

# Legal and policy assessment report on child domestic workers in Uganda





## Acronyms

<b>ANPPCAN</b>	African Network for the Prevention and Protection against Abuse and Neglect
<b>BTVET</b>	Business, Technical and Vocation Education Training
<b>CDW</b>	Child Domestic Work
<b>EFA</b>	Education for All
<b>IDAY</b>	International Day of African Child and Youth
<b>ILO</b>	International Labor Organization
<b>MDGs</b>	Millennium Development Goals
<b>PEAP</b>	Poverty Alleviation Action Plan
<b>NAP</b>	National Action Plan for Elimination of Child Labor
<b>NCC</b>	National Council for Children
<b>NGOs</b>	Non – Governmental Organizations
<b>NSSF</b>	National Social Security Fund
<b>UPE</b>	Universal Primary Education
<b>UPPET</b>	Universal Post Primary and Education and Training
<b>USE</b>	Universal Secondary Education
<b>USHS</b>	Uganda Shillings
<b>WFCL</b>	Worst Forms of Child Labor

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Anthony Turyahebwa  
*Consultant*

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## EXECUTIVE SUMMARY

The study was an assessment on a **legal and policy framework** to identify gaps about Child Labor in Domestic Work and **to find out whether child domestic workers are recognized by law in Uganda**. In addition, it tried **to find out whether the education system caters for the domestic workers**. The assessment was commissioned by National Council for Children in partnership with IDAY in a project called “Stop Violence against Child and Young Domestic Workers in Eastern Africa and DRC through Education and Regulation”.

In 2012 the global estimate of child labor according to ILO was 17.2 million children aged 5-17 years working in a home of a third party and represented 6.5 % of the children in economic activity in this age group. **In Uganda in 2004, ILO estimates that 200,000 children were employed in child labor**; some children working in the worst forms of child labor. Child domestic work is part and parcel of domestic work that attracts most of unprivileged class of people. To protect this category of people, **in 2011, ILO adopted the Convention 189 on Domestic Workers**; a set of rules and procedures that govern the sector.

**The main objective of the assessment is to outline gaps in the laws and policies in Uganda.** The specific objectives include to:

- a) **Assess the legal provision** to find out whether domestic work is recognized
- b) Identify the opportunities and requirements for ratifying the **ILO Convention 189**
- c) Identify the opportunities for **better mainstreaming child domestic work** into the existing frameworks.
- d) Determine whether the existing educational policies and training programs accommodate the training needs of child domestic workers.

The methodology of the assessment followed a qualitative approach. This included desk reviews of documents / laws that relate to employment in Uganda and try to understand if domestic work is covered in these laws. A review of the existing education and training programs were undertaken to find out whether such programs accommodated the training needs of do-

mestic workers.

Here is an overview of the assessment / observations:

i) **The Employment Act (2006) does not offer protection to the domestic workers** basically because it does not consider the home where the domestic worker is based as a workplace and therefore a Labor Officer to enter into a homestead for inspection. **Occupation Health and Safety Act 2006 equally does not protect domestic workers** because it looks at employees at the work place.

ii) On issues of **social protection, domestic workers are not protected by the legal and policy framework**. **The National Social Security Act (1985)** provides for workers employed in the formal private sector leaving domestic workers without any social nets. **The Pension Act (1994)** provides for workers in the public sector.

iii) Whereas the **Education Act (2008) recognizes non – formal education** that is supposed to benefit domestic workers, **it does not specifically cater for them**. This is because non – formal education according to the Act is for those people with some level of formal education while majority of domestic workers have never been to school. And besides, the curriculum under non – formal is structured, full time, and not flexible to cater for domestic workers who work for a long time.

iv) **BTVET Strategic Plan (2012/12 – 2021/2)** does not list domestic workers as one of the priorities. **The National Action Plan on Elimination of Worst Forms of Child Labor (2012)** would be the relevant policy in terms of addressing issues of domestic workers as it incorporates child labor but because of competing priorities, it is never funded. So it has remained on the shelves of the Ministry of Gender, Labor and Social Development. **The National Child Labor Policy (2006)** equally recognizes child domestic work but does not give what should be done to protect them. **The Employment Policy (2011)** misses out on domestic work as it specifically targets women, youth, disabled and older persons.

To conclude, the assessment found out that **the legal and policy framework doesn't cater for the interests of domestic workers**. Domestic workers are a forgotten category of groups workers who operate in a relationship that is master – servant.

# CHAPTER 1: INTRODUCTION OF THE ASSESSMENT

## 1.1 BACKGROUND

Child domestic work is defined as work performed at households by somebody other than his / her home (doing cleaning, laundry, cooking and other domestic chores; caring for children; tending the garden; and running errands; amongst other tasks) and the individual involved is below 18 years of age. Most of the people involved in domestic work in Uganda are girl – children. They are exposed to many vagaries including exploitation, no pay or little pay, sexually harassed, pregnancy, work for longer hours and other inhuman treatment like denial of food.

Globally ILO estimates that there are 17.2 million children aged 5 – 17 (ILO; 2012) engaged in domestic work. They are usually underpaid or unpaid domestic workers in a home of a third party, representing 6.5% of children in economic activity in this age group .**In Uganda**, there are no accurate statistic about child domestic workers especially as the relationship between the child and the employer is hidden. However National Labor Force and Child Activity Survey (2011/12) estimate that there were **2,000,000 children of 5-17 years are working**. This accounts for **16% of the total children**.



On **16<sup>th</sup> June, 2011**, based on the fact that domestic workers are mostly excluded from labor legislation, **ILO adopted the Convention on Domestic Workers which the Ugandan Government is yet to ratify** and pass relevant legislation. The Convention is a set of rules and procedure that govern domestic work. It strictly forbids child labor in domestic work and provides for special measures to protect those workers who, because of their young age may be exposed to

risks associated with their work.

Because of the above conditions and the gaps in the legal and policy regime, IDAY is implementing a regional project “Stopping Violence against Child and Young Domestic Workers in Eastern Africa and DRC through regulation and education”, funded by the European Union. In Uganda, IDAY partnered with UCC, ANPPCAN and National Council for Children and commissioned an assessment of legal and policy to identify gaps about child labor in the country.

## 1.2 CONCEPTUAL FRAMEWORK

Given the high levels of poverty, children at the household level are seen as a source of labor. Labor is used in the production process of food and other household chores. The more children one has, the more the labor and thus he is more likely to produce more. In society, such a person is considered a rich person. **Child labor is entrenched in this societal as normal.**

There are families which are too poor to produce for themselves. Because children are seen as a source of labor and in some cases; wealth for girls, the children cannot manage to go to school even when there is free education; they cannot afford basic needs like books and clothing. **They opt to work for survival**; they work in exploitative relationship, either by their parents / guardians or their employers: by their parent, they might be required to surrender their pay to their families or by their employer, because they are under paid or not paid at all.



## 1.3 RATIONALE FOR ASSESSMENT

**Domestic work attracts the most unprivileged class of people and most of them are children** who by the very nature of their jobs are full time, not flexible to attend short courses. **Domestic workers' demand is on the increase** especially in the urban areas. **The terms of service** of these workers are unbearable: long hours, low or no pay, no access to social protection, are denied food, sleep in unfavorable conditions, and are exposed to sexual abuse while others are exposed to physical assault.

Whereas domestic work is becoming a job of very many people, **the law does not protect them**. Most of the above violations are meted to domestic workers but the law is silent about them. In Uganda, it is not clear whether a home- a work place for a domestic worker is considered a “work place” in the sense of law.

Findings of the assessment will inform advocacy efforts for review or/and amendment of policies and laws to ensure that they provide for protection of the rights of child domestic workers.

## 1.4 OBJECTIVE OF THE ASSESSMENT

The objective of the assessment was to **outline gaps in the laws and policies of Uganda in terms of recognizing the rights of domestic workers and protecting them against abuse**, particularly the children involved in domestic work.

Specific objectives include:

- a) Assess the legal provisions to find out whether domestic work is recognized by law,
- b) Identify the opportunities and requirements for ratifying the ILO Convention 189,
- c) Assess the extent to which child domestic labor is covered by existing child labor policies and protection systems and identify social services gaps,
- d) Identify the opportunities for better mainstreaming child domestic work into the existing frameworks,
- e) Survey the existing educational policies and training programs in the country to determine whether they accommodate domestic workers specific trainings and schedules.

## 1.5 SCOPE AND FOCUS OF THE ASSESSMENT

The assessment looked at the existing legal and policy framework in Uganda in three areas on which advocacy is foreseen :

- a) Integration of child domestic work in child labor policies and child referral mechanisms.

Preliminary information indicates that **child domestic work is not structurally integrated in policies and mechanisms** aimed at combating child labor and related forms of violence against children. Adding to that, the fact that **domestic work** is either **not recognized** as a fully-fledged profession or at best ill-defined creates loopholes for identifying and protecting children engaged in domestic labor. The foreseen assessments therefore aimed at outlining the shortcomings on this matter and **identifying the opportunities for mainstreaming child domestic work into existing child protection mechanisms**.



- b) Recognition of domestic work

**A detailed assessment of legal provisions or lack of applying to domestic work** in the country was made to inform advocacy foreseen on this matter. The opportunities and requirements were identified as: (i) for ratifying the ILO Convention 189, (ii) for explicitly integrating domestic work into the existing labor laws and (iii) for enacting these legal provisions.

- c) Training opportunities for domestic workers

A third focus of the assessment was made **to find out whether the existing training programs in Uganda already accommodated the domestic workers' specific training needs and schedules**. It was assessed both the policies and programs operated by the State and non-State actors to identify gaps and opportunities in terms of training for domestic workers. The researcher focused on the existing training programs in the country with a specific attention to:

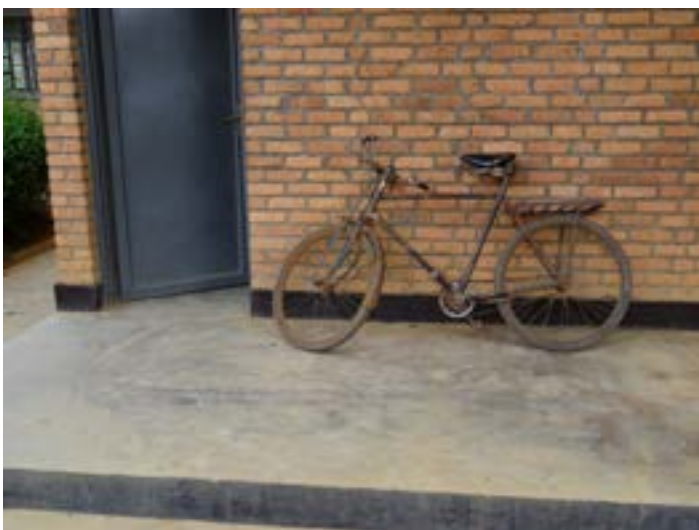
- i. Legal and policy provisions,
- ii. Accessibility of existing training programs (geographic distribution, total capacity, training schedules, tuition fees, entrance-level requirements),
- iii. Relevance of the curricula of these programs (literacy, topics covered by the vocational training),
- iv. The quality of the trainings provided and whether they are sanctioned by State-recognized diplomas

## 1.6 METHODOLOGY OF THE ASSESSMENT

a) The assessment used **desk reviews of the national legal instruments related to labor and employment**. The laws and policies reviewed included: Employment Act (2006), Business Technical and Vocational Education Training (BTVET) Act (2008), The Occupation Safety and Health Act (2006), The National Employment Policy for Uganda (2011), The National Child Labor Policy 2008, The Education Act 2008, The National Action Plan on Elimination of Worst Forms of Child Labor (2012/13).

b) The **selected laws and policies were reviewed to find out whether they covered child domestic workers** and highlighted shortcomings within the legal and policy framework about domestic work and whether ratification of **ILO Convention 189** and reinforcement of the laws will make a long way to reduce the abuse and exploitation of the domestic workers.

c) **The training programs** were also reviewed to find out whether they cater for domestic workers.





# CHAPTER 2: FINDINGS OF THE ASSESSMENT

In this section, different laws were reviewed to assess whether they covered domestic workers and whether domestic work is regulated by law. Gaps in the laws are presented: whether the laws gave protection to domestic workers or not.

## 2.1 EMPLOYMENT ACT (2006)

The law passed in 2006 **regulates all issues of employment in the country. It attempts to cover all sectors except domestic workers.** The legislation does not perceive a home where the domestic worker resides and works as a work place. Instead it considers a home as private entity, making it difficult for labor inspectors to inspect the home if they suspected any abuse of some sort. According to the law, Part 111 (Administration and Jurisdiction), Section 11 (1, a, b, c) the labor officer is supposed to “enter by day, any premise where he or she may have reasonable cause to believe that there exists violation of workers, and to carry out any examination, test or inquiry which he or she may consider necessary in order to satisfy himself or herself that the legal provisions of the law are being strictly observed”. In this section, **a home is outside the jurisdiction of a labor officer.**

In Part 1 (Preliminary), section 2 (Interpretation of terms), the law which is considered by the promoters as “an act that seeks to revise and consolidate the laws governing individual employment relationships”, falls short of consolidation when it is defining “employer” as “any person or group of persons including a company or cooperation, public, regional or local authority, a growing body an unincorporated associations, partnership, parastatal or any other institution or organization that whatsoever for whom an employee works”. **This means that a domestic worker who works for an individual is not covered by this definition.**

The same section 2 further defines an employee as “any person who has entered a contract of service or any apprenticeship contract including without limitation any person who is employed by or for the Government of Uganda including Uganda Public Service, local authority or a parastatal organization”. The framers of **the law wanted to protect workers in the formal employment leaving out those in the informal relationship like domestic workers.**

Section 32 of the Employment Act (2006), deals with rights of the children. **The law attempts to protect**

**under age children** who for whatever reasons work. It defines the age for entry to work and outlaws children of 12 years and below to be employed in any business, undertaking or a work place. The law continues to state that “child under the age 14 years should not be employed in any business, undertaking or workplace except for light work that be carried out under the supervision of an adult who is over 18 years and that work does not allow the children’s education”. **This clause**, however good it may be, **does not protect a child employed as a domestic worker** who needs protection more than children the law is purportedly trying to protect.



In the **recruitment process**, a person can be recruited in two forms: in the first instance a person may directly be recruited by the employer; the second method of recruitment may be by a recruitment agency on behalf of employers. The Act in section 38 (1) lays down procedures to be followed in either of the methods. The law says, “A person or his agent or messenger shall not engage in any business of operating a recruitment agency, unless he/she is in possession of a valid recruitment permit”. In the subsequent article, however, the act again says that “this section shall not apply to recruitment of employment for **domestic servant**”. It is not clear why domestic servant (domestic workers) **are excluded from the list of workers to be employed by recruitment agent.** Domestic servants should be included because of the nature of the sector: it is dominated by children that are exploited and their rights are often violated. Possibly it is because **domestic work is not recognized as a profession.**

The Act stipulates **terms and conditions of work which are unrealistic to domestic workers.** Section 53 deals with the length of working hours and states that a person shall not work for more than 48 hours per week. From experience, it is known that domestic workers work more than that. They work from Monday to Monday non - stop, and the hours of work per day range from 5.00 am to 10.00 pm contrary to what the law says (8.00 am to 5.00 pm) and yet the Act is not covering them.

## 2.2 EDUCATION ACT (2008)

Education Act (2008) aims at **streamlining and consolidating the existing laws** relating to the **development and regulation** of education, **training activities** and **repealing educations** and providing for other related matters.

The objectives of the Act include:

- a) To give full effect to education policy and functions and services by Government;
- b) To give full effect to the decentralization of education services;
- c) To give full effect to Universal Primary Education and policy of Government;
- d) To give full effect to Universal Primary Education and training of Government and;
- e) To promote partnerships with various stakeholders in providing education services in the country.



**The Act recognizes non –formal education** which suits domestic workers and defines non –formal education as “a complementary flexible package of learning designed in consultation with the indigenous community to suit the demands and lifestyle of the community and enrich the indigenous knowledge, values and skills with particular emphasis to literacy, numeracy and writing skills”. But **domestic workers are not covered by the Act** and therefore **they cannot access education provided under this Act**. Education under this Act is not flexible, making it difficult for domestic workers to attend.

The Act does not mention “child domestic work” maybe because the promoters of the law in their own wisdom though that since there is compulsory free universal primary education, there will not be any child to be involved in work that is risky to his/her body. Besides it goes on to say, “Government shall ensure a child who drops out of school before completing primary cycle of education, attains basic education

through alternative approaches of providing that education”. This sounds rosy towards reducing child labor but the mentioned alternative approaches to education are not there because of budgetary constraint. So **the law is good but the practice is bad for the children who dropped out.**



According to the Act, **primary education is free and compulsory**. A parent also commits an offence for not enrolling his child into Universal Primary Education (UPE) for the children. In the section of “Structure of Education”, article 3 states that “**primary education shall be universal and compulsory for pupils aged 6 years and above years which last for 7 years**”. It goes on further to state, “all children of school age shall enter and complete the primary education cycle of 7 years”. However, the analysis of pupil enrolment strongly suggests otherwise; not all is well with the program. According to Ministry of Education statistics, 1,598,636 pupils enrolled in primary one in 2006. By the end of primary seven, 29 % of these were able to sit for Primary Leaving Examinations. This means that **71% of children dropped out** possibly for early marriages or child labor.

**One of the causes of child dropping out of school by getting involved in work is poverty.** Most parents cannot afford school fees and other related amounts of money. The law was aware of that and it outlawed payment of any forms of fees: “no person or agency shall levy or do order any other to levy any charge for purposes of education in primary or post primary institution implementing UPE and Uganda Post Primary Education and Training (UPPET) program”. This was targeting at making (i) a school a preoccupation for children and (ii) the Act relevant to the child labor. But still parents can’t provide uniform to their children and children drop out of school.

## 2.3 BUSINESS TECHNICAL VOCATIONAL EDUCATIONAL AND TRAINING ACT (BTJET) (2008)

The Act provides for the **promotion and coordination of business, technical and vocation training, to provide for the financing of BTJET and other related matters.** Its specific objectives are:

- to define scope and level of BTJET program and the roles of different stakeholders in the provision of BTJET;
- to separate the training delivery of BTJET from the quality function;
- to establish an institutional framework for the provision of and coordination of BTJET;
- to specify the provisions of BTJET and;
- To provide for mechanism and establishment of organs responsible for the regulation of qualification (standard, assessment and certification and training delivery in formal and non- formal institutions).



In part 111 (Public and Private Providers), the Act provides for community polytechnics and vocational training centers. **Community centers** are meant to **provide low cost accessing training opportunities** for primary leavers and other target groups such as out school children, unemployed and underage persons. **Vocational training institutions** on the other hand are meant to **provide training leading to acquisition of appropriate skills** which are easily adaptable to changing economic and technological circumstances. The fact that the Act provides for non-formal that is flexible to the individual's needs is relevant to child domestic workers in terms of their training. But in practical terms, **domestic workers' nature of work and employment relationship does not enable them to access these informal courses.** This is because domestic workers are in fenced homesteads working more than 15 hours per day (5.00 am to 10.00 pm). In addition the employers of domestic workers cannot allow them time off for this type of training.



BTJET caters for people who had completed the primary level of education but majority of the domestic workers have either never been to any level of primary or have partially attended primary without necessarily completing it. Therefore **the Act leaves out the section of domestic workers.**

## 2.4 CONSTITUTION OF UGANDA (1995)

The Constitution is the **supreme law of Uganda** and any law that is inconsistent with this constitution is presumed to be null and void. It **provides for rights, privileges, obligation of all sections of people in Uganda.** The Constitution of 1995 chapter 4 **provides for the protection of the child** from hazardous exploitative work. It clearly states the rights of child. Children are to be protected from the social and economic exploitation and they should not be employed in or required to do work that is likely to be hazardous or interfere with their education. The work should not be harmful to their health or physical, mental, moral or social development.

It should be noted however, that such a clause in the Constitution, is **silent about children employed in domestic work.** It only talks about exploitative labor without being explicit about children concerned.

## 2.5 NSSF ACT 1985 AND THE PENSION ACT (1994)

**The National Social Security (NSSF) Act (1985)** provides for all workers in the **private sector** while the **Pensions' Act (1994)** provides for all workers in the public sector. The Pensions' Act provides for the grant and regulating of pensions, gratuities and other allowances in respect of the public service of officers under the Government of Uganda. **Both schemes don't cover domestic workers.** Under the current NSSF law, an employer having 5 workers is supposed to register them with NSSF and pay for them 10% and an employee pay 5% of the gross pay. After retirement at 55 years (NSSF) and 60 years (pension), an employee is entitled to the benefits saved in the two schemes. By the NSSF Act stating 5 members, it **alienates majority of the workers** in the informal sector particularly domestic workers because households can rarely recruit 5 workers. Because of this, **domestic workers are not covered by the current social protection measures.**



sequence of their work (including canteens and living quarters onboard of ships). **Here the law does not mention a home.**



## 2.6 OCCUPATIONAL HEALTH AND SAFETY ACT (2006)

**The law aimed at consolidating, harmonizing and updating occupational safety and health.** The framers of the law did not think that a home is a work place and **did not attempt to protect the domestic workers.** The law defines: "all places of work and all sites where and all areas where work is carried out including not only permanent, indoor, stationary places of work such as factories, shops but also temporary places of work such as engineering sites, open air places, such as fields, forests, oil refineries and mobile places of work such as cabs, trucks, tractors and excavators, ships, gallery, freight decks of aircrafts and without exception; places where workers are found as a con-

# CHAPTER 3:

## SURVEYING THE EXISTING EDUCATIONAL POLICIES AND TRAINING PROGRAMS

This chapter presents different training education programs and how they are catering for domestic workers. It gives the argument that despite the Government's policy to provide Universal Primary Education (UPE), majority of pupils (72%) don't complete P.7 and the curriculum and time schedule are not for domestic workers' interests. The chapter further presents the findings of Universal Secondary Education, Advanced Level and BTJET on whether the interests of domestic workers are catered for.



### 3.1 UNIVERSAL PRIMARY EDUCATION (1996)

Universal Primary Education (UPE) was a program started in 1996 as part of the Government policy to **provide free education to 4 children per parent** although it later absorbed all the children. The adoption of the said policy was to **increase access, equity and quality of primary education** with the view to **eradicate illiteracy** and subsequently transform so-

ciety from the doldrums of poverty. This was also in line with the Poverty Eradication Action Plan (PEAP) of 1997 and the Education Sector Strategic Plan of 1998-2003. The adoption of the UPE Policy also demonstrated the country's commitment to the achievement of the Millennium Development Goals (MDGs) and Education for All (EFA).

### 3.2 UNIVERSAL SECONDARY 2007 EDUCATION

**In 2007, Uganda became the first country in Sub-Saharan Africa to introduce Universal Secondary Education.** Under the secondary scheme, students who get specific grades in each of the four primary school-leaving exams study free in public schools and in participating private schools. The government pays the schools an annual grant of up to US\$ 141,000 (43.5 €) per student, spread over three school terms. Parents, though, have to provide the students' uniform, stationery and meals. It is a 4-year formal program with a designed curriculum where a student is on full time instruction of the teacher.

**Like UPE, the program is not suitable for domestic workers who work full time** and are at the mercy of a master who in most cases will not allow this domestic worker to attend school. Besides, majority of domestic workers have neither gone to school at all nor have finished the whole of primary level education, a prerequisite to enter to secondary.

### 3.3 NON – FORMAL PROGRAM BY THE MINISTRY OF EDUCATION (2010)

Launched by the Ministry of Education in 2010, the program was meant to **provide non - formal skills' training so that young people can get employment.** It offers courses like baking, tailoring, hair dressing among others. For children in domestic work, it is difficult for them to access this type of education for reasons best known (the master not allowing the child to access the information about the program since the child domestic worker is at the place of work and he/she is cut from the outside world).

The program recognizes adult education as one of the key education programs identified as crucial for increasing the ability of the poor to raise their incomes and enhance the quality of life of the poor. For domestic workers who are not children, this would be the best opportunity to access skills for themselves but again, they are unable to access these skills. **Employers would not allow domestic workers to attend such courses.**



**on the domestic workers.** It touches on the informal workers but with no direct reference to the domestic workers. It acknowledges that the informal sector is growing and generates both wage and self-employment opportunities in unregistered small and micro enterprises but does not give details.

The policy in section 3.6 talks about the vulnerable groups and specifies the categories of women, youth, disabled, older persons and excludes the domestic workers. It does not spell out what should be done to help them.

**Child labor is covered** in the policy in section 3.7 (Labor Administration and Standards) and said to be an impediment to education and training programs, as well as human capital needed for employment creation. Child labor also undermines national economic development by creating cycles of intergenerational poverty. Child labor perpetuates the problem of underemployment among young people by keeping them in low paid and despised low skill occupations. **Apart mentioning it, there is no policy prescription regarding those children involved in domestic work.**

### 3.4 NATIONAL EMPLOYMENT POLICY (2011)

### 3.5 NATIONAL ACTION PLAN ON ELIMINATION OF WORST FORMS OF CHILD LABOR (NAP) (2012)



The Employment proposes an integrated framework for a macroeconomic environment that provides linkages of employment creation to labor absorbing economic sectors. The policy was as a result of wide consultations in which different stakeholders including workers' organizations and employers' organizations were involved. **The document gives policy guidelines on employment.**

The policy, however, **does not give policy guidelines**



The NAP is the national policy framework 2012/2013 - 2016/2017 and is a 5-year plan that is **aimed at eradicating the worst forms of child labor in Uganda by the year 2017.** It makes schooling a preoccupation of every child in Uganda. It has 6 strategic objectives:

1. To increase enrolment and completion of primary level education and access to appropriate skills training programs for children withdrawn from WFCL;
2. To increase access to social protection and social assistance services to households affected by child

labor and those at risk of the WFCL for sustainable livelihoods;

3. To increase public awareness on the causes and consequences of the WFCL and to mobilize society to take action;

4. To strengthen legal, policy and institutional framework to prevent entry of children into the WFCL;

5. To withdraw, rehabilitate and integrate children in the WFCL within their families and communities;

6. To enhance tripartism among government, employers and labor unions in addressing the problem of child labor.



The plan incorporates child labor and most importantly child domestic work. In the section that analyses the forms of child labor, **the plan recognizes the challenge of child domestic workers**. The plan tries to give child labor a policy prescription as it **gives possible solutions to the vice**. It gives **5 key strategies**;

1. Access to education and vocational training

2. Strengthening household livelihoods through alternative forms of income for families affected by the worst forms of child labor

3. Advocacy and awareness raising

4. Strengthening the capacity of all relevant institutions, reviewing the legal framework as well as improving coordination and tripartism to enable effective delivery of elimination of child labor responsive programs

5. Rehabilitating and integrating children involved in the worst forms of child labor and instituting programs for sustainable livelihoods

**The National Action Plan is the only relevant instrument which can address issues of child domestic workers in Uganda.** However, given the huge amounts of money in its costing, it is still a dormant plan in the Ministry of Gender, Labor and Social Development. The plan lacks resources to implement its activities.

## 3.6 NATIONAL CHILD LABOR

### POLICY (2006)

The National Child Labor Policy (2006) and its simplified version (2010) provide the principal and legal framework for collective and sustainable action to **combat child labor** starting with worst forms of child labor. The main objectives of the policy are:

a) To integrate child labor concerns into national, district and community programs and plans.

b) To establish a legislative and institutional framework to initiate, coordinate, monitor and evaluate child labor programs and.

c) To stimulate collective and concerted efforts, at all levels to eliminate child labor.

The Uganda National Child Labor Policy 2006 acknowledges that **education is one of the key strategies for combating child labor**. Increased access to relevant quality education opportunities would enable children to develop their capacities and sustainably provide for their families when they become adults and break the cycle of poverty, unemployment, indentured work and child labor.

Section 3.2 of the policy gives a descriptive narrative of the situation in Uganda but **lacks a policy prescription**. It does not prescribe what is best to be done to solve the situation. It only says that several studies were conducted by several organizations: National Council for the Children, Women and Youth Services, Platform for Labor in Action.



The policy talks about the importance of inspection, “strengthen the capacity of the Ministry of Gender, Labor and Social Development and in particular the Labor Inspectorate and Occupation Safety Health Department, through recruitment and training, in order for them to undertake investigations, inspection and monitoring of hazardous child labor, including domestic service in collaboration with other sectors”. But the

inspectors (labor officer) do not have a mandate to inspect a home where this domestic worker is based. This is a gap relating child labor its enforcement because **the right of domestic worker is abused since the “home” cannot be inspected.**

In section 11.3 the policy stipulates withdraw, rehabilitation and alternatives for livelihood for the children and their families. But this policy prescription is not possible because withdrawing for the case of domestic workers needs a law that permits those who are withdrawing child domestic workers. It will work with other forms of child labor but not child domestic workers.

- d) Adults who have a few avenues to learn new skills;
- e) Persons living in Karamoja and Northern region who have considerably fewer employment opportunities.

An analysis of the above gaps shows that **domestic work is not included.** Possibly it was inferred in

- c) “females who are highly concentrated informal sector”, bearing in mind that females form a big part of domestic work. In short the **provisions of BTJET don’t give a chance to domestic workers to access non –formal education that would suits their timing.**

### 3.7 SKILLING UGANDA: BTJET STRATEGIC PLAN 2012/3 TO 2021/2



The strategic plan which hinges on BTJET Act (2008) is designed to address major challenges regarding relevancy, quality access, equity, management and financial sustainability of BTJET. The plan was a paradigm shift to educational sub-sector into a comprehensive system of skills development for employment, enhanced productivity and growth. **The main purpose of the plan is to create employable skills and competencies relevant in the labor market instead of educational certificates.** It will embrace all Ugandans in need of skills, not only primary and secondary school leavers.

However issues of **domestic workers were not directly covered** by the plan. In the background analysis of BTJET, several groups were identified as having been excluded from BTJET as:

- a) Low income groups who cannot afford the cost of training;
- b) Those who dropped out before completing primary level;
- c) Females who are highly concentrated in the tradition female sector;



# CHAPTER 4: IDENTIFYING THE OPPORTUNITIES AND REQUIREMENTS FOR RATIFYING ILO CONVENTION 189 AND MAINSTREAMING CDW INTO THE EXISTING LEGAL FRAMEWORKS

On 16th June, 2011, the International Labor Conference of the ILO adopted a Convention (Convention No, 189) concerning decent work for domestic workers. **The Convention offers specific protection to domestic workers** and lays down the basic rights and principles and requires states to take serious measures with the view of **making decent work a reality for domestic workers.**



**The Convention sets the minimum standards regarding freedoms** like respect and protection of fundamental principles and rights at work: a) freedom of association and the effective recognition of the right to collective bargaining agreement; b) elimination of all forms of compulsory labor; c) abolition of child labor and elimination of all discrimination.

In respect to employment, the Standard deals with all issues of **protection against all forms of abuse, harassment and violence.** It further states that a domestic worker must be informed of his/her terms and conditions of service in a language that he/she clearly understands and preferably these terms and conditions should be summarized in a written contract.

On hours of work, the Convention clearly stipulates

that **domestic workers should get equal treatment with workers elsewhere** because they are also workers like their counterparts who are covered by law. Issues of overtime, leave, weekly rest and annual leave should be accessed by the domestic worker. On remuneration, the Convention says that there should be a minimum wage for domestic workers so that they are not underpaid.



**According to the Convention, domestic workers have a right to a safe working environment** and urges states to put measures in place to ensure their occupational safety and health. On social protection, countries should not set conditions that are less favorable than those enjoyed by workers elsewhere.

## 4.1 OPPORTUNITIES

**Uganda has not ratified Convention 189** (decent work for domestic workers) just like many African countries. Out of 17 countries that have ratified the Convention, only South - Africa and Mauritius have ratified it in Africa. The process of ratification in Africa is slower mainly because there are no mass movements of domestic workers existing and operating like such movements in South America, India and Central America. Ratification efforts in Uganda has been championed by the NGOs and the weak Trade Unions.

**Domestic work remains a virtually invisible form of employment** in many countries and many domestic workers endure very poor working conditions, in-

cluding underpayment of wages, long working hours, inadequate privacy and the threat of sexual harassment. **Ratifying the ILO Convention 189 will bring domestic workers in line with all other categories of workers**, giving them the right to exercise and enjoy protection under all existing labor legislation. Access to justice and equality before the law is for all.



The opportunity for ratification of the ILO Convention 189 is that currently the Employment Act (2006) is under review. The Law Reform Commission of Uganda commissioned a research about the Employment Act (2006) and how issues of domestic workers can be incorporated into a new law. The review is meant to correct any missgiving the law neglected. **Domestic workers are seen as a category which was excluded and there are proposals to include the rights of domestic workers.**



## 4.2 IDENTIFY THE OPPORTUNITIES FOR BETTER MAINSTREAMING CHILD DOMESTIC WORK INTO THE EXISTING LEGAL FRAMEWORKS

There are better opportunities for mainstreaming child domestic work in the existing legal frameworks. In the Employment Act (2006), **the law could be amended to include domestic workers removing restrictions on a household.** The household should be legalized as workplaces and thus subjected to labor inspection for under age children and violations of rights.

The ILO Convention 189 represents a real opportunity to improve decent work for domestic workers. **Ratification of this convention is a key** and after the ratification, the government is supposed to pass relevant legislation and policy frameworks to protect the interest of domestic workers. **Currently, there is a processing going on about the review of the Employment Act (2006)** and equally, there is a debate about the rights of domestic workers and how it should be integrated into the existing law.

# CHAPTER 5: CONCLUSIONS AND RECOMMENDATIONS

In this section, conclusions and recommendation are presented: in the first instance **domestic workers are not recognized by the legal regime** making it difficult for labor inspectors to inspect the “home” in case of violation. This is because the “home” is not considered as a “work place”. The laws that don’t recognize domestic workers are: the Employment Act (2006), the Occupational Health and Safety Act (2006), the NSSF Act (1995), The Education Act (2008) and the BTVET Act (2008). However, the National Action Plan on the Elimination of Worst Forms of Child Labor and The National Child Labor Policy recognize child labor.

## 5.1 CONCLUSIONS

Generally, there is limited access to education and training programs for domestic workers. However, even when domestic workers are given the opportunity, the long working hours and requirements of the job often make it impossible to take education. **The inflexibility of the formal education system is seen as an obstacle to education / training.**

**The BTVET Act (2006)** that tries to address issues on non formal education and has flexible programs to fit domestic workers **discriminates domestic workers** because majority of them have not completed primary levels. And besides, employers / masters don’t allow them to attend these courses even if they were qualifying for them.

On the policies, **the National Child Labor Policy gives a policy descriptive but lacks a policy prescription.** It lacks concrete strategies on how to deal with child domestic workers. Equally, the National Employment Policy (2011) gives policy guidelines on employment without direct reference to child domestic workers.

Currently, **there are opportunities and requirements for ratification of ILO Convention 189** (Decent Work for Domestic Workers) because there are of serious debate on the rights of domestic workers that are not covered by the existing law. Initially, there was a view that domestic work is not work and therefore they don’t have to be protected. But there has been a paradigm shift to the effect that a domestic worker is like any worker in the formal sector that must be covered by law. Fortunately the Government is reviewing the Employment Act (2006) and **issues of domestic workers are expected to be addressed.**

**The existing policies and training programs don’t accommodate domestic workers.** This is because domestic workers have not been covered by law and besides their contribution is not clearly known. The education and training programs, like BTVET, have minimum entry qualifications which make it inaccessible by the child and young domestic workers. Universal Secondary Education (UPE) and Universal Primary Education (UPE) are structured, formal and not flexible to the needs of child domestic workers who cannot access them. The non – formal programs also are inaccessible because of employers’ inability to allow the domestic workers to attend.

**Child labor can be mainstreamed into the existing legal and policy frameworks** by having affirmative actions. For example, when the Government introduced UPE that was mandatory for everybody, it was thought that all the children were going to school. Besides it was thought that it was illegal not to be at school and there were no incentives to deal with those that did not go to school.



## 5.2 RECOMMENDATIONS

There should be legal and policy reforms so that issues of child domestic workers are integrated into the laws and policies of the country.

**The definition of a work place should be expanded to include a home** so that the labor officer can inspect the home in case there are reported violations. These include the 1995 National Constitution, the Employment Act (2006), the Occupational and Safety Act (2006), Education Act (2008) and the BTVET Act (2008).

**The National Social Security Fund Act should be amended to include domestic workers.** The number of 5 workers to qualify to pay NSSF should be scrapped off. This is because domestic workers need more social protection than the other formal employers.

**Efforts for the ratification for the ILO Convention 189** (Decent Work for Domestic Workers) **should be stepped up** since there is consensus that there is a need to protect the rights of domestic workers. This will be a precursor to passing relevant legal and policy framework for domestic workers.

**Government should step up campaigns to the general population** that domestic work is work and that child domestic workers should be discouraged. The Ministry of Gender, Labor and Social Development should coordinate all the stakeholders who are involved in the campaign against child domestic workers.

There is a **need for a training program that is flexible and accessible to domestic workers** that fits within the time frame of the domestic workers so that the domestic workers can benefit from Skilling Uganda.

In the law reform regarding domestic workers, **it is important to have a separate law from the employment law** basically because there are too many issues which the employment law is supposed to cover yet domestic workers' law also has many thing to cover. Combining the two would mean that one law would be at the expense of the other. So it is recommended that there are two laws: Employment law and Domestic Workers' Law.



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