

Conditions of Work and Employment Programme

***Domestic work and domestic workers in Ghana:
An overview of the legal regime and practice***

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Preface

Everywhere in the world, domestic workers earn low wages; work volatile hours; receive few benefits, if any; have no career prospects; and are, most often, unorganized. Despite their sheer numbers, domestic workers constitute an “invisible” workforce comprising mainly women, often belonging to disadvantaged ethnic groups or migrant workers, who work in private households behind closed doors. Their work is not perceived as “real work” as it takes place in the household or for a household — not a conventional worksite — and mirrors unpaid work traditionally performed by women. Their invisibility is compounded by their exclusion either *de jure* or *de facto* from the effective protection of national labour law — both in industrialized and developing countries.

Also, internationally, existing labour standards do not offer adequate guidance on how to address the specific circumstances of domestic work. This is why the ILO Governing Body agreed to include a standard-setting activity on decent work for domestic workers on the agenda of the 99th session (2010) of the International Labour Conference. The Decent Work Agenda provides a new and promising avenue for ensuring visibility and respect for domestic workers. A focus on decent work for all women and men means recognizing that domestic workers are real workers and acknowledging the personal nature of this work, namely the degree of proximity and intimacy with the employer it often entails, while reaffirming its compatibility with the employment relationship.

In preparation to this, a report that offers information from across the world about the law and practice concerning this important segment of the global workforce was compiled and disseminated in March 2009.[§] As part of the preparation process, this paper was commissioned to obtain an overview of the legal and institutional regimes governing domestic work in Ghana and to contrast this against the conditions of domestic workers. This was intended to help identify the problems and challenges they confront in Ghana, and provide insights for the drafting of possible international instruments on this subject matter.

The paper is based on secondary sources as well as on interviews with key informants, such as policy-makers, union leaders, employment agencies and civil society organizations. It is hoped that it will help fill a knowledge gap as the information on this segment of the working population is usually scarce and scattered.

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[§] ILO: *Decent work for domestic workers*, Report IV(1), International Labour Conference, 99th Session, 2010 (Geneva, 2009).

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Contents

	<i>Page</i>
Preface.....	iii
Acknowledgements.....	iv
Contents	v
1. Introduction	1
2. Defining and contextualizing domestic work in Ghana	5
Defining domestic work.....	5
Economic change and domestic work in Ghana	5
3. The employment and social security policy context of domestic work	11
Promoting an enterprise approach to development.....	11
The Draft National Employment Policy	12
From employment-based social security to social protection for the poor and vulnerable.....	14
4. The legal and institutional framework applicable to domestic workers.....	17
The legal framework	17
Labour and labour-related institutions	20
5. The characteristics and conditions of domestic workers	23
The changing character of domestic work in Ghana.....	23
Demographic and social characteristics of domestic workers	26
The conditions of domestic workers	27
Fundamental rights at work (equality, forced labour, child labour, freedom of association and right to bargain collectively)	28
Contract of employment	29
Conditions of employment (including hours of work)	29
Living conditions (including accommodation).....	30
Remuneration.....	30
Social security protection (including maternity protection)	31
Occupational safety and health protection.....	31
Informal mediators and employment agencies	32
6. Initiatives to organize domestic workers and regulate domestic work in Ghana	37
Organizing domestic workers: Efforts of the TUC and the ICU.....	37
Obstacles to successful organization.....	41
Promoting the regulation of domestic work in Ghana: The LAWA-Ghana project	43
7. Summary, conclusions and recommendations	47
References	49

1. Introduction

Even though research data on domestic workers is almost non-existent for Ghana (Apt, 2005), domestic work is believed to be a substantial segment of the workforce. A recent study (LAWA-Ghana, 2003) states that there is at least one domestic worker in each house, and large houses could have as many as six. While this statement is not based on a census or a survey, and conflicts with available statistics on the labour force composition in Ghana, it is supported by general knowledge about domestic arrangements in Ghanaian households. Many households, irrespective of their poverty status, have been known to employ domestic workers on a wide range of terms and conditions. Domestic workers, like others in the informal economy, which accounts for 80 per cent of the labour force (Ghana Statistical Service, 2008), are largely undocumented and undeclared, and this makes an accurate breakdown of types of work in the informal economy difficult. Accounting for domestic workers is even more difficult because of the “hidden” nature of their work, which is carried out in private homes; the use of under-age domestic workers who are not likely to have a consciousness of themselves as workers; and the practice of using poor family relations as unpaid domestic workers. These factors disguise the employment relationship and result in labour statistics which contradict what is common knowledge about the prevalence of domestic work. As we shall see later, the problem of labour statistics is compounded by the differences in official definitions of domestic work. Therefore, although domestic work in Ghana is implicitly covered by most of the provisions of the country’s labour laws,¹ it would be difficult to monitor and regulate its terms and conditions even if government agencies and labour organizations were in a position to do so. Notwithstanding the difficulties in ascertaining the numerical contributions of domestic workers to the informal workforce, their contribution to the reproductive functions of households and to the care economy underlines their importance to the economy and social system. Therefore, the conditions of domestic work should concern researchers and policy-makers in a period of renewed interest in employment conditions worldwide.

While there have been studies of domestic work² as well as reforms of its legal framework worldwide, this type of work continues to be largely invisible and unregulated in Ghana.³ It is noteworthy that extensive studies have been undertaken in several other African countries and the statistical data is more reliable. Studies of domestic work in Zambia and Zimbabwe, for example, provide some clues about the differences in the status of domestic work between these countries and Ghana (Hansen, 1986; Pape, 1993). In Zambia and Zimbabwe, settler colonialism gave domestic labour visibility and traction in the anti-colonial struggle. Hansen’s work demonstrates the availability of statistics and policy discussions about domestic work in colonial Zambia, which she notes was one of

¹ Domestic workers are explicitly not covered by a few provisions in the Labour Act relating to maximum weekly working time and rest periods. These are elaborated in the section on the legal and institutional regime for domestic work.

² In some sub-Saharan African countries (Kenya, South Africa, the United Republic of Tanzania, Zambia and Zimbabwe) and also in India, Hong Kong (China) and Sri Lanka among others, studies of domestic workers have been carried out by both academics and international bodies, such as the International Labour Organization.

³ According to LAWA-Ghana, there are laws governing domestic work in 43 countries, 15 of which are in Africa (LAWA-Ghana, 2003).

the three largest segments of the colonial economy in terms of labour force participation.⁴ As well, she documents the participation of domestic workers in labour strikes in the colonial period (Hansen, 1986; 1992). Pape (1993) discusses how the politics of the nationalist struggle in Zimbabwe highlighted the conditions of domestic workers as black men and women exploited by white employers. This, he argued, resulted in post-independence legislation and measures to address the conditions of domestic workers and in the establishment of a national union for domestic workers as part of a political agenda of righting the wrongs of colonialism. As a result, a large segment of domestic work was formalized and specialized, and this had a positive effect on the overall treatment of domestic workers. In Zambia, due to the economic and social arrangements of colonialism, and racist assumptions about the sexuality of African women and the presumed inconvenience of having them too close in the home, African men have historically been engaged in domestic work (Hansen, 1992). In South Africa and Zimbabwe, domestic work is done by both men and women, although the nature of the tasks they perform are in some cases different (Pape, 1993).

In Ghana, which was not a settler colony, on the other hand, domestic workers in the colonial period were not a very large segment of the working population. Instead, domestic work was established in urban areas in conditions of informality with domestics largely employed by African urban workers and performing generalized functions within households from the late 19th century when certain urban areas were established to service the colonial economy (Gugler, 1989). As such, domestic workers generally work for long and unspecified hours, performing a variety of tasks, including washing, cleaning, shopping, doing the laundry, taking care of children, and caring for old or sick members of the household. Most domestic workers come from economically deprived households and work for a wide range of households, both rich and poor. The vast majority of domestic workers are female (LAWA-Ghana, 2003).

The aim of this paper is to provide an overview of the legal and institutional regime governing domestic work in Ghana and to match this against the conditions of domestic workers in order to highlight the problems and challenges they experience. This is with a view to making recommendations for institutional and legal reforms which would improve the conditions of domestic workers and promote their self-organization to defend their interests. The paper is organized as follows: the introduction is followed by a section which establishes a definition of domestic work for the report and discusses the socio-economic context of domestic work, the history of neo-liberal economic reforms that Ghana has undertaken since the early 1980s and its impacts on labour and employment and the informal economy. Section 3 tackles the employment and social security policy context of domestic work. Section 4 is devoted to the legal and institutional framework applicable to domestic workers in Ghana. The fifth section considers the changing conditions of domestic work in Ghana and the current conditions of domestic worker in that country in light of existing ILO standards and regulatory mechanisms, while the penultimate section discusses initiatives to organize domestic workers and regulate domestic work. This is followed by a summary, conclusions and recommendations.

The paper is based on secondary data sources: the few existing studies on informal work in general and, in particular, on domestic work in Ghana; domestic work in other countries in sub-Saharan Africa; labour legislation; labour statistics; reports of efforts by the trade unions and civil society organizations to regulate domestic work and organize domestic workers; and other relevant secondary literature. This has been supplemented with key informant interviews with labour leaders, policy-makers, employment agencies and civil society organizations.

⁴ The other two were agriculture and mining.

Box 1: Child fostering in Ghana

Fostering is a customary practice among many ethnic groups in Ghana where young children are given to family members to raise, train and generally prepare them for adulthood (LAWA-Ghana, 2003). In this way, an unknown number of children are sent from rural areas to live with their relations in mostly urban areas. The children perform household tasks for the relative, but they are regarded as kin, and therefore are not treated as workers with clear terms of employment. Especially for girls, occupational socialization starts early in life. According to Apt (2005), this is one of the underlying factors that contributes to the practice of fostering. In practice, children of both sexes are fostered. In most cases, the foster parent would train the child in the foster parent's craft. Children were often given to foster parents who had a better socio-economic standing than their own families, and who had a good reputation in society (Clark, 2002). Traditional fostering was done with the understanding that the fostered children would contribute to the household chores. Even in situations where there is no relationship between the employer and the domestic worker, the expectation of training as part of the payment for services is often implied. In cases where the domestic worker is employed by a relation, the distinction between domestic work and fostering becomes difficult to make, except when the worker is an adult.

Furthermore, a recent study of child fostering (Apt, 2005) notes that the distinction between fostered children and domestic workers is not very clear. In some cases, child domestic work and child fostering have been discussed as though they were interchangeable. Apt (2005) has noted that very few differences are observable between them (see also Clark, 2002). Apt concludes that children in both categories performed essentially the same amount and types of tasks, and had little or no rest, although foster children were a little better off in this regard. On education, although children under fosterage were slightly more advantaged, both categories of children lacked sufficient education, even at the basic level. On the other hand, fostered children were more severely punished than non-kin domestic workers, a situation which could be explained by the fact that fostered children are supposed to be under training and foster parents might assume that severely punishing them was part of the discharge of their responsibilities.

2. Defining and contextualizing domestic work in Ghana

Defining domestic work

The Labour Act (Act No. 651 of 2003) defines a domestic worker as “a person who is not a member of the family of a person who employs him or her as house-help” (Section 175). This definition excludes fostered children and persons with kinship relations. Yet, fostered children often do domestic work in return for having their school fees paid, while family members sometimes work for pay. The 2000 Population Census defines domestic workers as persons who are engaged to render household services with or without pay (Ghana Statistical Service, 1999). This more open definition captures more situations of domestic work. However, the definition of unpaid family worker by the Population Census as “a person who helps in running an economic enterprise operated by a member of his or her family without payment of wages or salary” (Ghana Statistical Service, 1999, p. 56) is restrictive, since domestic workers are often involved in the running of informal economic enterprises. Thus, a member of the family who does both domestic work and helps in the running of a family business would only be included in the category of “unpaid family worker”. Furthermore, the instruction to enumerators to exclude as family workers all persons aged 7 years and older who helped family members in their economic activities but were full time students in educational institutions and instead treat them as students (Ghana Statistical Service, 1999, p. 49) hides another category of domestic workers who combine work with their education. In this paper, LAWA-Ghana’s definition of domestic workers as individuals who work in the houses of their employers and receive payment either in cash, in kind or both is more appropriate (LAWA-Ghana, 2003). While this does not address all the ambiguities in the definition, it is more helpful in that it will enable coverage of some of the complexities of domestic work in Ghana. The LAWA-Ghana definition differentiates between domestic workers and domestic assistants on grounds of age. This distinction is not maintained in this report; instead, where domestic workers are under 15 years of age (the age of majority for the purposes of work in the Labour Act), they will be referred to as child domestic workers.

Domestic work is not a recent phenomenon in Ghana. However, its current form and conditions are best understood by placing it within the socio-economic contexts in which it occurs. Pape (1992) argues that the lack of decent employment avenues and the generally poor wages and conditions of workers accounts for the large supply of domestic workers and the poor wages they are paid in Zimbabwe. Conditions in Zimbabwe as described above are similar to those of Ghana’s political economy which has undergone changes since the country embarked upon International Monetary Fund- (IMF) and World Bank-directed economic recovery programmes. This, together with the changing social and cultural environment within which domestic work takes place, accounts for the present character of domestic work and the particular conditions of domestic workers.

Economic change and domestic work in Ghana

Ghana’s economy is largely agrarian and has failed to make a structural transformation with its attendant changes in the structure of the workforce. Agriculture is largely small-scale and undertaken within a household-based production system. Agriculture is labour intensive and simple technologies are used, with the effect that productivity per capita is low. However, it accounts for over 60 per cent of the labour force. Although both the male and female populations are engaged in agriculture, the more profitable segment — cash-crop farming — is dominated by men. Women often work on

their husbands' farms in addition to keeping their own food-crop farms. Farmers in Ghana are some of the poorest employment categories of the population (Ghana Statistical Service, 2007).

On the attainment of independence in 1957, Ghana — like many other African countries — followed a policy of state-led development, consisting mainly of industrialization and modernization. After initial success, a combination of factors — such as the inefficiency of agriculture and industry, and reliance on a limited range of export commodities combined with external pressures such as high fuel prices — led to widespread economic crises across the continent. To resolve these crises, the IMF and World Bank proposed the adoption of economic recovery programmes which marked the end of state interventionism (Aryeetey and Harrigan, 2000). Ghana commenced its first structural adjustment programme [known as the Economic Recovery Programme (ERP)] in 1983. The policy package was essentially geared towards reducing government spending through fiscal austerity and downsizing of government industries and departments, and towards higher revenue generation through such means as the introduction of user prices.

The three main areas of policy focus for the Structural Adjustment Programme (SAP) were privatization, trade and investment liberalization, and industrialization. Privatization involved the sale of key national industries and enterprises and the retrenchment of labour, both in state industries and in the civil and public services. Liberalization of trade and investment effectively ushered Ghana into global economic competition and, even though it resulted in increased exports, there was little diversification and the export base consisted largely of primary commodities.

In the agricultural sector, subsidies to farmers were withdrawn and the local market opened to agricultural imports. The combined effect of these measures has been the worsening of the plight of the rural poor. This has been attended by the continued decline in agricultural productivity, as farmers have found it more and more difficult to compete with cheaper food imports. As a result, the agricultural sector has been the slowest growing in the economy, growing at no more than 2 per cent in over two decades of structural adjustment, until recently when it grew by 4.1 per cent in 2005 (Nyanteng and Seini, 2000). The three regions in Northern Ghana have the worst poverty rates, with up to 88 per cent living below the poverty line, although in comparative terms, the Northern Region is better off than the Upper West and Upper East Regions.⁵ Rural areas are also worse off than the urban areas. In 1995, rural areas in Ghana contained 80 per cent of the poor, an increase from 57 per cent in 1981 and 60-65 per cent in 1978 (Konadu-Agyemang, 2000). One of the reasons for this is that the rural areas have a large proportion of the poorest employment category, namely food-crop farmers.⁶ The result of this spatial inequality has

⁵ Data from the Ghana Statistical Service (GSS), cited in the 2007 *Ghana Human Development Report* (UNDP, 2007), shows that the overall national poverty average is 29 per cent, while the Northern Region has 52 per cent, the Upper East has 70 per cent and the Upper West has 88 per cent. Moreover, although the general national trend is towards a decline in poverty, the three northern regions show fluctuations in poverty rates. For instance, poverty in Ghana declined from 52 per cent to 40 per cent and finally to 29 per cent in 1991/92, 1998/99 and 2005/06 respectively. In the Northern Region, during the same period, the statistics were 63 per cent, 69 per cent and 52 per cent. In the Upper West Region, poverty levels have remained constant, falling from 88 per cent to 84 per cent and going back to 88 per cent; while in the Upper East Region, it rose from 67 per cent to 88 per cent, but dropped to 70 per cent (UNDP, 2007, p. 25).

⁶ According to the Ghana Living Standards Survey (GSS, 2000), food-crop farmers have the highest incidence of poverty at 46 per cent, followed by export farmers at 24 per cent and non-farm self-employment at 17 per cent. Public sector employees and private formal sector employees still have the lowest incidence of poverty at 8 per cent and 10 per cent respectively, which is below the Ghanaian average of 29 per cent.

been the movement of large numbers of people, especially youth, from the rural areas into the urban centres and from Northern to Southern Ghana in search of employment and a better life. Many of these, a significant proportion below age 15, end up in domestic work — mostly in urban but also in other rural areas — as part of the growing informal economy. Their earnings are expected to support family members, while the domestic has the opportunity for future vocational training (LAWA-Ghana, 2003; Apt, 2005).

Meanwhile, industrial activities were not performing as well as expected, and foreign investment shifted from production to banking and financial services in much of sub-Saharan Africa, including Ghana, from the 1980s (Mkandawire and Soludo, 1999). The labour market was also severely affected. In addition to the industrial retrenchments, employment insecurity became more common. According to Tsikata (2009):

The combined impacts of certain adjustment policies, namely, trade and investment liberalization, labour market liberalization, industrial sector reforms, privatization and the reform of the public sector have affected informal economies in sub-Saharan Africa (p. 141).

In Ghana, as in other developing countries, the non-agricultural informal economy traditionally employed a large proportion of the population. The ILO estimates that, as of 2001, the informal economy employed between one-half and three-quarters of those who are not engaged in agricultural activities (ILO, 2002). However, after years of economic liberalization, extensive informalization of employment has taken place.⁷ It has been estimated that the informal economy has been creating ten times more jobs than the formal economy since the 1980s and contributes between 20 and 40 per cent to the GDP of Ghana (Tsikata, 2007).

The changes in the informal economy in Ghana are demonstrated by the following statistics of labour force participation. These statistics have to be treated with care. As Fine and Boateng (2000) note, the infrequent collection of data, its limited coverage, and problems with the credibility and reliability of the statistics make labour statistics in Ghana problematic.

Table 1: Changes in formal sector employment, 1960 to 1991

<i>Year</i>	<i>Public sector formal employment</i>	<i>Private sector formal employment</i>	<i>Total formal sector employment</i>
1960	184,000	149,000	333,000
1965	278,000	118,000	396,000
1970	288,000	110,000	398,000
1975	318,000	137,000	455,000
1980	291,000	46,000	337,000
1985	397,000	67,000	464,000
1986	347,000	6,000	14,000
1987	315,000	79,000	394,000
1988	252,000	55,000	307,000
1989	177,000	38,000	215,000
1990	189,000	40,000	229,000
1991	156,000	31,000	186,000

Source: Gockel, 1998, p. 18.

⁷ Informalization has been discussed in the literature as (a) the growth in size of the informal economy, and (b) the systemic changes in labour relations from formalized to more informal arrangements (WCL, 1999; Sethuraman, 1998; Beneria, 2001; Charmes, 1998; Pape, 2000; Pearson, 2003).

As Table 1 above shows, formal sector employment, both public and private, has been declining consistently since 1985, from over 464,000 in 1985 to just over 186,000 in 1991. Other statistics show that, in this same period, the share of the informal sector in total employment increased from 80.5 per cent in 1987/8 to 88.4 per cent 1991/2 and declined to 86.3 per cent in 1998/9 (Ghana Statistical Service, 2000). While formal sector employment was falling fast, the economically active population was estimated to be increasing: 100,000 persons were estimated to be graduating annually from educational institutions and entering the labour market within the period under discussion. Of Ghana's labour force, 16.1 per cent was estimated to be in waged employment, with the remaining in self-employment, including the informal sector (Ghana Statistical Service, 2000). Table 2 below, which presents the distribution of the working population by location and sex in 2003, confirms this trend.

Table 2: Distribution of working population by location and sex in 2003

Category	Public	Private formal	Private informal	Semi-public/ parastatal	NGO/ International organizations	Others	Total
Location							
Urban	12.0	11.2	75.0	0.5	0.3	1.0	100.0
Rural	3.6	3.0	92.0	0.3	0.1	1.1	100.0
Gender							
Male	10.2	9.5	78.6	0.6	0.2	0.9	100.0
Female	4.4	3.7	90.5	0.2	0.1	1.1	100.0

Source: Ghana Statistical Service (GSS).

Table 2 shows that a much larger proportion of female workers than male workers are found in the private informal economy. These are generally known to earn lower wages than their male counterparts, and own smaller business and lack access to certain opportunities, resources and networks even when they work in the same segment of the labour market (Tsikata, 2007; Sethuraman, 1998). It has been argued that gender differentials are in a large measure due to gender discrimination in the informal economy, which is in turn a reflection of women's lower position in the wider society (Tsikata, 2009). While the expansion of the informal economy has created new work opportunities for women, most of these opportunities have been in the survivalist sections of the informal economy, where working conditions do not conform to the ILO standards for decent work (ILO, 2009). In this way, the precarious economic position of the informal economy into which rural migrant workers enter ensures that many are not able to escape from poverty. The fifth *Ghana Living Standards Survey* reports that poverty in Accra, the largest urban centre in Ghana, increased from 4 per cent in 1998/9 to 11 per cent in 2005/6. The report ascribes the increased number of the poor in Accra to an increase in the net numbers of migrants, estimated at about 310,000, from poorer regions to the city. It is instructive to note that within this same period, the number of poor people in the Upper East reduced by 219,000, while the Upper West reduced by 332,000 (Ghana Statistical Service, 2008).

As Ghana has continued with economic liberalization under the Highly Indebted Poor Countries (HIPC) initiative, it has had to draw up Poverty Reduction Strategy Papers (PRSPs), which constitute the new framework for economic policies for countries under the HIPC initiative since 2003. Under this initiative, governments are to give civil society a more active role in policy formulation, although the underlying strategy of economic liberalization is not expected to change, and is likely to see further consolidation. Under these circumstances, informal work is likely to see further expansion in Ghana (Tsikata, 2007).

The import of all these factors for domestic work is that almost three decades of structural adjustment and impressive macro-economic achievements did not translate into a

structural transformation of the economy, which continues to depend on primary commodity exports. As a result, employment opportunities continue to be within agriculture and informal activities, while the development of better employment opportunities to make more use of the growing labour force remains elusive. Within the urban informal economy, the service sector — the location of domestic work — is the fastest growing: for example, between 1970 and 1995, the contribution of services to real GDP rose from 29 per cent to 44 per cent, while industry's contribution reduced from 19 per cent to 14 per cent, and agriculture from 52 per cent to 42 per cent (Aryeetey and Harrigan, 2000, p. 23). By 2005, the figures were 39.9 per cent for agriculture, 28.2 per cent for industry and 31.9 per cent for services (ISSER, 2006). Given that much economic activity occurs in the informal economy, the growth in informal services would be a significant component of this.

3. The employment and social security policy context of domestic work

Promoting an enterprise approach to development

The overall policy approach to work and employment is rooted in the economic liberalization paradigm which frames policy in Ghana and much of sub-Saharan Africa. A key feature of policy under economic liberalization is the downgrading of employment from a macro-economic concern to a sectoral issue. This, combined with the belief that low labour costs would attract foreign investment, resulted in policies based on an assumption of wage restraint (Mkandawire and Soludo, 1999). A much weakened Ghana Trades Union Congress (TUC)⁸ was achieved through large-scale retrenchments of public sector workers and the demise of the tripartite system of policy negotiations involving government, employers and labour. The last vestiges of the pre-adjustment labour regime are the annual announcement of the minimum wage and periodic comments by the TUC on economic policy, the budget and particular measures, such as the sale of state enterprises and utilities. The new labour code, the Labour Act (Act No. 651 of 2003), has been criticized by the TUC on the basis that it has curtailed the right of workers to unionize and to take industrial action by imposing cumbersome procedures for tackling labour disputes.⁹ The Trades Union Congress has recently called for the amendment of sections on unionization, certification of trade unions and termination of employment to remove ambiguities not in the interest of workers (*The Chronicle*, 12 September 2008).

Given that public sector employees are less than 10 per cent of the labour force, much of the concern about employment conditions concerns the private formal and informal economies where domestic work is situated. More recent efforts to address the problems of the informal economy have taken an enterprise rather than a labour approach. Policy discussions have focused on enterprise formalization with a view to bringing more economic actors into the tax net and regulating their activities. Labour relations and conditions of workers in the informal economy are not seen as a priority, partly because of the continuing belief that developing countries are competitive because of their lower labour costs (Tsikata, 2009). And yet, the conditions of workers are important to economic growth and development: an impoverished labour force affects workers' ability to afford goods and services and to reproduce themselves and the future labour force. In keeping with the enterprise approach to the informal economy, the government's pilot Decent Work Programme of 2003, also supported by the ILO, has mainly been involved in introducing labour-based technologies and giving business assistance to enterprises.¹⁰

⁸ The TUC, consisting of 17 national unions, is the main trade union centre for formal workers in Ghana.

⁹ Under the repealed Labour Decree (NLCD No. 157 of 1966), it was easier to embark on industrial action as there were no detailed procedures to be followed before a strike could be declared.

¹⁰ The project is to give technical and financial assistance to two districts to build the capacities of their institutions to reduce poverty by improving the employability and reducing decent work deficits of women, men and persons living with disabilities in micro and small enterprises. District enterprise development funds have been set up as well. The projects have registered 1,500 and 3,000 micro and small businesses in the two district capitols of Ajumako and Winneba, thus facilitating the collection of taxes by the District Assemblies. In one district, revenues tripled as a result of this exercise. Small business owners have also been introduced to banks and their loan applications facilitate. Four hundred representatives of small business associations have been trained using the ILO manual customized for Ghana (Baisie, 2005).

What is interesting about these initiatives is that the focus is on the creation and development of informal enterprises. The conditions of employment are not a central concern.

While formalization is often recommended to address the problems of the informal economy (see Chen, 2006, for a detailed discussion of the perspective), it has been noted that discussions about formalization or informalization tend to ignore the conditions of waged workers in general and domestic workers in particular (Chen, 2006). The benefits of formalization for informal workers such as domestic employees would be secure contracts, worker benefits, membership in trade unions and social protection. Thus, while some commentators in Ghana have argued that the informal economy will continue to exist for some time to come (Appiah-Kubi, 2007; Twerefou, 2007), the conditions of informal workers would be vastly improved if the starting point of policies and laws were that the informal economy is the main economy, and that the conditions of both its enterprises and employees are key to developing the economy overall.

The Draft National Employment Policy

The Draft National Employment Policy was produced by the Ministry of Manpower, Youth and Employment to “provide the needed policy response to the precarious employment situation and to assist the poor and unemployed to take advantage of the opportunities to be gainfully employed and contribute their quota to the national development process” (Ministry of Manpower, Youth and Employment, n.d., p. iii). The document makes efforts to consolidate recent policy concerns about employment creation in Ghana. The draft policy establishes the importance of employment issues when it notes that the labour force is projected to increase by 350,000 per annum, reaching 12.8 million in 2009. However, as the document notes, the lack of structural transformation of the economy has affected the development of productive employment opportunities and the fuller use of the labour force (p. i). The bulk of employment consists of low-income agricultural and informal activities. This has resulted in “persistent unemployment, under employment and growth in precarious forms of employment” (p. xix). Sixty-eight per cent of the employed population is self-employed with no employees and without the capacity to generate additional jobs.

Some of the major employment policy challenges identified by the draft are unemployment and poverty; poor labour statistics and ineffective labour market information systems; low human resource base; low productivity, wages and incomes; high unemployment and underemployment among groups such as youth, women and persons with disabilities; persistence of child labour; effects of globalization on labour standards, the environment and public health.

The objectives of the national policy are to secure sustainable livelihoods through full, productive and freely chosen employment and work; improve the productivity of the labour force to enhance private sector competitiveness and the employability of staff; to remove discrimination in access to employment on grounds of race, sex, religion, political opinion, national extraction, ethnic or social origin; to safeguard the basic rights and interests of workers as enshrined in international labour standards and facilitate the cooperation of employers and workers’ organizations to work for industrial peace; and to stimulate economic growth and development through employment (Ministry of Manpower, Youth and Employment, n.d., p. xxii-xxiii).

Seven guiding principles are outlined in the policy. They include the coordination and implementation of employment within the framework of a national economic and social policy; and an emphasis on providing a favourable environment for private investment and job creation, specifically the maintenance of stable and favourable macro-economic

policies, human resource development, basic infrastructure and additional incentives. A related principle is that the private sector becomes the major investor in productive enterprises to provide increased employment and incomes. The promotion of an enterprise culture of self-reliance, risk-taking and rewards for effort and initiative are a component of this principle. The fourth principle is that individuals, groups and communities, including those at the grassroots, have an important responsibility for employment creation in line with decentralization and participatory development. The fifth principle highlights the promotion of collective bargaining, workers' education and adjustment in wages linked with price and productivity changes. Protecting sections of the population — such as women, rural dwellers, the informal sector, youth, elderly persons, persons with disabilities and unemployed people — from marginalization arising from the privileging of the private sector and market principles is the sixth principle.¹¹ Last, but not least, is the principle of the government providing and disseminating detailed, frequently updated, reliable and accurate information on the size and structure of the labour force for labour market projections and development planning.

The principles enunciated are translated into 16 strategies, some quite broad and some more specific. Those related to the overall economy include the strategy to ensure enabling macro-economic policies, the removal of constraints to the growth of productive sectors, and implementing policy interventions to promote the private sector, transform the structure of the economy and maximize productive employment opportunities. A related strategy is to integrate employment-intensive growth strategies into all development plans — national, sectoral, budgets, etc. — and to introduce special employment-intensive schemes. Another strategy relates to population management, the spatial distribution of population to ensure balanced growth of the economy, a human resource development strategy which includes arrangements for the development of skills for export to take advantage of international migration and globalization. Two others concern the improvement of labour market information and the accelerating of private sector growth. Four strategies relate to the development of micro, small and medium enterprises. One of these concerns removing barriers which impede enterprise growth and corporatization and providing incentives, including credit, training, technology, markets and the development of women's entrepreneurship, and strengthening trade and business associations. A second focuses on improving the regulatory and legal environment, while a third concerns the enhancement of technical and vocational education and training to support employment creation. The fourth concerns enhancing business development and management through entrepreneurship training at all levels of education, and also targeting public servants and women.

A set of strategies relate to the modernisation of agriculture, improving the productivity of farmers and the linkages between farm and non-farm activities, promoting value-added activities, and providing financial and non financial assistance to farmers. The corporatization and formalization of informal sector operations through incentives and support and through interactions among institutions supporting small businesses, the registration institutions and organizations of informal enterprise owners is another strategy. There is also a strategy to integrate vulnerable groups in the national development process and another to protect children from child labour, which includes awareness creation, providing alternative income-earning activities for their families and developing a database on children at work. Two last strategies concern the prevention of HIV and AIDS in the workplace and protecting those with HIV/AIDS from discrimination; and the protection of the environment from degradation. Out of the 16 strategies, only one focuses on conditions

¹¹ The government undertakes to protect such groups with special compensatory and targeted programmes, including those envisaged under the Growth and Poverty Reduction Strategy (GPRS II) and the National Social Protection Strategy (NSPS). The NSPS links the draft employment policy to the overall framework for economic and social policy in Ghana.

of work. It seeks to improve working conditions, occupational safety and health, and to protect the vulnerable including pregnant women and nursing mothers at work.

It is fair to say that the strategy's main thrust is the creation of work through the private sector and the formalization of informal enterprises as a way of improving their job creation capacities. A stress on developing entrepreneurship and self-employment is a consistent feature of the employment strategy, but there is less discussion about conditions at work and the treatment of workers to ensure decent work. The strategy relating to working conditions is quite limited in this regard. It does not address issues of social security and the right to organize. Without paying much attention to those already at work and the quality of their employment, it acknowledges organized labour as a key partner without giving it much of a role. If adopted in this present form, it is not likely to improve the conditions of employees in the informal economy, particularly those involved in domestic work.

These strategies for changing the structure of the economy, incorporating policies which promote labour-intensive development in the macro-economic policy framework and situate employment within the framework of the Growth and Poverty Reduction Strategy (GPRS II), embody some of the contradictions of the employment policy. It has been well established that the poor record of employment creation and the expansion of informalization of work within the economy is a result of the particular macro-economic policies pursued under economic liberalization. The employment policy hopes to pursue its goals under the same economic liberalisation agenda while mitigating some of its most deleterious effects. Such a strategy is not likely to support employment creation and the structural transformation of the economy as envisaged in the employment policy. Even more importantly, situating the implementation of the policy within the framework of the GPRS II, while logical because of the status of the GPRS II, is likely to cause even more confusion in terms of policy goals.

As Graham (2007) notes, GPRS II treats employment as a sectoral issue, linked to specific programmes of agricultural, industrial and export development, and other production-oriented initiatives. Furthermore, it lacks details on employment targets and how employment outcomes will be monitored. Employment is not consistently seen as a means to improve access to income and to lower poverty rates. Rather, it is frequently regarded as a by-product of sectoral policies which cannot address the challenge of employment by themselves. In addition, the issue of employment is largely absent from the discussion of policy areas/pillars of the GPRS II, such as "macroeconomic stability", "human resource development and basic services", "special programmes for the vulnerable and excluded", and "governance". Employment and employability could have provided benchmarks for the success of these strategies, representing a cross-cutting output for all policy areas.

From employment-based social security to social protection for the poor and vulnerable

The changing character of social security arrangements is important for the future prospects of the informal economy and the fortunes of domestic work. More than 80 per cent of the economically active population do not benefit from formal social security (Bortei-Doku Aryeetey, 2007; ISSER, 2008) because it was designed for workers in those formal enterprises and civil and public services employing a minimum of five workers.¹²

¹² Estimates are that beneficiaries are 12 per cent of the workforce and only 1 per cent of informal workers (ISSER, 2008, p. 215).

While the gender composition of those covered by the Social Security and National Insurance Trust (SSNIT)¹³ is not immediately available: out of 73,311 officially recorded SSNIT pensioners at the end of December 2006, 64,507 were male, while only 8,804 were female (Adu-Amankwah, 2007; Bortei-Doku Aryeetey, 2007). This may well be a proxy for the relative numbers of males and females who are formally covered by social security. Even those workers who are under the formal social security system often enjoy only three of the nine areas of the ILO's social security minimum standards:¹⁴ old age, survivor's benefits and invalidity (Adu-Amankwah, 2007). Collective bargaining agreements afford unionized workers certain other protections: medical care, sickness, maternity and employment injury. For workers in the informal economy, informal social security systems established by themselves and private operators have provided support for some of these areas, but not as entitlements.

To bridge the informal and formal social security systems, SSNIT established an Informal Sector Scheme in the mid 1990s.¹⁵ It is a voluntary contribution scheme targeting the 80 per cent of the economically active population — about 8 million people — not officially covered by any scheme. Contributors are automatically offered two deposits: withdrawable savings and retirement benefits. The scheme has flexible terms of payment in terms of contribution levels and their regularity to suit livelihoods of informal economy operators. In spite of these, there are challenges with extending social security coverage to people in the informal economy. These include the lack of income security, lack of short-term contingencies, general mistrust of bureaucracies, low earnings and poor saving habits (Bortei-Doku Aryeetey, 2007).

The Ghanaian government has pursued its approach to social protection through a number of programmes. Those of particular relevance to domestic workers would be the Capitation Grant Scheme, through which an amount of \$3 a year is given to each pupil in the public primary schools; the school feeding programme for public primary schools; and free bus rides for school children. Also important is the National Health Insurance Scheme, for which indigents, children, pregnant and breastfeeding women, and the elderly over 70 are exempted from payment of premiums, and which is currently being piloted. When the latter is rolled out fully, all persons who live in Ghana are supposed to register under the scheme and either pay their contributions or are exempted, irrespective of their place of work or the nature of their occupation (ISSER, 2008). The NHIS can enhance the social security of people in the informal economy, including domestic workers. By 2007, 55 per cent of the population were registered under the scheme. Restrictions on the use of the card in the community of registration and the exemptions of various ailments from coverage have generated complaints about the effectiveness of the scheme (Bortei-Doku Aryeetey, 2007). More fundamentally, from the point of view of many employees in the formal economy, the National Health Insurance Scheme duplicates rights they already have as workers.¹⁶ Questions have also been raised about the sustainability of the scheme, given that over 60 per cent of card-holders are either minors, aged, pregnant and lactating mothers, or indigent and therefore exempt from premium payments (Bortei-Doku

¹³ The public institution which administers a contribution-based pension system largely for workers in the formal economy.

¹⁴ ILO Social Security (Minimum Standards) Convention, 1952 (No. 102), provides for minimum standards in the following nine distinct areas: medical care, sickness, unemployment, old age, employment injury, family, maternity, invalidity and survivor's benefit.

¹⁵ From a pilot project begun in 1995, the Scheme was fully established in 2008.

¹⁶ The TUC protested the decision to deduct national health insurance payments for all workers at source since many of its members already had health-care benefits.

Aryeetey, 2007). There is also the Livelihoods Empowerment against Poverty Programme (LEAP), a conditional cash-transfer scheme targeted at the poorest of the poor (ISSER, 2008).

Rather than tackle the problem of the quality of employment and working conditions in the informal economy, universal and targeted security arrangements are being fashioned separately from employment. And yet the quality of employment remains critical to sustainable social security. As the draft employment policy for Ghana notes, “there are different sources of household incomes, but productive employment is the main source that households could rely on for sustainable livelihood” (p. ii).¹⁷

¹⁷ There are sharp differences in policy circles about this approach to social security. Those who argue for the separation of employment from social security take as their starting point the fact that the majority of people do not have social security benefits arising from their employment. Therefore extending social security benefits to all irrespective of their employment status is considered more equitable, since more persons are qualified to benefit from such a scheme. On the other hand, it has been argued that employment-linked social security promotes employment outcomes which are positive with multiplier effects and that this should be promoted because social security arrangements divorced from employment become acts of charity rather than the fulfilment of entitlements. This undermines the ability of workers to fight for decent work in the long run. See Sen (2000) and Lund and Nicholson (2003) for more detailed discussions of this debate.

4. The legal and institutional framework applicable to domestic workers

The legal and institutional framework for domestic work in Ghana consists of particular provisions in various laws of the land: the Constitution, the Labour Act (Act No. 651 of 2003) and its legislative instruments, the Children's Act and the Domestic Violence Act. Ghana also ratified seven of the eight ILO core Conventions in 1999. In this section, we will discuss the legal framework and the work of the various institutions, drawing attention to their capacities and limitations in regulating domestic work in Ghana and keeping in mind that less than 20 per cent of Ghana's 10 million-strong workforce works in the formal economy and has the chance to enjoy the protection of labour laws. This is compounded by the limited coverage of trade unions, whose total membership is less than a million. It has been noted that this could hinder broad-based, all-inclusive agreements on important industrial relations issues.¹⁸

The legal framework

Ghana's Fourth Republic Constitution of 1992 provides the overall framework for conditions of work for workers in Ghana. Under the segment on economic rights, Article 24(1) gives every person the right to work under satisfactory, safe and healthy conditions and to receive equal pay for equal work without discrimination of any kind. Sub-section (2) guarantees every worker rest, leisure and reasonable limitation of working hours, holidays with pay and remuneration for public holidays, while sub-section (3) guarantees the right to form or join a trade union for the promotion and protection of economic and social interests. Article 16 of the Constitution guarantees protection from being held in slavery or servitude and forced labour. It is stated in the Directive Principles of State Policy that the State shall take all necessary steps to establish a sound and healthy economy whose underlying principles will include the guarantee of a fair and realistic remuneration for production and productivity in order to encourage continued production and higher productivity [Article 36(2)(a)]. Other principles are the undertaking of even and balanced development of all regions and every part of each region of Ghana, in particular, improving life in rural areas and redressing rural and urban imbalances; and the recognition that the most secure democracy is one which ensures the basic necessities of life for its people as a fundamental duty [Article 36(2)(d)-(e)]. Article 36(10) enjoins the state to safeguard the health, safety and welfare of all persons in employment, while Article 36(11) requires the state to encourage the participation of workers in the decision-making processes at their workplaces.

These constitutional provisions are elaborated in the Labour Act. Under Sections 8 and 9 on the rights and duties of employers, employers have the right to employ, discipline, transfer, promote and terminate the employment of the worker; formulate policies and programmes and set targets; modify, extend or cease operations; and determine what products to make or sell and the prices of goods and services (Section 8). Employers have the duty to provide work and appropriate raw materials, machinery equipment and tools; pay the agreed pay at the time and place agreed on in the contract of employment or by custom without any deductions except those permitted by law or agreed

¹⁸ The Ghana Employers' Association, the Association of Ghana Industries and the Chamber of Mines, three important employers' associations, do not include the majority of employers, particularly owners of small- and medium-sized enterprises. Therefore, tripartite agreements among employers, government and employees are difficult to enforce since most employers are outside the processes.

between the employer and worker. Employers are also expected to ensure that the worker is free from the risk of injury or damage to his or her health during and in the course of employment, and to develop human resources by way of training and retraining. They are to provide and ensure the operation of an adequate procedure for the discipline of workers and furnish the worker with a copy of the contract of employment, and have the duty to keep open channels of communication with the worker (Section 9). Section 10 of the Act gives workers the right to work under satisfactory, safe and healthy conditions; receive equal pay for equal work without distinction of any kind; have rest, leisure and reasonable working hours and paid holidays; form and join a trade union; and be trained and retrained. As well, workers are expected to receive information relevant to their work. In turn, Section 11 enjoins workers to work conscientiously, report regularly and punctually for work, enhance productivity, exercise due care in the execution of their work, obey lawful instructions about the organization and execution of their work, take reasonable care for the safety and health of fellow workers, and protect the interests of and take proper care of the property of the employer under their immediate control. Other sections have provisions covering written contracts for employees who have worked for six months or more; freedom to participate or not participate in trade union activity, procedures for the termination of employment, remuneration on termination of employment, and types of contract. Also covered are provisions on leave and leave entitlements, including sick leave, hours of work, paid overtime and work times (Sections 12-44). There are also provisions covering the employment of women, which includes protections for pregnant women and maternity and sick leave (Sections 55-57), young persons (Sections 58-61) and persons with disability (Sections 45-54). While Section 1 of the Labour Act states that it applies to all workers and employers except those in the armed services, the only mention of domestic workers in the Act after defining the term is in Section 44, where it is stated that “this sub-part and sections 33 and 34 do not apply to task workers or domestic workers”. The sub-part in question is III, which covers rest periods, specifically daily and weekly rest periods, while Sections 33 and 34 peg maximum hours of work at 40 hours a week. Thus the other sections of the Labour Act are relevant to domestic workers. However, given the informal and largely undocumented nature of domestic work relations and the fact that the domestic workplace is not public, labour law provisions cannot be enforced unless special provisions are put in place to enforce them.

Regarding child domestic workers, the Children’s Act of 1998 (Act No. 560) prohibits exploitative labour, including exploitative child domestic labour, thus offering protection and making it clear that child labour is exploitative when it deprives the child of health, education or development (Section 87). This is supported by Article 28 of the Constitution. Under Section 89, the Act provides that the minimum age for employment is 15.¹⁹ Section 13 of the Act protects children from torture and other cruel, inhuman or degrading treatment, including cultural practices which dehumanize or injure the physical and mental well-being of the child. The new Domestic Violence Act of 2007 (Act No. 732) lists house help among the group of persons in a domestic relationship [Section 2(1)(h)].

¹⁹ Section 88 of the Act prohibits children from night work, i.e. between 20:00 and 06:00, while Section 90 stipulates that the minimum age for the engagement of a child in light work is 13. Light work is defined as that not harmful to the health or development of a child and does not affect their schooling. Thus, while Sections 88 and 89 either prohibit employment *per se* below a certain age or at a particular time, Sections 87 and 90 focus on exploitative labour and light work, which are defined in relation to each other.

Box 2: Relevant laws for domestic work in Ghana

The Labour Act (Act No. 651 of 2003)

The Act provides for equal pay for equal work and sets the maximum hours of work a day at eight hours. It guarantees workers the right to vacations and holidays, and maternity leave for pregnant women, who cannot be fired on account of their pregnancy. Workers are also guaranteed the right to join a union, with the exception of confidential and trust workers. Employers are required by law to give workers notice of termination before firing them. The Labour Act recognizes the operation of private fee-charging employment agencies and requires that there should be a written employment contract for those employed for a period of six months or more. While Section 1 of the Labour Act states that it applies to all workers and employers except those in the armed services, the only mention of domestic workers in the Act (beside the definition of the term) is in Section 44, where it is stated that "this sub-part and sections 33 and 34 do not apply to task workers or domestic workers" (sub-part III covers rest periods, specifically daily and weekly rest periods, while Sections 33 and 34 peg maximum hours of work at 40 hours a week). Thus the other sections of the Labour Act are relevant to domestic workers.

The Children's Act (Act No. 560 of 1998)

The Children's Act seeks to ensure that children, defined as persons below 18 years of age, are brought up in a safe and caring environment and that their basic needs are well provided. They are entitled to education, adequate health care and nutrition, clothing and shelter, as well as any other necessity required for their development. Under the law, these are to be provided by the parent or whoever is legally responsible for the child. The law forbids child labour, which it defines as any activity which jeopardizes the health of the child and denies them access to education.

The Domestic Violence Act (Act No. 732 of 2007)

The Domestic Violence Act prohibits all forms of violence occurring in the household environment. This includes acts of physical assault and sexual harassment. House help or domestic workers are included in the domestic relationship.

There was general agreement among all the officials interviewed that the labour law regime did not provide adequately for workers in the informal economy in general and domestic workers in particular.²⁰ As an official of the TUC explained,

*In terms of coverage, the law is actually there for everybody, but when you read it, you know it is for people in formal employment relationships. If the employment relationship is not formal, the labour law does not apply effectively.*²¹

²⁰ This observation is supported by the fact that Section 32 of the Act states that the sub-part of the Act which deals with leave entitlements does not apply to a person employed in an undertaking in which only members of the family of the employer are employed. For domestic workers, it could even be argued that an undertaking was a business or some other productive activity and therefore does not apply to housework. However, the complication is that domestic workers are often involved in the productive enterprises of their employers. Part X of the Act (Sections 73-78) has special provisions relating to temporary and casual workers. A casual worker is defined as a worker engaged in work which is seasonal or intermittent and not for a continuous period of more than six months and whose remuneration is calculated on a daily basis. A temporary worker is employed for a continuous period of not less than one month and is not a permanent worker or employed for work that is seasonal in character (Section 78). Section 75(1) states that if a temporary worker works continuously for six months or longer, the worker will be treated like a permanent worker. Domestic workers are often neither temporary nor casual within the definitions offered above. However, they could work in a temporary and casual employment relationship and this would mean that the relevant provisions of the Labour Act should apply, except that it does not offer such workers much protection under Section 73(2). There are no labour regulations protecting such workers. Domestic workers can theoretically also work part time. In this case, they are not protected by any legislation. Part-time work is not properly defined in the Act, and this is a serious omission.

²¹ Interview with Yaw Baah, Director, Research Department of the TUC, 23 July 2008.

Additional provisions targeted at the particular conditions of domestic work and domestic workers are needed. The provisions in the Children's Act and the Domestic Violence Act are useful in what they add to the legal framework: the former for specifying the age of majority for the purposes of work, and the latter for offering domestic workers protection from violence in the workplace, which is believed to be endemic (LAWA-Ghana, 2003). The consolidation of all these into a single law regulating domestic work would make these laws more effective.

Labour and labour-related institutions

Labour institutions are established within the framework of the Constitution and the Labour Act. As such, their work is defined by the preoccupations of the legislative framework. The Ministry of Manpower, Youth and Employment, acting through its Labour Department, the Labour Commission and the Department of Social Welfare, is responsible for all issues pertaining to work and employment.

Under the Labour Decree of 1987, industrial relations matters and disputes were settled by the Ministry of Labour through the Labour Department headed by the Chief Labour Officer. Under the new Labour Act of 2003, this task has fallen to the Labour Commission. Having opened its doors in April 2005, the National Labour Commission is composed of a chairperson nominated by the employers' organization and organized labour and six representatives: two each from government, the employers' organization and organized labour, the three parties of the labour regime. Currently, the Commission has only one office in Accra, but has plans to set up offices in other regions in the country in fulfilment of its mandate to establish regional committees.

The Commission's main functions are to receive complaints from the three parties on industrial disagreements, facilitate the settlement of industrial disputes, settle disputes, investigate labour-related complaints such as infringements of the Labour Act and unfair labour practices, and take steps to prevent labour disputes. It has the powers, privileges and immunities of the High Court in respect of calling witnesses, examining them and compelling the production of documents. It also has the power to require an enterprise to provide information and statistics concerning its workers and their terms and conditions, and to require a trade union to provide information it considers necessary, notify employers and their organizations and workers and trade unions of contraventions of the Act and its regulations, and direct them to rectify such violations [Section 139(1)].²²

²² In an interview, an official of the Commission argued that, since the Act under which the Commission was established did not distinguish between various types of workers, the Commission was dealing with individual cases and not with particular categories of workers. The Commission therefore did not have officers who were responsible for particular categories of workers. It was also not possible to get a breakdown from the Commission of the cases it had been dealing with since it was established. This official argued that the issues of domestic workers should be handled by the Ministry of Manpower, Youth and Employment, particularly the Departments of Social Welfare and Labour (interview with Briku-Boadu, office of the Executive Secretary, National Labour Commission, 11 July 2008).

Box 3: Agencies addressing labour issues in Ghana

The Labour Commission

The Labour Commission was established under Section 135 of the 2003 Labour Act and has been in existence since April 2005. The functions of the Commission are outlined under Section 138 of the Act and include the facilitation of industrial disputes, settlement of industrial disputes and the investigation of labour-related complaints. The Labour Commission therefore could be asked to investigate the complaints of domestic workers.

The Labour Department

The Labour Department was established in 1938. The Department performs a number of functions, including advising the government on labour policy issues, administering and enforcing labour laws, ensuring effective tripartism, and providing career and vocational guidance and counselling. The Labour Department used to be the sole agency for registering and recruiting job-seekers, but now licenses private employment agencies legalized under the new Labour Act. The Labour Department has domestic workers on its books of job-seekers and is interested in their working conditions. However, it has been argued that it is only expected to inspect industrial premises and not private homes. This interpretation of its mandates makes it of limited value to domestic workers.

Department of Social Welfare

The main functions of the Department of Social Welfare are child rights protection and promotion; community care, including hospital care; vocational training, especially of the disabled; and caring for the destitute. The Department has no officer or unit devoted to domestic work and does not have any policy directed at regulating domestic work. It only comes into contact with domestic workers and their employment agencies when cases of abuse arise, especially when it has to do with children.

The Industrial and Commercial Workers Union of the TUC (ICU)

The Industrial and Commercial Workers Union (ICU) has organized domestic workers under its informal economy unit. In 1991, the ICU extended coverage to cooks and stewards, and later incorporated other categories of domestic workers, including gardeners, drivers, private security, and babysitters or nannies. It built an organizational structure from the district and regional to the national level. Apart from the huge financial cost involved in identifying and organizing domestic workers, the ICU initially faced strong challenges from both employers and the domestic workers themselves. Currently, the organization of domestic workers is in crisis: a combination of factors, including the high turnover of domestic workers, has destabilized the union.

The Labour Department, established in 1938, aims at ensuring that basic labour laws and conventions are adhered to, enhancing industrial relations, and promoting income distribution and industrial peace.²³ Currently, the Labour Department has offices in all ten regions of Ghana and is run by a chief Labour Officer, 148 labour officers and inspectors, and a staff of 217 persons. Among its functions is the licensing of private employment agencies for the Ministry as well as the registration and placement of job-seekers, some of whom are domestic workers: the statistics about job placements are not disaggregated by occupation, only by gender. It was therefore impossible to determine how many domestic workers they have placed and what proportion of placements this formed. The Department does not have any unit or officer who deals specifically with domestic work, nor does it have any policy directed at regulating domestic work in Ghana.

The Department of Social Welfare was started in 1943 during the colonial days. When it was established, it was the Department of Housing and Welfare, although it was not much involved in housing activities. The main functions of the Department are child

²³ Before the establishment of the Labour Commission, the Labour Department was responsible for the settlement of disputes between employer and employee. It has continued to settle such disputes, but does not keep records of this activity. As an official explained, "Most of the time, we do not keep records. Our duty is to make sure that it is settled, and each party goes his own way. Even if it is on record, whom are we sending the report to? All our reports are channelled to specific directions or specific needs. If there is no need for it, there is no need for the report" (interview with S. Dartey, Labour Officer, Labour Department, 7 July 2008).

rights protection and promotion, community care (including hospital care), vocational training (especially of the disabled), and caring for the destitute. It has no officer or unit devoted to domestic work and does not have any policy directed at regulating domestic work. In fact, the Department does not have any specific dealings with domestic workers. It only comes into contact with domestic workers and their employment agencies when cases of abuse arise, especially when it has to do with children.

The Department of Social Welfare runs the Shelter for Abused Children, which was established in 2003 and is operated under the Children's Act. The Act gives it the mandate to provide shelter for abused, missing and runaway children who have come to the attention of the Domestic Violence and Victim Support Unit (DOVVSU)²⁴ and the Department for Social Welfare. The Shelter is responsible for giving care and protection to children in its charge, tracing the children's relatives and reuniting them with their families. The Shelter also houses children who have been rescued from traffickers. The Shelter does not specifically deal with domestic workers. They house all children sent to them, including children who have been domestic workers. Currently the Shelter has 26 children.

²⁴ Then know as the Women and Juvenile Unit (WAJU).

5. The characteristics and conditions of domestic workers

The changing character of domestic work in Ghana

Research into domestic work in Ghana is limited. This section of the report is based mainly on two studies of domestic work in Ghana (LAWA-Ghana, 2003, and Apt, 2005). The Apt study, which focused on child domestic work and fosterage, was commissioned by UNICEF and carried out in four districts in the Northern and Upper East Regions. It involved interviews with 150 child domestic workers and fostered children, and in-depth interviews and focus group discussions with children, employers, parents and foster parents. The second study was conducted by LAWA-Ghana in collaboration with law students from the United States and Ghana as a fact-finding mission to ascertain the situation of domestic workers. The team spoke to domestic workers, employers, operators of employment agencies, traditional authorities, policy-makers and others.²⁵ Although limited in scope, the similarities in the findings of the two studies are striking and suggest that the conditions of domestic workers, though not their numbers, sex and age composition and national spread, have been well established.

In Ghana, both rural and urban households across a wide socio-economic spectrum utilize the services of domestic workers. As the LAWA-Ghana study (2003) notes, Ghanaians traditionally resided in lineage-based compound houses and, as a result, domestic labour was usually shared among residents of such households. In these contexts, other members of the household, male and female, adults and children, helped with the household tasks. There was a sexual and intergenerational division of labour within households, and domestic workers were tasked with chores considered gender and age appropriate.

Some writers have attributed the now extensive use of domestic labour to urbanization and women working outside the home. Clark (2002), for example, has argued that domestic labour is a result of working mothers who had to work outside the home to supplement family income. This resulted in the problem of performance of household chores and the care of children, and brought about the need to have someone to help. Clark's statements are contradicted by the finding that women in Ghana had always participated in economic activities, including trading which took them away from home and their domestic responsibilities for periods at a time.

The changing nature of family arrangements could provide a stronger rationale for the pressure on families to seek help with domestic work (Assimeng, 1999; Nukunya, 2003). Although women worked as traders, farmers and services providers (Tsikata, 2009), they did so within the context of extended family arrangements where many families lived together. In this case, children were cared for by other members of the family when their mothers were away. Since household chores were shared by other (mainly female) family members, working women were not constrained in this regard. With growing individuation and nucleation of the family (Assimeng, 1999; Nukunya, 2003), the structures which existed to cushion the impact of work on the woman's household responsibilities have grown progressively weaker since the 1960s.

²⁵ The study report does not indicate the numbers interviewed and how they were identified. However, the report makes clear that workers below 15 years of age were not included in the study (LAWA-Ghana, 2003).

Domestic work has turned out to be predominantly a female occupation in Ghana. This is trite and uncontested knowledge, in spite of the challenges of demonstrating this with statistics. As the entry for maid and related housekeeping services in Table 3 below shows, men constitute 0.35 per cent while women are 0.93 per cent of this category of worker. This could be on account of the fact that most of the tasks domestic workers perform are stereotypical female roles performed by wives, mothers and other female members of the household without pay, and also because domestic work has been historically largely informal in Ghana. While the first domestic workers in the colonial period were predominantly male and performed specialized functions such as cooking, gardening and serving food, even in this period, child-minders were predominantly women. With the expansion of urban areas, African workers began to employ house help not for specialized services as the colonists did, but for more generalized services including child-minding, cleaning and cooking. This transformation de-professionalized domestic service and resulted in it being now seen as unskilled work to be performed largely by women and female children of all ages. The shrinking base of the colonial domestic service meant that men continued to perform specialized domestic functions, such as cooking and gardening, for a smaller group of colonial and African employers within their homes but also in institutions, while the majority of the population relied on the generalized domestic services of Ghanaian women (analysis based on studies by Gugler, 1989; Allman, 1996; Akyeampong and Agyei-Mensah, 2006; Oppong, 2001).

The wide prevalence of domestic work is not demonstrated in the last national population and housing census of 2000 (LAWA-Ghana 2003). Out of 85 separate occupations identified in the census, only the three listed in Table 3 below were directly connected with domestic work. These were maids and related housekeeping service workers; building caretakers, char-workers, cleaners; launderers, dry cleaners and pressers. It is not clear the distinctions among these categories as, for example, between char-workers and related housekeeping services.

Table 3: Employed persons aged 15 years and older by occupation and sex

<i>Occupation</i>	<i>Male</i>	<i>Female</i>	<i>Total</i>	<i>Male (%)</i>	<i>Female (%)</i>	<i>Total (%)</i>
Maids, related housekeeping service workers	12,949	34,327	47,276	0.35	0.93	0.64
Building caretakers, char-workers, cleaners and related workers	9,379	11,625	21,004	0.25	0.32	0.28
Launderers, dry-cleaners and pressers	7,278	28,347	35,625	0.19	0.77	0.48
Total of three occupations	29,606	74,299	103,905	0.79	2.02	1.40
All occupations	3,748,887	3,679,487	7,428,374	50.5	49.5	100.0

Source: 2000 population and housing census of Ghana

These categories certainly combine domestic workers and persons doing domestic work for institutions, such as banks and hotels. As Table 3 shows, these were a total of 103,905 out of a 7.5 million-strong working population (only 1.4 per cent of the labour force). It is conceivable that many more domestic workers are hidden within categories such as farmers (43.8 per cent) and hawkers, street and pavement vendors (3 per cent). This is because only one occupation is recorded in the census and, in cases where domestics are involved in other economic activities for their employers, they have to decide what to report as their occupation.

Table 4: Employed persons aged 15 years and older and percentage distribution by employment status (percentage)

Locality	Sample size (number)	Employment status							
		Self-employed with employees	Self-employed without employees	Unpaid family worker	Casual employee	Regular employee	Domestic employee	Student/apprentice	Other
Ghana	83,196	3.7	66.7	7.4	3.6	12.0	0.9	4.7	1.1
Rural	54,895	2.6	73.9	10.7	2.7	5.6	0.5	3.0	1.1
Urban	28,301	5.8	57.0	2.8	4.7	20.7	1.4	7.0	1.1

Source: Core Welfare Indicators Questionnaire (CWIQ) Survey (2003).

The Ghana 2003 Core Welfare Indicators Questionnaire Survey (Ghana Statistical Service, 2005), which explicitly identifies domestic workers, found that in the 15 years and older age group, only 0.9 per cent were domestic workers. Unpaid family workers, however, were another 7.4 per cent, while students were 4.7 per cent (see Table 4 above). These are categories of workers who are often engaged in unpaid domestic work at different levels of intensity and yet would often not be classified as domestic workers. A national survey on child labour (Ghana Statistical Service, 2003) found that only 1 per cent of working children were domestic workers. The vast majority were classified as unpaid family workers (88 per cent). Given the persistent idiom of kinship surrounding domestic work, a proportion of the 88 per cent would certainly have been domestic workers who do not receive wages because of their kinship with their employers. The lack of accurate statistics for domestic workers stems from a long tradition of neglect of such workers in censuses and labour surveys of the past. Unlike in Zambia and Zimbabwe, where statistics collected in the colonial period demonstrate the importance of domestic work (Pape, 1993; Hansen, 1992), many of the labour statistics in Ghana are silent on domestic work. A general survey of labour based on the 1960 census classified workers in nine occupation groups, but these did not include domestic work (Birmingham et al., 1966).²⁶

The prevalence of women in domestic work and the fact that their employers are largely women (Apt, 2005; Clark, 2002; LAWA-Ghana, 2003; Tsikata, 2007) raises some important gender issues about domestic work. The LAWA-Ghana study attributes some of the negative attitudes to domestic workers and the failure of policy-makers to address the challenges of domestic work to the predominance of women in domestic work in Ghana. As the report states: “because domestic work is considered women’s work, it is devalued economically and the women who perform domestic work are devalued socially” (LAWA-Ghana, 2003, p. 37). Regarding employers, Tsikata (2007) notes, “they also work primarily for women who work outside the house. Without affordable domestic workers, such women would find work outside the household very difficult since men’s contribution to domestic work, while growing is still not enough. This places domestic workers in a symbiotic but contradictory relationship with female employment outside the home”.

Domestic workers are more likely to hail from rural than from urban areas. Although the movement of domestic workers from rural areas to work in urban areas is more recorded in the literature, domestic workers, particularly children, also move from rural to other rural areas (Apt, 2005). Children form a significant proportion of domestic workers

²⁶ The classifications included (1) professional, technical and related workers; (2) administrative, executive and managerial; (3) clerical; (4) sales; (5) farmers, fishermen, hunters, loggers and related workers; (6) miners, quarrymen and related; (7) workers in transport and communications occupations; (8) craftsmen, production process workers and labourers not elsewhere specified; and (9) service, sports and recreation workers. This classification of the 1960s has remained largely in use in surveys in Ghana with a few modifications.

in Ghana (LAWA-Ghana, 2003; Apt, 2005). Apt (2005) argues that this is not surprising because it is quite common to see children all over the country performing household chores within their natal families. However, children are not solely responsible for the performance of household chores. Chores are often shared and considered as a part of the process of character building (Apt, 2005). Many families live in a family house and families often take turns to perform the chores. In these instances, children assist their parents and guardians in the performance of these tasks. However, child domestic work has gone beyond social arrangements and traditional training. Under the Structural Adjustment Programme (SAP), the introduction of user fees in education effectively cut off the very poor from access to education. Employment in the informal sector was the only option available to the large numbers of youth dropping out of education, especially as a majority of them were leaving school without any employable skills. According to Apt (2005), this accounts for the commercialization of domestic work, as more and more parents desired to send their children to learn a trade but lacked the wherewithal; and the alternative, to such parents, was to have their children enter into commercial domestic work to earn some wages and to be put into a trade by their employers (refer to Box 1 on child fostering).

With increasing commercialization of domestic work, the terms of employment have also undergone some changes. Previously, no employment contracts were signed when children went into domestic work or were given out as foster children. The only assumption was that the children would enter into a trade and, when leaving the employer, would be given some tools and equipment of the trade they had learned, for example, a sewing machine. On the other hand, it was assumed that children would also perform some household tasks. When taking the children away, the parents were given a token on the understanding that that this did not constitute a sale of the child (Apt, 2005; Clark, 2002).

Demographic and social characteristics of domestic workers

LAWA-Ghana's 2003 study showed that, although the ages of domestic workers range from 14 to 54, there were those who were as young as 7. The 2005 Apt study, which targeted children, also found that 8 per cent of the fostered children were below 10, while 14 per cent of the domestic workers were between 10 and 12 years old.

The educational levels of most domestic workers were generally low. Given how young they were, most of the domestic workers in the studies should have been in school. However, most of them, especially the girls, had had to curtail their education in order to take up employment. Apt (2005, p. 9) reports that 60 per cent of the child domestic workers she studied had never attended school, while the rest had dropped out along the way. Also, only one of the 20 respondents who had attended school completed senior secondary school. The parents of domestic workers were not very different in terms of their educational attainments. On the other hand, the educational levels of employers of domestic workers were much higher, the majority of them with tertiary level educational qualifications.²⁷

In interviews with domestic workers, the reason most often given for dropping out of school was family poverty, specifically financial difficulties, death of a parent, mothers having too many dependants and the lack of peace at home because co-wives were always quarrelling. Others also said food, clothing and shelter were assured where they worked,

²⁷ Only 5 per cent of the employers in the 2005 Apt study had no schooling at all and only 6 per cent had only primary education. Thirty per cent had up to middle/junior and senior secondary education, and 10 per cent had technical or vocational education.

they wanted to earn a living, they needed money to buy a sewing machine, or that they lost interest in schooling or were failing examinations. Twenty per cent of child domestic workers had entered domestic work on the promise of receiving vocational training during or at the end of the period of service (Apt, 2005).

The findings demonstrate that domestic workers were largely from poorer backgrounds, especially in relation to the families or households of employment (LAWA-Ghana, 2003; Apt, 2005), and the majority of them were from rural areas. Often, domestic work was seen as an opportunity to move to urban areas to escape poverty (LAWA-Ghana, 2003). Apt (2005) notes that many child domestic workers come from polygamous households, and that the children of first wives were more likely to be sent away as domestic workers as subsequent wives started giving birth and the burden of catering for a larger household increased. Findings from both studies indicate that the expectation of many families who send their children off to work as domestic workers is that income from their children's activities will complement the families' income.

Findings from Apt's 2005 study indicate that a fifth of the children played a key role in their own transition into domestic work. In one instance, the mother of the mistress/madam facilitated the process and in 8 per cent of the cases, the facilitation was done by friends. In the remainder of cases, it was a family member who made the arrangements for the children to start domestic work. In none of these instances was a formal employment agency used in the recruitment process. Twenty per cent of recruitment was done through relatives, 40 per cent through friends and neighbours of the employer, 16 per cent were recruited through the employers' relatives and 18 per cent of them had gone to their employers themselves. Many of the children entering domestic employment had prior information about domestic work. About half of Apt's respondents knew somebody who was doing domestic work and reported that they had some information about the difficulties and benefits of domestic work prior to their entry into it.²⁸

The conditions of domestic workers

This assessment of the conditions of domestic workers is done in the light of existing ILO standards and the laws of Ghana. Domestic workers lack many of the conditions of work and rights other workers take for granted. Guarantees such as fixed wages or salaries, rest periods, paid vacations, maternity leave with pay and social security are denied them. The enforcement of labour laws has been made even more difficult by the location of domestic work within private homes. Abuses do not easily come to public notice for the appropriate bodies and agencies to take action. The large supply of potential domestic workers has meant that, although there is great demand for their services, they can be procured on unfavourable terms. Furthermore, domestic work is considered unskilled work, although many of the functions of domestic workers require great skill (LAWA-Ghana, 2003).

²⁸ The prior information they had about difficulties included the stress and burdensomeness of the work and abuses from employers, employers' spouses and children. None mentioned sexual abuse or harassment. For benefits, they heard about the provision of basic needs for food, clothing, shelter and also the opportunity to learn a trade and acquire a sewing machine. To various degrees, the children's experiences confirm what they had been told about domestic work.

Fundamental rights at work (equality, forced labour, child labour, freedom of association and right to bargain collectively)

As already mentioned, the equality of workers has a strong basis in Ghanaian law. The 1992 Constitution guarantees freedom from discrimination (Article 17) and equal pay for equal work (Article 24). The African Charter on Human and Peoples Rights (Article 15) also guarantees equal pay for equal work. These instruments, together with various UN Conventions and ILO Conventions²⁹ that Ghana has ratified and Section 10 of the Labour Act, constitute the basis for ensuring the equality of all persons and workers. It has been argued that, in failing to regulate and protect the rights of domestic workers located in private homes while protecting those doing similar work in institutions, the government is discriminating on the basis of occupation, gender, class and place of origin (LAWA-Ghana, 2003). Thus, for example, the failure to enforce the minimum wage and hours of work with respect to domestic workers violates the equality principles enshrined in these different laws.

As elaborated above, a large majority of domestic workers in Ghana are children, and therefore should not be in domestic work. According to the Children's Act, one of the conditions that qualifies an activity as child labour is when that activity denies the child the right to be in school. Both Apt (2005) and LAWA-Ghana (2003) found that many of the children had either never attended school or dropped out early in order to work. Moreover, because they worked long hours and had virtually no rest during the day, those in school were not able to cope with academic work or to perform satisfactorily. They often slept in class and were subjected to the ridicule of their friends in school on account of their poor clothing and other disadvantages.

Child labour is also linked with concerns about forced labour and child trafficking. Although 18 per cent of the child domestic workers in the Apt (2005) study approached their employers on their own, in the majority of cases, the decision was made on behalf of the children by their parents or relations. According to the manageress of the Shelter for Abused Children, some parents give their children to friends and other "middlemen" to find them domestic work. For years, they do not set eyes on their children and most of them do not make efforts to check on their well-being. The LAWA-Ghana study (2003) indicated that, although in some instances there is a charitable motive of giving the children better opportunities, the majority of children are trafficked for profit, and they end up in conditions akin to slavery, where they perform extremely strenuous and dehumanizing work (see below).

While the Ghanaian Constitution enshrines the right to freedom of association, in the case of domestic workers, this fundamental right is very difficult to enforce because they operate alone and in the privacy of homes. They are, therefore, largely unorganized. As a result, they lack the capacity to engage in collective bargaining for the improvement of their working conditions and wages. The low membership of the Domestic Workers Union, when matched against the prevalence of domestic workers countrywide, shows that the majority of domestic workers do not belong to any collective. (For further details on the attempt to unionize domestic workers, see Section 7 below.)

²⁹ Ratified ILO Conventions include the Equal Remuneration Convention (No. 100) ratified in 1968, and the Discrimination (Employment and Occupation) Convention (No. 111) ratified in 1961. Also important are the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), all of which have explicit provisions to protect equal rights of people irrespective of their various identities, locations and occupations.

Contract of employment

Domestic work relationships, like those of many informal workers, mostly lack a formal employment contract regulating the relationship between the employer and the worker. A representative of the Legal Department of the Ghana Commission on Human Rights interviewed by LAWA-Ghana (2003, p. 13) noted that, "It can be very exploitative [and] worse in the home because you don't have a contract ... There are no closing hours for housework; it is a situation ripe for exploitation [with] no overview, no set parameters". Apt (2005) also found that, given that the agreements made when domestic workers were recruited were often verbal, they were susceptible to violation by employers. Moreover, the agreement was often between the parents of the children who were being recruited, and the children involved were often unaware of their rights at work.

Conditions of employment (including hours of work)

Working hours of domestic workers in Ghana are generally not fixed, there is no job security and domestic workers do not enjoy promotion, training on the job or annual leave. Domestic workers routinely work under very harsh conditions. As the subtitle of the LAWA-Ghana (2003) study *First to rise and last to sleep* indicates, domestic workers work very long hours without receiving a commensurate reward for their services. Apt (2005) observes that most of the child domestic workers she studied rise before six in the morning and start work before seven. They work until about seven in the evening. There is no set time during the day designated for rest; these children steal time to sleep when there is no immediate work to be done. They work even on weekends and many of them work for several years without taking any time off. For children still in school, as the LAWA-Ghana (2003) study shows, this presents a real challenge. The long hours they work are not considered problematic by many employers because it is often assumed that they, particularly the girls, will pursue vocational training and learn a trade and therefore do not have to excel in school. However, a number of those interviewed for the LAWA-Ghana study indicated a desire to further their education to the senior secondary school level or even possibly higher.

In the course of their duties, domestic workers suffer a number of abuses at the hands of their employers. Because of the predominance of women in domestic work, it is an occupation where sexual harassment is very prevalent. According to LAWA-Ghana (2003), this problem is complicated by the fact that domestic workers live in the homes of their employers. They reported an instance where a domestic worker had to quit the job because the husband of the household kept making explicit sexual advances towards her. The dilemma these women (and in many instances girls) face is that they cannot even report these to their madams because they get accused of attempting to break up marriages. Domestic workers are also sexual targets of adolescent sons of their employers, and many of them get punished when they refuse to give in to the sexual demands of these young persons.

Domestic workers also suffer from domestic violence routinely as a form of punishment for a wide range of infringements and accidents occurring in the course of their daily duties. These include being slow in the discharge of their duties; breaking fragile items like glass, pottery, cups, etc.; leaving the house without the permission of their employers; rudeness; and refusing the sexual advances of employers and their children. Such punishment consists of angry shouts, insults, threats and slaps, and is often administered in the presence of others to humiliate the worker (LAWA-Ghana, 2003; Apt, 2005). Child domestic workers are particularly vulnerable, lack voice, and are subject to harsh and dehumanizing treatment (LAWA-Ghana, 2003). In some extreme circumstances, employers put hot substances such as pepper and ginger in the eyes and private parts of domestic workers as punishment (Apt, 2005, p. 35). The LAWA-Ghana report (2003, p. 7) contains a particularly disturbing case of physical abuse:

A woman had a niece with her, a six-year-old. The woman was frying fish. The niece wanted a piece; the other children had taken one [a piece of fish]. The woman was so annoyed [by the niece], she took a hot one and put it in her hand and pressed it and then another, and then put one in her mouth. Her skin turned green and a neighbour reported it. The girl was not in school.

In many instances, domestic workers experience psychological abuse, and are made to feel they are less than human. Some are insulted and told “You are not a human being” (LAWA-Ghana, 2003, p. 38). Some are fed with scraps left over from the family meal.

Many domestic workers are separated from their families, and some are not allowed to see their families or to travel back home. Apt (2005) reports that a majority of the children she studied were prevented from both making visits to their families and receiving visits from their family members. In the LAWA-Ghana study (2003, p. 63), a 16-year-old domestic worker said that “When I left my mother, I was 12 years old. I’ve seen my mother twice since leaving”. Another domestic worker, 15 years old, said that she did not know her home.

Living conditions (including accommodation)

Apt (2005, pp. 34-35) reports that the living conditions of the child domestic workers and fostered children she studied were generally satisfactory. For instance, she found out that 92 per cent of the child domestic workers she interviewed ate three meals a day and ate the same food that the family also ate, although they had to eat separately from the family (Apt, 2005, pp. 40-41). The study also found that the sleeping arrangements of domestic workers seemed satisfactory. The majority of them (60 per cent) slept with other members of the family. Others slept in the living rooms, while some had their own bedrooms. Given the income levels, housing conditions and living arrangements in many urban communities, the majority of domestic employees are not likely to have their own rooms or space. There are no official statistics of how many domestic workers live outside their places of employment.

Remuneration

In spite of the labour laws, the customary law of domestic employment does not require employers to pay domestic workers the minimum wage, or even to pay them at all. Therefore the wages of domestic workers are often pegged with no reference to the minimum wage. While some are paid in cash, others are paid in both cash and kind, or in kind only. Some are paid in cash or kind only at the end of their period of service, which can run into years, and often have no indication of what to expect. In the Apt study (2005), 36 per cent of domestic workers received their payment in kind only, while 22 per cent were paid in both kind and cash, and 28 per cent were paid only cash; 14 per cent received no payment at all. For those receiving cash only, payments ranged from 5 to 11 Ghana cedis a month (2005).³⁰ Most domestic workers lived in, and their accommodation and food were seen as part of their remuneration by employers.

Other forms of in-kind payment included clothing, footwear, health care, career training (mostly in sewing) and the provision of a sewing machine. The value and adequacy of these provisions was not easily ascertained because there was no regulation of this. This was often subject to the living conditions of the employers themselves. The oral nature of employment contracts, which often had unclear elements, has meant that there

³⁰ One Ghana cedi is equivalent to one US dollar.

are no proper remedies should the employers fail to honour their promises, something which happens often. For example, the head of the employment agency described in Box 3 said she had to ask that salaries of domestic workers be paid to her instead of being given directly to them. This was to curtail the many instances of failure by her clients to pay their workers. As she noted, “many employers begin to pay salaries partially and in arrears when they are due. After several months, the arrears accumulate. Then the client suddenly discovers that they have “lost” a valuable piece of jewellery. They insist that the domestic worker is responsible and terminate their appointment without paying the salary arrears. I have insisted that they pay me so they do not lose their valuables” (interview with chief executive of employment agency, cited in Tsikata, 2007). Even agency contracts are quite vague, failing to specify critical terms and conditions.

Social security protection (including maternity protection)

As already indicated, the majority of domestic workers, as part of the over 80 per cent of the overall working population in the informal economy, are not covered by formal social security arrangements.³¹ Thus employers do not pay the 12.5 per cent of monthly salary which represents their contribution to the employee’s social security. An official of the Industrial and Commercial Workers’ Union (ICU) said that those domestic workers who join the union are guaranteed fair wages and social security protection through negotiations with their employers. This is a drop in the ocean of informal and unorganized domestic work. Domestic workers do not generally take paid leave (e.g. maternity leave and sick leave), only taking paid or unpaid time off when they are sick. Because they lack job security, they often cannot be away for any length of time, for fear of losing their jobs (LAWA-Ghana, 2003).

Occupational safety and health protection

Domestic workers often work in unsafe conditions and are vulnerable to domestic injuries for which they sometimes do not receive treatment. In the Apt study (2005), 76 per cent of children had sustained some form of injury in the course of their work. The injuries, which included cuts, bruises and burns, were sustained on various parts of the body — face, eyes, thighs and feet. Injuries were routinely treated at home and, in some cases, were left untreated (LAWA-Ghana, 2003). Domestic workers, particularly the children, suffered in some cases from malnourishment. Their health and health care was another area of concern. The Apt study (2005) noted that child domestic workers reported that they frequently suffered from malaria, headaches, stomach pains, bodily pains and cough/chest pains. Although about 70 per cent of the children admitted to experiencing similar symptoms before starting work as domestic workers, many linked their health problems with the conditions under which they worked. These included inadequate sleep, working in the sun, lack of rest and eating unfamiliar food. They were commonly treated at home and, in a few cases, were taken to the hospital or given the money to go to the hospital on their own. The Ghana Child Labour Survey (Ghana Statistical Service, 2003), which covered working children in the informal economy as a whole, reported findings similar to those of the LAWA-Ghana and Apt studies. As Table 5 shows, employed children received four main benefits: meals (82.5 per cent), uniforms (21.7 per cent), lodging (15.8 per cent) and sick leave (13.3 per cent), either fully or partially.

³¹ This situation is set to improve with the establishment of an informal social security system by the Social Security and National Insurance Trust (SSNIT), the state-owned social security system. The scheme was piloted from June 2005 and has not been officially established since November 2008. However, without explicit efforts to include domestic workers, their situation is not likely to improve.

Table 5: Nature and type of benefits received from employers by children in the informal economy

<i>Type of benefit</i>	<i>Full</i>	<i>Partial</i>	<i>None</i>	<i>Total</i>	
Holiday	7.5		3.3	89.2	100
Sick leave	10.0		3.3	86.7	100
Social security	0.8		0	99.2	100
Uniform	15.0		6.7	78.3	100
Meals	60.8		21.7	17.5	100
Transport	8.3		0.8	90.8	100
Lodging	15.8		0	84.2	100
Other	5.8		1.7	92.5	100

Source: Ghana Child Labour Survey (2003).

Informal mediators and employment agencies

Traditional informal arrangements for domestic work have largely persisted, and attempts to introduce changes and to formalize the employment relationship have been slow. The general trend has been oral agreements between employers and domestic workers, which have largely concerned the duties of domestic workers and the type of behaviour that is expected of them. Some formality has been introduced over the years into the relationship between domestic workers and their employers with the advent of middlemen in the recruitment of domestic workers (Apt, 2005).

These informal mediators or middlemen — who could be near or distant family members, neighbours, friends and, in some cases, informal agents — mediate between parents and potential employers. They approach parents of potential domestic workers and broker agreements. In these instances, the parents do not have prior acquaintance with the potential employers of their children. The emergence of these informal agents has fundamentally transformed the character of what used to be considered a system of traditional mutual assistance. Parents now send their children to stay and work with people other than relatives; in many cases, these people are not known to the parents. This has unveiled the essentially commercial nature of child domestic work. What distinguishes such arrangements from more formal domestic service is that payments are in many cases made to the parents of the workers, instead of to the workers themselves. Reservations have been expressed from various quarters about the operations of these middlemen. There are anecdotal accounts of their activities which suggest that the exploitation of child domestic workers often starts with these agents. However, there have been no studies establishing or refuting these accounts.

More recently, registered and unregistered employment agencies have also entered the market for domestic workers. Employment agencies used to be illegal in Ghana under the 1969 Labour Regulations (LI No. 632, Paragraph 61). This was buttressed by Ghana's ratification of Part II of ILO Convention No. 96 in 1973. This Convention requires the elimination of profit-making employment agencies where public employment agencies are available. The Labour Act of 2003 makes provision for the registration of employment agencies. It is not clear whether Ghana has withdrawn ratification of Part II and ratified Part III of ILO Convention No. 96 which allows private agencies.³² In 2008, 35 agencies had applied to the Labour Department, out of which 19 had been granted a license to operate.³³ The Labour Department investigates the background of the applicants, run

³² A search shows that Ghana accepted the provisions of Part II in 1959. There is no entry for Part III with respect to Ghana (ILO, APPLIS, 2 May 2009, at www.ilo.org).

³³ Only two of the 19, L'ainé Services and Tewenbo Company Limited, deal with domestic workers. Only Tewenbo Company Limited deals exclusively with domestic workers.

checks, inspects their facilities and establishments, grants them licenses on behalf of the Minister and monitors their operations. The agencies are expected to provide quarterly reports to the Department, but are not doing this. For the future, the Labour Department plans to educate the general public and employment agencies about the need to register and be licensed as a prelude to prosecuting those operating illegally.³⁴

The difference between licensed employment agencies and individual agents or middlemen is that the former have introduced a more formal regime between the employer and the domestic worker. Employment agencies require potential employers of domestic servants to sign and abide by a formal contract, which includes the payment of the minimum wage. This is more in keeping with the Labour Law. Another respect in which the arrangements of employment agencies differ from that of previous arrangements is the characteristics of the people they recruit. While children are commonly the targets of individual agents recruiting on behalf of employers, licensed employment agencies recruit only those who are by legal definition adults (i.e. over 15 years of age). This is because their operation under the law requires that they respect all the codes regulating work, including the prohibition of child labour. Other advantages mentioned are their contribution to reducing unemployment and generating revenue for government through taxation.³⁵

The majority of employment agencies, particularly those recruiting domestic workers, are not licensed under the Labour Code, although they are registered, taxpaying limited liability companies.³⁶ Thus they operate in the twilight zone between individual middlemen and the licensed agencies. This has left the field open for corrupt practices which have tarnished the image of employment agencies. These include failing to pay workers after they have been paid by the users of the service or short-changing them with unnecessary deductions, taking no responsibility for their working conditions and colluding with the users of domestic workers.³⁷

Employment agencies are hampered by the absence of labour regulations tailored to the particular conditions of domestic work and the lack of enforcement mechanisms for the contracts they broker. It is often not clear whether they are the employers of the domestics or whether they are simply brokering agreements between employers and employees. Some deduct monthly fees from salaries paid to them, while others take a one-off payment and leave the domestic worker and their employers to deal directly with each other.³⁸ As an official of the TUC argues,

³⁴ Interview with S. Dartey, Labour Department, 7 July 2008.

³⁵ *ibid.*

³⁶ A mapping exercise undertaken by the Centre for Gender Studies and Advocacy (CEGENSA) at the University of Ghana in Accra, Kumasi and Tamale, three of Ghana's largest cities, identified 13 agencies recruiting only domestic workers; eight others which recruited domestic workers as part of their portfolio were identified (Darkwah and Tsikata, 2009).

³⁷ Interview with S. Dartey, *op. cit.*

³⁸ And yet, the Labour Act of 2003 makes a clear distinction between employment agencies and employers. Section 3, which sets out the functions of Employment Centres, states that each centre will assist persons to find suitable employment and assist employers to find suitable workers from among such persons.

*Insofar as employment agencies are able to link those who want domestic workers with those who want domestic work, it is ok. However, the employment relationship is not clear. For instance, if you go to an employment agency and get somebody to come and stay in your house, who is the employer now: is it the agency or you? If something happens to the domestic worker, who is to pay compensation? If there is an employment relationship, what regulates this relationship? Is there an employment contract? These are some of the things a law on domestic work can clarify.*³⁹

Box 5: An unregistered domestic worker agency

This agency was started three years ago by the wife of a pastor primarily to address the youth unemployment problem in their church. The agency is located in the back of their house and consists of three rooms. One is used as the office and the other two serve as rooms for male and female employees just before their placement. The agency is run by five people: the pastor's wife, who is the head; an employee who visits the homes of potential employees to verify the particulars they provide on the forms they fill out; a client officer who meets potential clients; a registration officer; and a friend of the family who has just graduated from university, who helps out in her free time. The agency was initially meant to provide services for the members of the church. It started with six church members, four men and two women, but now, employees come from all over Accra. The director also travels to Northern Ghana to recruit young women from there. The agency registers employees irrespective of sex, religion and educational background. Potential employees who come to register undertake to work for at least a year, after which they are registered under the National Health Insurance Scheme. After working for three years, they are sponsored by the agency to undertake one of eight short housekeeping courses, which costs between 18 and 20 Ghana cedis. As of 2007, the company had 400 registered employees and a third of them were in employment. When placed, half of the employee's first salary is paid to the agency, plus a monthly contribution of 5 cedis, a one-off registration fee of 3 Ghana cedis, and the costs of their medical examinations and other expenses incurred in their recruitment and placement. In addition, when they destroy any valuables of clients due to carelessness, the cost is deducted from their salary. Clients pay 20 Ghana cedis as a registration fee, which entitles them to placements whenever they need services, and to a replacement if they are not satisfied. The employees are graded from A to C and are paid according to this gradation. Grade A consists of experienced domestic workers who do general housekeeping chores, Grade B employees perform a more limited list of functions, and Grade C are young and inexperienced workers who have an even more limited job description. In addition to house-helpers, the agency also registers shop attendants, cleaners, drivers, cooks, waiters, waitresses, gardeners and laundry workers. The agency and its employees face a number of challenges. The main one is the reluctance of clients to pay for the services of the domestic workers. The payment scheme has therefore been altered and since August 2006, employees have been paid through the agency. Other challenges that employees face include ill treatment, such as being refused food, being overburdened with work, and a case of sexual harassment involving the nephew of the client. Clients also complain about the quality of service that they receive. The agency has, therefore, designed a scheme in which clients are asked to give their preferences, and these are matched to potential domestic workers. The agency, however, holds the position that it is the obligation of the client to specify what duties the employees are to perform, especially in very large houses. A challenge the agency itself faces is the loss of investment made on potential employees they have to let go on health grounds, as some have hepatitis and cannot therefore be placed. According to the head of the agency, it is not able to break even in spite of the monthly contributions it receives from employees. These are inadequate to the medical and other expenditures it incurs, including the salaries of the direct employees of the agency. The head is unsalaried.

Source: Tsikata, 2007.

Some have suggested that employment agencies have a tendency to take the side of employers in disputes with employees, because employers have more money and domestic workers are dispensable in that there is a regular pipeline.⁴⁰ Not all employment agencies insist on the minimum wage, preferring to negotiate with the employer what they might be willing to pay. Ultimately, the effectiveness of this system will depend on the strength of the regulatory mechanisms and their enforcement. Questions such as how much of

³⁹ Interview with Yaw Baah, Director, Research Department, TUC, 23 July 2008.

⁴⁰ *ibid.*

domestic workers' pay should go to the domestic, and what other entitlements they can expect from the agencies, also need to be sorted out through legislation.

The current inadequacies of the employment agencies notwithstanding, their operations have introduced an important element into domestic work administration in Ghana. By introducing formal agreements between employers and domestic workers, they have effectively set domestic work on a course of formalization. Interviews with trade unions indicate that there is the hope that these agencies will provide a mechanism for formalizing and monitoring domestic work.⁴¹

⁴¹ *ibid.*; and interview with Kingsley Ofei-Nkansah, General and Agricultural Workers' Union (GAWU) of TUC.

6. Initiatives to organize domestic workers and regulate domestic work in Ghana

Organizing domestic workers: Efforts of the TUC and the ICU

Adu-Amankwah (2007) has argued that organizing informal economy operators, whether into trade unions or as cooperatives or associated producers, presents the possibility of applying laws and minimum standards to their operations and existence. It also provides an opportunity for them to secure representation and achieve collective bargaining for their interests. Meanwhile trade unions stand to benefit from increased membership, finances, greater legitimacy in representing a wider range of workers and, therefore, the ability to intervene more strongly in national policy processes.

The Trades Union Congress (TUC) has a history with informal economy workers, which is not much in evidence in its current structure and composition. It has been noted that the beginnings of trade unionism in Ghana were found in efforts to organize informal sector workers — agricultural labourers, cooks, motor drivers, mechanics, goldsmiths and other artisans — after the First World War. However, in its evolution, urban formal sector workers came to dominate the Trade Union Congress (Adu-Amankwah, 1999). Among the 17 national unions of the TUC, the Ghana Private Road Transport Union (GPRTU) is an informal sector organization composed of vehicle owners, owner drivers, employee drivers and guards in charge of running lorry stations, and ensuring that the tax obligations of vehicle operators are met. Dominated by the vehicle owners and their concerns, the GPRTU has been a mixed success in the organization of the informal economy.⁴² Four of the national unions have informal-sector associations.⁴³ In 2005, the Executive Board of the TUC agreed to give associate membership status to the Makola Traders Union and the Madina Traders Union, both market associations operating in Accra (Adu-Amankwah, 1999; Baah, 2007).

In 1996, the TUC responded to its dwindling membership by adopting a policy to encourage its affiliates to intensify organization in the informal economy. They were “to intensify and strengthen participation and organization of both formal and informal sectors ... and to continue to forge contacts with informal sector associations and to organize the unorganized workers in the informal sector” (quoted in Baah, 2007, p. 19; see Adu-Amankwah, 1999, for a detailing of the policy directions of the TUC in this regard).

The strength of this approach to garner new membership was that already formed associations were absorbed into the TUC. It guaranteed an immediate supply of numbers

⁴² Adu-Amankwah (1999, p. 7) notes that, while the GPRTU mediates and resolves conflicts between hired drivers and the owners of vehicles, its driver members lack social security protection, job security, health care, the promotion of occupational health and safety, protection against income losses during sickness, annual leave, minimum wage, etc.

⁴³ The Industrial and Commercial Workers Union (ICU) has the Ghana Hair Dressers and Beauticians Association (GHABA) and the Ghana Batk., Tie and Dye Association (GBTDA), among others. The Timber and Woodworkers union (TWU) has the Wood Working Machine Owners Association (WWMOA), Small Scale Carpenters Association (SSCA) and the National Sawyers Association (NSA). The Public Services Workers Union (PSWU) has the Ghana Union of Professional Photographers (GUPP). Some self-employed women’s organizations in the rural and peri-urban area, such as the Machine Women’s Cassava Processing Group, also became affiliates of the General and Agricultural Workers Union.

and dues.⁴⁴ Baah (2007) notes, however, that the policy, which has seen the TUC and its affiliates organizing through existing informal economy associations, has had limited successes. Some of the challenges TUC members have faced in this regard are the low financial returns on organizing in the informal economy, the lack of a ready package of benefits and the lack of experience on both sides (Adu-Amankwah, 1999). This is not surprising, given that most of these were organizations of self-employed persons with needs and challenges quite distinct from bread-and-butter union issues which had long been the tradition of the TUC. In choosing this approach, the TUC was neglecting the needs of what should be core-constituency employees in the informal economy while making common cause with their employers, the self-employed workers. While it would have been more tricky and difficult to organize the employees of self-employed persons in the informal economy, it would have been more sustainable in the long run.

The failed efforts of the Industrial and Commercial Workers Union's (ICU) to organize domestic workers demonstrates some of the challenges the TUC as a whole has to confront to organize employees in the informal economy.⁴⁵ The ICU is one of the 17 national unions of the TUC of Ghana. Its Informal Economy Unit began by organizing self-employed informal workers. Currently, the ICU has three dues-paying associations of hairdressers and beauticians, one of barbers and salon owners, one for weavers and another for batik makers. It considers these efforts to be more successful than its work with domestic workers, which began in the early 1990s. In 1991, it extended coverage to cooks and stewards; and later to other categories of domestic workers, including gardeners, drivers, private security, and babysitters or nannies. However, its focus was on adult domestic workers. The ICU's main goal was to extend the working conditions of the formal economy, particularly those guaranteed in the labour laws, to workers in the informal economy. It devised an organizational structure to replicate its pre-existing structures for the informal unions. The bedrock of the structure was the zonal level,⁴⁶ through the district and regional up to the national level. The national level is an association affiliated to the ICU. The main activities for organizing after domestics had been identified on house-to-house visits and invited to join the union were training and capacity-building in their chosen professions, support with settling conflicts with employers and zonal meetings. For example, the ICU invited officials of the Food and Drugs Board, the Ministry of Health and the Environmental Protection Agency (EPA) to give basic training to a group of domestic workers about how to handle chemicals in the home and issues of basic hygiene. Cooks also had a session on how to improve their efficiency. Domestic workers were expected to take part in the May Day parades and also take industrial action in solidarity with workers in formal work situations. These were to

⁴⁴ GAWU, for example, had organized over 12,000 members under its Rural Workers Organisational Division by 1998, while the Timber and Woodworkers Union also organized 12,000 informal sector members in various regions. The national unions involved in organizing in the informal economy have each provided several of the following forms of support: credit facilities, financial support, education and training; support for accessing markets; raised awareness about rights and standards and collective bargaining. These services were identified in the 1996 policy as key to the organization of informal economy operators, along with others such as legal protection, input supplies and social protection (Adu-Amankwah, 1999).

⁴⁵ This account of the ICU's experience is based on interviews with an official who had formerly been in charge of organizing domestic workers in the ICU and documents on the files of the Informal Sector Unit of the union. All the documents referred to are from the ICU's Informal Sector Unit file on domestic workers (1999-2005).

The ICU had hired organizers for the sole purpose of organizing domestic workers.

⁴⁶ For example, domestic workers in Accra were organized in three zones: Cantonments, Tesano and Airport.

integrate them fully into union activities. While they paid dues like other unionized workers, it was only a fraction of what other workers paid, in recognition of their lower wages.⁴⁷ An already existing effort to organize in the Ashanti Region, known as Kumasi Cooks and Stewards, became part of the ICU project. After months of collaboration, the Cooks and Stewards group in Kumasi was inaugurated in February 1999, as part of the ICU's organization of domestic workers (ICU Press Statement, 23 April 1999).

In March 1999, the ICU held a two-day workshop for cooks and stewards. The workshop report noted that there had been 13 participants from three regions in Ghana. The workshop's agenda was to identify the problems of workers in the domestic sector and to envision how they wanted their work to be and how they would organize for good jobs. The workshop identified clearly what changes domestic workers wanted to see in their terms and conditions of work; these included appointment letters, job specifications, annual leave, visits from friends and family, no interference from relations of employers, security of tenure, medical care, respect from employers, training and education, no sexual harassment or other forms of violence and disrespect, and social security (ICU Workshop Report, 1999).

An important outcome of this workshop was a programme of cooperation between the ICU and domestic workers of Ghana, stating that "the Domestic Workers will form their own, National Association — associated to ICU" (Programme of Cooperation, undated). Much of what is contained in the programme is what the ICU intended to assist the domestic workers with contracts with job specifications and conditions of service; the same level of working hours as other workers in Ghana; annual leave; acceptable principles for dismissals; social security; salary increments corresponding to levels in the formal sector; and other conditions of service, including the right to see their families, medical care, education, and safety from sexual harassment (Programme of Cooperation, undated).

A press statement issued in April 1999 announced the inauguration of the Kumasi Cooks and Stewards, raised the issue of the need for contracts to improve the conditions of domestic workers and described the Accra workshop (ICU Press Statement, 23 April 1999).

In June 1999, the ICU issued a document which examined the prevailing labour laws (the then Labour Decree of 1967 and Labour Regulations of 1969) to identify which clauses could be applied to domestic workers. This was to support the principle that domestic workers should enjoy the same rights as workers in the formal sector. This document, along with an undated one which advised organizers about what salary levels could be negotiated for different categories of domestic workers, were clearly tools to assist with the organizing of domestic workers.⁴⁸

⁴⁷ Interview with S.B. Alootey, Industrial Relations Officer, Industrial and Commercial Workers' Union (ICU), 11 August 2008.

⁴⁸ The document identified different categories of workers: houseboy with various duties; maid/housegirl with various duties; garden boy, not trained; gardener, trained; driver; watchman/security man; nanny; steward; cook without much experience; cook/steward (double job); cook with good experience. It recommended four categories of salary: minimum with free accommodation, decent with free accommodation, minimum without accommodation and decent without accommodation. The document stated that if the job covered two full-time jobs, two salaries minus a little reduction were to be paid. It was noted, however, that the document was not a price list and was only a guide for work (ICU, undated).

In March 2000, an internal draft strategy for work with domestic workers noted that domestic workers were one of the primary target groups of the ICU. This strategy had three parts: organizing domestic workers into the association, solving the problems of domestic workers and proper enrolment in the ICU. The document concluded that it was better to consolidate in four regions which had already promising organizing successes, inaugurate nationally and then use the experience to organize in more regions in a second phase. The strategy document hoped that the national association would be inaugurated in December that year (ICU, March 2000).

In terms of the main needs of domestic workers, the strategy document identified the need for contracts which could then be defended. The strategy to achieve this was to have some contracts signed by employers and publicize this in the press through highlighting the benefits of contracts for employers. A workshop was to be organized for Regional Officers and branch executives in the four regions to educate them on how to work with contracts and handle grievances, either within the associations or through the ICU. The document noted that regular ICU training would be needed for this group. Regarding proper enrolment, the strategy noted that it was only in the Kumasi branch that the majority were dues-paying members. In Accra, Bolgatanga and Cape Coast, dues-paying was sporadic. The strategy identified here was to enforce enrolment and payment of dues through the association, and not directly from members (ICU, March 2000).

More training programmes followed: in April 2000, for example, a training seminar focused on problem solving.⁴⁹ It resulted in agreement on a number of procedures for solving disputes between employers and employees. The grievance and settlement procedures underlined the fact that local executives had to take the lead in solving these disputes and the ICU would be invited only if there was an impasse (ICU Seminar Report, April, 2000). Furthermore, a time-table for regional inaugurations was agreed for between June and October and a national conference agreed for November 2000. Several of these were inaugurated during the year and this culminated in the launch of a national domestic workers union in late 2000 (ICU Seminar Report, April 2000), targeted on adult domestic workers in informal employment relationships.⁵⁰

November 2000 saw the first quadrennial delegates' conference of the Domestic Workers Union of Ghana (DOWU) in Accra. This delegates' conference, which also marked the inauguration of the National Union, was held under the theme "Workers Rights are also for Domestic Workers". A resolution issued at the end of the conference asked the government to prevail on employers to deliver on five demands: improvements in service conditions, payment of a living wage, payment of social security, ensuring job protection by issuing appointment letters and the payment of medical bills. Also included in the resolution was a demand for job security and protection, and an end to sexual harassment and abuse and general maltreatment of both female and male domestic workers. The resolution also raised concerns that the revised labour laws might exclude clauses which protect domestic workers, and appealed to legislators to insert such clauses before the law was passed. The resolution also called for investigations into cases of trafficking and slavery of domestic workers in foreign lands. Finally, there was a call on certain professional bodies, such as the Ghana Bar Association, the Ghana Employers Association and the Ghana Journalists Association as well as the Ministry of Employment and Social

⁴⁹ The organizers of the seminar presented several cases involving common problems, such as wrongful dismissal, the domestic worker receiving visitors without permission, and domestic workers being given additional responsibilities outside the agreed job description. Participants were expected to solve these problems through role playing. These were then discussed in plenary.

⁵⁰ The ICU's decision to exclude young workers was because they were prohibited from working in the first place under both the Labour Decree and the Children's Act.

Welfare and the Commission on Human Rights and Administrative Justice, to work together to expose the problems of domestic workers and make laws to protect them.

A training programme was held in early 2001 for the leadership of the DOWU on the qualities of a leader, leadership activities, communication and addressing grievances (Report of Training Seminar, 29 January-2 February 2001).

Between the late 1990s and 2002 when the association was at its most successful, there were branches in nine out of the ten Regions in Ghana and it had a membership of about 1,200 who paid dues. By 2002, there were indications that some branches had collapsed. A meeting with the Kumasi group advised the national president of DOWU to demand reports from the Regions about their organizational activities to update his records. This was in response to his inability to report on developments in the Brong-Ahafo Region. This meeting also advised the reorganization of lapsed branches in Kumasi as was being done in Accra (meeting with Domestic Group in Kumasi, 9 October 2002). In that year, there was a workshop on occupational health and safety for food sector workers which included local restaurant operators and some domestic workers. They were also educated on the structure of the ICU and their location within it. A letter went out to the regional officers in Kumasi, Accra and Bolgatanga requesting them to assist in the organization of six new regions of the Domestic Workers Union (ICU letter, 26 July 2002).

In 2003, the ICU issued a document titled “The reorganisation of domestic workers”. The document noted that at its inauguration, the domestic workers’ association had 950 dues-paying members countrywide. However, at the end of 2002, the association was almost nonexistent in the Greater Accra Region, Ashanti had few members left, and the Upper East Region, which had never been known for a large membership, was no different. The report also noted that in 2002, six additional regions were organized: Upper West, Northern, Brong-Ahafo, Western, the Volta Region and Tema in the Greater Accra Region. These had shown some results, with the exception of the Volta Region, which had not worked due to the organizer’s poor performance. The document therefore proposed a reorganization of all affected regions in order to maintain the group as a national association under the ICU. A year-long programme was devised to retrain organizers and executive officers of branches, retool the relationship between ICU and the association, address the internal problems of the association’s branches, resolve internal disputes and reorient leaders about their responsibilities. A film on the problems of domestic workers was made and broadcast on TV. However, the reorganization did not seem to be successful. Instead, the association continued to decline to a point where it had virtually no members left. ICU files show that well into 2004, there were still efforts to work with the domestic workers. In March 2003, a meeting of national and regional executives was held at which each had to give an account of the state of their branches. Problems such as meeting venues, collecting dues and leadership crises were reported. Letters were written by the ICU to branches which had defaulted in their dues; for example, the UER was reminded by letter in March 2003 that its dues had not been received for two years. Also in 2003, there was a letter to the ICU from local organizers in Accra requesting assistance to reorganize the Greater Accra Region, and in September 2003, a workshop to reorganize the union.

Obstacles to successful organization

A former organizer in Accra traces the decline of the organization from when he stopped being directly involved in the activities of the zones, at a point when they had leaders in place and were meeting regularly (i.e. from the point when the ICU central organization withdrew after union leaders were elected in the various regions). He argues

that it was always expected that the hands-on approach to organizing would be temporary.⁵¹

In terms of their focus of organization, the Domestic Workers Union only organized adult domestic workers. Most of the workers recruited were in private homes. However, the leadership of the association and its membership in certain regions was dominated by institutional domestic workers; for example, the National President is a cook employed by a bank in the Ashanti Region. This was in spite of the fact that the Constitution of the Accra Union, for example, had a provision stating that a person was qualified to join the union if they worked in a private household or a small company with domestic duties (Accra Domestic Workers Union Constitution, undated). A list of contact persons in the Western Region, which was prepared in August 2002 by the organizers, identified only two out of 29 names as working in private houses (ICU list of contact persons for Western Region, 2002). A meeting between the ICU's project team and the Domestic Workers Union (DOWU) of Kumasi to discuss the union's organizing found that, while they had indeed organized domestic workers, "the majority of them would belong to the formal sector instead of the informal sector, which was the target of the DOWU" (meeting with Domestic Group in Kumasi, 9 October 2002).

In addition to the huge financial cost involved in identifying and organizing domestic workers, the union initially faced strong resistance from both employers and the domestic workers themselves. While employers resisted the moves to unionize domestic workers, domestic workers were suspicious, some accusing union officials of acting as spies for their employers. Once the ICU had succeeded in organizing them, its financial and human resources were strained by the many disputes between domestic workers and their employers, and by the costs of training and retraining the workers. Furthermore, the Domestic Workers Union did not progress to the levels of autonomy expected of the associations of informal economy operators affiliated to the ICU and continued to have expectations of the ICU which the latter could not fulfil due to its resource constraints. Currently, DOWU is in crisis and its regional branches no longer pay dues to the ICU. Only a few individuals continue to pay. A combination of factors, including a feeling among domestic workers that they had no further use for the ICU, the inability of the association and its components to stand on their own, and the high turnover of domestic workers undermined the association.⁵²

ICU officials have argued that, because of the inherent indignity of domestic work, many workers only stay for long enough to save some money to pay for learning a trade. The ICU has no dedicated desk or unit or policies for domestic workers. Instead, it tries to ensure that the domestic workers it represents enjoy terms and conditions of service comparable to those of other members of the union. To facilitate this, the National President of the Domestic Workers Union is represented on the National Executive Committee of the ICU, in order to ensure that the particular concerns of domestic workers are incorporated into decisions of the Union at its highest levels.⁵³

It can be concluded that trade union efforts have not been able to bridge the huge social dialogue deficits in the informal economy and in domestic work. Voice in the informal economy is hampered by (a) the weak citizenship culture; (b) the low status, influence and resources of operators in the informal economy; and (c) the limits of trade

⁵¹ Interview with Alootey, *op. cit.*

⁵² *ibid.*

⁵³ *ibid.*

union organization and the self-organization of the informal economy. These factors have hampered the TUC's ability to organize domestic workers.

Promoting the regulation of domestic work in Ghana: The LAWA-Ghana project⁵⁴

The project of the Leadership and Advocacy for Women in Africa, Ghana Alumnae Incorporated (LAWA-Ghana) is to ensure that the rights of domestic workers are recognized and respected. Project objectives are, among other things, to identify problems with the employment of domestic workers and to advocate for the formalization of the employment relationships between domestic workers and their employers. Other objectives are to sensitize both employers and domestic workers about their respective rights and responsibilities, and to equip domestic workers with skills to advocate for the improvement of their rights, to encourage professionalism in the employment of domestic workers and to come up with a consensus on the guidelines for the employment of domestic workers.⁵⁵

In 2003, LAWA-Ghana, in collaboration with law students from Ghana and the United States, undertook a study to understand the trends and problems involved in the employment of domestic workers. Those who were studied in the course of the research were domestic workers, their employers, operators of agencies that recruit domestic workers, traditional authorities and policy-makers. The study focused on the gendered nature of domestic work and labour rights issues: employment contracts, minimum wages, hours of work and rest periods, social security, discrimination and equal protection of the law. Also covered were issues of abuses that domestic workers suffer: servitude, domestic violence, trafficking (especially child trafficking), denial of such necessities of life as education, rest, leisure, recreation and family life. Following the research, a number of recommendations were made, including the need for legal reform and advocacy. LAWA-Ghana then drafted a regulation, *Labour (Domestic Workers) Regulation*, which it has presented to the Ministry of Manpower, Youth and Employment, with the view to getting it passed by Parliament into law.

The draft domestic workers regulations are in seven parts, and cover the main areas of the Labour Act. However, the provisions apply to only those domestic workers who are 18 and above. For those below 18, the provisions of the Children's Act are to apply.⁵⁶ The draft regulations include provisions on sexual harassment and domestic violence (Section 15) and has a separate section on living standards, directed at live-in domestic workers. Provisions under this section include the guarantee of separate accommodation unless the domestic worker sleeps with a child below 10, access to toilet and bath facilities, and a balanced diet (Section 8). The draft also requires the registration of domestic workers in

⁵⁴ LAWA-Ghana is a non-profit organization incorporated under Ghanaian law in May 1998. It was formed by a group of eight women lawyers who participated in the USAID exchange programme, known as the Leadership and Advocacy for Women in Africa (LAWA) Program. The programme was started in 1994 and has trained female lawyers at the Georgetown University Law Centre.

⁵⁵ LAWA-Ghana's work can be seen as continuing from where the ICU left off with regard to the analysis of labour laws to ascertain their relevance to domestic workers and the design of contracts of employment. The ICU has participated in some of the stakeholder meetings called by LAWA-Ghana to deliberate on its work and has contributed to the LAWA-Ghana effort.

⁵⁶ This would imply that the prohibitions of child labour would be in force where the worker is below 18. While this is in keeping with the Children's Act, which defines a child as a person below 18, it creates a gap in the protection of domestic workers because the minimum age for the employment of a child under the Children's Act is 15.

the District Labour Office and allows labour officers to conduct the regular inspection of homes where there are domestic workers. It backs the enforcement of contracts, but does not allow contracts which give domestic workers less than they are guaranteed under the Regulations (see Appendix 3).

Between 2004 and 2006, LAWA-Ghana undertook programmes to sensitize people and to build consensus on the draft labour regulations in five regions of Ghana. In each region, they conducted more research to find out domestic workers' employment trends, met with policy-makers, held a one-day stakeholder meeting on the draft domestic workers regulations, and a two-day capacity-building workshop on their rights and responsibilities for selected domestic workers using a simplified manual.⁵⁷ LAWA-Ghana has also been working with employment agencies to develop formal contracts for use in the placement of domestic workers. They have held several meetings with employment agencies that they are encouraging to organize themselves to address some of the challenges of their field.

One of these is the simplified manual for training domestic workers, employment agencies and users of domestic workers about their rights and responsibilities. What the manual does is to domesticate the Labour Act of 2003 by identifying all the sections which are relevant to domestic work and providing an annotation to each, explaining how they apply to the domestic work situation.⁵⁸ A section of the manual focuses on what issues to consider in negotiating contracts for domestic assistants, including what is needed to prepare a contract of employment (see Appendix 1).

It also includes a prototype contract of employment. This contains information about the name and particulars of employer and employee, date of employment, job designation, remuneration and mode of payment, quantification of other benefits to be provided, working hours, holiday periods, details of social security scheme, amount of notice to terminate appointment, disciplinary rules to apply, procedures for dealing with grievances, overtime payment and the assignments the employee is required to undertake. This is provided as a separate checklist of duties to be undertaken by domestic workers with boxes to tick as applicable to each situation (see Appendix 2).

The manual, prototype contracts, check lists and the draft regulations are the way forward. However, that they emanate from a civil society organization raises questions about their progress through the policy-making and legislative processes in Ghana. The Domestic Violence Law's tortuous six-year journey from civil society to Parliament, where it was passed into law in 2007, is instructive. It would require commitment from the executive, Parliament, government agencies, the labour unions, employment agencies, domestic workers, the users of domestic workers and the general public for these proposals to become law. Enforcing them would require heavy institutional investments from already

⁵⁷ LAWA-Ghana collaborated with and received assistance from the following during the course of the project: students and lecturers of the International Women's Human Right Clinic of the Georgetown University Law Centre; students of the Ghana School of Law, including selected newly qualified lawyers in 2005; WILDAF-Ghana and their Legal Literacy Volunteers; the Centre for the Development of People; the Institute of Development Studies at the University of Cape-Coast; the Ministry of Manpower, Youth and Employment; the Ministry for Justice; and the Attorney General's Department, including the Law Reform Commission.

⁵⁸ For example, under Section 8 of the Act which has a provision on safety, the annotation reads as follows: "The provision requires the employer to ensure that the work environment is safe. In the context of domestic work, homes should be free from risks e.g. electrical equipment, gas appliances should be fault free. Domestic assistants should be instructed and educated on the proper usage of such gadgets, storage of flammable substances, etc." (LAWA-Ghana, 2005, p. 8). Another annotation elaborates what is meant by discipline, invoking human rights norms and the Constitution, the Children's Act and the Domestic Violence Act (*ibid.*, p. 9).

existing institutions, such as the Labour Department. The proposals have not yet been endorsed and taken up by the Ministry of Manpower, Youth and Employment. LAWA-Ghana plans to continue its work through education targeted at identified stakeholders and the general public; further training of domestic workers, their users and employment agencies; advocacy on the regulations; and the building of alliances and networking. Trade union officials and policy-makers who were interviewed were unanimous about the need for dedicated regulations for domestic workers, either in the form of a Legislative Instrument of the Labour Act, or a separate Act altogether on the basis that domestic workers can enjoy social security, social protection and freedom from violence, only if laws specifically designed to address their situation are passed. The advantages of having an instrument related to the Labour Act would be its reinforcement by the Act as well as the implication that domestic labour is an integral part of the employment regime in Ghana.

7. Summary, conclusions and recommendations

This report has examined the situation of domestic work and workers in Ghana, paying particular attention to the policy and legal framework, the practice of domestic work and the conditions of domestic workers. The paper has also examined efforts to address some of the problems of domestic work and their limitations. It argues that domestic work is pervasive in Ghana and domestic workers form a significant component of the informal economy, which is the main economy in Ghana, as it is in other developing countries. Like others in the informal economy, but even more so, domestic workers are largely undocumented because of the nature of their work and workplace.

Domestic workers have neither been explicitly excluded nor provided for by the Labour Act of 2003, except that they are excluded from the provisions relating to hours of work and rest periods. While this might imply that they are covered by the rest of the Act, the ambiguity of the Act does not give strong support to efforts to monitor and regulate the terms and conditions of their work. Beyond the Act are questions of enforcement. The informality of arrangements for domestic work, the customary law and practice developed around domestic work relations over the years, and the isolation, youth and lack of education of domestic workers has meant that their rights are not enforced. This is compounded by the fact that the labour inspection regime does not include private homes in its definition of establishments. The lack of solid research data on domestic work and workers makes regulation almost impossible. In the absence of regulation, domestic work remains characterized by long and unspecified hours of work, the performance of a variety of tasks, including washing, cleaning, shopping, doing the laundry, taking care of children, and caring for old or sick members of the household. Most domestic workers come from economically deprived households and work for a wide range of households, both rich and poor. The vast majority of domestic workers are female.

The report notes that economic liberalization over the last three decades has led to the exponential growth of the informal economy where domestic workers are situated as well as to the informalization of work. This, and the limitations of employment policy, which is directed at employment creation with an emphasis on self-employment and entrepreneurship, and on social protection policies which divorce benefits from employment and target only the very poor, have produced a policy environment that is not conducive to tackling the problems of domestic workers. Instead, the legal and institutional regime for protecting labour remains skewed in favour of workers in the formal economy and is largely silent on domestic work. In spite of the entrance of employment agencies into domestic labour procurement (now permitted under the Labour Act of 2003), domestic employment remains largely informal and hidden from the influence of labour laws. Trade union efforts to organize domestic workers have been hampered by the high turnover of persons in domestic work, and by difficulties with organizing them since they are scattered in different workplaces and are not able to sustain the payment of dues. The modes of union recruitment of already organized informal economy operators have been more suited to organizing self-employed persons, who in some cases are employers themselves. This raises fundamental questions about the continued ability of the Trades Union Congress to represent workers and enforce their rights.

The report examines recent efforts by LAWA-Ghana to promote the formalization of domestic work through targeting employment agencies, domestic workers and their employers for training in the Labour Act, the use of employment contracts and a checklist of duties. Additionally, LAWA-Ghana has drafted a piece of legislation on regulating domestic work it is trying to interest policy-makers and Parliament in. While it has not succeeded in putting these initiatives firmly on the public agenda, it has laid the groundwork for moving in this direction and securing legislative support for its

regulations. In the light of the findings of the reports, the following recommendations are made.

- The visibility of the informal economy and its composition in statistics and policy debates needs to be enhanced. In particular, a census on domestic workers which is followed up every ten years would be useful for policies to improve the conditions of domestic workers.
- There is the need for stronger organizations of domestic workers. The experiences of the trade union movement in organizing the informal economy and domestic workers offer positive and negative lessons. In particular, the trade union movement's focus on affiliating associations of enterprise owners has to change. A reorientation should make the organization of informal employees, such as domestic workers, a priority.
- Zimbabwe combined legislation and governmental support for organizing domestic workers, to good effect. This suggests that a combination of union activity and governmental support is fundamental.
- Employment policies, particularly the draft national employment policy, need to be reformed to take into account the labour relations of the informal economy in a more systematic and comprehensive manner. Labour institutions and laws need to be reformed in recognition of the primacy of the informal economy, and particularly its labour regimes.
- The recommendation that special regulations are needed for domestic labour needs to be implemented urgently. In addition to detailing terms and conditions of service, such regulations should clarify who is the employer of the domestic worker — the user of the service or the employment agency — in cases where employment agencies recruit these workers. The LAWA-Ghana draft, including the draft formal contract, forms a good basis on which to build.
- An issue which has long been neglected is the gendered character of the informal economy and domestic work. Women are predominant in some of the most precarious forms of work in the informal economy, and experience challenges in combining their reproductive activities with their responsibilities as employees. Social policies have to tackle the deficits of childcare facilities. They should also encourage measures which promote the use of services outside the home for reproductive activities commonly tackled in the home such as laundry, childcare and certain food processing functions. This strategy would also serve as an avenue for generating employment while improving the conditions for women workers and reducing the workload of domestic workers.
- In the final analysis, economic policies need to be reformed to promote the creation of decent work and living wages. Some of the strategies in the employment policy regarding support for job-creating enterprises need to be implemented. This can then be translated into better remuneration for domestic workers, an expansion in the employment options of potential domestic workers, and a more productive and vibrant economy.

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Appendix 1

LAWA (GHANA) ALUMNAE INCORPORATED

ADVOCACY PROJECT ON THE RIGHTS OF DOMESTIC ASSISTANTS IN GHANA

ANNOTATED LABOUR ACT. (ABRIDGED TRAINING MANUAL)

AUGUST 2005

SECTION 3

WHAT ARE THE RIGHTS AND RESPONSIBILITIES OF DOMESTIC ASSISTANTS AND THEIR EMPLOYERS?

Both the employers of Domestic Assistants as well as Domestic Assistants have several rights and responsibilities. This section focuses on the rights and responsibilities of employers and employees in the Labour Act, 2003 (Act 651) as far as they relate to persons engaged as Domestic Assistants.

3.1 RIGHTS AND DUTIES OF THE EMPLOYER AND EMPLOYEE UNDER THE LABOUR ACT, ACT, 651

Under Part III of the Labour Act, the rights and duties of the Employer and Employee have been set out. This is the first time the respective rights of Employer and Employee have been outlined by statute. These rights are examined as they relate to Domestic Assistants (DA's) and their employers.

3.2 EMPLOYER: THE LABOUR ACT, SECTION 8

Rights of the Employer;

The employer has the right to:

- a) **employ, discipline, transfer, promote and terminate the employment of the worker;**
- b) **formulate policies, execute plans and programmes to set targets; -**
The Employer has the right to determine the nature of work to be done, deadlines timelines, and how the work should be carried out.
- c) **modify, extend or cease operations; and**
- d) **determine the type of products to make or sell and the prices of its goods and services.**

1.2 DUTIES OF THE EMPLOYER: SECTION 9

a) Provide work and appropriate raw materials, machinery, equipment and tools.

The import of the provision is that the Domestic Assistants should be given the appropriate tools/equipment to carry out their functions. They need not be state-of-the art, but in consonance with (c) below, the tools should be safe and efficient.

b) Pay the agreed pay at the time and place agreed on in the contract of employment or collective agreement or by custom without any deduction except deduction permitted by law or agreed between the employer and the worker;

The employer should adhere to agreed-upon terms. Permissible deductions are dealt with below. Salaries should not be withheld, terms of the contract should not be varied for flimsy excuses of misbehavior, routine breakages and damages caused by fair wear and tear.

c) Take all practicable steps to ensure that the worker is free from risk of personal injury or damage to his or her health during and in the course of the worker's employment or while lawfully on the employer's premises;

The provision requires the employer to ensure that the work environment is safe. In the context of Domestic Assistants the home should be free from risks e.g. electrical equipment, gas appliance should be fault-free. Domestic Assistants should be instructed and educated on the proper usage of such gadgets, storage of flammable substance etc.

d) Develop the human resources by way of training and retraining of the workers;

Even though the contract and employment may not contain provisions for training, a well- trained (and retrained) Domestic Assistant is an asset to the employer and the household. Training may be formal or informal.

e) Provide and ensure the operation of an adequate procedure for discipline of the workers;

Discipline is one of the most vexed issues where Domestic Assistants are concerned. Domestic Assistants should be informed about the rules/regulations of the household in which they are situated, especially if they are live-in Domestic Assistants. The rules/regulations should conform to human rights norms. Similar considerations should accompany disciplinary procedure. Some relevant laws are as follows:

- The 1992 Ghana Constitution in Article 15(a) and (b) prohibits torture, cruel, inhuman or degrading treatment or punishment. It states that the dignity of the all persons shall be inviolable, and no one should be treated in a manner that (is likely to) detracts from their dignity and worth as a human being. Other enactments that should guide the

disciplinary process are the provisions in the Children's Act 1998, Act 560 and the Domestic Violence Bill.

- The Children's Act, section.89, provides that the minimum age for child employment is 15 years. Section 13 of the Act states that no one shall subject a child to torture or other cruel, inhuman or degrading treatment or punishment including any cultural practice, which dehumanizes or is injurious to the physical and mental well-being of the child.
- The Domestic Violence Bill will also have an impact on the issue of discipline because the relationship between the Domestic Assistants and employer falls into the categories of domestic relationships regulated by the Domestic Violence Bill.

f) Furnish the worker with a copy of the worker's contract of employment;

For purposes of clarity, the Domestic Assistant should have a contract, which spells out the terms and conditions of the employment. This will narrow controversy and ill-feeling as both parties will know what they have promised and when performance is due. The concept of a contract for Domestic Assistants is not new. Apprentices already operate under similar arrangements.

g) Keep open the channels of communication with the worker;

Employers should endeavor to give and receive feedback from the Domestic Assistants. Feedback should encompass enquiries about general well-being, processes for work, and suggestions for improvement/enhancement, recognizing the fact that the Domestic Assistants may have valuable indigenous knowledge. Where possible, it is desirable that the employer not only gives instructions, but explains why processes should be undertaken in a particular way.

3.3 RIGHTS OF A WORKER: SECTION 10

The Domestic Assistant (the worker) has rights, which should be respected. These rights have roots in the Constitution; Article 24 requires work to be performed under satisfactory and healthy conditions. They also ensure that the worker gives of their best to the mutual benefit of the contractual relationship.

- a) Work under satisfactory, safe and healthy conditions;**
- b) Receive equal pay for equal work without distinction of any kind;**
- c) Have rest, leisure and reasonable limitation of working hours and period of holidays with pay as well as remuneration for public holidays;**
- d) Form or join a trade union.**

- e) **Be trained and retrained for the development of his or her skills;** To keep the Domestic Assistant relevant and abreast with current trends, formal and informal training should be an ongoing process. Where the training involves substantial economic outlay, the employer may bond the Domestic Assistant to serve for a period to offset the training costs.
- f) **Receive information relevant to his or her work.** The last decade has seen far-reaching laws affecting the youth and human rights issues. Most of these laws are derived from Ghana's international obligations. This therefore implies that their implementation is not only a Ghanaian affair, but of international concern, and the country is rated internationally based on the level of compliance. For these reason the laws have to be disseminated to those affected to ensure compliance.

3.4 DUTIES OF WORKERS: SECTION 11

From the foregoing, the duties of the worker Domestic Assistance are straight forward and do not need elaboration. They include the duty to:

- a) Work **conscientiously** in the lawfully chosen occupation.
- b) Report for work **regularly and punctually**;
- c) **Enhance** productivity;
- d) Exercise **due care** in the execution of assigned work;
- e) Obey **lawful instructions** regarding the **organization** and **execution** of his or her work;
- f) Take all **reasonable care** for the **safety** and **health** of fellow workers;
- g) **Protect** the **interests** of the **employer**; and
- h) Take **proper care** of the **property** of the employer **entrusted to** the worker or under the **immediate control** of the worker.

3.5 GROUNDS FOR TERMINATING EMPLOYMENT: SECTION 15

There are several ways in which a contract of employment may be brought to an end. The Labour Act sets out a number of ways.

a) Mutual Agreement

A contract of employment can be brought to an end by either party unless the contract provides otherwise. Where the employment is for three years or longer, one months' notice, or one months' pay in place of notice is required

from either party.

- Where the contract is for less than three years, 2 weeks' notice or 2 weeks' pay instead of notice is required.
- Where the parties have a written contract, the terms of the contract will prevail.

Termination By the Domestic Assistant

b) Ill-treatment/Sexual Harassment

Where the Domestic Assistant is ill-treated or sexually harassed, it is sufficient grounds to terminate the employment. Sexual harassment is defined under the Act as "any unwelcome offensive or importunate sexual advances or requests made by an employer or superior officer or a co-worker to a worker, whether the worker is a man or a woman". The legal definition of sexual harassment includes creating a hostile work environment where inappropriate sex related jokes, comments, innuendos, images occur.

Termination By the Employer

c) Death

The death of the worker before the end of the contract period entitles the employer to bring the contract to an end.

d) Medical Grounds

Where the employee i.e. the Domestic Assistant is unfit on medical grounds to continue with the employment, the employer can terminate the contract.

e) The employer can terminate the contract due to

- i) Sickness or Accident
- ii) The incompetence of the worker
- iii) Proven misconduct of the worker.

3.6 REMUNERATION ON TERMINATION - SECTION 18

When a contract is brought to an end as described in S.15, the employer is obliged to pay to the Domestic Assistant any remuneration earned by the worker before the termination and any deferred pay due to the worker before the termination.

3.7 UNFAIR TERMINATION: SECTION 63

The Act lists instances of unfair termination. For the Domestic Assistant it is important to note the following:

a) **Sexual Harassment**; if the Domestic Assistant reports repeated acts of sexual harassment and the employer fails to take action, if the Domestic Assistant terminates the contract the employer will be deemed to have unfairly terminated the Domestic Assistant's employment.

b) **Discrimination**; termination based on discrimination on grounds of among others ethnicity, religion, social, political or economic status is regarded as unfair termination.

Appendix 2

LAWA (GHANA) ALUMNAE INCORPORATED

ADVOCACY PROJECT ON THE RIGHTS OF DOMESTIC ASSISTANTS IN GHANA

**Contract of employment with check list
(ABRIDGED TRAINING MANUAL)**

AUGUST 2005

CONTRACT OF EMPLOYMENT FOR DOMESTIC WORKERS

1. Name of Employer:

Particulars of Employer:
(a) Residential Address
(b) Postal Address
(c) Marital status
(d) Number of children in household
(e) Hometown
(f) Name and address of next-of-kin

2. Name of Employee:

Particulars of Employee:
(a) Address:
(b) Date of birth
(c) Name of father:
(d) Name of Mother:
(e) Marital status:
(f) Number of children
(g) Hometown:
(h) Name and address of next-of-Kin
(i) Social Security Number

3. Date of first appointment

4. The Employee is employed as (job title)

5. The Employees remuneration and mode of payment is as follows:

- (a) Rate.....
- (b) Method of payment
-
- (c) Quantification of other benefits to be provided

Value in Cedis

- i. Accommodation:
 - ii. Feeding:
 - iii. Clothing:
 - iv. Medicare:
 - v. Vocational training:
 - vi. Tools:
- 6. The Employees hours of work are:
- 7. The Employees period of holidays are
- 8. The conditions relating to incapacity to work due to sickness or injury and details of sick pay if any are:
- 9. Details of social security pension scheme:
 - (a) 12.5% contribution by Employer:
 - (b) 5% deduction from Employee:
- 10. Amount of notice to terminate employment to be given by:
 - (a) The employer
 - (b) The worker
- 11. The disciplinary rules applicable to the Employee are
-
-
- 12. The procedure for dealing with any grievances or disputes is
-
- 13. Overtime payment, if any
- 14. The assignments the Employee will be required to undertake are ticked on the attached Schedule of work.
- 15. Name and address of one guarantor for Employee:
-
-

DATED THIS DAY OF 2005

Signed by the above-named Employer)
)

In the presence of:

.....
Witness

Full name

Address

The above named)
..... made his/her mark)
in my presence after the contents herein had)
been read over, explained and interpreted)
to him in the Twi language and he/she)
seemed to perfectly understand and approve) R
same before signing and making his/her) T
mark) P

In the presence of:

.....
Witness

Full name

Address

.....
Signature of Guarantee for Employee

NOTES:

- (i) *These particulars of contract of employment are in accordance with the Labour Act, 2003 (Act 651)*
- (ii) *The Employee should attach one passport-sized picture*

JOB DUTIES TO BE UNDERTAKEN
(Please tick against applicable ones)

- CHILD MINDING/BABY SITTING
- MINDING OLD/SICK EMPLOYER OR RELATIVE
- GENERAL HOUSEHOLD CHORES
 - Cooking
 - Marketing
 - Cleaning away after eating
 - Laundry
 - General tidying of house
 - Cleaning of house
 - Ironing
 - Removal of refuse for collection
 - Setting of table
- DRIVING
 - General driving duties and errands
 - Washing cars
- GARDENING
 - Maintaining garden in clean and tidy condition
 - Watering garden and pots
- SECURITY
 - Day time services
 - Night time services
- ASSISTANCE IN COMMERCIAL ACTIVITY
 - Preparation and sale of cooked food including
 - Baking
 - Others
- PLEASE SPECIFY OTHERS TO BE UNDERTAKEN
 -
 -
 -
 -
 -

Appendix 3

PROPOSALS BY
LAWA (GHANA) ALUMNAE INCORPORATED

TITLED
LABOUR (DOMESTIC WORKERS) REGULATIONS, 2007

LABOUR (DOMESTIC WORKERS) REGULATIONS

ARRANGEMENT OF REGULATIONS

- Part I — Purpose and Definitions
 - 1. Purpose
 - 2. Definition
 - Part II — Applicability
 - 3. Applicability
 - Part III — Contracts
 - 4. Employment Contracts
 - 5. Notice period and termination of employment
 - Part IV — Wages and Benefits
 - 6. Wages
 - 7. Social Security
 - 8. Living Standards
 - Part V — MAXIMUM HOURS, REST PERIODS, AND LEAVE
 - 9. Hours of work
 - 10. Annual Leave and Holidays
 - 11. Sick leave and medical care
 - Part VI — RIGHTS AT WORK
 - 12. Freedom of association
 - 13. Forced Labour
 - 14. Education
 - 15. Sexual harassment and domestic violence
 - Part VII — ENFORCEMENT
 - 16. Registration
 - 17. Enforcement of Contracts
 - 18. Application of this Instrument
 - 19. Savings and Transitional Provisions
- SCHEDULE 1: JOB DUTIES

IN exercise of the powers conferred on the Minister responsible for Labour by section 174 of the Labour Act, 2003 (Act 651), these Regulations are made.

Part I – PURPOSE AND DEFINITIONS

1. Purpose

This legislative instrument –

- (a) effectuates the national policies of protecting workers and encouraging development of the nation through development of our workers;
- (b) formalizes the employment relationship between domestic workers and their employers so as to begin the process of professionalizing the work of domestic workers and ensuring that these workers are not exploited by unscrupulous employers;
- (c) recognizes the importance of domestic workers to almost every household in Ghana; and
- (d) seeks to encourage domestic work as an honourable and adequately-remunerated profession.

2. Definition

(1) ‘Domestic work’ includes –

- (a) domestic chores performed in any home or domestic setting; and
- (b) other informal work for that employer such as selling goods in the market when performed by a worker who also performs household chores in a private home.

(2) ‘Domestic Worker’ means a person performing domestic work in any private home and may include –

- (a) househelps, house boys, drivers, gardeners, cooks, child minders, and any other person performing household chores; and
- (b) relatives who performs domestic work, but not members of the immediate family – husband, wife, child (including a step, adopted and forster child), mother, father – unless a work relationship is chosen by both employer and employee.

(3) ‘Employer’ includes any person who employs any domestic worker for any domestic work whatsoever.

(4) ‘Employs’ includes hiring for cash money, room and accommodations, school fees, any other remuneration, or no remuneration at all (see Part IV below).

Part II – APPLICABILITY

3. Applicability

These regulations apply to –

- (a) all domestic workers aged eighteen and above; and
- (b) all domestic workers aged fifteen to seventeen unless specific regulations governing the employment of these domestic workers are separately covered under the Children’s Act, 1998 (Act 560), PROVIDED that employment of children below the age of 15 years is prohibited by the Children’s Act and this should be strictly enforced by all stakeholders.

Part III – CONTRACTS

4. Employment Contracts

- (1) All workers employed for more than two months shall not work without a written employment contract.
- (2) A copy of the employment contract must be deposited at the District Labour Office and with the Assembly Member for the area within six months of employment by the employer or the recruitment agency. PROVIDED that in the case of illiterate domestic workers the witnesses to the agreement should be from the District Labour Office or from the District Assembly.
- (3) Any amendment to the contract must be deposited within two weeks of being drafted by the employer or the recruitment agency with the District Labour Office.
- (4) Contracts may provide for benefits, terms, and conditions of employment in excess of those identified in these regulations.
- (5) Under no circumstances may a contract specify benefits, terms, or conditions less than those provided for in these regulations.
- (6) All employment contracts shall include provisions regarding, at a minimum:
 - (a) Amount of total emoluments including frequency of payment of wages (daily, weekly, or monthly)
 - (b) Whether room and board will be provided.
 - (c) Hours of work, not to exceed those specified in Part IV
 - (d) Rest periods, not to be less than those specified in Part IV
 - (e) Overtime and holidays, not to be less than those specified in Part IV
 - (f) All job responsibilities (see attached Schedule 1 for examples of duties to be specified)
 - (g) The minimum qualifications or skills of the domestic worker as well as the education and/or training to be provided
 - (h) Health care provisions including requirements for registration with the National Health Insurance Scheme (NHIS).

5. Notice period and termination of employment

Except in the case of summary dismissal for gross misconduct, any party to an employment contract must give written notice for termination without cause, except when an illiterate domestic worker gives it, as follows:

59

- (a) One week, if employed for one year or less
- (b) Two weeks, if employed for more than one year
- (c) Four weeks, if employed for more than three years or more.

PROVIDED that in the case of an illiterate domestic worker the District Labour office and/or District Assembly officials shall be notified and involved in the process.

⁵⁹ Labour Act, 2003 (Act 651) sec. 17.

Part IV – WAGES AND BENEFITS

6. Wages

- (1) Domestic workers shall not be paid less than the national daily minimum wage. all benefits in kind to be provided by the Employer should be stated and quantified.
- (2) Part of the emoluments must be paid to the worker in cash wages and must be paid on a regular basis, which may be daily, weekly, or monthly, but should be no less than once a month.
- (3) Wages must be paid to the worker herself and may not be paid to a third party, to an agency or recruitment firm or organisation, or to a bank account controlled solely by the employer. PROVIDED that if the domestic worker is a minor part of the emoluments could be held in trust and given to the minor at the end of the employment.
- (4) If a domestic worker works more than nine hours per day, he/ she shall be paid overtime allowance.
- (5) If a domestic worker works on a day off (see Part IV), he/she shall be paid overtime wages as agreed in the contract of employment.

7. Social Security and Income Tax

- (1) Deductions must be made from the worker's wages for contributions to the social security system and to the Internal Revenue Service. ⁶⁰ Deductions may be made for union dues, if the worker requests the deduction. ⁶¹
- (2) Employers must pay the employer's portion of social security contribution for each domestic worker and ensure that the worker's portion is paid by deducting the worker's portion from the wages.⁶² The Employer may also register the domestic worker as an informal employee and ensure that provision is made for the domestic worker to pay periodic contributions.

8. Living Standards

- (1) Each live-in domestic worker must be provided adequate living conditions, including:
 - (a) Separate accommodation from the rest of the family unless the worker sleeps in a child's room and the child is less than ten years old. As much as possible a domestic worker should not sleep with a child or adult of the opposite sex.
 - (b) Access to toilet and bath facilities.
 - (c) Balanced diet.

Part V – MAXIMUM HOURS, REST PERIODS, AND LEAVE

9. Hours of work

- (1) A domestic worker may not be required without his/her permission to work more than 45 hours per week and any extra hours shall be compensated by overtime pay,
- (2) Each worker shall be provided a weekly rest period of thirty-six consecutive hours, which, at the worker's request, must include a religious observance day of the worker's choosing (*e.g.*,

⁶⁰ Social Security Law, P.N.D.C.L. 247, secs. 22(1) and (2) (1991) (Ghana).

⁶¹ Industrial Relations Act, Act 299, sec. 7 (1965) (Ghana).

⁶² Labour Act sec. 70(1)(b).

Friday, Saturday, or Sunday).⁶³ For example, a worker may attend church services on Sunday mornings or visit the Mosque on Fridays.

(3) Each worker shall be provided a paid break of thirty minutes per nine hours worked, in addition to a lunch break of one hour.⁶⁴

10. Annual Leave and Holidays

(1) Each worker shall be provided at least fifteen consecutive day's annual leave each year, with full pay.⁶⁵

(2) Each worker shall be granted leave from work on public holidays and shall be paid her full daily wage. PROVIDED that if a domestic worker is required to work during public holidays they shall be paid double their wage.

11. Sick leave and medical care

(1) Employers are responsible for paying for medical care for all domestic workers or should ensure that they are registered under the NHIS.

(2) Domestic workers are entitled to at least ninety (90) days paid maternity leave, upon presentation of a medical certificate indicating the expected date of birth.

Part VI – RIGHTS AT WORK

12. Freedom of association

Domestic workers have the right to form or join trade unions and enjoy all collective bargaining rights.⁶⁶

13. Forced Labour

(1) All forced labour is prohibited.

(2) Forced labour means work performed involuntarily and coerced by threat or injury. Forced labour does not include required penal labour or required military or community service.⁶⁷

14. Education

(1) Each worker has the right to skills training and/or formal education.⁶⁸ Employers, therefore, have the responsibility to provide continuing skills training (either personally or through vocational education programmes) or formal education at agreed terms.

(2) Skills training include training relevant to and useful for the domestic worker's employment. For example, skills training might include a brief course in child-minding or cooking. It could also include a course on food preparation safety or household first aid.

⁶³ *Id.* at sec. 57.

⁶⁴ *Id.*

⁶⁵ *Id.* at sec. 34; Draft Labour Bill, sec. 20 (15 days).

⁶⁶ Industrial Relations Act, 1965 (Act 299); Industrial Relations (Amendment) Act, 1971.

⁶⁷ Labour Act, sec. 114, 115.

⁶⁸ *Id.* at sec.. 9, 10.

(3) The Employer may also assist the domestic worker to develop a skill or vocation.

15. Sexual harassment and domestic violence

(1) All domestic workers have the right to be free from sexual harassment and violence in the workplace. Domestic workers may report any such problems to the District Labour Officer, who is required to investigate any allegations or a report, could be made to the district office of CHRAJ or to the Police.

(2) If the district labour officer determines that a worker is subject to sexual harassment or violence, that worker may terminate his/her contract immediately. A worker who is subject to sexual harassment or violence may terminate his/her contract immediately. The employer shall pay any monies due to the worker, a minimum of two months' salary, and one month's lodging for any worker who must leave the family's employ due to sexual harassment or violence. In addition, any such employer may be subject to criminal penalties.

(3) 'Sexual harassment' means any unwelcome, offensive, or importunate sexual advances or requests made by an employer or others within the employer's control (including the employer's children, other family members, and visitors to the home).⁶⁹

(4) Domestic workers are also prohibited from perpetrating domestic violence against the employer, her children or other relatives in the household. Employers may report any such problems to the district labour officer or to the Police for investigations to be carried out.

(4) 'Domestic violence' means any act of violence committed within the domestic setting which causes physical, psychological, social or economic harm as defined in the Domestic Violence Act, 2007 (Act 732).

Part VII – ENFORCEMENT

16. Registration

(1) Every Employer and domestic worker shall register the employment of a domestic worker with the District Labour Officer within three months of employment. All registrations shall include the age of the worker (including copies of birth certificates, where available).

(2) District Labour Officers have the right to conduct regular inspection of homes within the district to ascertain compliance with this provision.

17. Enforcement of Contracts

(1) Each provision of an employment contract between a domestic worker and her employer is enforceable. Any denial of rights under the contract may be enforced. Workers and employers may choose to resolve contract disputes through mediation, arbitration, or other alternative dispute resolution. However, use of alternative dispute resolution shall not limit any worker's recourse to enforce her contract in court.

(2) Strict enforcement: For the initial denial of a single right under the contract, a denial of wages for two consecutive months or at the request of the worker, the court shall order the employer to comply with the contract. The court shall also order the employer to pay a fine of 200 penalty units half of which will be given to the domestic workers and the other half to be paid into the Ministry of Manpower Development Youth and Employment Fund for Domestic Worker Training.

⁶⁹ *Id.* at 173.

(3) For cases in which the court determines the employer intentionally, knowingly, recklessly, or negligently violated the contract, the employer shall pay the worker's court costs and attorney fees.

(4) If a contract term provides for benefits, terms or conditions less than those provided in this legislative instrument, that contract term will be null and void. Each illegal contract term will be unenforceable and, in place of the void contract term, the court will hold the employer to the legal minimum benefits, terms or conditions.

18. Application of this Instrument

Contracts of employment may be more favourable than the requirements described in this legislative instrument or in the Labour Act. However, under no circumstances may the contract include provisions less favorable than those described here or in the Labour Act.

SCHEDULE 1: JOB DUTIES

- CHILD MINDING/BABY SITTING
- MINDING OLD/SICK EMPLOYER OR RELATIVE
- GENERAL HOUSEHOLD CHORES
 - Cooking
 - Marketing
 - Cleaning away after eating
 - Laundry
 - General tidying of house
 - Cleaning of house
 - Ironing
 - Removal of refuse for collection
 - Setting of table
- DRIVING
 - General driving duties and errands
 - Washing cars
- GARDENING
 - Maintaining garden in clean and tidy condition
 - Watering garden and pots
- SECURITY
 - Day time services
 - Night time services
- ASSISTANCE IN COMMERCIAL ACTIVITY
 - Preparation and sale of cooked food like
 - Baking
 - Others
- SPECIFY OTHER JOBS TO BE UNDERTAKEN
 -
 -
 -
 -
 -
- Any other lawful duties assigned not inconsistent with other job descriptions.