

Ghana TUC/WIEGO Women in Informal Sector Law Project



REPORT ON DOMESTIC WORKERS IN GHANA



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1. INTRODUCTION

Domestic work in Ghana like in most developing countries remains invisible and often not regarded work. Domestic workers in Ghana are mostly women and children as housekeepers, cooks and nannies; and men performing duties such as driving, security and gardening. The Ghana Living Standard Survey five (GLSS 5) estimated about 0.2 percent of the workforce in Ghana are domestic workers. There are more female domestic workers (0.2 %) than males (0.1%). However, a study by LAWA-Ghana (2003) found that there is at least one domestic worker in each household, and large houses could have as many as six.

Majority of domestic workers in Ghana live-in and perform variety of duties from cleaning, cooking and doing laundry as well as running errands which may include helping in family businesses outside the home. Adult domestic workers are of all ages and include migrants from other parts of the country. They have no or low education, and originate from lower socio-economic backgrounds.

Another significant aspect of domestic work in Ghana is the involvement of children. Often, families with higher socio-economic standing (and live in urban areas) arrange with family or friends to engage the services of their children. These children (mainly girls) may have dropped out of school or never been to school. In return, the employer (the family engaging the services of the child) is expected to enroll the child into skill training. The provision of sewing machine and enrollment into dressmaking has been one of the common incentives to girl domestic workers.

The traditional practices of fosterage¹ have blurred the link between fosterage and child domestic work. Many children fostered by relations or family friends have ended up in full time domestic work with no access to education as often expected. These children are often regarded 'family' rather than workers, though they undertake the work on full time basis at the detriment of their developmental needs such as education and health. There is high propensity for abuse of child domestic workers including sexual abuse. Indeed reports of such abuse have featured prominently in the media while many go unreported.

¹ It is common practice in Ghana for extended family members or friends with higher socio-economic background foster children of family or friends from low socio-economic background. The practice is expected to offer the children opportunity for better life. The arrangement often constructed verbally.

Domestic workers in Ghana have over the past decade received attention from Civil Society Organizations (CSOs). The Leadership and Advocacy for Women in Africa, Ghana Alumnae Incorporated (LAWA-Ghana) from 2003 to 2007 implemented a project to promote and protect the rights of domestic workers. The project drafted for passage by parliament, a Regulation aimed to address the problems faced by domestic workers. The LAWA-Ghana also developed a training manual and trained a number of the workers as well as developed a contract to assist in formalizing employment relationship.

Also in preparation towards the development of the ILO Convention on Domestic Workers, the Ghana Trades Union Congress and the International Union of Food, Agriculture, Hotel, Restaurant, Tobacco and Allied Workers (IUF) embarked on a number of initiatives to sensitize the public about the rights and responsibilities of domestic workers and their employers. Subsequent to the adoption of the Convention 189 on Domestic Workers by the ILO, the TUC began to examine the provisions in the Convention against those in the Labour Act to form the basis of advocacy for the rights of domestic workers.

This report highlights laws that impinge on the work of domestic workers, their wages and working conditions. It is informed by a review of primary and secondary data between July and December 2011. Interviews and focused group discussion were held with domestic workers, local authorities, employers and civil society organizations concerned with promoting the rights of domestic workers. The focused group discussion involved 16 women domestic workers.

2. LEGAL FRAMEWORK APPLICABLE TO DOMESTIC WORKERS

2.1. Employment Related Laws

Domestic workers are one of the few workers specifically mentioned by a section in the 2003 Labour Act (Act 651). Sadly, the mention of domestic workers is in relation to exclusions from certain safeguards afforded to workers in Ghana.

Generally, domestic workers in Ghana like all workers are protected by the 2003 Labour Act. The Act provides for the protection of workers' and employers' rights with specific provisions of various aspects of employment relationship such as conditions of work, protection of employment and protection of remuneration among others.

The Workmen Compensation Act (1984) mandates employers to provide compensation to employees who suffer injury in their line of duty, while the 2008 Pensions Act requires employers to make monthly social security contribution on behalf of their employees to cover for retirement pension (and health insurance). Yet, many domestic workers do not know their rights under the Acts.

2.2. Provisions in the Labour Act (Act 651) that impinge on the work of Domestic Workers

2.2.1. Maximum Hours of Work

Section 33 of Ghana's Labour Law, Act 651 on Maximum hours of work stipulates that: *"the hours of work of a worker shall be a maximum of eight hours a day or forty hours a week except in cases expressly provided for in this Act"*

In addition to the above, section 34 of Act 651 on Different hours of work states that: *"the rules of any undertaking or its branch may prescribe hours of work different from eight hours a day on one or more days in the week, subject to the following:*

- a. Where shorter hours of work are fixed, the hours of work on the other days of the week may be proportionately longer than eight hours but shall not exceed nine hours a day or a total of forty hours a week;
- b. where longer hours of work are fixed the average number of hours of work reckoned over a period of four weeks or less shall not exceed eight hours a day or forty hours a week; or

- c. In the case of an undertaking the work of which is of a seasonal nature, where longer hours of work are fixed, the average number of hours of work over a period of one year shall not exceed eight hours a day except that the hours of work which may be fixed under this paragraph shall not exceed ten hours a day.

Sections 40 to 43 also make provisions for rest periods such as breaks in between work, daily rest and weekly rest for workers. Domestic workers in Ghana are not covered by the above provisions. Section 44 of Act 651 stipulates that in additions to sections 40 to 43, “sections 33 and 34 do not apply to task workers or domestic workers in private homes”. Most domestic workers in Ghana work longer hours. In a focused group discussion with some workers, most stated they work more than 12 hours a day. Live-in domestic workers start work at 4:30am to 10:00pm when the family goes to sleep. They are the first to rise but the last to sleep.

2.2.2. The Operations of Recruitment Agencies

Section 7 (c) of Ghana’s Labour Law, Act 651 provides for a refund of 50% of fees charged a client by a recruitment agency , if the agency is unable to secure job placement for the client after three months. In other words, the law endorses the charging of fees by recruitment agency to secure an employment for a client contrary to provisions of the Domestic Workers Convention (C 189, 2011). Although Ghana has not as yet ratified Convention 189, observed abuse of the provision under the Labour Act calls for attention.

The deduction of fees from workers salary by employment agencies is common. In some cases, a proportion of the client’s salary is deducted by the agency over a period of up to 2 years or more, but others demand lump sum payment. Lack of monitoring and enforcement of labour standards especially in the informal sector has also resulted in non-compliance with Section 7(c). Often, recruitment agencies do not refund half of the fees charged as mandated when they fail to secure job placements for their clients.

2.3. Proposed Domestic Workers’ Regulation

In 2003, the Leadership and Advocacy for Women in Africa, Ghana Alumnae Incorporated (LAWA-Ghana) initiated a project to promote the rights of domestic workers in Ghana. The objectives of the project, among others, were to identify problems with the employment of domestic workers and advocate for the protection of their employment.

As part of the project, the LAWA-Ghana in consultation with stakeholders drafted and submitted to the Ministry of Manpower, Youth and Employment (now Ministry of Employment and Social Welfare) a Regulation on domestic workers titled “Labour (Domestic Workers) Regulation, 2007. The Regulation was expected to be passed by parliament but has not as yet been passed. It covers only domestic workers aged 18 and above. Like any other forms of child work, children domestic workers are covered by the Children’s Act (1998).

A domestic worker is defined by the Regulation as a person performing any domestic work in a private home and may include:

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

A domestic work according to the Regulation 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.

The Regulation contains essential provisions in seven parts covering main areas of the Labour Act. In addition, the Regulation includes provisions on sexual harassment and domestic violence as well as living standards for live-in domestic workers. Section 8 of the Regulation makes provisions for a balanced diet, separate accommodation (unless the workers sleeps with a child less than 10 years), access to toilet and bath facilities.

On wages and benefits, the Regulation provides that no domestic worker is paid below the national minimum wage. Employers are also mandated in accordance with the Pensions Act to make monthly pension contribution comprising of both the employer’s and the workers part of the contribution to the social security agency. The Regulation also stipulates that employment contracts of domestic workers should specify health care provisions including a requirement to register them with the National Health Insurance Scheme (NHIS). In practice, once workers are registered under the pension

scheme, they become eligible for the NHIS. They are only required to officially register to obtain the Identity card to enable them access the services.

Other important provisions in the Regulation are its attempt to ratify the anomalies in the Labour Act with regards to domestic workers. Contrary to section 44 of the Labour Act which exempts domestic workers from provisions on standard working hours and rest periods, the Regulation makes provision in these respects. The Regulation provides maximum hours of 45 per week, and mandates payment for overtime hours worked.

The Regulation provides for enforcement by mandating the registration of domestic workers with the District Labour Officer and permits regular inspection in private homes by the Officer to ensure compliance with the law. It however does not specify the modalities for inspection in private homes.

3. WAGES AND WORKING CONDITIONS OF DOMESTIC WORKERS

3.1. Wages

In accordance with Section 113 of the Labour Act (Act 651) the National Tripartite Committee determines the Daily National Minimum Wage (DNMW) annually. The 2011 DMNW was GH¢3.73. In February 2012, the NDMW was reviewed to GH¢4.48, indicating an increase of 20 percent. Majority of domestic workers involved in the study had no knowledge about the Minimum wage provisions in Ghana. The few who did, did not know the amount and perceived the minimum wage as applicable to formal sector workers. In a focused-group discussion (FGD) with 16 women domestic workers, they reported monthly wages ranging from GH¢50 to GH¢100 with an average of GH¢65. The average monthly wage reported by the participants was about 35 percent less the national monthly minimum wage (GH¢100.71) in 2011. In contrast, a domestic worker interviewed as part of this study stated a monthly wage of GH¢200. This worker has tertiary education qualification and was employed by expatriate family. She had also been allowed to pursue further education on part time basis. She however indicated that more duties have been added on what was originally agreed without additional remuneration. A study conducted by Osei-Boateng (2010) however revealed a relatively higher wages, ranging from GH¢80 to GH¢100.

Although majority of the domestic workers who participated in the FGD reported monthly pay below the current national minimum wage, most of them also indicated that their employers provide them with at least two meals in a day. In addition, those who live-in enjoy free accommodation from their employers. Some domestic workers reported they are provided toiletries and in rare cases (used) clothing.

The study revealed that the monthly salaries of the majority of the participants are paid irregularly. Due to the irregularity of payment of monthly salary, some of the participants reported that in some cases they are paid only a monthly's salary for two months of work. This is captured by one participant as:

Hmmm, the pay is small and very irregularly. Sometimes madam will give you the money fifteen days after the month ends. Even sometimes, you will only get a month's pay when in fact you have worked for two months.

Although all the participants indicated that they and their employers agreed on the wage, before commencement of work, it was reported that some employers sometimes reduce the salaries of domestic workers without even consulting them. In the words of a domestic worker:

When I was about to start the work, she told me that I will be paid GHC70 a month. However, she sometimes gives me GHC50 without any explanation.

Commonly, employment contracts are established by word of mouth and thus makes enforcement challenging. Domestic workers who are employed through recruitment companies receive less (sometimes half) the amount paid by the employer. The recruitment companies/agents deduct a portion of the wage as fees or charge a one-off fee for facilitating the employment. In the case of recruitment agencies however, the agreement is often established in writing. Most workers out of desperation for work sign such agreements.

3.2. Additional Duty without Compensation.

Although almost all the participants indicated that they had job descriptions at the commencement of work, most of them indicated that they have been given extra duties which do not come with compensation. A participant stated that:

When I was first employed, my madam told me that I will only be cooking and mopping the floor. Now I iron their clothes. I also sweep the entire house. She doesn't want to see me idle. If she sees that I have finished all my work, she will give me more work.....but she has not added anything to my salary.

3.3. Hours of Work

The provision under Section 44 of the Labour Act exempting domestic workers from the standard hours of work and rest periods perhaps has given room for abuse though many employers interviewed were unaware of provisions in the Act. Equally, domestic workers involved in the study had limited knowledge about the laws on working hours in Ghana.

Majority of domestic workers involved in the study work for more than 12 hours in a day. Typically, according to the participants involved in the study, the domestic worker, particularly the live-in is the first to rise but last to sleep. The participants reported that the day of a domestic worker starts around 4:30 am and ends about 10:00pm. For those who live-in, their only respite is when their employers and their families are asleep or at work. A participant summed up the situation of most domestics as follows:

Break? Who will give you break? They are not happy when they see you doing nothing. I start work before they get up, prepare the children for school. When they have gone out, there is still some work to do. I only get to rest when they are out and I am done with day's work. But when they are at home, they will make sure that I don't rest.

Above notwithstanding, some of the participants in the FGD, although very few, reported fairly good working hours. They reported between two to three hours of daily rest whether or not their employers are at home. One of such participants indicated that:

As for me, I start work around 5:00 am and close at 5:00pm. In the afternoon, I rest for about three hours.

The FGD revealed the few participants with such “comparatively good working hours” are mostly elderly women and mostly employed by expatriates. Most of them have also had long working relationship with their current employers. One of such participants reported having worked with a family for about 11 years. In Ghana, respect for the aged is a norm and this may partly explain the relatively better working conditions for the elderly participants in the FGD. Also, expatriate domestic employers have a higher tendency to adhere to employment regulations in Ghana. In contrast, an official at the Labour Department stated high reports of gross abuse of domestic workers by foreigners; citing Indians as the worst employers. However, it is likely that given the informal nature of engaging domestic workers by Ghanaian employers, most of such cases may have been resolved using similar processes. Thus formal complaints to the Labour Department are often not the option. Most domestic workers indicated quitting the employment when such abuses occurred instead of seeking redress in the law court. They believed they did not have the resources to pursue such course. Domestic workers working for expatriate often have relatively higher education and may have been employed through recruitment agencies, thus providing the impetus for the use of state institutions to seek redress when aggrieved.

3.4. Annual leave

Section 20 of Ghana's labour law, Act 651 provides that a worker who has worked for one year of continuous service in an undertaking is entitled to 15 days of annual leave with pay. However, most of the participants of the FGD were not aware of the annual leave provision. And for those who appeared to have some knowledge about it, they

have the misconception that annual leave provision is for government workers. Having explained the annual leave provision in Act 651 to the participants, one of them bemoaned that;

Who will give you annual leave, even Saturdays and Sundays you will work. Even on Christmas you will work. In this job, there are no holidays. If you go, by the time you come back, you would have been replaced.

3.5. Sick leave

Almost all, except a few, of the participants of the FGD do not enjoy sick leave with pay even though there are legal provisions for sick leave with pay in Ghana. Consequently, the health-seeking behaviour of most of the participants of the FGD is least desirable. Most of the participants reported that they take to self medication at home when they are sick. They only get the chance to visit the hospital when their situation is getting out of hand. Most of them also reported that they are solely responsible for their healthcare. Those who are members of the National Health Insurance Scheme registered and pay their own premium without any assistance from their employers. A participant lamented that:

Ah, even when you are sick, getting the chance to go to hospital is a problem. You have to work with your sickness.....I pay for my medical bills myself.

The above notwithstanding, a few of the participants, mostly the elderly and those working for expatriates reported comparatively better employment-related healthcare schemes . One of such participants indicated that:

When I am sick, the family takes me to the hospital. They pay for my medical bills and everything. I don't have to work when I am sick.

3.6. Social security

Ghana's Pensions Act 766 of 2008 provides that both employers and their employees contribute 13 percent and 5.5 percent respectively of the latter's salary as social security contribution. In addition, the Social Security and National Insurance Trust (SSNIT) has established an informal sector fund to provide social security for informal economy operators and serve as an additional social security for formal sector workers. None of the participants of the FGD indicated access to social security although majority of them know about the scheme and its benefits. Like the other working conditions and benefits, the participants perceive that the social security as the preserve for "government

workers". The workers therefore did not have social security numbers and did not expect their employers to make the stipulated contributions on their behalf. The workers were also not enthused to make complementary contribution (5.5. % of basic wage) as stated by the Pensions Act. They were also unhappy that their employers are also expected to make income tax deduction from their salaries.

At stakeholder workshop on domestic workers organized by the Ghana Trades Union Congress in 2010, employers of domestic workers who participated were not aware of their responsibility to contribute to social security on behalf of their workers. The obligation to pay maternity leave benefit to women domestic workers on confinement was received with negative reaction. Some employers quizzed rhetorically whether the worker would return to the household with her baby. In practice, domestic workers involved in the study stated that women workers lose their positions once they conceive.

The NHIS in Ghana is based on premium subscription for non-members of the social security scheme. Based on economic conditions subscribers pay between GH¢7.20 and GH¢48 to have access to benefits under the scheme. The scheme covers 95 percent of common illness reported in Ghanaian health institutions, their drugs and referrals. Some domestic workers involved in the study stated they had subscribed to the scheme.

3.7. Occupational Health and Safety

The participants of the study were oblivious of the fact that Ghana's labour law, Act 651 provides that it is the duty of an employer to ensure that every worker employed by him or her works under satisfactory, safe and healthy conditions. The participants indicated that their occupational health as safety is personal endeavours as their employers show little or no interest in it. The most common work injury reported by the participants of the FGD was knife cuts. Bodily pains was also reported as common health issue among the participants. One of the participants bemoaned that:

Because of the constant mopping of floor, I have developed this severe back ache. But because of poverty I still have to work with it.

3.8. Abuse and Harassments

Accounts by the participants of the study showed that physical abuse is absent and verbal abuse minimal. The accounts also show that age of the domestic workers to some

extent influence the tendency of being verbally abuse. This is because the few of participants who have experienced verbal abuse are young domestic workers. According to a twenty-four year old participant:

My madam [employer] can insult me from head to toe. Sometimes it is too bad that I don't even know what to do. The unfortunate thing is that I cannot insult her back.

Those who are also verbally abused also have relatively little experience in domestic work and this might influence the mistakes and “misdemeanor” which attract verbal abuses for their employers.

Only two of the participants of the FGD reported attempts of sexual harassment. While one of the two attempts was by the son of the participant’s employer, the other was by the “gateman” or security guard of the employer. The participants indicated that they avoided being sexually abused by aggressively defending themselves. They however did not seek any further action to seek redress.

4. THE STATE OF ORGANISING DOMESTIC WORKERS

4.1. The Industrial and Commercial Workers Union (ICU)

The Industrial and Commercial Workers Union (ICU) began organizing cooks and stewards in 1991. Later, it incorporated other categories of domestic workers including gardeners, drivers, private security and nannies. However, organizing activities stalled due to a number of challenges. Identifying and organizing domestic workers involved a huge cost, and so once the donor funds were exhausted, enthusiasm declined. As domestic workers are located in private homes, the union faced strong resistance from employers and even the workers who were afraid to lose their job.

The ICU reported a legal constraint which impeded its attempt to secure a collective bargaining certificate from the Chief Labour Officer as stipulated by the Labour Act. Section 80 of Act 651 states that two or more people employed in the same undertaking can form or join a union. It stated that since individual domestic workers have individual employers, it was difficult for them to have a union.

The ICU developed three types of contracts for the domestic workers it organised. The union noted that the contracts led to some workers losing their jobs while others secured good bargain. The ICU has since lost most of the workers organized. By 2010, the ICU had only about 500 domestic workers organized in Kumasi, the second largest city in Ghana.

4.2. The LAW A Ghana

In 2003, the LAW A Ghana Alumnae Incorporated a gender advocacy non-governmental organization that works to promote the rights of women workers in Ghana began organizing domestic workers; a project funded by a donor. It was successful in organizing groups of domestic workers mostly in urban centres such as Kumasi, Accra and Ho. The workers were organized along community-based associations. It developed training manuals and offered training programmes to members of organized domestic workers.

Like the ICU, LAW A's organizing activities stalled once projects funds were exhausted in 2006. This has led to loss of membership of the domestic workers' association. LAW A however continues to provide legal support on gratis to domestic workers who suffer injustice from employers. An official from LAW A stated the organization assisted a

domestic worker to through the National Labour Commission. The worker whose contract had been terminated unlawfully earned compensation following a favourable ruling of the Commission.

4.3. The Ghana Trades Union Congress

The Ghana Trades Union Congress has pursued ad hoc mobilization of domestic workers, often as part of project implementation. Particularly as part of the initiatives to gather inputs into the development of the ILO Convention on domestic workers, the TUC undertook a study and subsequently organized a sensitization workshop for groups of domestic workers. One of the sensitization workshops brought together stakeholders including employers of domestic workers. Inputs from the workshop formed part of submissions for the consideration of the ILO in developing the Convention on domestic workers.

The Ghana TUC is a member of national Task Force on domestic workers to discuss the ILO Convention for Domestic Work. The Task Force is also to develop a National Policy Framework on Decent Work for Domestic Workers. Following the adoption of the Convention 189 on Domestic Workers, the TUC in a project (funded by the Global Network) began to examine the provisions of the Convention 189 against the Labour Act. This is to form the basis for advocacy for provisions considered unfavourable to the welfare of domestic workers. At a stakeholders' consultative workshop held in April 2012, issues raised included "discriminatory" sections (such as working hours and rest period) and lapses in the Act in comparison with the ILO Convention 189.

Also in collaboration the WIEGO under the informal sector law project, the TUC has facilitated meetings with domestic workers intended to review together with the workers laws that affect them and to pursue a collective course for social justice.

4.4. The International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco and Allied Workers (IUF), Ghana Office

The Ghana office of the International Union of Food, Agriculture, Hotel, Restaurant, Catering, Tobacco, and Allied Workers (IUF) has championed series of activities in collaboration with trade unions and other civil society organizations to promote organizing and protection of the rights of domestic workers. In December 2009, the IUF in collaboration with International Domestic Workers Network (IDWN) and LAWA-

Ghana among others organized an advocacy campaign on the key issues that affect domestic workers. Also in 2011, the IUF participated in international forum on migrant domestic workers and organized meetings with domestic workers to document their concerns .

A latest development involved a forum held on the celebration of the International Women's Day in 2012 to gather support for advocacy for the ratification of the Domestic Workers' Convention (No.189) by the Government of Ghana and the Maternity Protection Convention (No.183).

5. CONCLUSION

Domestic workers in Ghana are children and adults of all ages. They are predominantly female and largely have low socio-economic background. Employers of domestic workers are both rich and poor. The LAWA-Ghana estimates that there is at least one domestic worker in each household with large houses having as many as six.

Like most workers in Ghana, the 2003 Labour Act (Act 651) makes provisions for the regulation of employment relationship. Sadly however, domestic workers are exempted from key provisions such as standard working hours and rest periods. The study gathered the exemptions are in consonance with the practice. Most domestic workers in Ghana work 12 hours a day, four hours more than the standard working hours stipulated by the Act for other workers. Majority are not entitled to breaks, rest days and annual leave.

Most employers of domestic workers as a result of lack of monitoring and enforcement do not comply with provisions in the Act binding on them. The peculiar situation of domestic workers is that private homes are not included in the definition of establishment by the labour inspection in Ghana. Most domestic workers involved in the study do not have access to social security and are solely responsible for workplace health and safety. Majority of domestic workers involved in the study also reported wages below the National Minimum Wage. Worst, these workers have no knowledge of their rights and believe the Labour Act relates to formal sector workers.

The need to have a separate legislative piece regulating domestic work is underscored by its peculiar nature. A clear definition of roles in domestic setting, standard working hours and rest periods are crucial to protect the wellbeing of workers. A legislative piece would be ineffective unless backed by enforcement strategies as outlined by the Regulations on Domestic workers drafted by the LAWA-Ghana. Trade unions and civil society organizations like LAWA-Ghana must mobilize support for advocacy for the adoption of a separate legislative piece regulating domestic work.