection of young domestic workers from hazardous work.

The ILO Convention 189 has already entered into force since 2013 and thereafter it shall come into force for any other ILO Member State 12 months after the date on which its ratification of the Convention is registered. Thereafter the ILO supervisory system monitors compliance of Member States which ratified the Convention.

On its part, the accompanying Recommendation 201 provides practical and useful guide on how to give effect to the obligations embedded in the Convention once ratified.

So far, the ILO Convention 189 is not yet ratified by Rwanda. However, some members of civil society organizations like COSYLI³ has initiated actions as part of raising awareness on the content of the Convention among notably unionists, local authorities and even domestic workers, through one of its members who defends specifically socio-economic interests of domestic workers, namely the SYTRAMER. The COSYLI also benefited a support from ILO Rwanda⁴ with a view to strengthening the role of civil society in the advocacy process towards the ratification of the Convention 189.

Moreover MIFOTRA⁵ confirmed that no formal process for the ratification of the ILO Convention 189 had yet started but the Ministry was conducting regular assessments of the ILO Conventions to decide those eligible to be proposed to the competent authorities for ratification.

Article 19 of the ILO Constitution lays down the obligation of a State party to place before the competent authorities all instruments adopted by the Conference without exception and without distinction between Conventions and Recommendations.

However Governments have complete freedom as to the nature of the proposals to be made when submitting the instruments and on the effect that they consider it appropriate to give to the instruments adopted by the Conference. The obligation to submit the instruments does not imply any obligation to propose the ratification of Conventions or to accept the Recommendations⁶.

Box 2: Obligation to submit Conventions and Recommendations to the competent authorities

2.2.3. The ILO Minimum age Convention (C138), 1973

The Convention concerning Minimum Age for Admission to Employment entered into force on 19 June 1976. **It was ratified by Rwanda on 15 April 1981.**

The ILO Convention 138 was developed to regulate child labour by setting a minimum age for admission to employment that the signatories are to respect. The Convention aims to give children the right to live their childhoods. A child who is not working has better chances of developing properly, both physically and mentally, and thus becoming a healthy adult.

The Convention sets the age below which children should not be in work at 15 years old (or 14 if a country's economic status requires that in the short term). Two years before they reach this minimum legal age, children can do exceptionally "light work", that is non-hazardous work and for no more than 14 hours a week, and providing that it does not interfere with schooling.

For dangerous work, the Convention sets the bar for admission to employment at 18 years (16 years under certain conditions). This threshold is based on the age when a child's development (growth, etc.) and basic education are considered complete. However each ILO Member State which ratifies the Convention has to specify, in a declaration appended to its ratification, a minimum age adopted for admission to employment or work within its territory.

The ILO Convention 138 has also its own accompanying **Recommendation N° 146** adopted at the 58th session of the International Labour Conference, which recommendation is however a non-binding instrument as explained above, but a useful guide to implement adequately the Convention.

³ Interview with the Permanent Secretary of COSYLI on 12 May 2015

⁴ Interview with the Programme Assistant of ILO Rwanda on 8 May 2015

⁵ Interview with the legal advisor of Labour Administration Unit on 11 May 2015

⁶ ILO, "Memorandum concerning the obligation to submit Conventions and Recommendations to the Competent authorities", Geneva, 2005

2.2.4. The ILO Worst Forms of Child Labor Convention (C 182), 1999

The ILO Convention N° 182 was adopted by the International Labour Conference in June 1999. This Convention applies to girls and boys under the age of 18. **It was ratified by Rwanda on 23 May 2000.**

In this Convention, Child labour refers to work that:

- is mentally, physically, socially or morally dangerous and harmful to children; and
- interferes with their schooling:
 - ✓ by depriving them of the opportunity to attend school;
 - ✓ by obliging them to leave school prematurely; or
 - ✓ by requiring them to attempt to combine school attendance with excessively long and heavy work.

In its most extreme forms, it involves children being enslaved, separated from their families, exposed to serious hazards and illnesses and/or left to fend for themselves on the streets of large cities – all of this often at a very early age.

The ILO Convention N° 182 defines the worst forms of child labour to include:

- a) slavery and slavery-like practices, including forced labour, trafficking of children and forced recruitment for armed conflict;
- b) the use, procuring or offering of a child for prostitution or pornography;
- c) the use, procuring or offering of a child for illicit activities and
- d) work which, by its nature or the circumstances in which it is carried out, is likely to be harmful to a child's health, safety or morals.

The last category, also referred to as “hazardous work”, must be determined by the governments of each country after consultation with employers’ and workers’ organizations. In this context, the accompanying ***Recommendation 190 supplementing the Worst Forms of Child Labour Convention (1999)*** defines the typology of **hazardous work** for children such as the following:

- a) work which exposes children to physical, psychological or sexual abuse;
- b) work underground, under water, at dangerous heights or in confined spaces;
- c) work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
- d) work in unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or temperatures, noise levels, or vibrations damaging to their health;
- e) work under particularly conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer.

However the Recommendation 190 allows some flexibility where it states that national laws or regulations or the competent authority could, after consultation with the workers’ and employers’ organizations concerned, authorize employment or work as from the age of 16 on condition that the health, safety and morals of the children concerned are fully protected, and that the children have received adequate specific instruction or vocational training in the relevant branch of activity.

The Recommendation 190 also provides advice on how to design and implement programmes of action in order to eliminate the worst forms of child labour. Such programmes of action should aim at, inter alia:

- a) Identifying and denouncing the worst forms of child labour;

- b) Preventing the engagement of children in or removing them from the worst forms of child labour, protecting them from reprisals and providing for their rehabilitation and social integration through measures which address their educational, physical and psychological needs;
- c) Giving special attention to:
 - Younger children;
 - The girl child;
 - The problem of hidden work situations, in which girls are at special risk;
 - Other groups of children with special vulnerabilities or needs;
- (d) Identifying, reaching out to and working with communities where children are at special risk;
- (e) Informing, sensitizing and mobilizing public opinion and concerned groups, including children and their families⁷.”

2.2.5. The ILO Convention (C 102) on Social Security (Minimum Standards), 1952

The ILO Convention on Social Security provides a widely accepted normative framework for social security systems. In particular the ILO has set as goal for all countries the provision of “universal access” to social protection in order that “all residents have access to basic essential health care benefits, where the State accepts the general responsibility for the adequacy of the delivery system and financing”.

2.2.6. Other ILO Conventions significant to the regulation of domestic work

At international level, the following other Conventions have been identified as significant to the regulation of domestic work:

1. the Freedom of Association and Protection of the Right to Organize Convention (N° 87) 1948, and the Right to Organize and Collective Bargaining Convention (N°. 98) 1949;
2. the Forced Labour Convention (N°. 29) 1930, and the Abolition of Forced Labour Convention (N°. 105) 1957;
3. the Equal Remuneration Convention (N°. 100) 1951, and the Discrimination (Employment and Occupation) Convention (N°. 111) 1958;
4. the Wage-Fixing Machinery Convention (N°. 26) 1928, and the Minimum Wage Fixing Convention (N°. 131) 1970;
5. the Protection of Wages Convention (N°. 95) 1949;
6. the Maternity Protection Convention (N°. 95) 2000;
7. the Workers with Family Responsibilities Convention (N°. 156) 1981;
8. the Termination of Employment Convention (N°. 158) 1982;
9. the Private Employment Agencies Convention (N°. 181) 1997;
10. the Migration for Employment Convention (Revised) (N°. 97) 1949 and the Migrant Workers (Supplementary Provisions) Convention (N°. 143) 1975.

⁷ ILO Recommendation N°.190 on Worst forms of Child Labour, Paragraph 2

Some of these Conventions are among the 28 ILO Conventions so far ratified by Rwanda and others not yet.

2.2.7. United Nations Instruments complementing ILO standards

The United Nations has adopted a number of Conventions and Covenants which complement the ILO's child labour standards notably the following:

1) The International Covenant on Economic, Social and Cultural Rights (ICESCR)

The International Covenant on Economic, Social and Cultural Rights is a multilateral Treaty adopted by the United Nations General Assembly on 16 December 1966, and entered into force on 3 January 1976.

As of 2015, the Covenant has 164 States parties including Rwanda (16 April 1975).

The ICESCR aims to ensure the protection of economic, social and cultural rights including among others:

the right to work (articles 6–7); the right to form and join trade unions (article 8); the right to social security including social insurance (article 9); protection and assistance to the family (article 10); the right to an adequate standard of living (article 11); the right to health (article 12); the right to education (articles 13–14); and the right to cultural freedoms (article 15).

The International Covenant on Economic, Social and Cultural Rights (1966), together with the Universal Declaration of Human Rights (1948) and the International Covenant on Civil and Political Rights (1966), make up the International Bill of Human Rights.

The States Parties to the present Covenant recognize the right of everyone to the enjoyment of just and favorable conditions of work which ensure, in particular:

- (a) Remuneration which provides all workers, as a minimum, with:*
 - (i) Fair wages and equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work;*
 - (ii) A decent living for themselves and their families in accordance with the provisions of the present Covenant;*
- (b) Safe and healthy working conditions;*
- (c) Equal opportunity for everyone to be promoted in his/her employment to an appropriate higher level, subject to no considerations other than those of seniority and competence;*
- (d) Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays.*

Box 3. Article 7 of the International Covenant on Economic, Social and Cultural Rights (ICESCR)

2) The UN Convention on the Rights of the Child

The UN Convention on the Rights of the Child (UNCRC) was adopted in November 1989. It lays down a full range of children's rights, and several of its key provisions are closely related to those of the ILO's child labour standards, even though the language used in each is not identical. **It was ratified by Rwanda on 24 January 1991.**

It is also important to note first of all that, in accordance with the United Nations Convention on the Rights of the Child, in addition to their rights as workers under national and international labour laws, children workers aged 17 and under should also enjoy all their rights as children.

The UNCRC complements therefore the ILO standards as developed below:

- Article 32 of the CRC recognizes the right of the child to be protected from economic exploitation and any work that is likely:
 - to be hazardous;
 - to interfere with the child's education; or
 - to be harmful to the child's health or physical, mental, spiritual, moral or social development.

Article 32 also requires legislative, administrative, social and educational measures to be taken to ensure implementation. States should in particular, and having regard to the relevant provisions of other international instruments provide for a minimum age or minimum ages for admission to employment.

Thus, any work carried out by children in conditions below those established by ILO or UN Conventions should be considered as economic exploitation.

Other relevant articles include:

- ✓ Article 28, confirming a child's right to education;
- ✓ Article 33, requiring measures to prevent the use of children in illicit production and trafficking of drugs;
- ✓ Article 34, requiring protection against sexual exploitation;
- ✓ Article 35, requiring prevention of abduction, sale and trafficking of children for any purpose;
- ✓ Article 36, requiring protection against all other forms of exploitation prejudicial to any aspects of the child's welfare; and
- ✓ Article 39, providing for measures to promote the physical and psychological recovery and social integration of child victims.

The Committee on the Rights of the Child, composed of ten experts from a variety of professional backgrounds, examines the reports submitted every five years by the State parties. The Committee draws up a "list of issues" prior to the discussion with the Government concerned. At the very end of the process, the Committee adopts "concluding observations" for the Government to implement. These observations often make explicit reference to situations of child Labor, including its worst forms⁸.

Box 4. The role of the UN Committee on the Rights of the Child

⁸ ILO/IPU, "Eliminating the worst forms of child labour, A practical guide to ILO Convention N° 182", Geneva, 2002

3. Regional context of domestic work

According to the available statistical data gathered by an ILO research⁹, Africa is the third largest employer of domestic workers, after Asia and Latin America. As of 2013, approximately 5.2 million domestic workers were employed throughout Africa, of whom 3.8 million were women and 1.4 million men. However, both figures should be read with some caution as there was a lack of sufficiently disaggregated employment data for many African countries. The statistical database built for the global and regional estimates was weaker for Africa, where it covered only 20 countries, which between them accounted for 62 per cent of the Africa region's total employment.

Another ILO report¹⁰ revealed that most of domestic workers in Africa faced similar problems related to their terms and working conditions such as the long working hours (up to 63 hours per week in Tanzania) or wages significantly below those received by other workers. However it was noted in this forum a good pattern especially in the South region of Africa where a large majority of domestic workers came under the legal coverage of the labour laws either in the general laws or in the specific instruments for domestic workers.

As of the East African Sub-Region, the common characteristics of domestic workers is their invisibility due to the fact that their workplace is a "private" household; otherwise there is no much uniformity in the experiences of domestic workers among the five countries that form the East African Community. For example, while Burundi, Rwanda and Uganda do not have a minimum (or updated minimum) wage for domestic workers, Kenya and Tanzania have clear guidelines for domestic worker wages. However there is a clear need everywhere in the sub-region of empowering informal workers and securing their livelihoods including domestic workers in particular.

Regarding the Regional instruments in relation to domestic work, the **African Charter on the rights and welfare of the child** reiterates explicitly in its Article 15 that "Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development". So far, this Charter has been ratified by 41 African States (including Rwanda) out of 54 while 9 States have already signed it and only 4 States in Africa did not yet signed and ratified it.

Furthermore States parties to the Charter have also the obligation to take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.

In addition the Fourth EAC Development Strategy (2011/2012-2015/2016) and the EAC Strategic Plan on Gender, Youth, Children, Persons with Disabilities, Social Protection and Community Development (2012-2016), address also child rights amongst other issues. In particular the EAC Strategic Plan provides for measures to facilitate capacity building of youths in vocational training skills, ICT, e-commerce and other tailored programmes. It also seek to

⁹ ILO, "Domestic Workers across the world: Global and regional statistics and the extent of legal protection", Geneva, 2013

¹⁰ ILO, "An overview of domestic work in Africa": A regional knowledge sharing forum, Dar es Salaam, 28-30 May 2013

develop comprehensive, coherent and harmonized regional policy on children's rights among Partner States, including the right to be protected against abuse, violence, exploitation, sexual abuse and child labour.

The Bujumbura Declaration on Child rights and well being in the East African Community (2012) reiterates the solemn commitment of EAC Partner States to address the issues that negatively impact on the full protection of child rights in the EAC.

As of the regulation of the domestic work in general, a few countries in Africa have passed laws or specific regulations on domestic work as it is shown in the table below.

Table 1 : Selection of national laws and regulations related to the domestic work in Africa

| No | Country | Regulations in force related to the domestic work |
|----|--------------|--|
| 1 | ALGERIA | Executive Decree No 97-474 of 8 December 1997 determining the special regime of employment for domestic workers |
| 2 | BURKINA FASO | Decree No 2010-807/PRES/PM/MTSS of 31 December 2010 determining the conditions of work of domestic workers |
| 3 | EGYPT | Decree No 213 of 2003 issuing regulations on employment in the informal sector |
| 4 | MALI | Decree No 96-178/P-RM of 13 June 1996, issued under the Labor Code, addresses, among others, conditions of work and social protection for domestic workers |
| 5 | MOZAMBIQUE | Decree No 40/2008 approving the regulations on domestic work |
| 6 | ZAMBIA | Minimum Wages and Conditions of Employment (Domestic Workers) Order, 2010 (S.I No 3 of 2011) |

Source: ILO Report on Transitioning from the informal to the formal economy, 103rd Session, 2014

However the Regulations have to be adapted to each national context. For example the Mozambique Regulations on domestic work (2008) did not establish a minimum wage, given the existence of many employers who are themselves minimum wage earners and also, in the field of discipline, the Domestic work regulations of that country differ from those of the general regime, as domestic work is an employment relation based on confidence between parties¹¹.

¹¹ Republic of Mozambique, Decree No 40/2008 approving the regulations on domestic work

4. Political framework of domestic work in Rwanda

4.1. Rwanda high level policies in relation to domestic work environment

4.1.1. Rwanda Vision 2020

Rwanda Vision 2020 represents the national long-term development aspiration of Rwanda. In this Vision 2020, Rwanda is committed notably to reaching “Universal Education for All”, which is also one of the most important Millennium Development Goals. However this objective could not be fully achieved if some young girls and boys under 16 are at risk to drop out school for domestic work.

Furthermore, the Vision states that health policies must be targeted at the poorest members of the population to improve access to healthcare, the quality of that healthcare and to reduce its cost. Towards this objective, one of the challenges is that a significant number of domestic workers are at risk to not properly benefit healthcare, given that most of their employers do not facilitate their access to community based healthcare insurance (Mutuelles de santé) and that a significant number of them are likely not willing to pay for healthcare insurance alleging that their wages are very low.

4.1.2. Second Economic Development and Poverty Reduction Strategy (EDPRS 2), 2013-2018

The overarching goal of EDPRS II is to accelerate progress of Rwanda to middle income country status and better life for all Rwandans, by notably reducing the population under the poverty line to 20% and eliminating totally extreme poverty in Rwanda by 2020.

In addition the Productivity and Youth Employment Objective for EDPRS 2 is stated as follows:

“All Rwandans have a stake in the continued economic growth of Rwanda through access to fulfilling and productive work. All Rwandans who are able to work make a positive contribution to Rwanda growing into a middle-income country through increased productivity”¹². This objective concerns all Rwandans including those working in the informal sector. However the Strategy looks like to classify domestic workers not in the informal sector category of workers but among the “inactive” group alongside the elders and the disabled, most living in rural areas¹³.

This reinforces the invisible character of domestic workers. Nevertheless this category of workers, although among the most vulnerable, contribute rather invisibly to the country’s economic growth. While taking care of their employers by cooking for them, washing for them, taking care of their children etc., that directly results in improved productivity of their employers at the respective workplace. This in turn directly influences economic growth in a positive manner.

4.1.3. The Seven Year Government Programme 2010-2017

The Government of Rwanda has adopted a seven (7) year development programme which outlines the broad GoR priorities organized in four pillars: good governance, justice, economy and social well-being.

The last pillar (social well-being) contains an array of policy measures aiming at promoting job creation, improving health care services, extending social security, protecting vulnerable people, promoting sports and leisure, improving education and promoting Rwanda cultural values in support of development.

¹² Republic of Rwanda, Economic Development and Poverty Reduction Strategy 2013-2018, Kigali, 2012

¹³ Ibidem, page 57

4.2. Rwanda Sectoral policies in relation to domestic work environment

4.2.1. The National employment policy

The National employment policy is a set of integrated strategic actions and economic policies aimed at promoting employment as a strategy for poverty reduction and sustainable development.

The main purpose for this Policy is to realize as much as possible fully productive and freely chosen employment through economic growth in accordance with the dignity and respect of fundamental human rights. This policy is therefore aimed at ensuring that:

- 1) There is productive employment for all persons in search of work;
- 2) There is free choice of employment and each employee will have all the opportunities for acquiring the necessary skills to exercise the work that suits him/her and use his/her skills and talents, irrespective of race, colour, sex, religion, political opinions, and social origin.

The National employment policy intends to promote employment opportunities both in the private and public sectors while encouraging the creation of appropriate structures that support employment creations in the rural and urban informal sector.

Among the proposed solutions to address identified employment constraints in Rwanda, some priority areas are relevant to domestic work environment notably the Youth employment promotion, the Human resource development and employability and the Social security promotion.

Furthermore the **National Employment Program (NEP)** articulated under EDPRS 2 was elaborated to strengthen the coordination of employment programs through the establishment of a framework for better planning, implementation and coordination of employment programs from different stakeholders engaged in job creation and employment promotion, that all of which will feed the annual creation of the “off-farm” 200.000 jobs for Youth and Women, the most affected groups by unemployment.

4.2.2. The National social security policy

The National social security policy reflects values expressed in the Constitution of the Republic of Rwanda and the Universal Human Rights Declaration to which Rwanda is a party. This policy addresses all aspects of social protection, but focuses most extensively on pensions and healthcare.

Moreover the Rwanda Vision for Social Security by 2020 is **“Social Security coverage for all”**. This vision is rooted notably in the Universal Declaration of Human Rights which consecrates social security among fundamental social rights.

In order to increase social security coverage, the Government of Rwanda will reinforce total adherence to pension schemes for all workers in formal sector, for self employed and for workers in informal sector in organized groups. Workers in formal sector will adhere to defined benefit schemes and Provident Fund while self employed and workers in organized groups will have a choice to adhere either to Provident Fund or to any legally authorized private pension Scheme.

According to the key informant from RSSB¹⁴, the new law governing the organization of pension

¹⁴ Interview with the Director of Maternity Leave Benefits (RSSB) on 6 May 2015

schemes, already adopted by the two Houses of Rwanda Parliament (February 2015), will facilitate the increase of social security coverage. Indeed the new law considers as “**employee**” any person who performs an activity in exchange for payment and as **employer** any person that employs one or more people on a continuous or discontinuous basis and it establishes both a mandatory pension scheme and a voluntary pension scheme.

For the health care, the measures proposed by the Government policy include a plan to achieve universal coverage through health insurance schemes, including the Community Based Health Insurance scheme which is the most accessible to the workers in the informal sector.

To accelerate the process, the Government of Rwanda will conduct regularly intense campaigns of information to the general public about the Social security programs in order to increase progressively the social security coverage.

4.2.3. The National policy on elimination of child labour

As mentioned above, the Government of Rwanda has ratified the International Labour Convention n° 138 of June 26, 1973 concerning the Minimum Age for admission to Employment; and the International Labour Convention n° 182 of June 17, 1999 concerning Worst Forms of Child Labour. This demonstrates the political will and strong commitment of the Government of Rwanda to protecting children and fighting against child labor especially in its worst forms.

The ILO Convention n° 138 in particular requires ratifying States to develop a national policy to eliminate all forms of child labor on their territories and enact implementation measures as well as monitoring mechanisms.

In Rwanda, the National Policy for Elimination of Child Labor was therefore elaborated notably to create an enabling environment for the prevention and progressive elimination of child labor, while also guiding government and stakeholders’ actions towards this goal. It was also conceived as a key tool, complimenting poverty reduction and other national development programmes.

One of the main reasons why Rwanda is committed to address child labor issues, is that child labor is a severe barrier to achieving education for all. Indeed Child labor prevents children from attending school or leads them to drop out of school at early age and this may be the case for child domestic workers.

The National Policy for Child Labor Elimination is articulated on the following six strategies:

- 1) To withdraw all children engaged in child labor, in worst forms of child labour and in hazardous work by the continuous provision of education opportunities through technical and vocational education and training (TVET);
- 2) To rehabilitate all children withdrawn from child labour and its worst forms by providing a comprehensive psycho social counseling, talent identification and recreation services, life skills building sessions and medical care;
- 3) To prevent children who are at-risk of engaging in child labor by providing direct services;
- 4) To raise community awareness and promote behavior change communication vis-à-vis child labor and its worst forms;
- 5) To strengthen the capacity of institutions and community so that child labor phenomenon is well understood and establish mechanisms aiming at child labor elimination and;
- 6) Monitoring and Evaluation of activities related to child labor elimination and carrying out research aimed at analyzing trends.

In particular the National Policy for Elimination of Child Labor defines clearly which work is considered as hazardous work in Rwanda and that is therefore prohibited for children under 18.

All Work that may be dangerous to the health of the child including the following:

- Work that may affect the child 's health, either physically or psychologically;
- Works that are carried out using dangerous material that may affect the health of the child or that require lifting or heavy load;
- Works related to fishing using boats;
- Works that require children to carry loads that are heavier than their physical capacity;
- Works performed and carried out in long hours and at night between 8:00 pm and 6:00 am for a salary or other direct wages;
- Construction works carried out using ropes and other materials;
- Construction and demolition works; heavy lifting machine and other dangerous machines;
- Works carried out in places with machines that are turned on or off automatically and other annexed machines that do not have guards to prevent free access.

Box 6: Hazardous work prohibited for children in Rwanda

Finally the National Policy for Child Labor Elimination includes also its own implementation framework as well as the Monitoring and Evaluation Strategies. The National Plan of Action on elimination of child labour complements the policy by formulating concrete actions that aim at eliminating child labour in general and combating worst forms of child labour in particular, through awareness campaigns, intensification of access to education for child labourers etc.

4.2.4. The National policy against Gender Based Violence (GBV policy)

The overall vision of this Policy is to ultimately build a Rwandan society that is GBV-free and, in the interim, to have a Rwandan society that can effectively and efficiently prevent and respond to GBV.

Its overall objective is also to progressively eliminate gender-based violence through the development of a preventive, protective, supportive and transformative environment.

The policy recognizes that some individuals and groups in Rwandan society are at particular risk of GBV and need specific attention, services and programmes to reduce their vulnerability.

To address this issue, the policy considers concrete policy actions such as the following:

- Put in place mechanisms at national, district and local levels to identify groups and individuals at high risk of GBV;
- Promote links between actors who can help to identify those at risk;
- Develop programmes to increase the capacity of vulnerable groups to protect themselves from GBV;
- Reinforce programmes for economic empowerment of vulnerable groups.

The policy highlights as well other sustainable response strategies to GBV which are focused on the provision of comprehensive services to victims of GBV and the strong fight against and elimination of impunity for GBV.

An institutional framework for policy implementation is also established and the respective roles clarified.

4.2.5. The Integrated Child Rights Policy (ICRP) and its strategic plan 2011-2016

The overall objective of the Integrated Child rights policy is to reflect the commitment and vision of the Government of Rwanda for its children.

The ICRP is based on seven key themes: Identity and Nationality; Family and Alternative Care; Survival. Health and Standards of Living; Education; Protection; Justice; and Child Participation.

One of the guiding principles of the policy is that abuse, exploitation and violence against children are intolerable. Children have therefore to be protected wherever they may be, for example in their homes, be it with or without their parents; in schools; in communities; in their place of work; in prisons; in institutions or streets etc...

A five year Strategic Plan (2011-2016) for the implementation of the Integrated Child Rights Policy in Rwanda has been also developed to guide the interventions needed to implement the policy.

5. Legal framework of domestic work in Rwanda

5.1. International law

As developed above in the section related to international framework of domestic work, various ILO Conventions are applicable to domestic work environment, and some of them have been domesticated in Rwanda law and are currently in force.

Among the ILO Conventions ratified by Rwanda are the ILO Minimum age Convention (C138) and the ILO Worst Forms of Child Labour Convention (C 182) that are particularly relevant to domestic work given that the phenomenon of child domestic work is not quite fully eliminated in the country. For further research purpose, a list of selected ILO Conventions ratified by Rwanda up to date is shown in the **Box 7** below.

Besides that, Rwanda also ratified other relevant Conventions and Covenants which complement the ILO's child labour standards notably the UN Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights as well as the African Charter on the Rights and Welfare of the Child.

However, so far Rwanda has not yet ratified the ILO Convention (C 189) concerning Decent Work for Domestic Workers, which is a unique and most important international instrument that provides a strong basis for improving the working and living conditions of domestic workers.

According to Rwanda law, the national process for domestication of international treaties, conventions and protocols is defined in Article 189 of the Constitution of the Republic of Rwanda of 4 June 2003 as amended to date. Normally the President of the Republic is one who is invested with the power to negotiate international treaties, conventions and protocols and ratify them. The Parliament is thereafter notified of such treaties and agreements following this conclusion.

However, peace treaties or agreements relating to commerce and international organizations and those which commit state finances, modify provisions of laws already adopted by Parliament or relate to the status of persons, can only be ratified after authorization by Parliament.

International treaties and agreements once conclusively adopted in accordance with the provisions of law are more binding than organic laws and ordinary laws.

The Ministry in charge of Foreign Affairs and Cooperation is the one that has in its mandate the monitoring of the implementation of all international treaties, conventions and protocols to which Rwanda is signatory.

Regarding the process for ratification of the ILO Convention 189, the ILO Constitution states that once a Convention is adopted, all ILO member States have a legal obligation to submit it to the respective government so that it can decide whether or not to ratify the Convention.

If a country decides to ratify the Convention, it will be applicable in that country one year after the date of ratification. Therefore that country is required to apply it in law and in practice and to report on its application at regular intervals.

If a country chooses not to ratify or takes no action, the Convention is not applicable to that country. Nonetheless, having in mind the appropriate consideration of the national context, Civil Society Organizations and Workers' Organizations of that country in particular are encouraged to renew their call for ratification on a regular basis and also to lobby relevant decision makers to engage the process for ratification.

As of 2015 Rwanda has ratified in total 28 ILO Conventions, some of them are highlighted below.

Table 7: Selected examples of ILO Conventions ratified by Rwanda (2015)

| Code | Convention | Date | Status |
|-------|---|-------------|----------|
| C 029 | Forced Labour Convention, 1930 | 23 May 2001 | In Force |
| C 087 | Freedom of Association and Protection of the Right to Organise Convention, 1948 | 08 Nov 1989 | In Force |
| C 098 | Right to Organise and Collective Bargaining Convention, 1949 | 08 Nov 1988 | In Force |
| C 100 | Equal Remuneration Convention, 1951 | 02 Dec 1980 | In Force |
| C 105 | Abolition of Forced Labour Convention, 1957 | 18 Sep 1962 | In Force |
| C 138 | Minimum Age Convention, 1973 | 15 Apr 1981 | In Force |
| C 182 | Worst Forms of Child Labour Convention, 1999 | 23 May 2000 | In Force |
| C 081 | Labour Inspection Convention, 1947 | 02 Dec 1980 | In Force |
| C 122 | Employment Policy Convention, 1964 | 05 Aug 2010 | In Force |
| C 118 | Equality of Treatment (Social Security) Convention, 1962 | 21 Sep 1989 | In Force |
| C 123 | Minimum Age (Underground Work) Convention, 1965 | 01 Jun 1970 | In Force |
| C 132 | Holidays with Pay Convention (Revised), 1970 | 13 May 1991 | In Force |
| C 135 | Workers' Representatives Convention, 1971 | 08 Nov 1988 | In Force |

Finally, according to the MIFOTRA Labour Administration Unit¹⁵, other four ILO Conventions are now in the advanced stage towards their ratification, namely:

- ✓ Private Employment Agencies Convention, No 181 (1997)
- ✓ Occupational Safety and Health Convention, No 155 (1981)
- ✓ Promotional framework for Occupational Safety and Health Convention No 187 (2006)
- ✓ Labour Administration Convention No 150 (1978)

5.2. The Constitution of the Republic of Rwanda of 4 June 2003 as amended to date

The Constitution of the Republic of Rwanda in its chapter one related to fundamental human rights provides some principles and guidelines that are applicable to domestic work environment in Rwanda.

Article 37 gives every person the right to free choice of employment and right to receive equal pay for equal work without discrimination while Article 38 recognizes the right to form trade unions for the defense and the promotion of legitimate professional interests.

On the other hand, Article 40 states that every person has the right to education and that Primary education is compulsory and free in public schools whereas Article 41 states that all citizens have the right but also duties relating to health.

¹⁵ Interview with the Legal advisor of Labour Administration Unit on 11 May 2015

However there could be sometimes a gap between the law and practice when it comes to analyze in depth the working conditions of domestic workers in Rwanda.

5.3. Law N° 13/2009 of 27/05/2009 regulating labour in Rwanda (Labour Code)

Prima facie, this law excludes from its scope of application notably informal sector workers, except for issues relating to social security, the trade union organizations and those relating to health and safety at workplace (Article 3) while it defines **“Informal sector worker”** as a worker who performs informal activities and who works for a company or an individual that is not registered as employer in the commercial register or with authorities.

Although there is no legal definition of domestic worker in Rwanda, such category of workers could be considered as informal workers as generally they work for not registered employers. According to ILO definition, as developed in the section III.2.1 above, a **“domestic worker”** is any person who performs work in or for household or households and who is engaged within an employment relationship, meaning that he/she is paid for work, among others.

Moreover the Rwanda Labour Code defines a “Contract of employment” as “ any contract, either oral or written, by virtue of which a person agrees to work for an employer in return for pay”. This definition is important in the context of domestic work in Rwanda given that the vast majority of domestic workers are engaged under the terms of employment of oral contract. In fact unwritten domestic employment contracts lead in some cases to unfair or abusive treatment or dismissal. Regulating or at least encouraging the practice of written contracts could facilitate the progressive formalization of the domestic work employment relationship and prevent abuse.

Regarding the domains that fall into the scope of application of the Labour Code and that are therefore applicable to informal sector workers including domestic workers, the following can be commented.

1) Right to social security

The majority of domestic workers in Rwanda are not protected in terms of pension and social security like many other workers in the informal sector. Health insurance also for the large majority of workers in the informal sector is limited to voluntary adhesion to the Community Based Health Insurance (Mutuelles de Santé), which is the most affordable health insurance scheme in the country.

Social security domain in Rwanda is governed by the law N° 06/2003 of 22/03/2003 modifying and complementing the Decree law of August 22, 1974 concerning organization of social security, which is the legal framework for all consecutive regulations related to this sector.

In its Article 2, this law states that it applies to the following:

- a) Workers subjected to the provisions of labour regulations without any distinction while working in Rwanda, in public or private sectors; notwithstanding the nature, the type and validity of the contract or remuneration;
- b) Non-retired political appointees;
- c) Government statutory.

Article 3 adds the possibility for Self employed workers who have never been members of the Social security scheme provided that their age is not above 45 years, to acquire voluntary membership on demand.

In case of employment relationship, Article 10 of the law provides that the contributions for the branch of pensions are shared out equally between the employee and the employer while the contributions for the branch of occupational hazards are exclusively paid by the employer. In both cases it is the employer who is responsible for the remittance of the full contributions which include his/her part and the deducted part from the employer's salary.

As result, workers in the informal sector who can fall easily within the scope of application of this law are Self employed workers while for other workers with informal employment relationship, it depends only on the good will of their employers to accept to be registered as employers. That explains why most of domestic workers in Rwanda are not covered by any social security scheme.

The Labour Inspectorate represented at national and district levels, has the responsibility to monitor the implementation of the Labour Code as well as the social security law. However there is a serious concern that in practice it could be very difficult for the Labour Inspectorate to monitor the heterogeneous and unnumbered works of informal sector and in particular the specific workplace of private homes where live and work domestic workers if in addition the protection of the inviolability of the private home has also to be taken into account (Article 22 of the Constitution).

2) Right to form trade union organizations

This right is recognized to every worker by the Constitution of the Republic of Rwanda, in its Article 38. However the domestic work sector is one of the most unorganized in the country. The specific nature of domestic work, its large diversity, the uniqueness of their workplace which is often the private home (household) that is not legally recognized as workplace, the ignorance of domestic worker's rights, the frequent mobility of domestic workers, are among the key factors that make it difficult for domestic workers to form trade unions.

On the side of the employers of domestic workers, they take advantage of the informality of domestic work and unless registered as employers, the large majority would never will to join any organization of employers of domestic workers.

In reality the current employment relations of domestic work in Rwanda are not favorable to create the conditions of collective bargaining between employers and employees.

The competent authorities and the civil society organizations should therefore take or support measures to promote the creation of domestic workers trade unions and employers' organizations and then initiate capacity building for their respective representatives, including specific training on collective bargaining.

Meanwhile one trade union of domestic workers was identified in Rwanda namely SYTRAMER¹⁶ but works under the umbrella of COSYLI as it is not yet legally recognized¹⁷.

On the other hand some employment agencies strive to link and therefore to follow up the employment relations between domestic workers and their employers with relative visible impact. However some of them work more as commission agents than advocacy agents of domestic workers.

The real merit of such agencies is to have at least initiated a kind of domestic work employment relationship organization by notably formalizing the work contract which is signed by the three parties (the employer, the employee and the agency), the signature of a code of conduct by the employee in the presence of the agency management and the work appraisal form of the employee to be filled by the employer on a regular basis¹⁸.

3) Health and safety at workplace

Article 93 of the Rwanda Labour Code provides that an order of the Minister in charge of Labour shall determine the general and specific conditions for workers' health, prevention of and protection against hazards at workplace.

It is in that context that in 2012, the Ministerial Order N° 02 of 17/05/2012 determining conditions for occupational health and safety and the Ministerial Order N° 01 of 17/05/2012 determining modalities of establishing and functioning of occupational health and safety Committees were adopted and published in the Official Gazette N° Special of 25/05/2012.

The scope of application of the Ministerial Order N° 02 of 17/05/2012 is workers in formal and informal sectors as well as self employed persons, meaning in reality almost all workers.

However the Ministerial Order N° 01 of 17/05/2012 regarding Occupational Health and Safety Committees limits its scope of application and apply only to institutions and companies employing at least twenty (20) workers and which operate in the industrial sectors, public works and construction or engaged in mechanical works or mining.

Therefore monitoring occupational health and safety for domestic workers is once again a hard task as long as the household where they work is not legally recognized as a workplace in Rwanda.

However particular attention should be paid to specific work hazards that domestic workers under 18 could face, due to potential dangerous work situations like permanent fatigue resulting from long hours of work carrying heavy loads especially in rural areas, being exposed to high temperatures or gas accident risk when cooking and also to electric shock accident risk while ironing clothes, using toxic cleaning products when cleaning or sharp objects when peeling fruit or vegetables.

¹⁶ Syndicat des Travailleurs Ménagers au Rwanda

¹⁷ Interview with the Permanent Secretary of COSYLI on 12 May 2015

¹⁸ Interview with the Manager of M&J Enterprise Ltd in Gitega Sector (Kigali City) on 8 May 2015

4) Prohibition of child labour

The Article 4 of the Labour Code prohibits work for children under the age of 16 and the Labour Code in its Article 168 as well as the Penal Code provide severe penalties to any person found guilty of offences in relation to the worst forms of child labour, ranging from six (6) months to twenty (20) years of imprisonment and a fine of five hundred thousand (Rwf 500,000) to five million (Rwf 5,000,000) Rwandan francs or one of these penalties.

However a child aged between 16 and 18 may be employed under certain conditions such as to guarantee the child's rest of a minimum of 12 consecutive hours between two working periods and never to employ a child in the nocturnal, laborious or dangerous services for his/her health as well as his/her education and morality and *to permit the labour inspection monitoring when requested in order to verify if the work with which a child is entrusted is neither beyond his/her strength or harmful to his/her health.*

In practice, Child labour refers in particular to any work that is mentally, physically, spiritually, socially and or morally harmful to children, and interferes with children's education by denying him/her an opportunity to attend school, forcing him/her to leave school prematurely, or limiting his/her capacity to benefit from instructions. Child labour is also considered as exploitative when it deprives the child of health, education or development.

In Rwanda, according to the EICV3 (2010/2011)¹⁹ conducted by National Institute of Statistics of Rwanda (NISR) 110,742 children within the age group 6-17 were working outside their own households in economic activities (representing 3% of the age group 6-17) with them 39,260 were within 6-15 years (representing 1.1% of the children population between 6-17 years). This survey also revealed that the agriculture sector was the largest workplace setting for children. In this regard, 40.8% of children engaged in economic activities outside their own household were in agriculture sector, **followed by 31.9% engaged in domestic services**, 8.1% in construction, 2.7% in industry; and 13.7 % in other activities such as trade, hotels and transportation.

As for children working hours, the EICV3 (2010/2011) revealed that Children of the age group 6-17 were performing an average 28 hours per week. Nevertheless, children engaged in economic activities in Urban area were working long hours (50 hours per week) while in rural areas the weekly working time was 25 hours. This is mainly due to the predominant of domestic work and others activities such as small trade and transportation which are concentrated in urban areas. The distribution of working hours between female and male is almost the same²⁰.

However though the phenomenon of children engaged in economic activities is still persistent today, particularly in domestic work, there has been significant reduction of child labor in this sector due to the progress in school enrollment and the dissemination and enforcement of laws protecting children against child labor.

The Government of Rwanda has adopted in March 2013 a National Policy for the Elimination of Child Labor (NPECL) and its associated 5-year strategic plan, which constitute a strong move aimed at engaging all institutions in the fight against the use of underage children in exploitive and hazardous activities. The Ministerial Order No 06 of 13/07/2010 determines on its part a list

¹⁹ Enquête intégrale sur les conditions de vie des ménages (EICV)

²⁰ MIFOTRA, the National Policy for the elimination of Child Labor, Kigali, 2012

of worst forms of child labor, their nature and categories of institutions that are not allowed to employ children and it sets as well prevention mechanisms.

Nevertheless, despite the undeniable efforts of the government to withdraw and prevent children from being involved into child labour, these efforts seem to have been focused mainly on the formal sector while child laborers in informal sector including those working in households are among the most vulnerable. In fact they are often unprotected and left to the mercy of their employers, which increases their risks of being victims of violence, abuse or exploitation.

It is in this particular context that the Council of the City of Kigali has enacted guidelines outlining mechanisms for preventing and responding to illegal child labour including domestic labour. The guidelines were published in the *Official Gazette of the Republic of Rwanda* N°49 on December 3, 2012 and the Ministry of Public Service and Labour indicated that the guidelines are expected to serve as a model for the development of additional guidelines to address various types of urban child labor.

According to the Instructions N° 02 of 29/04/2012 of the Kigali City Council establishing mechanisms of prevention and fight against illegal child labor in Kigali City, domestic employment of a person under 18 as child minder or house attendant is considered as illegal employment (Article 6). As preventive mechanisms, the instructions require local authorities and stakeholders to sensitize the public, but also to undertake the census of domestic employees at cell and village levels, in order to ascertain child employees so that they can be reinstated in education. Administrative organs including security and stakeholders have also to report cases of child employment (Article 8).

Box 8 : Preventive mechanisms of Child domestic work in Kigali City

5.4. Law N° 054/2011 of 14/12/2011 relating to the rights and the protection of the child

This law is meant to act as a "Bill of Rights" for Children in Rwanda, creating a unified law covering all aspects of the rights of children and complying with all ratified international treaties.

The law provides that every child who is on the Rwandan territory must be affiliated to a medical insurance in accordance with relevant law (Article 45) and that the primary education is compulsory and free in public schools and government subsidized schools. This means that every child should be affiliated to the Community based health insurance which is organized in Rwanda on a per household basis, with an annual payment of Rwf 3,000 per family member and that every child should attend school up to at least Senior 3 level according the new Basic Education policy (fee-free education guaranteed up to this level).

On the other hand, this law in its Articles 51 and 52 prohibits all forms of economical exploitation of children such as drug trafficking and usage of alcohol and cigarette business and consumption, prostitution, beggary, child trafficking, slavery and kidnapping, pornography business, or any other form of exploitation and incitation. The law considers also as a form of economical exploitation to require a child to accomplish a work that is likely to put him/her at risk or to compromise his or her education or to harm his or her health or his/ her physical, mental, spiritual, moral or social development

The National Commission for Children (NCC) is responsible for compliance with and control of child's rights by following up his/her education and development.

The NCC is an independent organ supervised by MIGEPROF which aims at promoting and ensuring child education that enables the child to be a worthy and patriotic citizen, to develop a national partnership and coordination framework aimed at promoting child's rights. It is the specialized organ at the national level, which is responsible for child protection issues in the country.

Other committees with links to child rights issues also exist. Rwanda has established Child Protection Committees (CPCs)²¹ at the district, sector, cell, and village levels. Government staff working in various positions relating to children's issues are appointed to the CPC at the district, sector, and cell levels. Other members include the police, civil society representatives, children representing the local children's forum, and religious leaders. At the village level, trained volunteers take overall responsibility for issues related to child protection, including identification of cases, referral, monitoring, and so forth. These village-level committees are composed of the village chief, person in charge of social affairs, women's and children's representatives, and local leaders.

Moreover according to a key informant from NCC²², a new programme known as "the Friends of the Family" (Inshuti z'umuryango) has started and operate countrywide on the model of Community Health Workers system (abajyanama b'ubuzima), a system based on the Rwanda volunteerism policy, that has been successful at grassroots level. The "the Friends of the Family" are also community-based volunteers who freely support NCC by visiting families and discuss, notably with children on the negative side of engaging in illegal activities instead of attending school.

In addition the National Commission for Human Rights (NCHR) has a monitoring structure known as "**Observatory of the Child's Rights**" established in December 2006 whose main function is to monitor the respect of all policies and legal regulations related to children rights and to make sure these rights are protected. In addition, the Observatory is responsible for collecting data on the situation of children's rights respect, preventing children's rights violation and making advocacy for the respect of these rights.

On the other hand, the Ministry of Public Service and Labor (MIFOTRA) has established a specific Child Labor Monitoring Information System (CLMS) that gathers and analyzes data on child labor from the village up to national level.

5.5. Law N° 59/2008 of 10/09/2008 on prevention and punishment of gender-based violence (GBV law)

This law is aimed at preventing and suppressing the gender-based violence in the country.

"Gender-based violence" is defined in the Law as: *"Any act that results in a bodily, psychological, sexual and economic harm to somebody just because they are female or male. Such act results in the deprivation of*

²¹ Rwanda Civil Society Platform. (2012). *The mapping exercise on child protection programs in Rwanda: Report*. Kigali, Rwanda: Lex Chambers Ltd.

²² Interview with the Child Rights Protection Unit Officer on 15 May 2015

freedom and negative consequences. This violence may be exercised within or outside the household ” (Article 2). The term “just because they are female or male” should be interpreted to mean any harm based on the gender of the victim. The Law makes it clear that harm inflicted because of a person’s biological sex or based on the perceived “appropriate” roles of individuals is illegal.

The law defines also “**harassment**” as “*any act putting someone in unrest condition by persecuting, nagging, scolding or insulting him/her and others*” and the Penal Code of 2012 provides severe penalty in particular for sexual harassment of one’s subordinate (Article 203).

Despite the existence of the GBV law, gender-based violence continues to be a persistent problem in Rwanda. Domestic violence, sexual violence, economic violence and other types of gender-based harassment in the workplace and in institutions are all prevalent. While women and girls statistically make up the majority of cases of gender-based violence with men and boys identified as the primary perpetrators, it is important to remember that men and boys are also victims of gender-based violence and women may be perpetrators.

As of domestic workers, due to their specific conditions of work, they seem to be more exposed to all forms of abuse and harassment, including physical, verbal and sexual abuse. Because of isolation and privacy of the domestic workplace, the low pay for their work and the low level of education for most of them, these workers do not often have ability or power to protect themselves against sexual harassment or abuse by their employers or by the employers’ relatives who live in the household or simply by their workmates or more economically powerful neighbors.

In addition, many domestic workers are not aware of existing complaint mechanisms or free legal aid services that can help to protect them from violence or sexual harassment and abuse; and even some of them as they told a team of field researchers in focus group discussions, would not dare to confront in justice their bosses or any other person assumed to be rich.

However protection mechanisms do exist, particularly the anti GBV Committees at local level and also the Rwanda National Police with its specialized “Isange One Stop Centers” that provide holistic and comprehensive care and support to GBV victims. Following their successful experience during the pilot phase (2009-2013), the country is now embarking on a fully-fledged national scale up of the “ Isange One Stop Center” model in all District Hospitals across the country by 2020.

Regarding the legal aid services, according to the informant²³ from the Association of Defense of Women and Children’s Rights (HAGURUKA), domestic workers may be eligible to legal aid and representation where necessary, if they are classified in the first or second category of UBUDEHE system (the national social classification system of citizens based on their wealth) and if they provide some elements of evidence against the presumed guilty.

As conclusion, there is a strong legal and policy framework against child labor in Rwanda but its inconsistent implementation and monitoring mechanisms coupled with poverty prevalence in the families of origin seem to continue to push children and young adolescents into domestic work, which may be hazardous for them in many situations.

²³ Interview with the HAGURUKA Chief officer in charge of Kigali City on 5 May 2015

6. Major domestic work issues and gaps identified through this policy and legal framework analysis

Although the basic policy and legal framework of Rwanda is favorable to the promotion and protection of domestic workers rights, some improvements are nonetheless needed both in terms of legislation and in terms of the implementation of existing policies, laws and guidelines.

Some problems identified in particular which should require appropriate solutions to improve the working and living conditions of domestic workers are described in the following lines.

6.1 Non ratification of the ILO Convention 189 concerning Decent Work for Domestic Workers.

So far no significant step has been taken in Rwanda to engage irreversibly the process of ratification of the ILO Convention (C 189) concerning Decent Work for Domestic Workers.

It was found among others that the domestic work sector is the one of the most unorganized sectors in the country. Regarding the applicability of the Convention, it was advised to adopt an approach that is adapted to the actual conditions of domestic workers in the country and engage the process of ratification progressively taking into account that there is no homogeneity of domestic workers' employers and that often the duration of domestic work employment is rather short; the finding of COSYLI by experience is that domestic workers are very mobile and often change employers as they please²⁴.

The normal process towards ratification could go through the following phases:

- ✓ Awareness raising of CSOs, policy makers and the public in general on the ILO Convention 189 and Recommendation 201;
- ✓ CSOs to lobby the decision makers to seek support for the start of the formal process of ratification;
- ✓ ILO Convention 189 Assessment by the Ministry in charge of Labor;
- ✓ In case of favorable opinion, submission to the National Labour Council for advice;
- ✓ Bill drafting by the line Ministry (MIFOTRA) in collaboration with the Ministry of Justice;
- ✓ Submission of the Bill to Cabinet for approval;
- ✓ Submission of the draft law to the President of the Republic for ratification after authorization by Parliament.

There is no doubt, therefore, that the process of ratification of the ILO Convention 189 will take a long time and in all cases it will really take shape only after a thorough analysis of its applicability in the Rwandan context by different stakeholders, including labour leaders, trade unions, CSOs but also selected representatives of domestic workers and those of their employers.

6.2 Non full compliance with the UN Convention in relation to economic and social rights

Rwanda has ratified the International Covenant on Economic, Social and Cultural Rights (ICESCR) on 16 April 1975. However according to the concluding observations of the UN Committee on Economic, Social and Cultural Rights, after consideration of the second to fourth periodic reports of Rwanda on the implementation of the ICESCR (17 May 2013), the Committee was notably and explicitly concerned about the lack of information on measures

²⁴ Interview with the Permanent Secretary of COSYLI on 12 May 2015

taken by the State party to protect domestic workers and to ensure that they fully enjoy the rights enshrined in the Covenant (Article 7).

Therefore the Committee encouraged Rwanda to ratify the ILO Convention Nø 189 (2011) concerning decent work for domestic workers.

However, as developed above, the process towards the ratification of the Convention has not yet formally started.

6.3 Lack of explicit recognition of domestic work by the Labour Code

The Labour Code of Rwanda explicitly provides that workers in the informal sector including domestic workers, are not covered by the Code with the exception of matters relating to social security, trade union organization and Occupational Health and Safety (OHS). In fact, domestic workers are not explicitly recognized as workers, except that they could be considered as workers in informal sector as they work for not registered employers in households. This may lead to the non recognition of some of their basic rights at work such as minimum wages, weekly rest, fair terms of employment, reasonable duration of work, fair termination of work etc...

However some trade unions like the Workers' Trade Union (CESTRAR) have started to advocate for a regulation allowing at least all employees in the country to sign contracts before commencing work. Such initiative followed several grievances from employees, especially those in the informal sector over conditions they operate in, with most citing illegal dismissals, low salaries and nonpayment by employers among others. The obligation of signing a contract before the commencement of any work may solve partially some of the problems currently faced by domestic workers as well as their employers in their work relationship.

6.4 Non full implementation of specific rights recognized by the Labour Code for informal workers

The Labour Code of Rwanda (Law N° 13/2009 of 27/05/2009 regulating labour in Rwanda) recognizes specific rights for informal workers, like the right to social security, the right to form trade union organization and the right to be protected against occupational health and safety risks.

However, most of workers in the informal economy in Rwanda do not likely benefit appropriately these rights including domestic workers as the labour Inspectorate do not really monitor or investigate violations of labour standards in the informal economy sector.

Regarding domestic workers, thousands of them are still excluded from social security schemes, and are not aware of their right to organize themselves in trade unions while in addition they lack capacity to form such organizations and on the other hand some of them may face safety and health risks at the workplace without reporting the issue anywhere. At this stage, the challenge is only the effective enforcement of the existing legal framework.

6.5 Absence of specific legislation on domestic work

In Rwanda, there is no specific law or regulation on domestic work although such employment is among the oldest in the country as it started during the colonial rule in the first half of the twentieth century. In fact the issue of formalizing domestic work is likely to be sensitive as it regards personally everybody among both potential advocates and decision makers who all may employ domestic workers.

However and according to ILO²⁵, law amendment or regulations issued under the national labour law where applicable, to include explicitly domestic work, is relevant for both domestic workers and employers because notably of the following reasons:

- ✓ It facilitates the formation and formalization of employment relationships;
- ✓ It can facilitate worker-employer relations by providing a binding reference, thus lowering transaction costs and addressing the power imbalance between the parties;
- ✓ Statutory entitlements provide a minimum level of protection to be enjoyed by all workers, and which are ultimately enforceable in court;
- ✓ From a public policy point of view, the inclusion in labour law of domestic workers, who tend to belong to the most disadvantaged and vulnerable segments of society, can make a substantial contribution to the creation of decent work opportunities and the professionalization of the domestic work sector, which is of growing importance

6.6 Limited effective specific trade unions of domestic workers

Findings from interviews with key informants, revealed that only one specific trade union of domestic workers do exist and operate in Rwanda namely, the “ Syndicat des Travailleurs Ménagers du Rwanda” (SYTRAMER).

However this union is not yet legally formed (has no legal status) and is obliged to work under the umbrella of a federation of unions, namely the COSYLI. This is a serious disadvantage for the unique union of domestic workers, because it can not represent legally its members nor acquire movable or immovable property through donation or payment (Article 103 of the Labour Code). Moreover the union may face the difficult to deal with employers of domestic workers who are not yet organized in any employer organization.

Nevertheless according to COSYLI management²⁶, the “SYTRAMER” is operational in some districts through its permanent local union committees and temporary training animators. Every year, 30 selected domestic workers per district are trained on their human and workers’ rights, and on the professional ethics related to their work while they are also encouraged to adhere to available savings schemes. On the other side employers and local authorities, including security representatives, are also trained on their respective role to ensure decent work environment for domestic workers. The SYTRAMER Committees also advocate for domestic workers before the local leaders in case of disputes between domestic workers and their employers and most disputes are resolved at this level.

Some of African countries like Mozambique could play a good role model in terms of organizing domestic workers in trade unions. In Mozambique, there were in 2012 three unions representing domestic workers, namely the Mozambican Domestic Workers’ Association (AEDOMO); the Women’s Association of Domestic Workers (AMUEDO) and the National Union of Domestic Workers (SINED).

6.7 Persistence of illegal child domestic work

Some of the key informants and preliminary findings of the current Domestic workers Baseline survey commissioned by CLADHO/IDAY International, confirm undoubtedly the persistence of child domestic work despite the prohibition of child labour by the Labour Code, the Law No. 54/2011 of 14 December 2011 on the protection of the rights of children and other regulations and measures taken to combat child labour (like the Instructions No 02 of 29/04/2012 of the Kigali City Council establishing mechanisms of prevention and fight against illegal child labor in Kigali City).

²⁵ ILO Conference Report, 99th Session, Geneva, 2010

²⁶ Interview with the Permanent Secretary of COSYLI on 12 May 2015

The Monitoring mechanisms of child domestic work set up by the Ministry of Labour are not likely functioning well especially in informal sector, including the households where mainly domestic work is performed. Employers of child domestics often disguise them by saying that these are children of their relatives they take care as their own children but often do not allow them to go to school, which would be an indicator for more investigation. Other child domestic workers' employers can exploit the fact that the Labour Code allows children aged 16-17 to work, and they have the pretext to say that their employees perform only the "light work".

Moreover, some local authorities, especially at cell and village levels do not take strongly their responsibility to systematically denounce employers of child domestic workers, while labor inspectors on the other hand are perceived not to intervene systematically to monitor if there are no child domestic workers in their area of operation.

6.8 Exposure to GBV and abuse in the workplace

Despite the existence of a political, legal and institutional framework to fight against GBV, several studies and official reports from the Rwanda National Police prove that cases of GBV remain in Rwanda, although the trend is decreasing due among others to intense awareness raising campaigns and severe punishments of perpetrators.

For example, according to the Police Chief cited in RNP News Magazine of 25 August 2014, the National Police recorded 244 cases of rape and 1682 cases of defilement in 2012 while in 2013 the cases of rape and defilement were respectively 281 and 1445. Previous official statistics indicated that between 2006 and 2011, the National Police investigated and handled 12,992 cases of GBV in total.

However according to another study²⁷, GBV reporting rate is still low (around 10%) mainly because of the following reasons:

- ✓ GBV victims may feel that nothing will be done after reporting;
- ✓ The fear of stigma;
- ✓ Dependence of victims to perpetrators;
- ✓ Ignorance of GBV laws;
- ✓ Low level of education of victims;
- ✓ Ignorance of where to report.

Among the GVB victims, domestic workers may constitute a group at high risk due to the nature of their workplace in isolated households. Most of them also do not report their personal case of sexual violence and abuse for one or another of the reasons developed above. Domestic workers may also be shouted at or beaten as a form of punishment for doing a task poorly or badly and they usually do not report such violence to the relevant institutions.

6.9 Lack of updated Minimum wage for domestic workers

The daily minimum wage in Rwanda is at RwF100 according to the 1973 labor law which is still effective today in Rwanda because the Labour Code of 2009 provides no minimum wage.

However, according to the New Times issued on January 27, 2015, the process of updating the minimum wage is in its final stages, and will be submitted to consultations by MIFOTRA with other stakeholders to ensure the outcome is fair to all parties.

²⁷ RWAMREC, Sexual and Gender Based Violence Baseline Study in 13 Districts, Kigali, May 2013

Among the parties they are consulting, besides the National Labour Council that came up with the proposed minimum wage, include government institutions and the private sector.

The minimum wage is crucial for the welfare of workers, as for example insurance companies, when considering valuation of the worth of damages in case of an accident by an employee, refer to minimum wage.

The new proposed minimum wage will be determined by professional categories. However concerns persist as there was no confirmation in our research, that employments in informal sector including domestic work will be considered in the new minimum wage proposal.

7. Training opportunities for domestic workers

The National Child Labour Policy implementation requires among others to integrate in schools and technical centers all children under 16 years withdrawn from child labor in one hand and to improve working conditions for children aged 16-17 working under hazardous conditions in informal sector.

This section highlights some of the existing programs/projects that can contribute to provide vocational training to domestic workers and/or former child domestic workers in particular.

7.1. The national technical education structures and programmes

The Workforce Development Authority (WDA) through especially its TVET Programme that includes short-term vocational training courses for 6 to 12 months. Among the target people for these trainings are the leavers of primary and lower secondary schools.

More explicitly, since 2008, the Government of Rwanda has developed and consolidated a national Technical Vocational and Education Training (TVET) system which is coordinated by the Workforce Development Authority (WDA) under the high supervision of the Ministry of Education (MINEDUC).

The TVET system is recognized as a national priority and concerns any education, training and learning activity leading to the acquisition of knowledge, understanding and skills which are relevant for employment or self-employment.

The TVET system has three institutions providing TVET education at different levels:

- 1) Vocational Training Centres (VTCs) which target mainly the leavers of primary and lower secondary schools. At this level, courses typically last from 6 months to one year. ;
- 2) Technical Secondary Schools (TSS) that take graduates of 9YBE and provide three years of training leading to TVET certificates;
- 3) and Colleges of Technology that offer 3 year diploma level.

However there are also 5 Integrated Polytechnic Regional Centers (IPRCs) that offer together technical and vocational courses at Diploma, Certificate and Vocational levels.

In addition specific technical vocational courses are also provided to all applicants without considering their previous education level through the TVET Foundation level that last up to one year.

Based on the available training opportunities in the national TVET system, it is advised that willing domestic workers could apply for the TVET Foundation and VTCs levels.

Some of available training opportunities in the TVET Foundation levels are the following: Basketry, Embroidery, Beading, Culinary Arts, Milk processing, Fruit processing, Poultry farming, Fish farming, Nursery operations and Horticulture production.

The Vocational Training Centers offer a wide range of training opportunities including Masonry, Plumbing, Carpentry, Domestic Electricity, Welding, Tailoring, Culinary Arts, Food and Beverage Services, Auto Electricity, Engine Mechanics, Panel Beating and Computer Maintenance.

7.2 Local initiatives

On the other hand, the desk review has identified some local initiatives that can contribute to provide or facilitate vocational trainings to domestic workers and/or former child domestic workers. These initiatives are generally run by local CSOs in partnership with international NGOs.

Among them are the following, save that the listed initiatives are far from being exhaustive.

7.2.1 Youth Livelihoods Project (AKAZI KANOZE) Project

It is a project financed by the USAID and implemented by Education Center Inc. (EDC). It comprises an Accelerated Learning Program (ALP) that provides youth who have dropped out of school at the end of Primary 4 to the end of Primary 6 with a program that combines non-formal basic education and technical training in a vocational area such as construction, welding, hospitality and services, masonry, etc. The project is planned to end by June 2016, but given that it has been a success story, it could be transformed into a local organization after the initial project will finish.

7.2.2 Canada Fund for Local Initiatives (CFLI)

It is an international NGO that supports projects proposed and implemented by local organizations in Rwanda. In the recent past, this organization has supported initiatives related to the training of domestic workers. It supported among others ADBEF to provide domestic workers with vocational skills training that could help them to create their own income generating activities. After training, beneficiaries were provided with technical advice to help them to form a cooperative.

7.2.3 Strive Foundation Rwanda (SFR)

It is also a local NGO that runs an “**Accelerated Learning Programme**” (ALP) in partnership with the British High Commission in Rwanda. Among the target population of the SFR’s education program are the youth to whom it provides vocational training, school fees, school materials and health insurance to vulnerable children.

7.2.4 The best practices of Rwanda Education Alternatives for Children (REACH) Project

It is a project managed by Winrock International and funded by the US Department of Labour (DOL).

It aims at reducing child labor in Rwanda starting by the children involved in agricultural activities like Tea plantations. It is a partner of the National Commission for Children (NCC) and has much helped to identify children in agricultural labor.

After their identification, REACH project has helped to withdraw those children from exploitative labor and link them to educational services or workforce opportunities in rural areas. It has also initiated an innovative model farm school vocational training program for out-of-school youth.

This project is a good model that can inspire the design of similar projects aimed at withdrawing children from domestic work in order to provide them ‘second chance’ learning opportunities in formal schools or facilitate them access to vocational training centers.

7.2.5 The CLADHO domestic workers project

CLADHO has initiated a Domestic Workers project which is a good model and pilot that aim to improve not only knowledge but also living conditions of Domestic Workers. The project brings back to schools some of Domestic Workers who dropped out school and willing to get back to school. One of good thing is that some of Domestic Workers has finished secondary school and others are at University level and still supported by the project. For those in Vocational training, the project support them to find interne ship and the work with an acceptable contract.

Conclusion

On the basis of research through various documents and interviews with key informants, this political and legal framework desk review on domestic work has shown the strengths and gaps of existing policies, laws, regulations and implementation mechanisms in relation to domestic work in Rwanda.

Overall, the domestic work environment remains informal and largely undocumented.

However main important international instruments that can legitimate the basis for the improvement of domestic work conditions in Rwanda have been ratified by the country at different periods, with the exception of the ILO Convention 189 which is in fact relatively new (2013) in the international legal arsenal in favor of workers' rights.

The policy framework of Rwanda as well proves that the Government political is willing to improve the socio-economic living and working conditions for all Rwandans. The National social security policy and the National policy on the elimination of child labour are among many others good examples of existing sound policies that can be used to improve the domestic work environment in particular.

Nonetheless, in some cases there is a serious gap between the policy or legal framework and their implementation, without ignoring however that the implementation of policies is a long process that adapts continuously to the context and the country's general situation.

As for the Labour Code, it was identified as incomplete, especially if the need to protect the rights of informal sector workers is taken into account, including domestic workers. A revision of the Labor Code or specific legislation regulating domestic work will be necessary in the future, to better regulate this profession while protecting both the rights of domestic workers and those of their employers.

To accelerate this process, different stakeholders including trade unions and civil society organizations working in the field of human rights defense, will be encouraged to engage or continue to organize public awareness campaigns with the goal of stimulating public open discussions on the improvement of working conditions of domestic workers in Rwanda.

Finally this desk review has highlighted some of the existing programs/projects or local initiatives that can provide vocational training to domestic workers and /or new chance of education opportunities to former child domestic workers. However more special initiatives that could support capacity building and enhancement of domestic workers in general should be explored and encouraged.

Moreover domestic workers should also be encouraged to form or join domestic workers organizations that could work as social partners with stakeholders willing to enhance the capacities of the domestic workers in Rwanda and not only in terms of vocational training support but also in terms of improving their capacities for advocacy, lobbying, communication and other relevant professional skills.

RECOMMENDATIONS

1. Raise public awareness on the rights of domestic workers through effective and innovative means;
2. Inform domestic workers and their employers on their respective rights and obligations;
3. Advocate for the start up and then continuation of the process of ratification of the ILO Convention 189;
4. Advocate for the initiation of a specific draft law regulating the conditions of work and employment of domestic workers;
5. Progressively extend the coverage of social security and health insurance to all workers in the informal economy (including domestic workers) by adopting innovative measures to facilitate their massive integration;
6. Reinforce the capacity of monitoring and enforcement of the provisions of the labor Code related to social security as well as health and safety at the workplace in the informal economy;
7. Encourage the parties to domestic work to formalize their employment relationship through written employment contracts to promote better quality work and stable employment;
8. Identify the practical obstacles that hinder the formation of collective organizations of domestic workers and those of their employers in Rwanda;
9. Promote collective organizations of domestic workers and those of their employers and assist them to well organize and function effectively;
10. Establish in particular an adequate and appropriate system of inspection of child domestic workers across the country;
11. Facilitate the rapid access to legal aid and the judicial system in general, to the victims of violence and abuse in the domestic work environment;
12. Advocate and ensure that employments in informal sector are taken into consideration in the fixation of proposed updated minimum wages under discussion between relevant parties;
13. Develop a national strategy on domestic work in the framework of the national employment policy;
14. Contact WDA to facilitate willing Domestic workers to access TVET Foundation and VTCs training opportunities that exist in their areas;
15. Contact other local promoters of Vocational Training Centers to discuss the training opportunities they can offer to willing domestic workers or leavers of child domestic work;
16. Mobilize resources to afford a great number of domestic workers willing to be trained.

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Annex

Annex 1: Key informants interview questionnaire

My name is.....

I am working with CLADHO, in effort to undertake a Baseline Survey of domestic workers in Rwanda and of child domestic workers in particular. One of the preliminary steps to engage such work is the desk review of the DWs Political and Legal Framework. For this purpose and based on your experience and knowledge, you have been selected as a person who can provide useful information or opinions on the Rwanda domestic workers' Political and Legal Framework.

I hope you would be willing to answer a few questions. I assure you that any sensitive information you'll tell me will remain confidential and if necessary reported in a manner that it could not be attributed to a particular person.

Are you willing to answer my questions? Do you have any questions before we begin?

- 1) What documents do you recommend me for a comprehensive research on policies, laws, regulations and implementation mechanisms regarding domestic workers in Rwanda and child domestic workers in particular? Where can we find them and through which process?
- 2) According to your experience and knowledge, could you suggest what are the positive aspects of the existing policies, laws, regulations and implementation mechanisms in relation to the domestic work in Rwanda?
- 3) What do you think are the specific gaps and challenges that should be addressed in the political and legal framework of Rwanda, in terms of the respect and protection of domestic workers' rights in Rwanda?
- 4) Are you aware of the ILO Convention 189? If so, what concrete actions have been taken so far in Rwanda to bring its content to the public awareness and initiate the process of its ratification by the competent authorities?
- 5) What do you suggest that could facilitate the mass registration of domestic workers in the national social security scheme and/or in the community based health insurance scheme in particular?
- 6) What are the existing policies, laws, regulations and monitoring mechanisms regarding the child labor in Rwanda and child domestic labor in particular? What do you think about the efficiency of their implementation and your personal suggestions thereon?
- 7) What do you know about the unions or associations of domestic workers and about the employment agencies that link domestic workers and employers in Rwanda?
- 8) What is your perception about the prevalence of violence and abuse against domestic workers in Rwanda (including sexual violence, sexual harassment, physical or verbal abuse)?
- 9) What are your recommendations to enable domestic workers to exit informal employment relationship and to enjoy their full human and workers' rights?

Thank you for your time!

Annex 2. STUDY INVESTIGATORS

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2. **Co-investigators** : IDAY International/ DWs project
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3. **Political and legal framework desk review research Coordinator IDAY / DWs Project Country coordinator** : IDAY- CLADHO/ DWs project
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5. **Field Visit Team** : 2) Mr Anicet HABARUREMA, Research Assistant
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The political and legal framework desk review of domestic work in Rwanda,

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Consultancy firm contracted, by CLADHO for IDAY International's domestic workers project, in partnership with NCC and CESTRAR, funded by the European Union.

Republic of Rwanda, Kigali, July, 2015

