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A Situational Analysis of Domestic Workers in the United Republic of Tanzania

ILO Country Office Dar es Salaam



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A Situational Analysis of Domestic workers in Tanzania

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Foreword

When the 100th Session of the International Labour Conference adopted the Domestic Workers Convention (No. 189) and Recommendation (No. 201) in June 2011, hope was restored to millions of workers worldwide who have been fighting not only for their rights, but also to be recognized as valuable contributors to the well-being and functioning of families, labour markets and economies. ILO Member States like the United Republic of Tanzania, many of whom had long established laws and policies aimed at improving the social and labour protection of domestic workers, were quick to express their political commitment to the cause, including the intention to ratify the Convention. But as time would tell, making decent work a reality for domestic workers requires a lot more than just good intentions. It requires a combination of policy interventions resulting from informed and meaningful policy dialogue, awareness and understanding of the specific nature of domestic work, the varied employment arrangements in which domestic workers are employed, and the national legal regimes and socio-economic circumstances facing each Member State.

It is in recognition of the significance of developing a sound knowledge base on domestic work that representatives of employers and workers organizations and the Government of the United Republic of Tanzania, in a tripartite meeting held in May 2012, requested the International Labour Organization (ILO) to conduct a situational analysis of domestic workers in the country.

This Report outlines findings in three key elements in the domestic sector in Tanzania: national legal frameworks protecting domestic workers; the demographic characteristics of domestic workers and the existing working conditions in the sector. Apart from the already expressed desire to ratify the Domestic Workers Convention, 2011 (No. 189), the employers and workers organizations and government of the United Republic of Tanzania need not only implement policy intervention aiming at making decent work a reality for domestic workers but also they need to cultivate an environment for domestic workers to invest in themselves and consider themselves as workers.

Even though this publication reports on data collected in 2013, the publication still captures the real situation on the ground today. There has been negligible changes into the sector since 2013. The report identifies several policy directions for realizing decent work for domestic workers which can be summarized into four categories: defining the scope of Coverage of Domestic Service, formal recognition of domestic workers as real workers, on the importance of employment contracts and a paper trail and the need to clarify key notions and concepts for domestic workers.

Like other international labour standards, decent work for domestic workers strongly contributes to the ILO's fundamental objective of social justice. At the same time, making decent work a reality for domestic workers is a challenge for all countries, ILO member States and non-members alike.

It is my hope that this Report contributes to addressing this challenge in the United Republic of Tanzania by creating the sound knowledge needed for policy makers to intervene in this important sector. Also by sharing the methodological experience of capturing information in this sector which has often remained understudied.



Mary Kawar

Director

ILO country office for Tanzania, Kenya, Uganda, Rwanda and Burundi.

Acknowledgements

This Report has been designed, laid out and prepared by Annamarie K. Kiaga (Ph.D.), ILO Youth Employment Technical Manager and UNDAP Coordinator and assisted by Modesta Medard (Ph.D) an ILO Consultant, Kokushubila Kabanza, the then National Programme Officer Making Decent Work a Reality for Domestic Workers Project, who contributed to drafting parts of the Report and Rehema Shija, the ILO National Programme Officer, Making Decent Work a Reality for Domestic Workers Project, who contributed into the review, finalization and layout of the report.

The work on which this report is based was conducted by Tulia Ackson (Ph.D.), Senior Lecturer at Faculty of Law, University of Dar es Salaam, who conducted the legal comparative analysis of the Domestic Workers Convention, 2011 (No. 189) and National Laws and Regulations; Godious Kahyarara (Ph.D.), Senior Lecturer at Economics Department, University of Dar es Salaam, who was the lead researcher in the Rapid Empirical Survey of Domestic Workers and Opportuna Kweka (Ph.D.), Senior Lecturer at Geography Department, University of Dar es Salaam, who led the Qualitative Research on Working Conditions of Domestic Workers. The work was developed under the general guidance of Amelita King-Dejardin, Senior Technical Specialist on Domestic Work in ILO'S Inclusive Labour Markets, Labour Relations and Working Conditions Branch (INWORK), who designed the methodology of the qualitative research and Farhad Mehran, an ILO Consultant who designed the rapid empirical survey methodology, to whom the team is grateful without implication.

Many others, inside and outside the ILO and the University of Dar es Salaam, provided necessary support in the implementation of the situational analysis. The Office of the Second Vice President in Zanzibar and Dar es Salaam Regional Administrative Secretary for grating us the research permits; Ministry of Labor in Zanzibar, Ministry of Labor in Dar es Salaam and CHODAWU in Dar es Salaam for their assistance in organizing focus group discussions. Our gratitude also goes to the ward leaders (Shehia's), the ten-cell leaders in Zanzibar and Dar es Salaam who allowed us to conduct the study in their areas and for introducing us to the people in their areas. The team would also like to acknowledge the generous support of Mr. Mohamed Seif of Zanzibar University and Ms Faida Saleh of Department of Statistics who assisted with the introduction at the ward level in the urban and rural Zanzibar respectively. Additional support was also provided by Irene Eusebi, Sara Luhanga, Victor Geoffrey, Zahor K. Zahor and Pilly Silvano. We also acknowledge the support of Christine Noe (Ph.D.) in qualitative research data analysis and many individuals who worked hard in transcribing all the interviews. The team benefited greatly from a wide range of consultations with domestic workers and employers of domestic workers who participated in the in-depth interviews and focus group discussions and the team wishes to thank them for their time.

Abbreviations

ATE	Association of Tanzania Employers
CHODAWU	Conservation, Hotels, Domestic and Allied Workers Union (For Tanzania and Zanzibar)
CMA	Commission for Mediation and Arbitration
DHU	Dispute Handling Unit
ELRA	Employment and Labour Relations Act
GN	Government Notice
ILO	International Labour Organization/Office
KIWOHEDE	Kiota Women Health and Development Organization
NEP	National Employment Policy
NSSF	National Social Security Fund
PEA	Private Employment Agencies
PEPA	Private Employment Promotion Agencies/Agents
SSRA	Social Security Regulatory Authority
TaESA	Tanzania Employment Services Agency
TUCTA	Trade Union Congress of Tanzania
TUICO	Tanzania Union of Industrial and Commercial Workers
TZS	Tanzanian Shillings
USD	United States Dollars
ZANEMA	Zanzibar Employers Association
ZATUC	Zanzibar Trade Union Congress

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Overview

In recognition of the significance of developing a sound knowledge base on domestic work in order to facilitate informed, meaningful policy dialogue, awareness raising and action towards promoting decent work for domestic workers, representatives of employers and workers organizations and representatives of the government, in a tripartite meeting held in May 2012, requested the International Labour Organization (ILO) to conduct a situational analysis of domestic workers in the United Republic of Tanzania. This was accomplished in three stages. The first stage was a comparative legal analysis of the Domestic Workers Convention, 2011 (No. 189) and national laws and regulations. The second stage was a rapid empirical survey of domestic workers while the third stage was a qualitative research on their working conditions.

Who are Domestic Workers?

The Domestic Workers Convention, 2011 (No. 189), the recently adopted international labour standard for the sector, defines domestic work as “work performed in or for a household or households” and a domestic worker as “any person engaged in domestic work within an employment relationship.”

Both mainland Tanzania and Zanzibar maintain different definitions of domestic work or domestic workers. The *Regulation of Wages and Terms of Employment Order of 2010* (Mainland) defines a “**domestic servant**”¹ to include any person employed wholly or partially as a cook, house servant, waiter, butler, maidservant, valet, bar attendant, groom, gardener, washman or watchman.

1 As used in the Employment Order of 2010

In Zanzibar, domestic work is defined in Section 3(1) of the *Employment Act No. 11 of 2005* as “work in a family home but excludes the worst forms of child labour.” Both definitions exclude employees employed wholly or partly in connection with or in relation to any commercial or industrial enterprises since they are protected under other national provisions although Zanzibar recognizes those working in small and medium scale shops as domestic workers. In addition, Zanzibar excludes workers under the disguise of family ties or relationship.

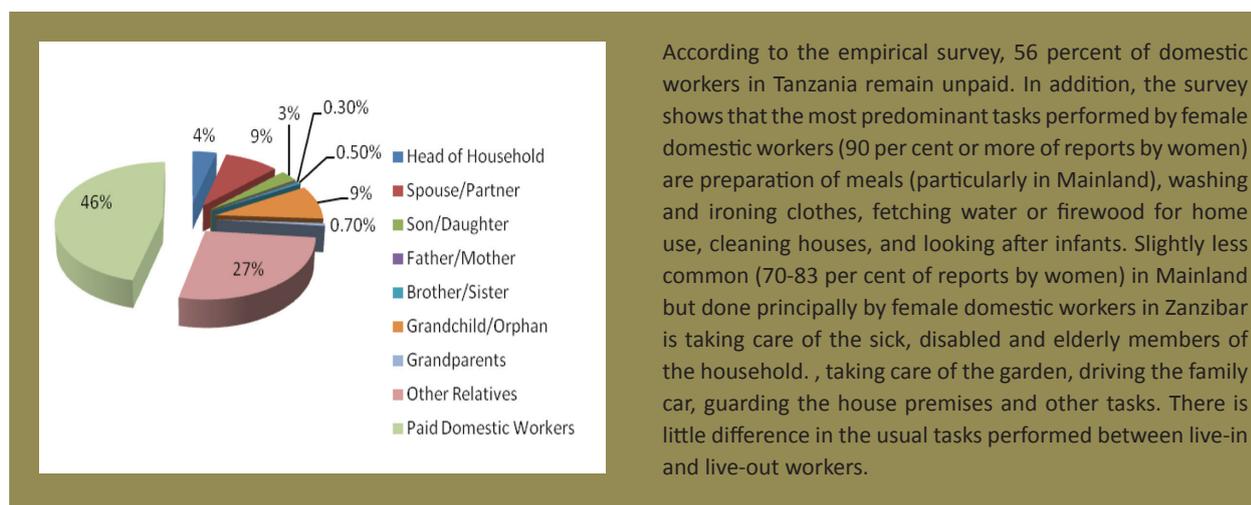
Based on the legal comparative component of the situational analysis, there are three key issues that will need attention in relation to the definition of domestic work and domestic workers - (1) a clear definition of an employment relationship in domestic work; (2) demarcation of the ‘household’ including redefining working outside the household but doing ‘domestic’ chores; and (3) the use of the term domestic servant and its related connotations.

What is the Scope of Domestic Work in Tanzania?

The Empirical Survey of Domestic Workers in United Republic of Tanzania has revealed that there are 883,779 domestic workers in mainland Tanzania and 203,622 in Zanzibar working within an employment relationship by declaring themselves as domestic workers. This represents 5% percent of the total working age population (15 – 64 years) in Tanzania (23.47 million as of 2012 Population and Housing Census). However, if we consider the people performing domestic tasks, hidden in very informal arrangements, this number increases to 1,728,228 (7 percent of total

working age population) reflecting the fact that a large number of people are involved in domestic work without necessarily being recognized as workers and therefore are not able to enjoy their labour rights. Seventy-five percent of those who perform domestic tasks are women and only twenty-five percent are men.

Box 1: Who Performs Domestic Tasks in URT?



According to the empirical survey, 56 percent of domestic workers in Tanzania remain unpaid. In addition, the survey shows that the most predominant tasks performed by female domestic workers (90 per cent or more of reports by women) are preparation of meals (particularly in Mainland), washing and ironing clothes, fetching water or firewood for home use, cleaning houses, and looking after infants. Slightly less common (70-83 per cent of reports by women) in Mainland but done principally by female domestic workers in Zanzibar is taking care of the sick, disabled and elderly members of the household. , taking care of the garden, driving the family car, guarding the house premises and other tasks. There is little difference in the usual tasks performed between live-in and live-out workers.

ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

The Demographic Profile of Domestic Workers?

Three key demographic characteristics of domestic workers were studied. These are age, education and marital status, all of which are segregated by sex.

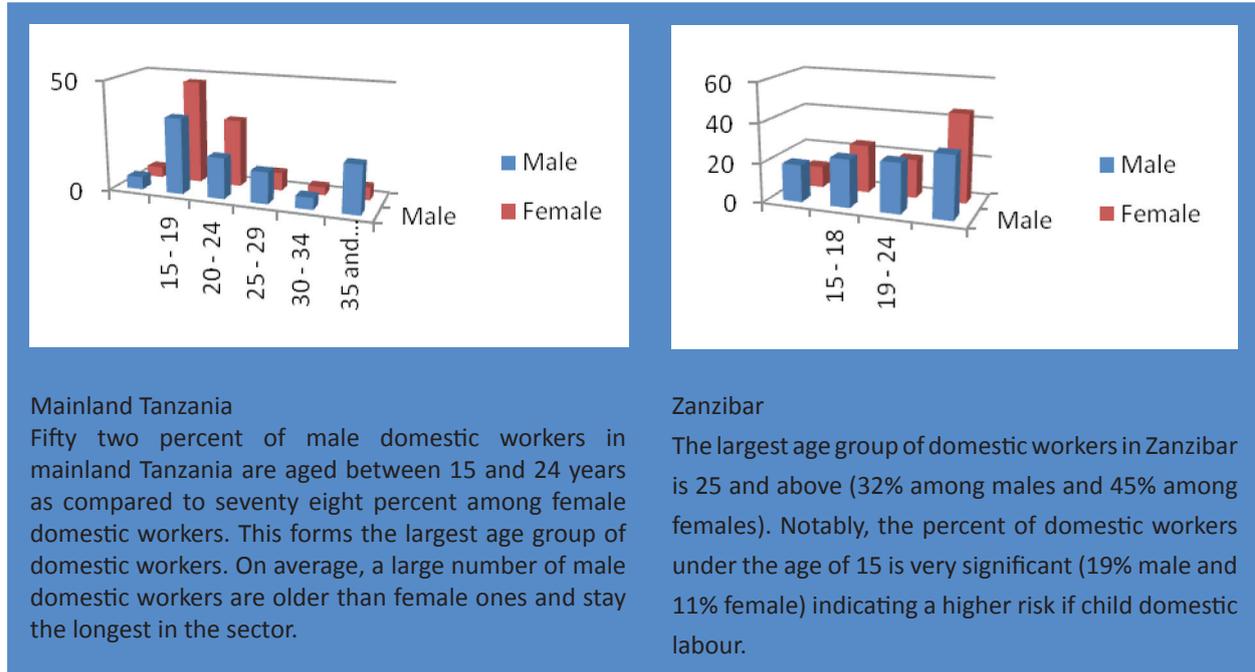
Age

The Domestic Workers Convention, 2011 (No. 189) calls each member state to set a minimum age for domestic workers consistent with provisions of the Minimum Age Convention,

1973 (No. 138), and the Worst Forms of Child labour Convention, 1999 (No. 182) and not lower than that established by national laws and regulations for workers generally.

At the national level, mainland Tanzania defines a child as a person below the age of 14 except in hazardous sectors in which case persons of up to 18 years are considered children. In Zanzibar, a child is a person under the age of 17 and a young person as someone below the age of 21 years but above the age of 17.

Box 2: Age Profile of Domestic Workers in URT



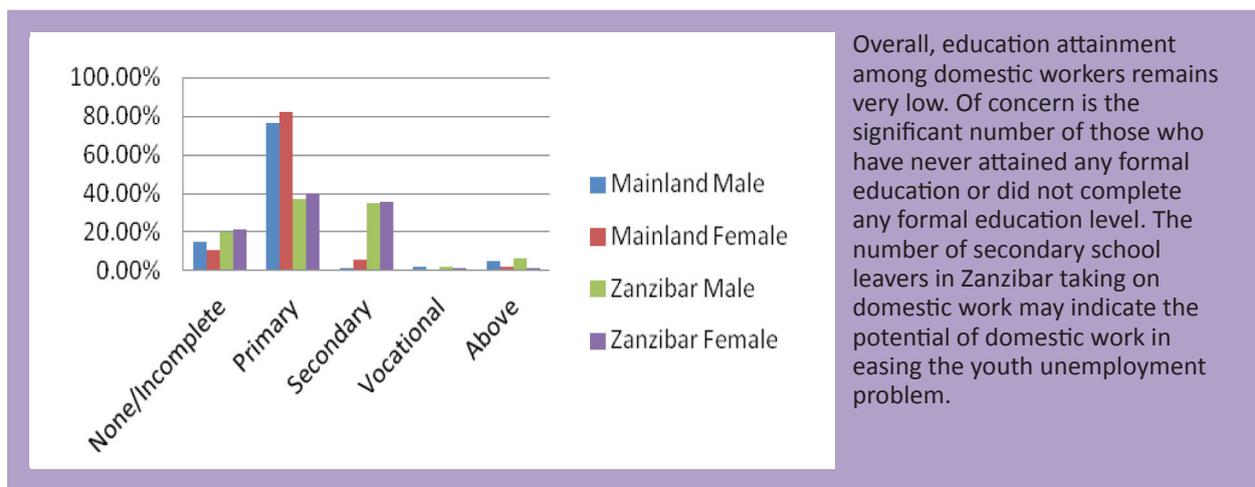
ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

Education

As regards to education, the Domestic Workers Convention, 2011 (No. 189) calls Member States to ensure that the work performed by domestic workers under the age of 18 does not deprive them of compulsory education

or interfere with opportunities to participate in further education or vocational training. National laws in mainland and Zanzibar provide similar caution.

Box 3: Education Profile of Domestic Workers in URT



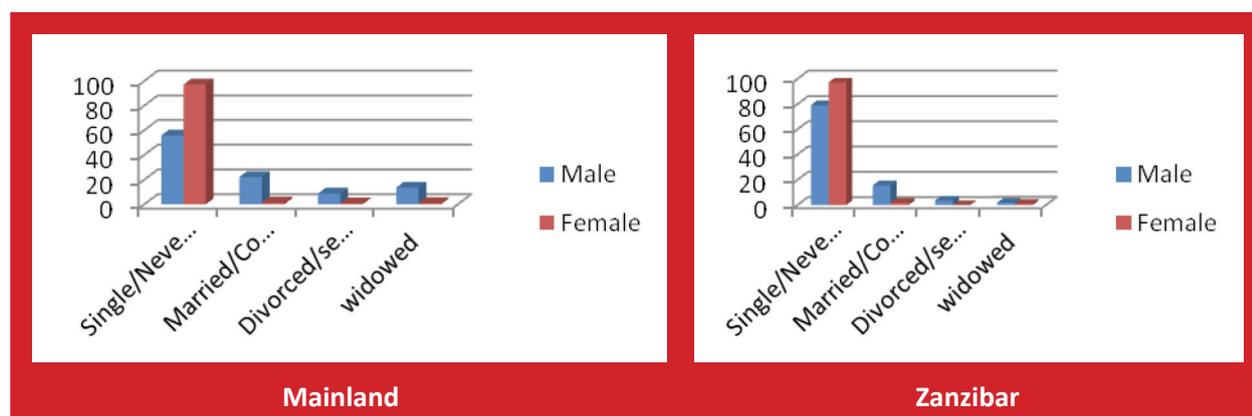
ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

Marital Status

More than three-fourths of domestic workers are not married, and only 14 per cent of domestic workers are married or living together. 49 per cent of the total employed population is married, living together, widowed or separated. Neither the international labour

standards nor the national laws make any provisions for marital status of all workers, in particular in relation to access to employment. However, the situational analysis has found marital status to affect overall working conditions of domestic workers.

Box 4: Marital Profile of Domestic Workers in URT



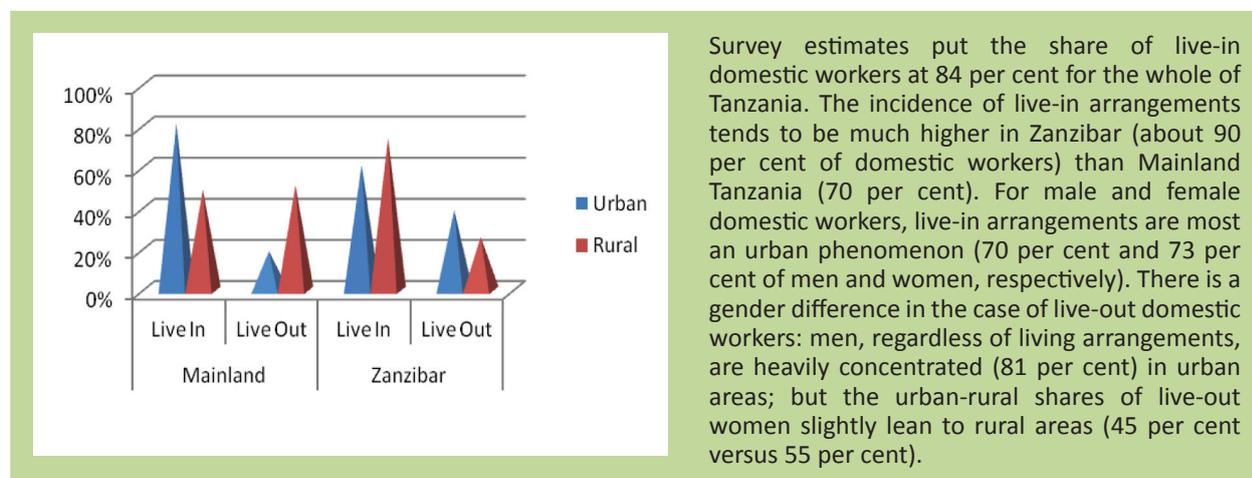
ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

Where are the Domestic Workers Employed?

A domestic worker may be working in a country of which she/he is **not** a national, thus referred to as a migrant domestic worker.

Domestic work is predominantly urban. Roughly 70 per cent of the domestic workers are employed in cities and urban areas while only 55 per cent of total employed populations are similarly located.

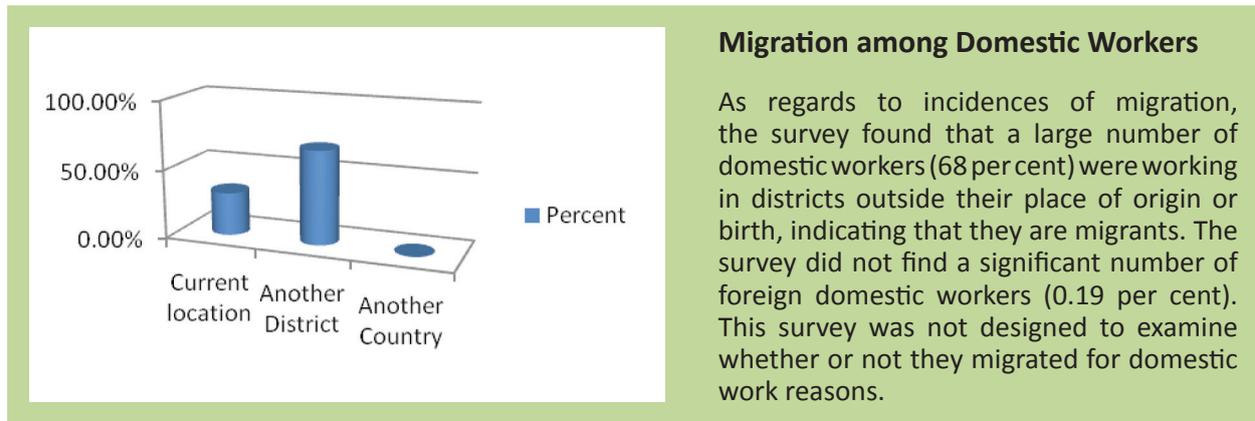
Box 5: Location and Living Arrangements of Domestic Workers in URT



Survey estimates put the share of live-in domestic workers at 84 per cent for the whole of Tanzania. The incidence of live-in arrangements tends to be much higher in Zanzibar (about 90 per cent of domestic workers) than Mainland Tanzania (70 per cent). For male and female domestic workers, live-in arrangements are most an urban phenomenon (70 per cent and 73 per cent of men and women, respectively). There is a gender difference in the case of live-out domestic workers: men, regardless of living arrangements, are heavily concentrated (81 per cent) in urban areas; but the urban-rural shares of live-out women slightly lean to rural areas (45 per cent versus 55 per cent).

ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

Box 6: Place of Origin of Domestic Workers in URT



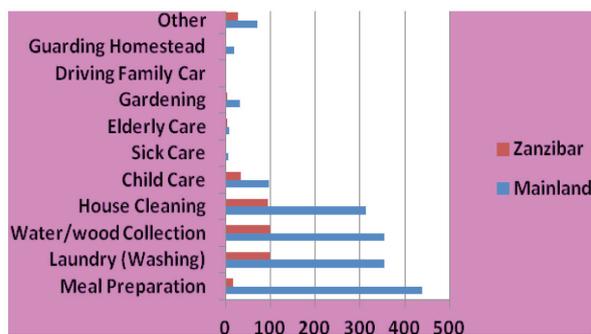
ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

What Do Domestic Workers Do?

According to the rapid empirical survey, domestic workers in URT perform a variety of tasks including cleaning the house, cooking, washing and ironing clothes, taking care of children, or elderly or sick members of a family, gardening, guarding the house, driving for the family, and even taking care of household pets.

done principally by female domestic workers in Zanzibar is taking care of the sick, disabled and elderly members of the household., taking care of the garden, driving the family car, guarding the house premises and other tasks. There is little difference in the usual tasks performed between live-in and live-out workers. Some women reported cleaning the garden, guarding the house and driving the family car; and men also care for the sick and elderly, take care of the yard, and guard the house.

Box 7: Tasks of Domestic Workers in URT



ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

The most predominant tasks performed by female domestic workers (90 per cent or more of reports by women) are preparation of meals (particularly in Mainland), washing and ironing clothes, fetching water or firewood for home use, cleaning the house, and looking after infants. Slightly less common (70-83 per cent of reports by women) in Mainland but

What is the Profile of Employers of Domestic Workers in URT?

For the purpose of setting minimum wages, the Employment and labour Relations Act recognizes three categories of employers - Diplomats and Potential Businessmen; Entitled Government Officers and the rest of the employers as the final category. This final category has often included high to low income households.

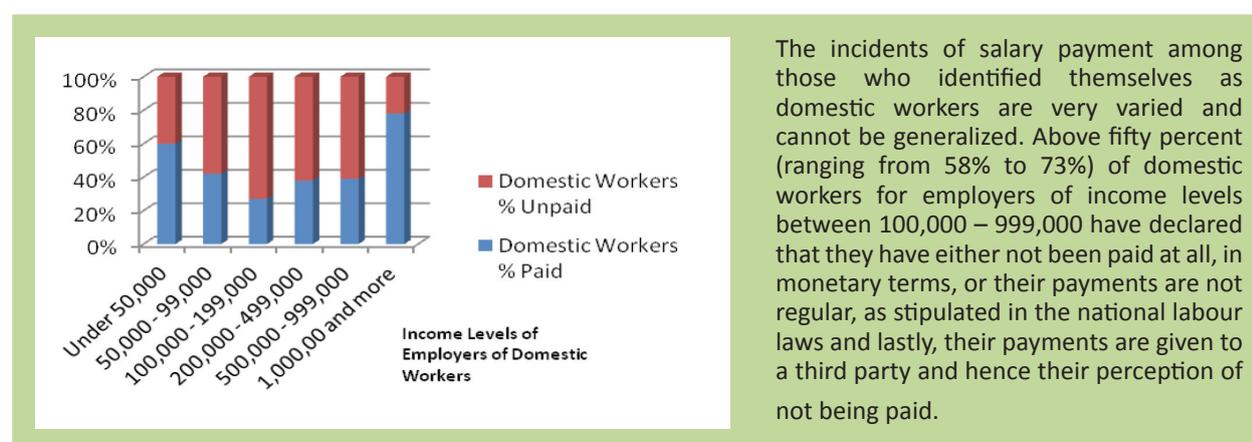
Survey results suggest that about 53 per cent (5,009,076) of all households in Tanzania employed a domestic worker in one way or another (weighted results using 2012 Census). Household-employers which employ

non-related domestic workers living in their residence, which have relatives and foster children who regularly perform the domestic tasks for the household, and which employ live-out domestic workers on full time or part time basis, account for about 6.7 per cent of national household population.

Households that employ domestic workers are generally well off. Over 97 per cent are

in formal settlements, use modern roofing material. About 93 per cent of employers reported a monthly household income above Tanzania shillings 200,000; the rest, including those with unpaid domestic workers, reported incomes below Tanzania shillings 100,000. Using income as an indicator, the survey gathered evidence of what can be considered tendency of employers to pay or not pay their domestic workers for services rendered.

Box 8: Profile of Employers by Average Household income and Incidences of Salary Payments



ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

Recruitment of Domestic Workers

It was gathered from the qualitative research that a large number of domestic workers working in URT were recruited through informal means – by word of mouth – through friend, relatives and other domestic workers. In Zanzibar, there was concern about the number of people recruited informally to work abroad, especially in Arab states. In mainland Tanzania, formal recruitment of domestic workers to work abroad is done through Tanzania Employment Services Agency (TaESA). The study found that between July 2011 and March 2012, a total of 1,398 domestic workers were recruited by Private Employment Agencies, through TaESA, and placed in Oman and Dubai.

What are the Working Conditions of Domestic Workers?

The findings on working conditions of domestic workers are largely based on 174 individual interviews of domestic workers (9103) and employers of domestic workers (71) and 12 focus group discussions of workers and employers (between 5 to 8 people per group) conducted in three districts of Dar es Salaam region (Ilala, Kinondoni and Temeke) and two districts in Zanzibar West region (Mjini Magharibi and Kusini Unguja). Issues surrounding working conditions of domestic workers in United Republic of Tanzania, as in any other developing country, are complex and this flier does not provide enough room to explore each one in detail. As such, only a few highlights are included and the reader is encouraged to look for the full report of the situational analysis for more details.

Employment Contracts	<i>Types</i>	As in Domestic Workers Convention, 2011 (No. 189), the Employment and Labour Relations Act of Tanzania also provides for oral and written contracts of employment with a caveat that even for oral contracts of employment, some terms and conditions of employment must be in writing. Similarly, the <i>Employment Act</i> of Zanzibar recognizes both written and oral contracts although it limits the length of an oral contract not to exceed six months. Domestic workers may enter into any category of the employment contracts.
	<i>Practice</i>	In this Situational Analysis, 80 percent of domestic workers interviewed were unsure of the employment relationship in the sense of the type of contract they have with their employers because they had no contract, or never talked about terms with employers. This is irrespective of the legal requirement that some of the terms and conditions of employment must be kept in writing and the employee must be served with the copy of the same.
Remuneration	<i>Amount</i>	A new minimum wage has been set in 2013 in 4 categories of domestic workers: (1) domestic servants employed by Diplomats and Potential Businessmen TZS 150,000, an increase from the previous TZS 90,000; (2) Domestic workers employed by Entitled Government Officers TZS 130,000, an increase from TZS 80,000; (3) Live-out domestic workers NOT employed by employers in category (1) and (2) above TZS 80,000; and (4) Live-in domestic workers NOT employed by employers in categories (1) and (2) above TZS 40,000.00. The reduction of 68 percent of live-in domestic workers is no longer applicable. The situational analysis found that the average pay among domestic workers employed by diplomats ranged from TZS100,000 to 250,000 while for live-in domestic workers as low as TZS 25,000 and as high as TZS 100,000. Average pay for live-out domestic workers closely mirrors the minimum way for that category.
	<i>Method</i>	Findings from the qualitative research on employment practices and working conditions in Zanzibar and Dar es Salaam reveal that other forms of “exchange” and social arrangements between the employer-household and the domestic worker or his/her family were governing the rendering of services by some domestic workers to private households. Food and shelter, schooling and financial aid are some of the “currencies” at work in these arrangements. These informal social arrangements may explain the considerable proportion of domestic workers reportedly not being remunerated.

	<i>Payment of wages</i>	Out of all domestic workers identified by the survey, some 53 per cent reported being paid, in cash and/or in kind. This proportion is similar in rural (52 per cent) and urban (53 per cent) areas. The share of paid domestic workers is slightly higher among women (55 per cent) than among men (44 per cent). The incidence of explicit remuneration for work rendered tends to be higher among male domestic workers employed in rural areas (85 per cent) and among female domestic workers employed in urban areas (62 per cent).
Working Time	<i>Working Hours</i>	Normal working hours in Tanzania are 9 hours a day, 45 a week and not more than 6 days a week according to the <i>Employment and Labour Relations Act</i> . Similarly in Zanzibar, the normal working hours are not more than 8 hours a day and not more than 42 hours in a week according to the <i>Employment Act of Zanzibar</i> . Most violations of working hours were found among live-in domestic workers whereby 70 percent of domestic workers were said to work between 14 and 16 hours, while 20 percent worked between 10 and 14 hours. None of the domestic workers reported being paid overtime.
	<i>Rest periods</i>	Employment and Labour Relations Act of 2004 of Tanzania provides for three kinds of rest periods; daily break, daily rest and weekly rest. Provisions are also made for compulsory holidays. Findings of the qualitative research indicate that domestic workers do not have daily breaks except when the employers are not present. Weekly rest is deemed unpredictable because it is dependent on the employer's decision. Most domestic workers have only been able to observe compulsory holidays when the employer has had no visitors or children are away. A few mentioned being paid for working over compulsory holiday, but mostly in kind.
	<i>Annual Leave</i>	70 percent of domestic workers indicated that they were never given annual leave. This may also be evidenced by cases which were filled to the Conciliation, Mediation and Arbitration (CMA) board in the employee's state that their employers, on account of termination of employment, should pay them for the accumulated annual leave which they were never given at work.
Social Protection	<i>Occupational Safety and Health</i>	The <i>Occupational Health and Safety Act</i> of 2003 in Mainland Tanzania and the <i>Occupational and Health Act</i> of 2005 are geared towards safe workplaces, which do not endanger the health of employees. However, definition of who an employee is and what constitutes a workplace has served to isolate domestic workers. No evidence of households which were inspected for the safety and health of domestic workers was found in both mainland Tanzania and Zanzibar. Domestic workers reported concerns on how they have to fend for themselves if injured at work. Seemingly, most employers are yet to regard their households as legitimate work places.

	<i>Social Security</i>	Both mainland Tanzania and Zanzibar have several regulatory frameworks for social security. Three reasons have repeatedly been cited for the lack of coverage among domestic workers: (1) Until as recent as 2011, the operational structures of the social security schemes did not provide for employers of five or less employees. These schemes are still considering the huge administrative costs for taking on individual employers; (2) The short-term nature of domestic work contracts (as short as three months) do not motivate employers to initiate what they consider a cumbersome process; and (3) Domestic workers are not willing to contribute part of their meagre salaries to these schemes which they do not understand the working modalities.
	<i>Maternity Protection</i>	In most cases, when a live-in domestic worker gets pregnant, she voluntarily leaves her job or is asked by the employer to leave. A few cases were reported of employers granting unpaid maternity leave to the domestic worker for a few days as if such provisions are in the discretion of the employer. Notably, in both cases, the employers are knowingly and/or unknowingly in violation of the national labour law.
Sectoral Relations	<i>Collective Bargaining</i>	Part VII of the <i>Labour Relations Act</i> and <i>Employment Act</i> respectively (both of 2005) and Part VI of the <i>Employment and Labour Relations Act</i> of 2004 provide all workers and employer in Zanzibar and mainland Tanzania, respectively, the right to collective bargaining. Notably, Zanzibar does not have a single collective bargaining agreement in any sector to date and mainland Tanzania has not registered any collective bargaining agreement for any domestic worker. The need for the organization of both the employees and employers was emphasized in most interviews.
	<i>Dispute Resolution</i>	A number of cases concerning domestic workers have been registered at the Conciliation, Mediation and Arbitration (CMA) board as well as the labour Court in mainland Tanzania. Some cases concerning particularly children have been treated as criminal cases and presented to the High Court. The Dispute Handling Unit (DHU) in Zanzibar has just begun its functions and to date no cases on domestic work have been registered. Most domestic workers do not have information on the existence of neither the dispute handling machinery nor a trade union representing them.

Perceptions on living and working conditions	<i>Employers</i>	Employers value domestic workers in view of the fact that without them they could accomplish much outside the household. A number of employers are concerned about the quality of domestic workers ‘these days’ indicating nostalgic preferences for years gone by when ‘house girls understood their job and what they need to do.’ Domestic workers are considered unreliable, undisciplined and a necessary burden.
	<i>Workers</i>	Domestic work is not valued. A number of domestic workers request not to be addressed as domestic workers when outside the household. Employers were often said to be unreasonable, they did not consider ‘house girls as human beings with feeling’ and most concerning they never tell the truth about working conditions of their domestic workers, ‘which means they know what they are doing when they treat us unjustly.’

Part I

Introduction

“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.”

Manuela Tomei, Chief, ILO’s Conditions of Work and Employment Programme, 2009²

1.1 Illuminating the Invisible Workforce

The dire working conditions of the majority of domestic workers worldwide, the majority being women, are known and increasingly well documented. In a study conducted by the International Trade Union Congress (ITUC) in 2009, domestic workers cited excessive working hours, unpaid salaries and physical as well as mental abuse as some of the issues

² ILO: *Decent work for domestic workers*, Report IV(1), International Labour Conference, 99th Session, 2010 (Geneva, 2009).

they face on a daily basis.³ The 2011 adoption of the labour standards for domestic workers that is the Domestic Workers Convention, 2011 (No. 189) and Recommendation No. 201 concerning Decent Work for Domestic Workers have served to illuminate the significance of this oldest and most important occupation but whose workforce remains invincible. Often referred to as historic, these new instruments give a fresh impetus to the promotion and protection of domestic workers’ rights at work by setting out a framework of measures and principles which can guide action to strengthen national laws, policies and institutions concerned.⁴ But many challenges remain.

Of the many reasons that make domestic workers undervalued, none is more important than the perception of the place of domestic work – the home – which also carries gender connotations. For centuries, the ‘home’ has been differentiated from ‘the workplace.’ The home is where workers come *after* ‘work,’ from which they would bring monetary gains that sustains it. It is unfortunate that for all these years ‘workers’ were seen as mostly men. And so the formula goes – Men equals Work and Women equals Home. The recognition of the amount of ‘work’ that is needed to maintain the ‘home’ exists, however, the fact that such ‘work’ remains unpaid, and hence ‘unproductive’ in the economic sense, reduces ‘work’ at home to ‘labour of love.’⁵ All the ills and the dire working conditions of domestic workers we hear about emanate from this innate refusal to accept the fact that one can productively work at home.

Past studies have argued that such perceptions began with the introduction of cash transactions in which the economy and

³ ITUC. 2009. *Assessment of the Situation of Domestic Workers in Selected Districts and Municipalities in Tanzania* (Unpublished Report Submitted to ILO Dar-es-Salaam).

⁴ ILO: *Effective Protection for Domestic Workers: A Guide to Designing Labour Laws*, International Labour Office, Geneva.

⁵ Roberts, D.E. 1997. “Spiritual and Menial Housework”, in *Yale Journal of Law and Feminism*, Vol. 9, No. 51.

labour are commoditized or transformed into a commodity economy; where social relations become structured through commodity transactions; and where status and aspirations became increasingly dependent on money (See Kiaga 2007). For example, by paying men to work on plantations, the colonialists commoditized agricultural labor, and all other activities that did not directly translate into monetary compensation lost their value. Such activities include reproduction of labor in the household. Women's reproductive activities in the household became devalued and reduced to a subordinate position to men's, who could earn money and perform 'meaningful' labour. This inevitably changed the meaning and organization of work.⁶

"Work is not just a matter of what people do because any definition must also include the conditions under which that work is performed, and its perceived social value or work within a given cultural context" (Wallman 1979:2). Scholars like Kiaga (2007) have argued that this commoditization of certain jobs and not others, and valuing monetary elements of work, is the foundation of the devaluation of domestic work in many parts of the world including Tanzania. Moore (1986) expresses the same sentiment and went further to demonstrate the inequality in gender division of labour when she explained that "recognizing the social value given to work, or to particular kinds of work, helps us to understand why some activities are thought to

be more important than others, and why, for example, in British society we are able to ask a non-salaried woman with five children 'do you work' and receive the answer 'no.'" This means that if work is conventionally understood as 'paid work outside the home' then the value of domestic labour and women's subsistence (as they comprise the majority of domestic workers) goes unrecognized.

As a result, promoting decent work for domestic workers will require more than establishing regulations or enforcement mechanisms. As Budlender (2011) explains, 'because domestic work has long been ignored and undervalued, policy and legislation need to be accompanied by a change in thinking about the value of domestic work among employers of domestic workers, leaders and regulators, domestic workers themselves and members of the whole society. Making visible its economic and social worth through tangible and quantifiable measures will help change perceptions, and lend legitimacy to and reinforce actions aimed at improving the working and living conditions of domestic workers.'⁷

One way in which organizations like the International Labour Organization (ILO) have worked to illuminate this invisible workforce is to make known the number of people involved in this seemingly unimportant sector. According to recent estimates at least 52.6 million women and men above the age of 15 are domestic workers in their main job. This refers to 3.6 per cent of the global wage employment. Even today, the overwhelming majority in the sector is female (43.6 million, about 83 per cent). Of these men and women, 8.1 million are in the age group 15-17 and an additional 7.4 million are below the age of 14.⁸

⁶ According to Nagar (1998), there are four important changes that were triggered by the colonial encounter: 1. There was an increased dichotomy between public and private, and between workplace and home; 2. Women were increasingly confined to the household. Both western education and missionary activity played an important role in making women accept 19th c. European ideas of women's subordination. They also helped in justifying the erosion of women's political and economic powers and the placement of those powers in the hands of the fathers, brothers, husbands or male chiefs; 3. Women increasingly lost control over the means of production and became confined to the subsistence sector. Men came to control land, cash crop production, and the income from sales of cash crops. This made women economically dependent on their male relatives, and 4. Not only were the women pushed inside the household, but also the work they did there was devalued because they were not paid money for it.

⁷ ILO: Budlender, D. 2011. Measuring the Economic and Social Value of Domestic Work: Conceptual and Methodological Framework, Conditions of Work and Employment Series No. 30, International Labour Office, Geneva.

⁸ International Labour Organization (2011): Global and regional estimates on domestic workers. Policy Brief 4, at: http://www.ilo.org/travail/whatwedo/publications/WCMS_155951/lang-en/index.htm

The ILO estimates put the share of Africa at 5.236 million; they comprise 4.9 per cent of paid employment in the region. Some argue that this is substantially off the mark for several reasons. Domestic workers below the age of 15 number significantly in Africa. Many perform tasks for households not their own under informal arrangements in exchange for food and shelter.

They may be kin and unpaid, and therefore do not see themselves (nor are they regarded by their employers and others) as employed “domestic workers”. In some communities, domestic servitude continues from old social structures and traditions, and thus not perceived as “employment”. In societies where domestic work has a social stigma, domestic workers would refuse to identify themselves as domestic workers.⁹ All these perspectives have been explored in the Situational Analysis of Domestic Workers in the United Republic of Tanzania and the analysis reported herein.

1.2 Defining Domestic Work in Tanzania

Before we can delve into the Tanzanian context, it is best to highlight some of the key definitional issues in the sector. To start with, domestic workers in Tanzania, many of whom, like many parts of the world, are women and girls. Who in Tanzania are socially referred to as ‘house-girls’. The word ‘girl’ does not necessarily signify age differences.¹⁰

Instead, it brings to the fore a critical issue of how this labour force has been perceived historically in the country and how post-independence Tanzanian state chose to continue the demeaning way domestic workers were perceived during colonialism.¹¹ It calls for the need to problematize the “worker” status of the house-girl.

The Domestic Workers Convention, 2011 (No. 189) defines domestic work as work performed in or for a household or households within an employment relationship.¹² That all tasks aimed at providing care, comfort and support to functioning of the household constitute domestic work.¹³ As such, domestic work is engrained in the household work and therefore non-commercial settings.

In all these definitions, there is recognition of the centrality of the household as a place of work. However, there is also recognition of the fact that tasks that domestic workers perform may be performed outside the household, in “hotels, offices, hospitals and other establishments (ISCO, Classification 913). Remnants of this practice can still be found in the national definitions of domestic work to date.

The ILO’s International Standard Classification of Occupations (ISCO) (See Box 1.1 below), was a statistical operational definition which was used by some countries to count domestic workers.

9 Shellee Colen and Roger Sanjek. 1990. *At Work in Homes: Household Workers in World Perspective*, American Ethnological Society Monograph Series No. 3, Washington DC: American Anthropological Association, p. 1-2. They prefer the term “household worker” to more stigmatized terms such as “servant,” “house-girl,” or “maid.”

10 Kiaga (2007) has argued that in a society like Tanzania where age is an important factor in determining one’s social status house-girl’s use of kin-laden words like ‘dada’ (sister) or ‘mama’ (mother) to address the employer become markers of not only hierarchy but also power. Along with rurality and class, such hierarchies and power relations are constantly negotiated, perpetuated, reinterpreted and even resisted in complicated ways – the body, for example, is found to be an important conduit of power for both employers and house-girls.

11 Kiaga, A.K 2007. *Blaming the Other Woman: Rural House girls and Urban Employers on Identity, Labour and Migration in Tanzania*. Doctoral Dissertation, University of Minnesota, USA

12 See Article 2(a) of the ILO Convention No. 189.

13 ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at pp. 7-8. It should be noted that domestic work is distinct from home work in that the latter is performed by the worker but in their own home and is covered by the Home Work Convention No. 177 of 1996.

Box 1.1 - Domestic work according to the ISCO

Classification 5 addresses commercial establishments, institutions and private households. It covers two key categories: housekeeping (minor group 512), which includes housekeepers and related workers and cooks; personal care and related workers, including childcare workers and home-based personal care workers (minor group 513). Housekeeping foreseen under 5121 emphasizes the supervisory work of the housekeeper. Classification 5131 defines childcare workers as those who “take care of employers’ Children and oversee their daily activities” and considers that the tasks include:

- (a) Assisting children to bath, dress and feed themselves;
- (b) Taking children to and from school or outdoors for recreation;
- (c) Playing games with children or entertaining children by reading or storytelling;
- (d) Maintaining order in children’s bedrooms and playrooms;
- (e) Taking care of schoolchildren at lunch or other school breaks;
- (f) Taking care of schoolchildren on excursions, museum visits and similar outings;
- (g) Performing related tasks;
- (h) Supervising other workers.

Similarly, home-based personal care workers under classification 5133 “attend to various personal needs and in general provide personal care for persons in need of such care at their own homes because of physical or mental illness or disability or because of impairment due to old age”. Tasks of this category, an example of which is a “home nursing aid”, include:

- (a) Assisting persons in getting into and out of bed and making the appropriate change in dress;
- (b) Changing bed linen and helping persons with their bath and toilet;
- (c) Serving food – prepared by them or others – and feeding persons needing help;
- (d) Giving or ensuring that persons take the necessary medicaments;
- (e) Watching for any sign of deterioration in the person’s health and informing the relevant medical doctor or social services;
- (f) Performing related tasks;
- (g) Supervising other workers.

Classification 913 speaks specifically of “domestic and related helpers, cleaners and launderers”. It covers private households, hotels, offices, hospitals and other establishments, as well as a variety of vehicles to keep interiors and fixtures clean. The classification includes domestic helpers and cleaners, as well as hand-launderers and pressers. Under classification 9131, domestic helpers and cleaners “sweep, vacuum, clean, wash and polish, take care of household linen, purchase household supplies, prepare food, serve meals and perform various other domestic duties”.

Source: ILO (2009). Decent Work for Domestic Workers, International Labour Conference, 99th session 2010 Report IV(1), Geneva

The Domestic Workers Convention, 2011 (No. 189) further defines a domestic worker as “any person engaged in domestic work within an employment relationship.”¹⁴ Such domestic worker may be employed on full time or part time basis and may be working for a single or multiple employers, nationals or non-nationals of the country in which work is performed and such employee may be living in or out of the household. Employer of domestic workers include “member of the household for which the work is performed or an agency or enterprise that employs domestic workers and make them available to households.”¹⁵

In mainland Tanzania, domestic work is not defined. However, a definition of a “Domestic servant” is provided to include any person employed wholly or partly as a cook, house-servant, waiter, butler, maidservant, valet, bar attendant, groom, gardener, washman or watchman, but this definition excludes persons employed wholly or partly in connection with or in relation to any commercial or industrial enterprises.¹⁶

As for Zanzibar, domestic work is defined as “work in a family home.”¹⁷ Among the works envisaged to be done by a “domestic servant”¹⁸ include cooking, house service, waiter, butler, valet, bar attending, groom, gardening, washing or guarding in a household set up.¹⁹ However, irrespective of the current legal definition of domestic work, the majority of the interviewees in the Situational Analysis studies reported herein indicated that domestic work embraces household work such as cooking, cleaning the house and the

14 See Article 2(b) of the ILO Convention No. 189.

15 ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 8.

16 Source: Labour institutions (Regulation of Wages and terms of Employment) Order, 2007 [Government Notice No. 223, published on 16/11/2007]

17 See section 3 of the *Employment Act* No. 11 of 2005.

18 As used under Section 64 of the *Employment Act* No. 11 of 2005

19 See rule 2 of the *Regulation of Wages and Terms of Employment Order* of 2010, GN No. 172.

outside surroundings, gardening, securing/guarding the household, taking care of children, and driving a family car for errands. By incorporating various broad categories of tasks and because of the generality of domestic work under the said law, one is not sure of the limits of domestic work. For instance, the category ‘valet’ embraces washing, cleaning and dry-cleaning while the category groom covers cleaning, preparing, tidy up and brush up. These terms are not devoid of confusion if one starts arguing about which definition of domestic work is covered by the national laws. This is particularly the case where one considers that “bar attendance” and “dry-cleaning” are mostly done outside households. In a discussion that preceded the adoption of Convention 189, workers and employers representatives in three EAST African countries of Uganda, Kenya and Tanzania explained their skepticism on the definition of the household due to various ways in which the household has been defined in Africa. For example, in the western world, a household often times refers to the living space occupied by members of a family. However, as Fraad, Resnick and Wolff (1994:5) have noted, “households have often included persons not considered family members while family has often included persons not sharing a particular household.” This is certainly true for many households in East Africa. The notion of a household becomes even more complicated when one considers a household as a physical space. This is because a household as a physical space in East Africa may include the main building – the house – but also other buildings; both permanent and make-shift, that often house forms of income generating activities like poultry, or the famous kiosk.

The question that was asked in each of these countries was whether or not those employed to manage these activities should also be considered domestic workers.²⁰ Evidently, the

20 Kiaga, A.K and Kanyoka, V. 2011.

labour laws in Uganda, Kenya and Tanzania are not clear on who a domestic worker is thereby making their protection complicated as employers may try to disguise the relationship they would have with many people not as being employment relationship which the law covers. Take the example of an employer arguing in Tanzania that the employee in a dry cleaning kiosk/shop establishment is a domestic servant and therefore deserve the minimum salary of TZS 65,000 as opposed to TZS 80,000 which would be payable to those working in commercial settings.²¹ This example shows, irrespective of the exclusion of commercial and industrial enterprises from the definition, the wording used is confusing and the employer may take advantage over the employee and vice versa.

However, the general definition given by the laws of Tanzania and Zanzibar on who an employee is, generally, is all embracing: Zanzibar's *Employment Act* of 2005 defines an employee to be "a person who has entered into or works under or seeks to work under or where the employment has ceased was working under a contract of service."²² Similarly, the *Employment and Labour Relations Act* of 2004 of Tanzania defines an employee as "an individual who has entered into a contract of employment...or has entered into any other contract under which ...an individual undertakes to work personally for the other party to the contract... and the other party is not a client or customer of any profession, business, or undertaking carried on by the individual... or... is deemed to be an employee by the Minister ..."²³ Since a contract may be oral or written, then one may easily say a domestic worker is well covered. The question remains, do domestic workers have contracts of services to warrant coverage by these law?

21 See Second Schedule of GN No. 172.

22 See section 3 of Act No. 1 of 2005 of Zanzibar.

23 See sections 4 and 98(3) of Act No. 6 of 2004 of Tanzania.

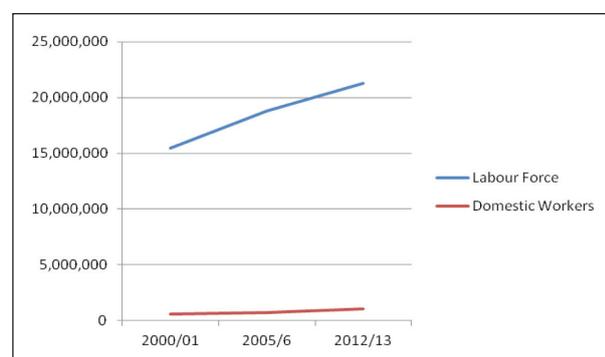
The answer to this question is given under the working conditions section of this report.

1.3 Current Trends in Domestic Work in Tanzania

With that background, one is bound to find that the situation of domestic workers in Tanzania is no different from any other African country or other countries in the world. The Rapid Empirical Survey of Domestic Workers in the United Republic of Tanzania (2013) has revealed that there are 883,779 domestic workers in mainland Tanzania and 203,622 in Zanzibar working within an employment relationship by declaring themselves as domestic workers. This represents 5% percent of the total working age population (15 – 64 years) in Tanzania (23.47 million as of 2012 Population and Housing Census).

Although it seems to form a small per cent of the labour force, nevertheless, domestic work is a growing economic sector, with increasing significance, especially among young people in Tanzania, as will be shown by this report. But these results should be interpreted carefully. For example, the Rapid Empirical Survey of Domestic Workers in United Republic of Tanzania (2013) has revealed that if we consider the people performing domestic tasks, hidden in very informal arrangements, this number increases to 1,728,228 (7 percent of total working age population) reflecting the fact that a large number of people are involved in domestic work without necessarily being recognized as workers and therefore are invisible, face significant insecurity because they are unable to fight for their rights and enjoy the benefits of their labour.

Figure 1.1 - Trends in the Numbers of Domestic Workers in URT



Sources:

2000/01 - Integrated Labour Force Survey (ILFS)

2005/06 - Integrated Labour Force Survey (ILFS)

2012 Population and Housing Census

2013 ILO Rapid Empirical Survey of Domestic Workers in URT

Like in other countries, the increased participation of women in the workforce, the intensification of work, and the absence of strong social policies permitting the balancing of work and family life, work together to ensure the on-going importance of, and increased demand for, domestic workers in most developed and developing economies.²⁴ Lack of accessible and affordable child care, for example, is the number one cited reason for the employment of housegirls in Tanzania (Creighton and Omari, 1995; 2000). In a study conducted in 2004, 90 percent of the women interviewed in Dar-Es-Salaam admitted that without domestic workers they could not remain employed on a full-time basis, or would find it extremely difficult to balance their work and family responsibilities.²⁵ Thus, domestic workers have enabled many other workers, particularly women with families, to participate and advance in the productive, formal economy, thereby achieving greater affluence; however, they themselves often do not have the rights and protections necessary to ensure that they enjoy decent conditions of

²⁴ ILO: Budlender, D. 2011. *Op cit*

²⁵ Kiaga, A.K. 2007. *Blaming the Other Woman: Rural Housegirls and Urban Employers on Identity, Labour and Migration in Tanzania*. Doctoral Dissertation, University of Minnesota, USA.

domestic work.²⁶

According to Table 1.1 below, the overall employment ratio increased from 69% to 71.0% between 2001 and 2006 for the population aged 10 years and above. The male ratio increased from 71.4% to 72.6% and the female ratio increased from 67.4% to 69.6% indicating an increase of 1 per cent more among females than males.

Table 1.1 - Employment-to-Population ratios for Tanzania Population 10+ years by Sex and Age Group, 2001 and 2006

Sex	Age Group	Employment-Population Ratio (10+ years)	
		2001	2006
Male	10 - 17	47.7	43.7
	18 - 34	79.7	83.5
	35 - 64	88.9	88.4
	65+	72.3	68.2
	Total	71.4	72.6
Female	10 - 17	44.5	36.5
	18 - 34	76.2	81.2
	35 - 64	83.5	85.0
	65+	48.3	55.9
	Total	67.4	69.6
Total	10 - 17	46.1	40.2
	18 - 34	77.8	82.2
	35 - 64	86.1	86.7
	65+	61.0	62.0
	Total	69.3	71.0

Source: Analytical report for integrated labour Force Survey 2006

²⁶ Decent work has been defined by the ILO and endorsed by the international community as being productive work for women and men in conditions of freedom, equity, security and human dignity. Decent work involves opportunities for work that is productive and delivers a fair income; provides security in the workplace and social protection for workers and their families; offers better prospects for personal development and encourages social integration; gives people the freedom to express their concerns, to organize and to participate in decisions that affect their lives; and guarantees equal opportunities and equal treatment for all. See ILO: *Toolkit for mainstreaming employment and decent work* (Geneva, 2007), p. vi.

Such an increase in employment-to-population ratio among women is significant in understanding the coping strategies of working women. The Rapid Empirical Survey of Domestic Workers in the United Republic of Tanzania (2013) has indicated that seventy-five percent of those who perform domestic tasks in Tanzania are women and only twenty-five percent are men. Moreover, the Integrated Labor Force Survey (2006) revealed that housework employment had about 800,000 workers making 4 percent of the total wage employment. According to the survey, the growth rate of household related workers was approximately 3 percent annually. The rate is equivalent to thirty percent increase in the next 10 years.

1.4 Historical Background and Context in Tanzania

In order to understand how domestic labour evolved in Tanzania, it is important to explore the context within which it evolved. During communal ownership of property, in pre-colonial societies, domestic work was performed as a favour and obligation to the traditional leaders such as kings and queens. The subjects would send their boys and girls to pay homage to the household of their leader who, personally or through his advisors, in turn would assign them various responsibilities which in modern days would qualify to be termed as domestic work. Thus, gardening, cooking, cattle keeping, running errands, and cleaning, to mention a few, were performed by subjects towards their royal leaders. During this time, one may not help but conclude that there was no domestic work in individual households apart from the household of the royal leaders save for households of those in the lineage of the royal leader, albeit limitedly. During this time, domestic workers were protected by traditions and customs although the protection was insufficient to the extent that the domestic worker would be obliged to

be loyal to the king/queen to death.²⁷ In some traditions, when the king/queen died, his favourite domestic servant would be buried with them.²⁸

The advent of private property culminated in the proliferation of domestic work and workers. This, as evident in the forthcoming parts, was caused by the fact that some people became more endowed than others and the latter had to serve the former. At times, the have-not had to subject themselves and their families to some master who would in turn provide them with life amenities such as food and accommodation. This trend was to continue during colonialism where the colonial masters needed people to work in the households as they would be working on commercial undertakings such as industries and farms. At this time, domestic workers were neither protected by traditions and customs since they were detached from their families and aligned themselves with their employers, nor by statutory law which was meant for only the colonial masters and a select Africans working in the commercial undertakings of the colonialists.²⁹ In essence, domestic workers enjoyed no legal protection, even on remuneration as exemplified by the *Minimum wage order: The Wages Regulation*

27 See Seawright, C. *Human Sacrifice in Egypt*, accessed on 20 June 2012 through <http://www.touregypt.net/pdf/featurestories/humansac.pdf> where it is stated that “people were thought to carry on their respective positions in the afterlife, for example the slaves and servants were killed so that they could continue out their work for their master.

28 *Ibid.* Seawright, C. *Human Sacrifice in Egypt*, accessed on 20 June 2012 through <http://www.touregypt.net/pdf/featurestories/humansac.pdf>

29 Examples of some of these laws include *Master and Native Servants’ Ordinance of 1923* (Cap 51 as amended in 1954 and repealed by section 161 of the *Employment Ordinance of 1957* which is also repealed by the new *Employment and Labour Relations Act of 2004*) and the *Workmen’s Compensation Ordinance of 1949* (Cap. 263 of the Revised Laws of Tanganyika, as amended from time to time and still in force). Formal sector refers to formal employment which is regular, predominantly stable, full-time, permanent and of unspecified duration. It also refers to those who work in regular jobs in sectors such as the central government, local government, large-scale manufacturing, transport, banks, services and shops and establishments. See K. Sankaran, *Protecting the Worker in the Informal Economy: The Role of Labour Law*, Paper presented to the Conference on the Scope of Labour Law: Redrawing the Boundaries of Protection, Bellagio, 23-27 May 2005, at p. 1. See also <http://www.eurofound.eu.int/emire/FINLAND/ANCHOR-EP-AUM.html>, last accessed on 18 October 2005.

(Area of the Dar es Salaam Municipality) Order of 1957.³⁰ The said Wage Order did not cover a number of workers such as retail distribution, smaller hotel and bars, casual work, and domestic workers.³¹

Although domestic work has existed for a long time in Tanzania, it was not until late 1980s that they were subjected to in-depth scrutiny. There have been occasional academic analyses focusing on one aspect or another of domestic work but most coverage has taken the form of news breaking incidents in the media. It is for this reason that Janet Bujra's decade long study, which culminated in 2000 in a book on domestic labour in Tanzania, is considered path-breaking.

There are good reasons why domestic work has commanded more attention since the late 1980s. The most important is it is the period when domestic labor changed from being occupied by a male labor force to being increasingly occupied by a female workforce. The most obvious reason for this turn of events, as Bujra also points out, is the social and economic transformation of the rural areas and associated changes in the composition of labour supply.

Bujra also attributes the shift to the changing character of the employing class. She points out that during the colonial period only foreigners could afford to employ house-girls and that the emerging middle-class African employer emerged only in the early 1970's. During the colonial period, there was a noisy discourse about domestic workers that circulated in colonial newspapers that had impact on the composition of domestic labour. For example,

30 GN. No. 80 of 1957. This trend was the same throughout the colonial time, see the *Master and Native Servants' Ordinance* of 1923, Cap 51, *Employment Ordinance* of 1957, *Workmen's Compensation Ordinance* of 1949 (Cap. 263), and the *Provident Fund (Local Authorities) Ordinance* of 1944, Cap 53 (all repealed), and the *Provident Fund (Government Employees) Ordinance* of 1942, cap 51 which is still in force.

31 See Shivji, I. G., *Law, State and the Working Class in Tanzania*, James Currey Ltd, London, 1986, at p. 47. See also ILO, *Evaluation of the International Programme for the Improvement of Working Conditions and Environment (PIACT)*, International Labour Conference, 70th Session, 1984, at p. 33.

citing Hansen (1989) Bujra observes that women servants were consciously boycotted over most of the 20th century on account of their (supposed) rampant and threatening sexuality (see also Ann Stoler 1997). Consequently, colonial women employers, out of fear of their husband's infidelity, preferred male servants.

Against this background, there are four key features of domestic work in Tanzania that need to be highlighted: (i) the change from male to female workers; (ii) the recruitment aspect of Undugu (Kinship relations) (iii) the associated rural to urban migration, and (iv) Trafficking for domestic servitude.

1.4.1 Feminization of Domestic Work in Tanzania

Beyond the boycott of women servants in 20th century, Bujra (2000) does not say much about why the rise of African middle-class has led to more hiring of female domestic work. There is an underlying implication that this group of employers have differing 'cultures of servitude' (after Qayum and Ray 2003). Such speculations may be right based on the observations that "different cultures of servitude are shaped by particular historical configurations of economic/gender/spatial and often race/caste structural inequalities that traverse the domestic and public spheres" (Quayum and Ray 2003:527). Nevertheless, we know that gender politics, as the gendering of work, are seldom merely about gender (cf. Ong 1995). Instead, they illuminate the ways in which gender becomes a powerful sealant for multiple dimensions of social inequality (Chari 2004:240). Thus, the transformation of the domestic work process in the urban middle-class household becomes a lens into ways in which multiple structures of production and social reproduction operate to maintain inequality across a range of contexts (Mills 1999).

Seen this way, we can interpret Bujra's second reason for the feminization of domestic work, which is "men no longer think that paid domestic work is a "worthy" job" (Bujra 2000:4), in another way. We can begin by exploring how a "worthy job" is defined; that is, the way Tanzanian men and women define the value of labor.

It has been argued that the conception of male social value, and hence manliness in Tanzania, depends on man's ability to fulfill his social role, that is, to feed, clothe, and shelter his family, be it nuclear or extended, while womanliness is equated to a submissive commitment to the support of this conception. A worthy job can therefore be defined as one that would give a man the ability to fulfill his social roles and maintain his social value. This dependency on a worthy job, however, does not preclude modifications over time of the definition of manhood to reflect changing ways in which men are able to fulfill their social roles. So for example, even as it was highly racialized, classed, and gendered, domestic work before 1980 managed to grant men the ability to fulfill their social roles. In other words, as the only accessible source of capital, paid domestic work was not equated to doing 'women's work' as it is today, because it allowed men to meet their social roles. As such, the change from male to female domestic workers can be seen as a response to the inadequacy of wages accrued through paid domestic work which no longer enables male workers to fulfill their perceived social roles as sole breadwinners in the households. It can also be seen as a parallel response to the emergence of higher paying jobs and freedom to perform skilled work in the post-independence period. In essence, what we are witnessing are the complex ways in which the shifting material conditions of labour shape gender roles and relations.

Before the sudden increase of female domestic workers, the men doing this job had to deal with their injured masculinities - because they were doing "women's work." However, it was bearable as long as men did earn enough money to feed their families back 'home' in the rural area. The coming of women challenged their ability to fulfill this aspect of their masculine identity, and brought a sense of vulnerability among men as to the authenticity of their masculinity when in fact they are doing "women's tasks," the same ones they refuse to do in their own homes. In other words, increased female rural to urban migration is implicated in the pace of change from male to female domestic workers in that it reduced, for houseboys, the distance between place of work (urban household) and home (originally rural) (Kiaga 2007). That is, the propensity for participating in otherwise 'women's work', hence emasculating, increases with increased distance from 'home.'

Feminization in domestic work has been further shaped by women themselves. Women have been strategically investing in 'patience and tolerance' in order to remain in whatever the job condition and to gain access to new job opportunities within and beyond their social network endeavours. Social cultural factors could have also contributed to place women in discriminative conditions and less paid jobs particularly when performed at the household level. Rubinow (1906, p. 504) observed that, while some jobs can be unproductive when performed at the household level, the same jobs can be productive when performed in commercial laundry and restaurants. This means, job worthiness also depend on the site or place where the action takes place. Long (2000, p. 190) and Long (2001, p. 59) suggested that, arena (e.g. the household) as we shall see, are either spaces or locations in which contestation associated with different practices take place. Therefore, the social practices in which they are produced are important phenomena in analysing the condition of domestic workers.

1.4.2 Recruitment Practice through Kinship Network (*Undugu*)

Recruitment of domestic workers through kinship networks provokes a number of issues. If, for example, the household can be conceptualized as an institution, then the strategies for recruitment of labour for the household should be comparable, to some extent, with that of any other organization. Here it is important however to differentiate between functions of organizations. Most importantly, what does kin-based employment as a household strategy afford the household that would be different if this strategy was not used? Since every employment strategy in an organization has specific goals, it is necessary to explore the goals of the household. There is danger here of falling into the “unified” household trap, in which most economists have fallen into in trying to understand household economy. As such, Kiaga (2012) has called it a conundrum in the sense that it is a culturally embedded practice that, in this day and age, conjures up negative results.

The way labour relations and more so, the kinship relations operates has a tremendous and significant impact on the way domestic workers are accessed, hired and protected/unprotected. Labour markets for kinsmen and women domestic workers are not only interwoven within the local economy, culture and history, but also exist within a broader set of labour markets that give them their locally specific dynamic and practices. Understanding the kinship nature thus, requires exploring how and the extent to which, kinship labour markets are shaped by the local, national, regional and global domestic workers’ markets and the changes that have been brought about by their expansion. Therefore, the present nature and dynamics of domestic workers’ markets are clearly the result of a social struggle and interaction of labour markets at the local, the national and the global. These dynamics do not simply co-

exist; the local, national, regional and global processes are continuously interacting and mutually transforming the social-ecological spaces and the social networks that surround them.

According to Kiaga (2007; 2012), the use of kinship networks, also referred to as *Undugu*, is very common. In the 2007 study, she defines the concept as follows,

“As an economic practice, *Undugu* can be compared to an “economy of affection,” defined by Goran Hyden (1983:21) as “networks of support, communications, and interaction among structurally defined groups connected by blood, kin, community, or other affinities such as religion.” According to Swantz and Tripp (1996:12) it emphasizes “community survival rather than simply individual survival, the reliance on and support of kin and clan at times of hardship; dipping into one’s business savings to pay for medical treatment of a sick son or daughter rather than single-mindedly pursuing a profit motive; charging customers for services according to their ability to pay rather than having a fixed rate; hiring an extended family member in a business to help them out even at the cost of economic efficiency.” ...Today, the increasing use of *Undugu* seems to reflect not only adherence to rights, duties and moral obligations, but also the lack of alternatives in access to resources, especially labor, outside the circle of kin (Creighton 2000:78). As institutional sources of support outside the household have dwindled with the adoption of market economics, households have tended to increasingly depend on their immediate circles of kin. This study reveals that urban middle-class women draw on *Undugu* as a cultural means to make claims on the surplus labor of house-girls.” (p. 10)

The kinship relation is one of the enabling environments for domestic workers, particularly those from rural areas, to enter the sector, especially in an urban setting. This is so because new entrants from rural areas tend to have very limited social networks and to be inexperienced. Therefore, the most immediate alternative for them to manoeuvre is through their kinsmen and women. Moreover, both rural and urban new entrants, enter the sector through connections from friends, neighbours, home mates, ethnic members and even the urban-based prostitutes from their home village. These reasons happen not only for new entrants, but even for experienced migrant and foreign domestic workers. A good scenario can be drawn from the ever-growing Malawian domestic workers in Tanzania. Their social network endeavours through friendship, ethnicity, neighbourhood and originality help them to secure jobs in different households, in long and short term basis.

Although kinship plays a great role, it doesn't mean that this type of social relation is not contested, on the contrary. One notable aspect in kinship mode of employment is that, the employer plays a key role by creating networks of dependency that give the employer almost absolute control over the domestic worker. They hold back wages ensure that they buy goods from their shops on credit; and offer non-monetary incentives such as food and clothes, because cash in their pockets may be too empowering. In such cases, domestic workers become fully controlled and deprived of freedom and benefits. With such deeds, there are many actions that reflect a diverse type of counter-tendencies and resistance by domestic workers. These processes and trends capture the contrasting ways in which domestic workers are being reshaped through opening up of other modes of social relations – for instance, the non-kinship arrangements (e.g. contractual) and 'own-account' (freelance) domestic workers which

result to different patterns and conditions of employment. Contractual arrangements (all else being equal) allows the employer to hire 'anonymous' domestic worker - a commoditized approach designed to ensure that the power to implement exploitative working condition is maintained though in some cases more fair working conditions are implemented. In many respects, employers' strategies with their domestic workers are feudal, and have evolved around the creation of debt and persistent poverty in order to compel these domestic workers to continually work for them. Mobility, migration and resistance among others, are some of the strategies some domestic workers employ – the threat of leaving, can be a powerful way of levering benefits from their employers. Some employers are very kind. They follow national wage rules and pay full or part of the costs such as fare, medication and housing. Nevertheless, diverse types of relations and practices are emerging and are shaped by global, regional and local processes. More importantly, they are shaped by domestic workers' own struggle to escape the relationship of dependency and aggressiveness characterized by the kinship relation and domestic workers conditions.

1.4.3 Rurality and the Rural to Urban migration

The notion of being a migrant is increasingly associated with the discourses of 'backwardness', desperation - for work, finances, and a curious ability to work under strenuous conditions in urban areas (for rural migrants) or foreign countries (for international migrants)³². Some of these stereotypes, as has been shown in several studies, including this one, contradict the reality of most migrants, a contradiction that calls for context-specific exploration. Furthermore, research on

³² K.T.Hansen uses Said's notion of 'positional superiority' to describe these notion. She equates them with orientalism, which puts westerners in a whole series of possible relationships with the orient without ever losing the upper hand (1989:10).

migration for domestic labour has conceived of the migrant as a female labourer moving in response to regional economic disparities, a movement constructed around differences in gender, race, ethnicity and nation (Silvey and Lawson, 1999; England and Stiell, 1997). With a few exceptions (Dallalgar 1994) these migrant domestic workers have been described as belonging to an ethnic minority, lower economic class, and in those studies that employ the modernization perspective, as coming from 'underdeveloped' regions, giving their employers absolute power over their migratory and domestic labour experiences.

In Tanzania, rural to urban migration for domestic labour is juxtaposed with the recruitment practices of urban households through use of social networks such as kinship, originality and friendship networks among others. Three aspects of such juxtaposition are of more interest. First, we find that the employment of rural kin can be seen as implicated in the reconstruction of the meaning of the rural. Discourses of 'backwardness' of the rural area represents labourers from the rural area as needy, desperate for work and grateful to be able to work in urban areas (see for example Kanyoka 2003). Such discourses are in fact a reflection of structures of social, political and economic inequality which have consistently subordinated rural producers within the national political economy. Here, rurality and the associated second-class citizenry are constituted in agriculture's inability to retain rural labour and wipe out the adverse poverty among the rural populations in the country. And if class is understood to be defined by place within the relations of production, then what we are witnessing is geography of class relations in Tanzania. That means while the urban middle-class employer is in a position of power, the rural labourer lacks bargaining power. Employers drawing on such discourses to recruit kin, or non-kin house-girls for that

matter, engage in an economic strategy that allows them to reduce the cost of labour by externalize costs into others and in this case, the domestic workers.

Another factor that influences the employment of rural house-girls is to avoid the urban house-girls; who, by virtue of their moving to the urban area are perceived to have accrued a 'cultural capital' – in Bourdieu's sense of information and knowledge – that influence their work habits in ways that may affect their level of submission to her employer's rules and regulations. This may include information about salaries, the behaviour of different employers, and types of tasks that are acceptable in this line of work.

Yet another way of looking at rural recruitment and employment of kin domestic labour is for employers to accrue 'symbolic' capital, e.g. prestige and social value in rural households. Symbolic capital, according to Bourdieu, is in essence, economic capital disguised as 'not economic' through a display of lack of interest in economic gain. As he puts it,

"In an economy which is defined by the refusal to recognize the 'objective' truth of 'economic' practices, that is, the law of 'naked self-interest' and egoistic calculation, even 'economic' capital cannot act unless it succeeds in being recognized through a conversion that can render unrecognizable the true principle of its efficacy. Symbolic capital is this denied capital, recognized as legitimate, that is misrecognized as capital (recognition, acknowledgement in the sense of gratitude aroused by benefits can be one of the foundations of this recognition) which, along with religious capital (see Bourdieu 1971), is perhaps the only possible form of accumulation when economic capital is not recognized" (Bourdieu 1990: 118).

By denying the pursuit of economic gain, symbolic capital then remains an economy of 'good faith' in which agents 'are forced to devote almost as much ingenuity and energy to disguising the truth of the economic acts as it expands in performing them' (Bourdieu 1990:113). The danger that lies beneath such good faith is that it may blind the rural household and the recruited housegirl to the nature of their oppression, hence becoming a mechanism for maintaining inequality. For example, earlier studies of domestic labour in Tanzania have found that "making a living in Dar Es Salaam has often depended upon exploiting rural links and situational invoking of 'kinship' for individual (and family) advantage in urban markets (Van Donge 1992 quoted in Creighton and Omari 1995:225).

All in all, the aspect of mobility and migration (Brugère et al., 2008 p. 7) are geographical components of livelihoods diversification. The components can be influenced by many factors including socio-cultural institutions (De Haan, 1999) which can determine who may migrate, from where and which season³³. But such practices seem to be declining because of commoditization³⁴ and young people are becoming more and more unwilling to bear with restrictive traditions. Apart from mobility, the role of social network is becoming much effective to the extent of having 'urban and rural based agents' (*mawakala*). These agents are network nodes, whose major role is to mobilize domestic workers (with a fee) from rural to urban centers where the market for domestic labor remains high.

33 During farming seasons demand for domestic workers can be so high because some clans and family members don't allow young and productive family members to migrate to urban centers. At the same time during dry seasons and when students complete their primary education a number of young men and women migrate to town in search of fortunes - permanent and seasonal labour.

34 The emerging of agents/mawakala or middlemen and women, fees or commission and the ever growing of domestic worker's markets are examples.

Such deeds have enabled the sector to be driven in ways that it is presently formulated – it is driven mostly by markets for labour and the diversity of social networks.

On the other hand migration and mobility increases vulnerability³⁵ for domestic workers and their families who are left behind. Domestic workers, who might otherwise prefer a sedentary lifestyle, close to home, family and children from which to work, have to follow mobile and/or urban based employers if they are to remain in jobs. Kishamawe et al., (2006 p. 601-602) noted that, both mobile people and their partners show increased HIV risks. Domestic workers often travel without their spouses or sexual partners. Being away from their families and communities, and thus from social and sexual control, may cause them to change their behaviour. They may have sex with more men or women than if they had stayed at home. On the other hand, differences in social life styles between rural and urban dwellers may lead them to get involved in commercial sex (exposing themselves to high risk of contracting HIV/AIDS and other Sexually Transmitted Diseases) in order to look fancy and modern.

1.4.4 Trafficking for Domestic Servitude

Working age is an important aspect of work. Literature along this area confirms that in many countries using child domestic workers is still a common practice. These children are often scattered across several households and their employment is often informal, with some employers passing them off as their own children. The employers of these children are sometimes non-members or members of their extended family. Child domestic workers are estimated to make up a large proportion of the 200 million child workers worldwide, with 200,000 child domestic workers in Kenya

35 Workforce is drained and those with children are left back home with their sisters, brothers, parents and/or grandparents.

alone (Kifle; 2002). Some of these children are as young as seven years old, working for as long as fifteen hours and in most cases unpaid, as some employers consider food, second hand clothes³⁶ and accommodation to be sufficient remuneration and incentives. Child domestic workers are sometimes assigned tasks that go beyond their capacities, such as carrying heavy loads and although they still kids themselves they have to look after their employer's children. In a study in Ghana, Apt (2005)³⁷ 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.

As indicated in Box 1.2 below, Tanzania is no exception when it comes to child domestic workers. These children come from different backgrounds - polygamous family, poor families with both parents' alive, parentless families and divorced and separated families where children are raised by single parents, guardians and they with minor help from neighbours. Such household dynamics brings in another driver – deprived lifestyle (poverty) which contributes significantly in shaping the domestic sector in Tanzania. The Integrated Labour Force Survey conducted in 2000/2001 indicated that 47.8% of all working children at the age of 5 to 17 years were child domestic workers. Also, in 2004, a study conducted by Kivulini, a non-governmental organization working with child domestic workers, found that all children working in Dar Es Salaam and Mwanza were trafficked³⁸ as immigrants from other regions in Tanzania. The study also

showed that girls outnumbered boys in a ratio of 4:1. This implies that young girls are more vulnerable to domestic work in expense of their education, facing abuses and all forms of exploitations. In a more recent study by the International Organization for Migration (IOM, 2010), five key aspects of human trafficking in Tanzania were noted:

- a. 74% of the victims are female and 26% male;
- b. The majority of the victims are between 12 – 17 years old;
- c. 65 percent of the victims are recruited under promises of paid jobs and 28% under the promises of education;
- d. Victims of internal trafficking mainly came from the regions of Iringa, Morogoro, Kilimanjaro, Singida and Dodoma;
- e. A main type of exploitation is as a house maid/keeper.

36 Locally known as *mitumba* imported from European countries.

37 Apt, N. A. (2005) *A study of child domestic work in Northern and Upper East regions of Ghana*. Centre for Social Policy Studies, University of Ghana, Legon, August 2005.

38 Tanzania is a signatory of the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the UN Convention against Transnational Organized Crime

Box 1.2 - 2011 Trafficking in Persons Report - Tanzania (Tier 2 Watch List)

Tanzania is a source, transit, and destination country for men, women, and children who are subjected to forced labour and sex trafficking. The incidence of internal trafficking is higher than that of transnational trafficking, and is usually facilitated by family members', friends', and intermediaries' offers of assistance with education or finding lucrative employment in urban areas. The use of young girls for forced domestic work continues to be Tanzania's largest human trafficking problem. Girls from rural areas of Iringa, Singida, Dodoma, Mbeya, Morogoro, and Bukoba regions are taken to urban centres and Zanzibar for domestic service; some domestic workers fleeing abusive employers fall prey to sex trafficking. Boys are subjected primarily to forced labour on farms, but also in mines, in the informal sector, and possibly on small fishing boats. In the Arusha region, unscrupulous agricultural subcontractors reportedly trafficked women and men to work on coffee plantations. Smaller numbers of Tanzanian children and adults are subjected to conditions of forced domestic service and sex trafficking in surrounding countries, South Africa, Saudi Arabia, the United Kingdom, France, and possibly other European countries. Trafficking victims, primarily children, from neighbouring countries, such as Burundi and Kenya, are sometimes forced to work in Tanzania's agricultural, mining, and domestic service sectors. Some also are forced into prostitution in brothels. Citizens of neighbouring countries may voluntarily migrate through Tanzania before being forced into domestic servitude and prostitution in South Africa, Europe, and the Middle East.

SOURCE: United States Department of State, *2011 Trafficking in Persons Report - Tanzania*, 27 June 2011, available at: <http://www.refworld.org/docid/4e12ee42c.html> [accessed 17 March 2014]

Fraud, deception and abuse of parental or guardianship power are the most common means by which most children are trafficked. This is being fuelled by the fact that for many in the rural areas, domestic work is seen as an opportunity to move to the urban areas and hence escape the poverty that surrounds them. Moreover, former migrants have been able to bring 'home' the little they have made in the urban area such as fancy outfits, radios, watches, mobile phones and so on. As such, pressure on idling young women and men to also move to the urban areas and earn a living, with little regard to the quality of the jobs they do, continues to mount.

1.5 Objectives of the Situational Analysis

Taking into account the different aspects of domestic labour in Tanzania described above, it is almost obvious that any efforts

to address the situation of domestic workers in the country must start with building a knowledge base on the current situation. In addition to this fact, there were other efforts happening at country level that necessitated the conduction of the situational analysis. To start with, Tanzania is one of the countries that gave its solid tripartite support to the adoption of C189 and R201. The Labour Minister (Mainland) has announced that she would push for the ratification of C189 by her Government. This had the strong support of the representatives of Workers (TUCTA, CHODAWU) and representatives of Employers (ATE).

At a workshop convened by the Labour Ministry in Morogoro (23-25 April 2012), representatives of the Ministry of Labour and Employment and Workers, drafted an action plan that is aimed at supporting and facilitating

the ratification process as well as at promoting the rights and protection of domestic workers in the country. The envisaged actions require information about law and practice *vis-à-vis* C189 and situation of domestic workers in the country. In addition, at a forum of the Zanzibar Labour Advisory Board in 19 April 2012, the LAB recognized the importance of C189 and awareness of domestic workers' rights, and decided to consider C189 ratification based on a legal assessment and situational analysis of domestic work in Zanzibar which would provide information on number of domestic workers and households that employ them; the socio-demographic profile of workers and employer-households; patterns of employment and contractual arrangements; and terms and conditions of employment.

1.6 The Household – A Social Arena: Conceptual Approaches

Although this report dedicates a whole section on research methodology, the authors thought it necessary to include here the conceptual framework that guided the situational analysis of domestic workers in Tanzania. The report considers domestic workers as part of the social actors (within and beyond the households) who are not just individuals but also collectives (e.g. groups, networks, associations, federations) that constitute the social arena hence the need to study their practices as well as social relationships. Long (2001) argues that social actors have opinions and interests and they exist in certain institutional and political cultures. They belong to networks and they can move across different spaces. Social actors have agency³⁹ and potentially they can exercise power (e.g.

³⁹ Agency refers to the knowledge, capability and social embeddedness associated with acts of doing and reflecting that impact upon or to shape one's own and other person's actions and interpretations (Long 2001, 2007). In other words Agency refers to the capacity of individuals to act independently and to make their own free choices. Structure, in contrast, refers to the recurrent patterned arrangements which influence or limit the choices and opportunities available.

resistance) and are able to create some kind of space in which they can to a certain degree maneuver. Long (ibid: 58-59) emphasizes two additional concepts of social domain and arena. Domain and arena permit the analysis of the processes of ordering, regulating and contesting social values, relations, resource utilization, authority and power. In this context, some of them are considered.

The report further explores the dynamics of domestic workers in and around Tanzania. As well as operating alongside each other, these dynamics also interact and shape each other in many different ways. These are not well documented and are often ignored when the future and dynamics of domestic workers' working conditions and their labour relations are discussed. The domestic workers industry in Tanzania and elsewhere around the world have deep historical roots and respond to demand for labour from large sections of people living in rural, sub-urban, urban and across the borders. Before proceeding, it is important to explain how we conceptualize domestic work, domestic worker and the household in Tanzanian situation.

Domestic work is conceptualized as a social practice which is deeply socialized and facilitated by supportive and /or selfish relations that go beyond the household unit. In addition, a household is conceptualized as a social arena, where different practices occur and different household members struggle to gain freedom, rights, access to paid jobs, decision making and control. This concept is chosen because arena in itself is a field of resistance, struggle and negotiation. A household as an arena is characterized by different practices – social and material and also by different discourses which in turn support and provide legitimacy to the actions. The household is further conceptualized as a socially constructed and negotiated space, as both a physical place for work and

place for social gathering and building up of relationships. The household is not just a physical place, but also a place of ‘social network’ or interaction. It is believed that, man-woman-children and dependents relationships (interaction) in the household also play a great role in creating different features of a household and house work in Tanzania.

A domestic worker, on the other hand, is taken to be a grown-up male, female and even a child⁴⁰ hired in the household on a daily or specific number of days. Their interest is to earn fare wage labour in order to get basic needs, to feed themselves and their families. Non-contractual engagements characterize this type of career with no negotiation power. The wage, remuneration systems and working terms are determined by their employers⁴¹ and majority are poor, illiterate and voiceless. Their rights are often violated, denied and are prone to exclusion and full control because of their place within the household and the entire system of unequal social relations of power. Hardworking, self-discipline, trustworthiness and job experience are important criteria for them to secure employment.

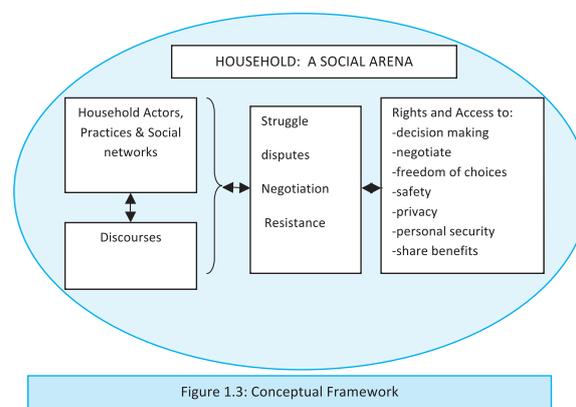
The main argument that runs through this report is that, domestic workers in Tanzania like elsewhere around the world are undervalued, voiceless, poorly regulated and many of them are denied adequate monetary compensation and decent working conditions. They are vulnerable to various forms of ill-treatment, abuse and violence in comparison to the workers in other sectors due to invisible nature of their work and general lack of human rights and respect towards them and their jobs. Though they are invisible, they directly and indirectly contribute for the skilled workers’ or their employer’s performance. They

40 Below 15 years old

41 In some cases town-based domestic workers agents are also involved in determining their wage. Details will be explained later.

work extensively and perform multiple jobs. Moreover, while the domestic work industry has produced a considerable number of jobs in Tanzania, it has also produced jobs that are extremely insecure and risky in nature. There is very little that domestic worker does in Tanzania can protect the men, women and children who enter the industry in search of income, food and a future. They have taken on the burden of coping with different forms of social crisis. Their rights as Tanzanian citizens are quickly forgotten in the rise of commoditization as they are subjugated to poor and unsafe working conditions, exploitation and very few employment alternatives. The industry is typically an arena of struggle, contestation and is characterized with ‘everyday forms of resistance’.

This report elaborates the notion of a social arena as the main guiding concept to understand the domestic work labour relations in Tanzania. It does so, by conceptualizing a household as a social arena that serves to show how domestic workers operate to make a living, the discourses they use or see themselves confronted with, how they often become involved in struggle, fights and disputes about their rights, and how they finally get compensated. Figure 1.3 describes the conceptual framework.



The concept of arena is analytically useful as it connotes and involves social actors, their practices and struggles. These concepts are linked with carving everyday access to resources, power struggle, making claims, controlling and reordering of resources including the labour resource. The term arena originates from Latin word *harena*, meaning “sand”, which was usually the primary surface where gladiators battled. Arena is also often used to vaguely refer to any event or type of event which either literally or metaphorically occurs, such as “the arena of war” or “the political arena”. In the Oxford dictionary (2011), arena is described as an enclosed space surrounded by seating for spectators, in which sports, entertainments, and other public events are held⁴². A household as a physical assemblage of actors and processes also represents a multitude of different meanings, attitudes, interests and historical claims which may be contradictory in nature. One group of actors claims their discourses to be hegemonic, which in turn are contested by others. The household thus unfolds analytically as an arena with contesting discourses. Counter discourses also manifest as household resistance to power differences, control and unfair decision making occur. Resistance may be hidden from the eyes of the domestic workers but when looked closely in and around the household one may discover the underlying discourses legitimizing the household fights and the colliding interest and interpretations of issues.

When considering a household as a constructed space in the methodological and conceptual dimensions, we need to move away from pre-determined actors categories because actor’s position in the arena is not fixed. Domestic worker’s position may change mutually and/or manipulatively.

42 <http://oxforddictionaries.com/definition/english/arena?region=uk&q=arena>, 19th July, 2014.

They may be treated like strangers, relatives and family members. Depending on the nature of household dynamics, their position may change to a wife, husband a child and even criminals. This means the arena have multiple boundaries that are fluid and dynamic. In the same manner, their roles may change and therefore the relationships between the actors in the arena are not necessarily hierarchical despite existing power differences. Both of these features have consequences for the methodological aspects in this context - a multi-sited with multiple realities.

It is important to understand the actors and their practices and events in the arena. Long (2001) for instance, while advocating an actor-oriented analysis of social change, postulates that society is differentiated, not in terms of classes and class struggles, but in terms of practices and discourses and how actors struggle to make a living, and so on. He also argues that “social actors must not be depicted as simply disembodied social categories (based on class or some other classificatory criteria) or passive recipients of intervention, but as active participants who process information and strategies in their dealings with various local actors as well as with outside institutions and personnel” (ibid: 13).

Discourse analysis primarily aims to understand why a particular understanding of the problem at some point gains dominance and is seen as authoritative, while other understandings are discredited (Hajer 1995: 44). It aims to analyze the ways in which certain problems are presented, differences are played out, social coalitions are formed and specific meanings are produced (ibid). Discourse analysis offers a useful way of exploring the significance of particular ideas and cultural repertoires and how they interact as per situation. Using arguments in a struggle (see some quotes), the actors not only position themselves, and they also

try other actors to view the problem in their way. This can be one discursive construction which must be noted in discourse formation. Another situation can be a routine practice or cognitive commitment giving permanence to discursive understanding (Hajer 1995: 56). Daily struggle by domestic workers is such an example where the problem persists that this practice is disregarded as discourse.

The report also introduces the concept of networks and it takes into account that the household is not only the social arena, but an economic institution. According to this school of thought, personal relations and social structures such as networks play a vital role in economic performance such as generating trust for economic and social activities, reducing risks and costs, and guarding against trouble and uncertainties. "Networks of relations, rather than morality or arrangements, are the structure that fulfills the function of sustaining order" (Granovetter 1985: 491). Nevertheless, Ensminger (1996) concedes that institutions and organizations (e.g. "households") can fail to keep transaction costs low. In such cases it remains beneficial when trustworthy members of the same ethnic group, for instance, are involved in the stages of the economic undertakings. Ensminger concedes that in such a case so

called agency costs to monitor behavior and performance of trading partners are not necessarily present or rather low. She points out that social connections and social networking (in terms of including familiar actors) can contribute to economic benefits. Networks in terms of shared identities, institutions, and organizations can have a vital impact on the economic performance and profits (Ensminger 1996). It is assumed that, actors in networks do not act selfishly, they count on each other (Granovetter 1985). This means, kinship and other related networks (friendship, originality, ethnicity etc) are good examples.

1.7 Structure of the Report

The report is organized in six chapters. Chapter 2 gives a detailed account on research methodology. Chapter 3 is about the national and international regulatory frameworks and Chapter 4 gives details of demographic profile of domestic workers and employers in Tanzania. Chapter 5 is about working conditions in the domestic work sector and Chapter 6 concludes the report with policy implications of the Situational Analysis of Domestic Workers in the United Republic of Tanzania.

PART II

Research Methodology

“The domestic worker is a very heterogeneous category, difficult to define and therefore to protect...

Their invisibility is reinforced by the inaccuracy and/or unavailability of data on domestic workers, often linked to reliance on domestic workers being registered for information gathering...

Nevertheless, numbers on domestic workers are difficult to evaluate, as definitions vary and the sourcing process is not always the same in every study. Also in calculating national estimates, not all areas of a country are necessarily surveyed, influencing the estimate for the total number of domestic workers in that country.”

LABORSTA, 2011

2.1 Hard to Reach, Hard to Count

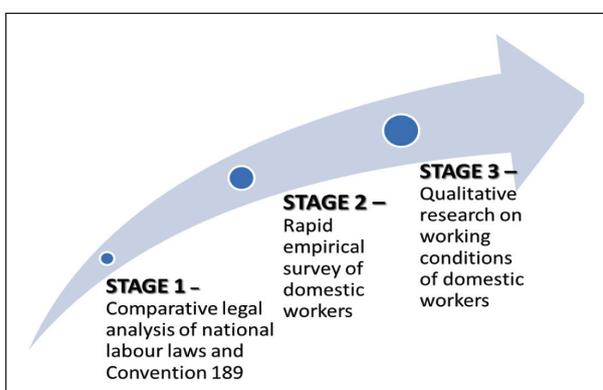
The observations by the ILO’s labour statistics database summarize the challenges that statisticians have had in capturing the scope of domestic work globally. Yet, there is no doubt that reliable statistics are essential to understand the nature and extent of the sector, existing conditions, and to inform policy-makers and other stakeholders involved in advancing decent work for domestic workers. It was therefore not surprising that after a ground breaking adoption of the Domestic Workers Convention No. 189 (C189) in June 2011, a number of ILO member

states embarked on a review of their national labor laws with a view to align them with the convention and then moved towards data collection in order to assess progress and impact of the implementation of their national laws. Tanzania is no exception.

In this section of the report, more detail on the study methodology is provided. A two-pronged methodology has been used within the framework of ILO’s support in the development of appropriate methodologies for national data collection on domestic workers. Such national methodologies envisaged to include procedures for not only assessing compliance towards national and international laws that protect domestic workers but also for providing: (a) benchmark estimation of the total number of domestic workers and its distribution by main category and (b) in-depth analysis of characteristics and conditions of work of domestic workers, in line with the provisions. It is expected that the findings of this two-pronged methodology will provide replicable methods for measuring and profiling domestic workers that can be tested in other countries of similar conditions or that can adopt such methods in their own setting.⁴³ This could potentially lead to harmonization of data collection, and more importantly, aid alignment of national labour laws with the convention.

⁴³ Apart from Tanzania, the three-pronged methods has been piloted in Zambia and the Philippines. In addition, guidelines for how to conduct each stage of the methodology are being developed by ILO’s Inclusive Labour Markets, Labour Relations and Working Conditions Branch (INWORK) and are expected to be published by end of 2014.

Figure 2.1 A Multi-stage Methodology for Assessing the Situation of Domestic Workers



Apart from a comparative legal analysis of the national laws and the Domestic Workers Convention, 2011 (No. 189), the research design employed in Tanzania combined quantitative data on the magnitude, incidence and profile of domestic workers and employer-households, which were generated through a national random sampled household survey, with in-depth qualitative data on conditions of work and employment, which were generated through a targeted, purposive study of categories of domestic workers and employers. The purpose of the national household survey was to rapidly determine the magnitude/incidence of domestic work as well as to capture all types of domestic workers, including those who might not be considered “domestic workers” by the households that employ or use their services. Basic socio-demographic factors for domestic workers and employers were investigated.

Data on working conditions of domestic workers were not collected during the household survey for two reasons: (i) to avoid risks of not gaining access to households that might have employed individuals as domestic workers but were not ready to disclose this; and (ii) so as not to expand, burden or distort the interviews because of questions that could have been inadequate or perceived

inappropriate due to lack of information necessary to design a structured interview instrument. (iii) It was likely to be perceived as sensitive inquiries to begin with and distort subsequent interviews. By employing qualitative research methodologies, the latter study is expected to generate not only finite data on working hours, wages and remuneration systems, employer and hired-labour working relationships but also other visible as well as invisible dimensions of employment conditions of domestic work. Through face-to-face interviews with domestic workers (often considered hard-to-reach populations) and their employers, the qualitative study took an in-depth look at their situations and interactions.

2.2 Comparative Legal Analysis

This component employed both field and library research to gather primary and secondary data. Library/desk research was mainly based on legal, contextual and policy analysis. It involved reviewing books, theses, journal articles, legislation, government publications and case law. Internet materials and resources were also consulted. These materials helped in understanding the state of working conditions in Tanzania at policy, legal and practical realities.

The purpose of this exercise was to assess national laws and practice with respect to decent work for domestic workers and review them in the light of the provisions of the Domestic Workers Convention, 2011 (No. 189) to facilitate its ratification and effective implementation. It therefore involved review of all regulations, guidelines and government orders that pertain to, or affect, the working conditions of domestic workers. Table 2.1 below includes the thematic areas covered by this analysis.

Table 2.1 Thematic Areas Analyzed in the Legal Comparative Exercise

Subject matter		C.189 Article	R.201 Paragraph
1. Definitions: what is considered domestic work and who is a domestic workers?		1	
2. Scope: are there any domestic workers that are excluded from national laws and practice?		2	
3. Promotion and protection of human rights		3	
4. Freedom of association, right to collective bargaining		3	2
4. Non-Discrimination		3, 11	3
5. Forced labour		3	26(2)
6. Child labour		3, 4	5
7. Protection against abuse, harassment and violence		5	7
8. Fair terms of employment, decent working and living conditions		6	17
9. Information on terms and conditions of employment, written contracts		7	6
10. Working time		10	8, 9, 10, 11, 12, 13
11. Remuneration		11, 12	14, 15, 16, 20(3)
12. Occupational safety and health		13	4, 19
13. Social security		14	20, 26(2)
14. Protection for particular groups	Child domestic workers	4	5
	Live-in workers	6, 9	17, 18
	Migrant workers	8, 15	20(2), 21, 22, 23, 26(1)
15. Private employment agencies		15	23, 26(2)
16. Compliance and enforcement		16, 17	7, 19(b) 21, 24
17. International cooperation and collaboration		8(3), 15(c) and (d)	20(2), 26

Because labour issues are not union⁴⁴ issues, laws from both mainland Tanzania and Zanzibar were reviewed. The key national laws reviewed are presented in Table 2.2 below.

⁴⁴ Tanzania is a union between the former Tanganyika and Zanzibar. Labour was not included in the Articles of the Union of 1964 or any other subsequent reviews of the articles

Box 2.1 Legal Instruments Protecting Domestic Workers in Tanzania

Laws from Mainland Tanzania	Laws from Zanzibar
i. Community Health Fund Act of 2001	i. Employment Act of 2005
ii. Employment and Labour Relations (Code of Good Practice) Rules of 2007	ii. Labour Relations Act of 2005
iii. Employment and Labour Relations Act of 2004	iii. Occupational Safety and Health Act of 2005
iv. Executive Agencies Act of 1997	iv. Pension (Political Appointees) Act of 1990
v. Labour Institutions Act of 2004	v. Private Employment Agents Regulations of 2012
vi. Law of the Child Act of 2010	vi. Regulations on Minimum Wages, of 2012 of Zanzibar
vii. Local Authorities Pensions Fund Act of 2006	vii. Specified State Leaders Retirement Benefit Act of 1988
viii. National Employment Promotion Services Act of 1999	viii. Workers Compensation (Amendment) Act of 2005
ix. National Health Insurance Fund Act of 1999	ix. Workers Compensation Act of 1986
x. National Social Security Fund Act of 1997	x. Zanzibar Social Security Fund Act of 2005
xi. Occupational Health and Safety Act of 2003	
xii. Parastatal Pensions (Amendment) Act of 2001	
xiii. Parastatal Pensions Act of 1978	
xiv. Political Service Retirement Benefits Act of 1999	
xv. Provident Fund (Government Employees) Act, cap 51	
xvi. Public Service Retirement Benefits Act of 1999	
xvii. Regulation of Wages and Terms of Employment Order of 2010	
xviii. Social Security Regulatory Authority Act of 2008	
xix. Workmen Compensation Act of 2008	

International Legal Instruments
(i) Abolition of Forced Labour Convention, 1957, No. 105
(ii) Collective Bargaining Convention, 1981, No. 154
(iii) Convention on Private Employment Agencies 1997, No. 181
(iv) Domestic Workers Convention, 2011, No. 189
(v) Employment Service Convention, 1948, No. 88
(vi) Equal Remuneration Convention, 1951, No. 100
(vii) Forced Labour Convention, 1930, No. 029
(viii) Freedom of Association and Protection of the Right to Organize Convention, 1948, No. 87
(ix) Holidays with Pay Convention (Revised), 1970, No. 132
(x) Home Work Convention, 1996, No. 177
(xi) Labour Inspection Convention 1947, No. 81
(xii) Minimum Age Convention 1973, No 138.
(xiii) Minimum Wage Fixing Convention, 1970, No. 131
(xiv) Minimum Wage Fixing Machinery (Agriculture) Convention, 1951 No. 99
(xv) Minimum Wage-Fixing Machinery Convention, 1928, No. 26
(xvi) Worst Forms of Child Labour Convention, 1999, No. 182
Recommendation No. 190
Recommendation No. 201

The legal comparative analysis was supplemented by a number of cases of labour disputes concerning working conditions of domestic work which provided vivid examples of how the country has managed to deal with the sector. Below is a list for which references have been made in the analysis.

Box 2.2 List of Statues

Amina Omary v. Ally Mohamed

Labour Dispute No. CMA/DSM/ILALA/57/10/1047

Elias Isack and Another V. Dr. Kavishe

Labour Dispute No. CMA/DSM/KIN/ILA/5596/2008

Fatuma Filly Said v. White Rose Guest House,

Labour Dispute No. CMA/DSM/KIN/410/12/8

Feda Anyingisye v. Kalinali

Labour Dispute No. CMA/DSM/KIN/180/09/483

Hamza Jumbe v Salmin Mbaraka,

Revision No 69 of 2008, High Court of Tanzania, Labour Division, Dar es Salaam

Jamila Kaoneka v. Sultan Remanji

Labour Dispute No. CMA/DSM/KIN/13/010

Omary Mkele & 20 Others v M/S Shipping Freight Consultant HC,

Labour Division, Labour Dispute No 6 of 2008 (unreported).

Restuta Mpagi v. Hindu Sinyange,

Labour Dispute No. CMA/DSM/KIN-ILA/560/10/1476

Sharifa Mohamed and Others v. LAKUPA Hair Beauty, Studio,

Labour Dispute No. CMA/DSM/KIN/513/10/1279

Yohana Seif and Oswald Paulo v. Henry S. Mariwa

Labour Dispute No. CMA/DSM/KIN/876/09

Zubeda Ally and 2 Others v. Lina Jonasani,

Labour Dispute No. CMA/DSM/KIN-ILA/12/09/362.

Further substantiation of the findings of the legal comparative analysis was done through key informant interviews. The main idea here was to understand the extent to which workers and employers of domestic workers understood various labour laws, and if they did, how they managed or failed to comply with the laws. The results of the comparative legal analysis are described in Part III of this report.

2.3 Empirical Survey

To understand the methodology selected for the empirical survey, it is important to review first the existing practices for estimating domestic workers and determining their working conditions at country level. A careful review would reveal that labour force surveys and in general most household surveys include an item on the relationship to the reference person of the household (often labeled as “head of household”). One of the answer categories is “domestic worker”. For example, in the 2006 Integrated Labour Force Survey of Zanzibar, the question on relationship to the head of household specifies the following categories:

1. Head
2. Spouse
3. Son/Daughter
4. Parents
5. Grandson/daughter
6. Other relative
7. Domestic employee
8. Unrelated

The count of domestic workers on the basis of this item may, however, provide an underestimate of the total number of domestic workers in the population. This is because the respondent may omit reporting a domestic worker as member of the household, or the domestic worker may actually be a member of the family and therefore reported as “other relative”. Still another source of underestimation may be in the situation where the domestic worker is considered as a non-worker by the respondent, for example, if the person is underage, and therefore reported as “unrelated”.

If the household member is reported as “worker” in the labour force survey, an alternative method of identification may be based on the reported branch of economic activity. Most labour force surveys use a version of the International Classification of

All Economic Activities (ISIC). In the latest version (ISIC, Rev. 4), the branch of economic activity referring to domestic workers is:

Division: 97 - Activities of households as employers of domestic personnel

Identification of domestic workers on the basis of this code may however also lead to underestimation due to different circumstances. The activity of the worker may be coded into another branch of economic activity, or if the domestic work is a secondary activity of the worker or if the interviewer or the coder does not recognize the worker as a household employee.

Tanzania has an on-going labour force survey (and other national household surveys), it was proposed therefore to adapt the questionnaire to improve the measurement of domestic workers through the existing questions on “relationship to head” and “branch of economic activity”, and if necessary add questions on secondary activities and probing questions on relation to head to identify domestic workers among household members.

Data collection on the characteristics and conditions of work of domestic workers took into consideration the need for care to be taken during survey design. It is recognized that the population universe is relatively small and access to the target respondent for an open interview is not always straightforward. As such, to obtain a sufficiently large sample, it was proposed to use the initial household survey which was then stratified for subsequent in-depth qualitative interviews though access to the target respondent for an open interview was not always straightforward. The information from the initial survey was stratified in order to examine the degree of concentration of domestic workers.

It is worthwhile to point out that the rapid empirical survey of domestic workers envisaged was very unique and to some extent complex. It was rather unusual in that it did not rely on traditional survey approaches of similar kinds such as integrated labour surveys, census, household budget surveys or similar related exercises. The differences employed are justified by several reasons.

First of all, it has been proven beyond reasonable doubt that the conventional labour force surveys or other household related surveys cannot adequately provide information on domestic workers. There are several explanations for such failure but most significantly, are the survey protocol, methodology and objectives. Domestic work is hard to model in due to high heterogeneity that surrounds the activities of domestic workers. In most cases the 'invisibility' trap tends to hide some works that could in fact be counted as domestic work. Therefore a conventional survey whose objectives are not directly intended for domestic workers might fail to uncover such invisibility. The other most important justification for a need to have a separate domestic worker survey is that the methodology for probing worker characteristics in the traditional surveys cannot adequately capture broad range of dynamics of domestic workers.

Secondly, a tradition survey has a high degree of underreporting since it has been proven that domestic workers are likely to be working for more than one household for exact equal intensity of work. This is unusual in other forms of work where a division between primary and secondary activities can be easily traced. In addition, the survey protocol and objectives are most critical factor for any survey to achieve the intended purpose. As mentioned before, there is currently no national survey in most countries that aim at surveying the domestic workers. Consequentially, the frame

of questions and flow chart of responses interlink that can ensure a consistency and completeness of information about domestic workers does not exist. All these problems lead to underestimation and misrepresentation of domestic workers information on density of employment, working conditions, its relation with other economic activities and overall development of this subsector of employment in the economy.

One direct solution would be to simply add a module of domestic work in national surveys such as integrated labour force survey. But this is only possible if already a methodology for credible survey of domestic workers exist. So far, no country has made progress in developing such methodology. Therefore one of the rationales for this domestic survey is to develop methodology that can guide future efforts to integrate domestic work surveys in national surveys. All these facts are strong rationales for the rapid domestic workers surveys like the one presented here.

The final justification falls under the efforts by International Labour Organization to fill the gap on survey of domestic workers globally. The ILO has long time experience and in developing methodology for tracking the so called hard to count workers or sometimes referred to as invisible workers. Therefore this is not the first occasion for ILO technical and methodological support of this sort. Previously, the ILO has developed expertise in making available methods for counting categories of workers who are difficult to identify and count. Methodology for credible surveys of child labour and forced labour are among the significant contribution of the ILO for countries which have made it possible now to survey and document broad range of characteristics of these sorts of employment. The rapid empirical surveys of domestic workers of Tanzania, Zambia and the Philippines are expected to add efforts of ILO in assisting its

Member States to have a way of gathering information that can allow measurement and profiling of domestic workers. And, as mentioned earlier, it is expected that their experience will provide replicable methods for measuring and profiling domestic workers that can be tested in other countries of similar conditions or that can adopt such methods in their own setting.

2.3.1 ILO Concepts, Definitions and Main Classifications

Domestic Worker

The questionnaire was designed to include all key concepts of domestic work. Most crucial was the definition of who a domestic worker is. The survey adopted the definition cited in Article 1⁴⁵ of ILO's Convention on Domestic Workers (No. 189), which defines a *domestic worker* as follows:

Article 1 For the purpose of this Convention:

- (a) the term "domestic work" means work performed in or for a household or households;
- (b) the term "domestic worker" means any person engaged in domestic work within an employment relationship;
- (c) a person who performs domestic work only occasionally or sporadically and not on an occupational basis is not a domestic worker.

Provision (a) is meant to cover both domestic workers who are members of the household and live with the household (live-in domestic workers) and domestic workers who are not members of the household and don't live in the household but work as domestic worker for that household.

⁴⁵ ILO, *Convention concerning decent work for domestic workers, No. 189*, International Labour Conference, Geneva, June 2011.

Provision (b) is meant to exclude persons performing domestic work in or for the household who do not have an employment relationship such as members of the family who are taking care of the house without an employment relationship.

Finally, provision (c) is meant to exclude persons performing domestic work on a casual basis such as the babysitter or the handyman bringing the purchases made at the supermarket.

Branch of Economic Activity

In the surveys, domestic work was in terms of their branch of economic activity. In general, *branch of economic activity* is a characteristic of an economic unit, or more precisely, an establishment. In the case of domestic workers, the household in which they are working constitutes an establishment. The household head or another member of the household is the employer, and the services provided such as clean house, cooked food, etc. are the outputs of the establishment.

The International Standard Industrial Classification of All Economic Activities, ISIC Rev 4, classifies economic activities into 21 broad categories called sections, as shown in the list below.⁴⁶ Section T concerns Activities of households as employers and undifferentiated goods- and services-producing activities of households for own use, sub-divided in divisions, groups, and classes:

Division: **97** - Activities of households as employers of domestic personnel

Group: **970** - Activities of households as employers of domestic personnel

Class: 9700 - Activities of households as employers of domestic personnel

⁴⁶ United Nations, *International Standard Industrial Classification of All Economic Activities, ISIC-08, Rev. 4*, <http://unstats.un.org/unsd> (click Methods & Classifications).

Box 2.3 Branches of Economic Activity

ISIC Rev 4	
A –	Agriculture, Forestry and Fishing
B –	Mining and quarrying
C –	Manufacturing
D –	Electricity, gas, steam and air conditioning supply
E –	Water supply, sewerage, waste management and remediation activities
F –	Construction
G –	Wholesale and retail trade, repair of motor vehicles and motorcycles
H –	Transportation and storage
I –	Accommodation and food service activities
J –	Information and communication
K –	Financial and insurance activities
L –	Real estate activities
M –	Professional, scientific and technical activities
N –	Administrative and support service activities
O –	Public administration and defense, compulsory social security
P –	Education
Q –	Human health and social work activities
R –	Arts, entertainment and recreation
S –	Other service activities
T –	Activities of households as employers; undifferentiated goods and services, producing activities of households for own use
U –	Activities of extraterritorial organizations and bodies

Source: <http://unstats.un.org/unsd/methods.htm>

For the sake of simplicity in the domestic workers survey, we used Section T as referring only to “Activities of households as employers of domestic personnel” so that the section, division, group and class are all confounded.

It included activities of maids, cooks, waiters, valets, butlers, laundresses, gardeners, gatekeepers, stable-lads, chauffeurs, caretakers, governesses, babysitters, tutors, secretaries etc. It excluded provision of services such as cooking, gardening etc. by independent service providers (companies or individuals).

Occupation (Domestic tasks)

A domestic worker may have various tasks and duties in and for the household in which he or she works, for example, cooking, cleaning house, laundering, gardening, etc. The tasks and duties of the domestic worker define his or her *occupation*.

According to the International Standard Classification of Occupations (ISCO), *occupation* refers to the kind of work done by a person employed (or the kind of work done previously or wanted if the person is unemployed), irrespective of the branch of economic activity or the status in employment of the person. An occupational classification system assembles together occupations of similar tasks and duties or in terms of the similarity of skills required to fulfil the tasks and duties of the job.

Table 2.2 below presents the occupational title and the occupational code of the various tasks and duties of domestic workers on the basis of the International Standard Classification of Occupations (ISCO-88) as well as the more recent international classification (ISCO-08).⁴⁷

⁴⁷ ILO, *International Standard Classification of Occupations, ISCO-88*, <http://laborsta.ilo.org> (click classifications). <http://www.ilo.org/public/english/bureau/stat/isco/index.htm>

The leading digit of the occupational code is circled. It corresponds to the single-digit code proposed for use in the survey of domestic workers.

Table 2.2 Occupational Titles and Codes

Questionnaire Category	Occupational Title	ISCO-88	ISCO-08
Domestic worker, general	Helper, domestic	9131 5-40.20	9111
	Housekeeper	5121 5-20.20	5152
	Housemaid, houseboy	9131 5-40.20	9111
	Maid, personal	5142 5-40.30	5162
Cooking meals	Cook	5122 5-31.30	5120
	Helper, kitchen/domestic	9131 5-40.90	9111
Laundry	Launderer, manual	9133 5-60.10	9121
	Maid, linen	9133 5-40.90	9121
Fetching water, firewood	?	?	?
Cleaning house	Cleaner, domestic	9133 5-40.20	9121
Looking after infants, children	Nursemaid	5131 5-40.35	5311
Taking care of sick, disabled	Nursemaid	5131 5-40.35	5311
Gardening	Gardener	6113 6-27.40	6113, 9214
Transporting household members	Driver, motor-car	8322 9-85.90	8322
Guarding the house premises	Guard, security	5169 5-82.40	5414, 5419

Status in employment classified jobs held by persons with respect to the type of explicit or implicit contract of employment of the person with other persons or organizations. The International Standard Classification of Status in Employment (ICSE-1993) identifies:⁴⁸

- Employees: Persons working in “paid employment jobs”, i.e., holding explicit (written or oral) or implicit employment contract with remuneration not directly dependent upon the revenue of the unit for which they work. Remuneration could be in the form of wages or salaries, commission from sales, piece-rates, bonuses, or in-kind payments such as food, housing or training.
- Employers: Persons working on own-account or with one or a few partners in “self employment jobs”, i.e., (a) remuneration is directly dependent on the profits (or potential for profits) derived from the goods and services produced or for own consumption, and (b) engaging one or more “employees,” on a continuous basis.
- Own-account workers: Persons working on own-account or with one or a few partners in a “self employment job”, not engaging any “employees,” on a continuous basis.

⁴⁸ ILO, *International Classification of Status in Employment, ICSE-93*, Fifteenth International Conference of Labour Statisticians, Geneva, 1993, <http://laborsta.ilo.org> (click classifications).

- Contributing family workers: Persons working in a market-oriented establishment operated by a household member, who cannot be regarded as partner, in a “self employment job”, not engaging any “employee” on a continuous basis.
- Members of producers’ cooperatives: Persons working in a cooperative producing goods and services, in a “self employment job”, not engaging any “employee” on a continuous basis

Domestic workers are mostly employees but some may be considered as own-account workers when they work for more than one household by dividing hours in a day or days in a week/month. Such domestic workers have freedom of choice and some personal qualities and skills which allow them to have options on how they should operate. They are somehow like ‘freelance domestic workers’.

With all that in mind and given the complexities in the sector, the study has embraced ILO approaches and went further to look at household as a social arena where actors, practices and discourses are taken into account and contextually analyzed. Such analysis transpires that, the household is shaped by loosely knit networks of actors that are linked together and is a place that seems to determine the fate of today’s conditions of domestic workers in Tanzania (see Part 1 of the Report).

2.3.2 Survey Approach and Sampling Plan

Sample Design

It is important to understand that, it is only when sample design is correctly attained that meaningful estimates of the size and characteristics of the domestic work can be attained. For the purpose of this survey, a multi-stage stratified sample with multiplicity was adopted.

Multi-stage stratified sample with multiplicity

As mentioned above, the sample design of the rapid empirical survey of domestic workers was a multi-stage stratified sampling scheme according to which in the first stage a sample of enumeration areas (Primary Sampling Units) is selected from the sampling frame of enumeration areas. The enumeration areas were stratified by region and urban/rural location. The sample enumeration areas were selected with probability proportional to size where size is measured in terms of number of households according to the 2002 population census of Tanzania.

In the second stage, the sample enumeration areas were freshly listed and a sample of households of fixed size was drawn from the freshly determined list of households in each sampling location. At this stage, the sample of households was drawn with equal probability using a systematic sampling procedure.

In the last stage of sampling, all domestic workers in the sample households were covered in the survey, including any domestic worker found to be working in the household but was not a member of the household. To take account of the multiplicity of coverage of domestic workers who are working in more than one household, the weights used for extrapolating the sample results to population aggregates was adjusted.

Sample Size Determination

Three alternative sample sizes were calculated depending on the required level of precision of the final estimates. Two domains were considered, namely - urban and rural areas. Households with domestic workers are mostly concentrated in urban areas while households supplying domestic workers are relatively concentrated in rural areas. The two domains are population categories for which independent estimates were desired.

For each domain, the sample size requirement under simple random sampling with full response was determined by the following expression

$$n = z_{\alpha/2}^2 \frac{p \times (1 - p)}{d^2}$$

where $z_{\alpha/2}$ is the value of the standard normal deviate corresponding to the probability $\alpha/2$, p is the fraction to be estimated and d is the accepted margin of error of the estimate. In the present context, we set α at 0.05 corresponding to $z_{\alpha/2}=1.96$, and consider the most conservative value of p , $p=0.5$, and three different levels of sampling errors, $d=0.03$, $d=0.04$ and $d=0.05$. The resulting sample sizes for each domain are 1067, 600, and 384, respectively. The corresponding results for the two domains were 2134, 1200 and 768 households.

These sample size requirements requires adjustment for the possibility of non-responding households and the fact that the sample design is not a simple random sample. Thus, allowing for 5% non-response rate and

a design effect of 1.7 due to the correlation within enumeration areas, the adjusted sample size requirements for the three levels of sampling areas, in rounded figures, are given below:

Table 2.3: Calculation of Sample Size and Sampling Error

Sampling errors	Sample size requirement
3%	3,820 households
4%	2,150 households
5%	1,370 households

Therefore, the range for selection of sample size was between 1,370 and 3,820 respondents but the final choice of the sample size also took into account the budget considerations. Hence, about 1,186 respondents were involved in the interview as indicated in Table 2.4.

A total of 1,186 domestic workers were selected for the interview. Of those, 300 (23.3%) were male and 886 (72.7%) were female.

Table 2.4: Domestic Workers by Rural/Urban Location Sampled Household

Geographical Location	Total Employed Population			Domestic Workers		
	Total	Male	Female	Total	Male	Female
Total	5,289	2,360	3,258	1,186	300	886
Rural	2,365	956	1,409	418	82	271
Urban	2,924	1,337	1,587	768	218	615

Source: ILO, 2013

2.3.4 Empirical Data Processing

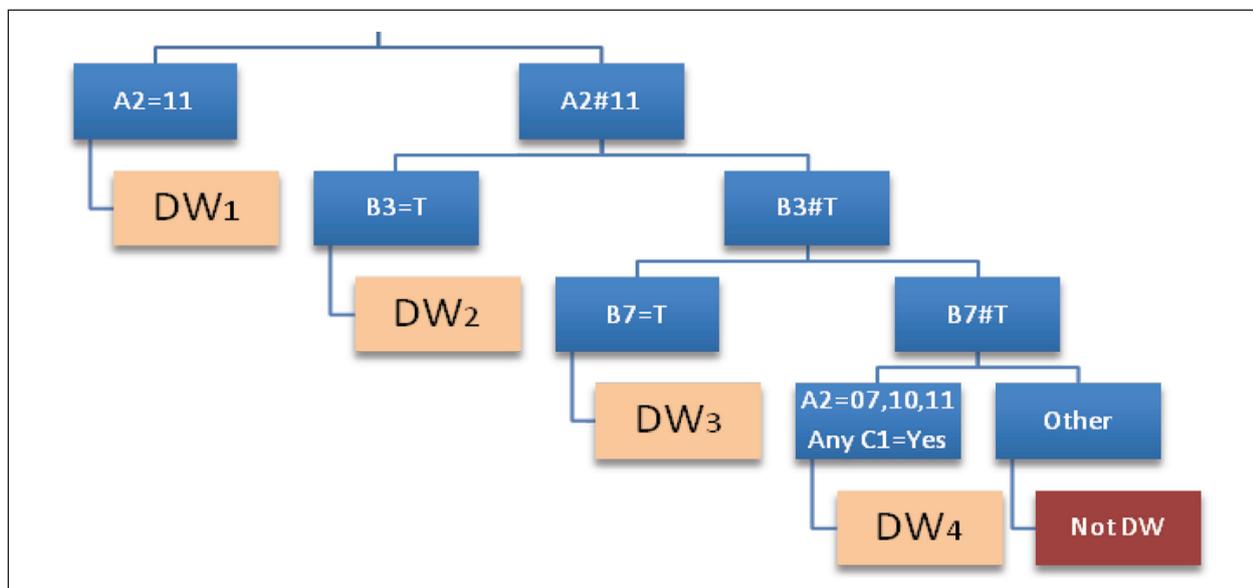
In addition to the usual procedures of coding, edition and data entry, the survey responses were processed in order to derive the survey variables of interest which included the following:

(a) Domestic worker and member of sampled household

- (b) Live-in domestic worker
- (c) Live-out domestic worker
- (d) Household with domestic worker
- (e) Household supplier of domestic worker

Depending on the answers recorded during the survey, five types of domestic workers may be distinguished. The first four types (DW1-DW4) are domestic workers and members of the household.

Figure 2.2: Domestic workers

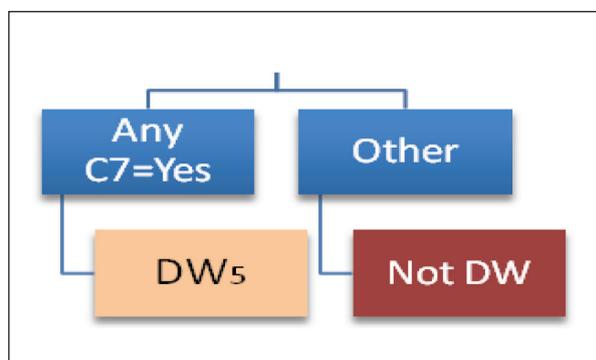


The first type (DW1): refers to persons reported as domestic workers by the sample household in terms of the relationship with the head of the household.

The next two types (DW2 and DW3): refers to members of the household who are working as domestic workers as their primary or secondary job.

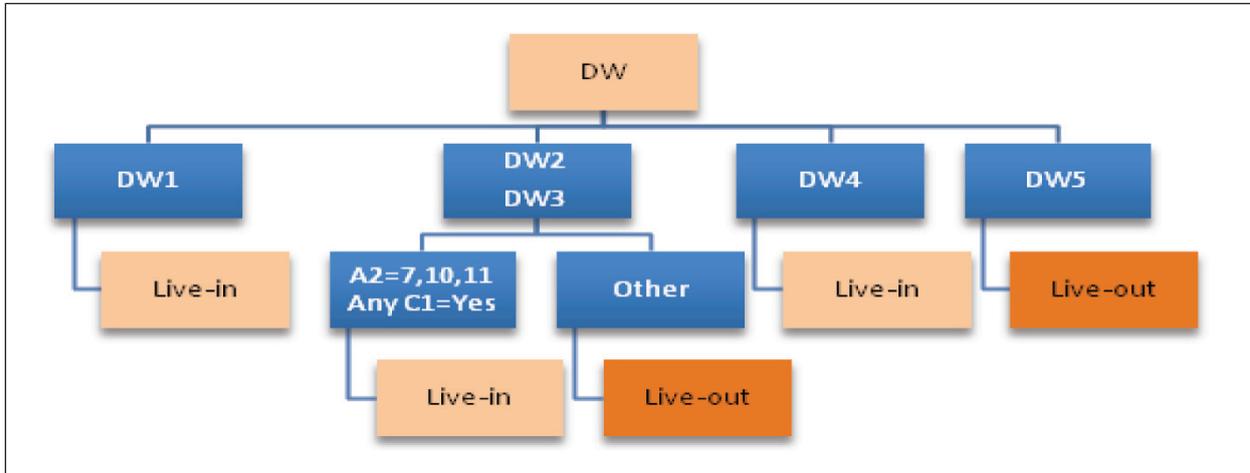
The fourth type (DW4): consists of household members such as foster children, relatives or non-relatives, not reported as domestic workers but who are in fact carrying out domestic tasks of the household on a regular basis.

Figure 2.3: Domestic worker (not member of sample household)



The fifth type (DW5): refers to persons not members of the household who are engaged by the household to carry out the domestic tasks.

Figure 2.4: Live-in and Live-out Domestic Workers



Live-in domestic workers: are domestic workers who are members of the household and are carrying out the domestic tasks of the household on a regular basis.

Live-out domestic workers: are persons not members of the household engaged by the household to carry out the domestic tasks of the household. Domestic workers of types 1 and 4 (DW1 and DW4) are thus by definition live-in domestic workers and domestic workers of type 5 (DW5) are live-out domestic workers.

Domestic workers of types 2 and 3 (DW2 and DW3): may be live-in or live-out domestic workers depending on their relationship to the head of household and their status with regard to the domestic tasks of the household. Among the domestic workers DW2 and DW3, those who are foster children, other relatives and non-relatives and carrying the domestic tasks of the household should be regarded as live-in domestic workers and others as live-out domestic workers (of other households).

Figure 2.5: Household with Domestic Workers

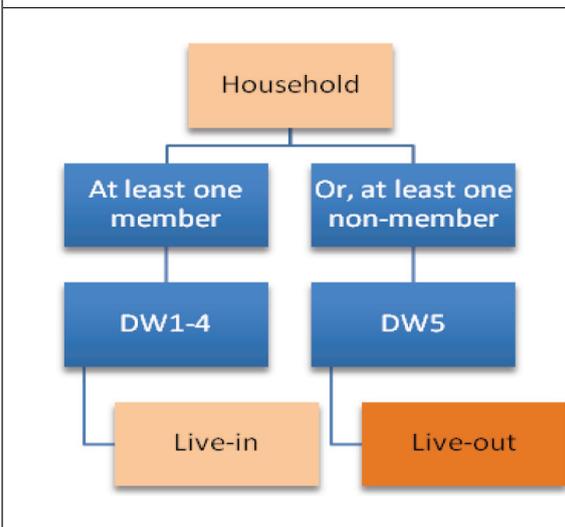
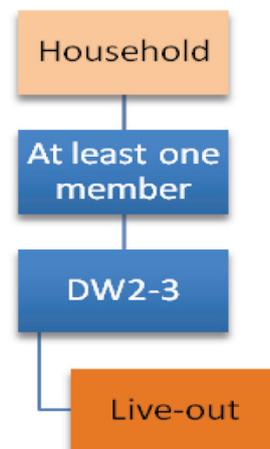


Figure 2.6: Household supplier of domestic workers



Households with domestic workers are households having at least one live-in domestic worker or one live-out domestic worker of the type DW5.

Households having only live-out domestic workers of the type DW2 or DW3 are not considered as households with domestic workers. These households have only members who are domestic workers in other households.

A household supplier of domestic workers: is a household with at least one member who is a domestic worker of the type DW2 or DW3. The survey also considered the fact that households with domestic workers may themselves be suppliers of domestic workers. The results of the rapid empirical survey of domestic workers in the United Republic of Tanzania are described in Part IV of this report.

2.4 Qualitative Research on Working Conditions of Domestic Workers

The third methodology employed in the situational analysis was a qualitative research which focused on patterns of employment and terms and conditions of employment. This component dealt with socio-demographic profile of the workers and employers; patterns of employment and contractual arrangements and terms and conditions of employment. The qualitative research intended not only to capture factual issues about domestic workers but also processes, practices, perceptions, knowledge, and awareness on different issues by employing in-depth interviews and FGDs with domestic workers and their employers.

Box 2.4: Key Questions in the Qualitative Research Component

- What are the demographic characteristics of the domestic workers around here?
- What are the socioeconomic conditions of the households you are working for?
- What are the general conditions of work and employment of domestic workers around here?
- What are the general living conditions of live-in domestic workers in most households?
- What is your general assessment about the level of privacy, personal security, freedom of movement and communication with your family, friends and your fellow domestic workers?
- What are the patterns and practices of recruitment, placement and termination of employment by most employers in this area?
- How do you reach an agreement on the following: terms of employment; organize tasks and hours of work; new demands or conflicts with regards to wages, hours of work and workload; and how do you address and resolve changes in regard to working conditions from one household to another as a result of your mobility?
- What are the common benefits enjoyed and common abusive practices experienced? How do domestic workers deal with abusive practices? What are the common problems experienced by most employers with their domestic workers and how do they deal with such problems?
- What are the workers' and employers' perceptions of their employment relationships?
- Do patterns, practices and perceptions differ along the lines of: (i) whether domestic workers are in live-in or live-out? (ii) Rural/urban? And (iii) Zanzibar and Mainland? (iv) Whether it is a "kin" or "non-kin" that performs the role of domestic worker?

2.4.1 Methods of Qualitative Data Collection

The study employed two methods of data collection. These were in-depth interviews and focus group discussions (FGDs). The in-depth interviews were conducted with domestic workers and employers. The study was preceded by a pilot study which was conducted in Dar Es Salaam. After the pilot, the interview guides were revised and entry points for reaching to the respondents were determined.

(A) In-depth Interviews

In-depth interviews were used to collect data and information on the situation and experiences of individual domestic workers and employers of domestic workers. The principal objective of using this research method was to establish patterns of employment, contractual practices and working and living conditions of domestic workers and employers. This method was very flexible as questions were phrased and the researchers learned what questions were appropriate and whom to ask in the field. The In-depth interviews focused on specific issues of interest in relation to the research objectives.

Two Interview Topic Guides (ITGs) were developed, one for employers of domestic workers and the other for domestic workers (Annex II). Each of the guides contained a list of main topics and sub-topics to be covered. The scope and potential issues under each sub-topic were explained to the interviewers through a list of example of probing questions because interviewers were not adequately familiar with labor issues and some basic concepts. One of the advantages for this type of interview was that, it allowed the respondent to provide in-depth and qualitative information in the sequence that the respondent determined and was facilitated by probing questions. Furthermore,

the researcher was guided by a list of topics for each theme and some interviews were recorded on tape with a written or oral consent of the respondent.

Sampling Framework and Procedure for Qualitative Research

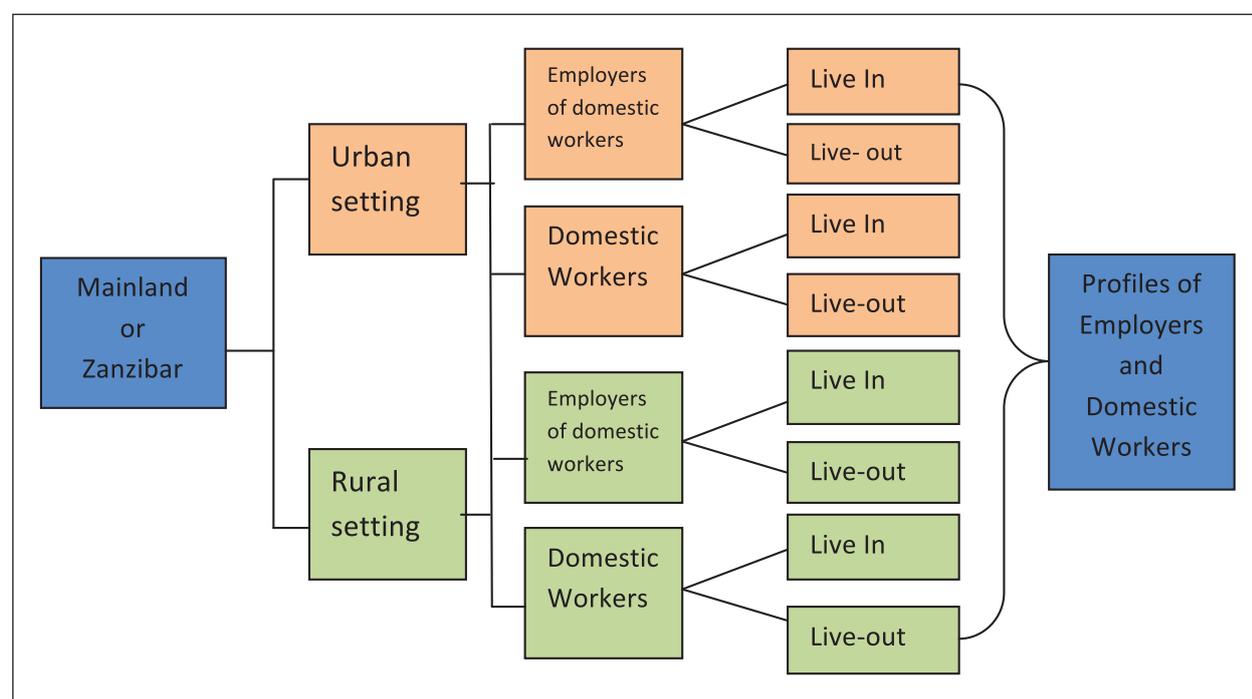
The sampling framework was guided by the fact that domestic work sector is mostly an urban phenomenon and therefore more respondents were taken from urban than rural areas due to the following reasons:

- (i) sampled study sites covered by the national household survey on domestic work identified presence of domestic workers and employers;
- (ii) identified households in study sites had live-in and live-out domestic workers, and had households members who worked as domestic workers in other households;
- (iii) there were identified by local leaders as having domestic workers.
- (iv) there were finally identified by the employers and domestic workers themselves.

The sample framework for the in-depth interviews is presented in Figure 2.7 below. On this basis, the research adopted a quota sample for a total of 180 interviews. Measures were taken to ensure the following:

- (a) Basic characteristics of domestic workers (sex, young and very young) and employers (rich, poor/low-income) were reflected
- (b) Diversity of actors so that interview respondents were not concentrated in specific category of social networks which could limit the outcome of the research.

Figure 2.7 –Sampling Framework for In-depth Interviews



Therefore, the first set of entry points in this study were geographical areas rather than the individuals. Based on the above criteria the selected areas in Dar Es Salaam included three districts of Ilala, Temeke and Kinondoni. In Temeke, the ward chosen was Kibamba which represented the rural setting, while Ilala District was represented by urban wards of Buguruni and Upanga. Kinondoni District was represented by Kawe and Mabibo wards, both with urbanized phenomena. In Zanzibar Shehia of Chukwani, Mpendae, Tomondo, Kiembe samaki and Makunduchi were chosen

and were represented by both urban and rural settings. Respondents were approached by the help of “wajumbe wa serikali za mitaa” (sub-village or hamlet leaders) in Dar es Salaam and *Sheha’s* (ten cell leaders) in Zanzibar. Most of the interviews were conducted in households except few with employers which were conducted at their work places. A total of 174 interviews were conducted. Table 2.5 shows the number of interviews based on different categories of domestic workers in Dar Es Salaam and Zanzibar.

Table 2.5: Distribution of In-depth Interviews for Domestic Workers (DWs) and Employers (E).

Dar es Salaam and Zanzibar	Urban	Rural	Total
DW Live in - Dar Es Salaam	24	16	40
DW Live out - Dar Es Salaam	10	7	17
DW Live in - Zanzibar	22	2	24
DW Live out - Zanzibar	12	10	22
E Live in - Dar Es Salaam	20	13	33
E live out - Dar Es Salaam	9	2	11
E Live in - Zanzibar	10	2	12
E live out – Zanzibar	10	5	15
Total	117	56	174

Source: ILO 2013.

(B) Focus Group Discussions (FGDs)

While the in-depth interviews aimed at obtaining information on actual patterns of conditions of work and employment the Focus Group Discussions (FGDs) aimed at eliciting perceptions, attitudes, values and norms held by domestic workers and employers of domestic workers, which helped to shape and explain employment relationships, behavioral patterns, practices and conditions of domestic workers. The focus group discussions are an appropriate tool for eliciting qualitative information by providing a venue and time for participants to ask questions, comment and clarify on each other's questions and views. This group interaction prompted participants to articulate and reveal more insights and views (much like a "group interview").

Focus group discussions were conducted at the end of all in-depth interviews so as to allow important issues arising from the in-depth interview to be clarified. A general introduction note, containing an outline of the research topic, and background information on the purpose of the research and the ILO as the research funder, were used. These introduction and briefs helped to clear some doubts from participants as well as local leaders. A consent form was also used when need aroused.

Focus Group Discussion Tool

A detailed interview topic guide for focus group discussions helped to guide the researchers who facilitated and moderated the focus group discussions. The focus group discussions topic guide had four main themes and each theme had sub-topics for discussion. The Guide had an opening theme; which helped to warm up the discussion, and put the participants at ease. Real case scenarios were also used in order to stimulate the discussion. Participants were free to ask questions for clarity. On

average, each focus group discussions was composed of 8-10 participants in order to ensure the size of the group was not so large to preclude adequate participation by most members and nor was it so small that it failed to provide substantive coverage than that of an interview with an individuals. The aim was to explore the experience, understanding and perceptions of groups who have common and diverse knowledge on the issues under investigation.

A total of twelve (12) focus group discussions were conducted (Box 2.5), three in Zanzibar and eight in Dar Es Salaam. Participants of the focus group discussions were recruited during the in-depth interviews as well as during the rapid empirical surveys. Other participants were directly involved based on their roles and position in the society (e.g. officials, local and expatriates employers). Focus group discussions with live-in domestic workers and their employers were conducted in Kibada, Kawe, Mabibo and Upanga, Oysterbay, Tomondo wards and at the ministries of labor (Dar Es Salaam and Zanzibar) and at Conservation, Hotels, Domestic and Allied Workers Unions of Tanzania (CHODAWU) offices in Dar Es Salaam. Labor and CHODAWU Officers were more convenient for conducting focus group discussions with domestic workers who were members of CHODAWU as well as employers. The later responded quickly when such official invitations were extended to them than when researchers did so. One notable experience was that, there were no live-out domestic workers in rural Dar Es Salaam as well as not many live-in domestic workers in rural Zanzibar. Therefore focus group discussions did not capture their representation in those sites. To ensure confidentiality no names or any identification of the respondents were revealed. Instead, interview codes were used to ensure sensitive matters were discussed without fear.

Textbox 2.5: Number of Focus Group Discussions conducted

1. FGD with live in DWs at Kibada, Dar Es Salaam (rural)
2. FGD with employers of live in domestic worker at Kibada, Dar Es Salaam (rural)
3. FGD with live out DWs at Upanga, Dar es Salaam (urban)
4. FGD with employers of live out DWs in Upanga, Dar Es Salaam (urban)
5. FGD with live in DWs in Kawe, Dar Es Salaam (Urban)
6. FGD with employers of live in DWs in Mabibo, Dar Es Salaam (Urban)
7. FGD with live out DW under CHODAWU, Dar Es Salaam (urban)
8. FGD with employer group of expatriates, Oyster bay
9. FGD with live DW in Tomondo ward – Zanzibar urban
10. FGD with live out DW in Tomondo ward – Zanzibar urban
11. FGD with Es of live in labour government employees Zanzibar – urban
12. FGD with Es on live in government employees at the Ministry of Labour,
Dar Es Salaam -urban

Source: ILO 2013

The focus group discussions for domestic workers included (i) participants from households' member who did not reside in the same area because it was envisaged that, individuals who knew each other could not share their practices and views in a group freely because they were afraid to be reported to their employers by fellow domestic workers from the same neighborhood (ii) participants who came from the same neighborhood, were in the same age group, were likely to know each other and could share their views without fear (iii) Domestic workers who were member of CHODAWU could be directly mobilized through CHODAWU office (iv) those who were either members or non-members of CHODAWU could be mobilized through various means: researchers themselves, CHODAWU officials and local leaders (Sheha's and sub-village/hamlet leaders) (v) only participants who had at least 6 months' experience in

domestic work sector were involved. To avoid inconveniences, participants were provided with transport allowances to the meeting venues to ensure at least the minimum required number of the group was met.

1.1.2 Qualitative Data Processing - Coding

All in-depth interviews and the focus group discussions were recorded and transcribed in Kiswahili the language which was used during the qualitative data collection to avoid distortions of meaning. All recorded interviews were assigned numbers and codes as follows: D= Dar Es Salaam; Z= Zanzibar; U=Urban; R= rural; DWI= Live-in domestic worker, DWO = live-out domestic worker; EI= Employer of a live-in domestic worker; EO = employer of live-out domestic worker; and FGD = Focus Group Discussion. In addition a date and place of the interview also was recorded. Thus a

code such as “101, DR, DWI, July 28, Kibada” means interview number 101, conducted in Dar Es Salaam rural on July 28 at Kibada ward. All interviews were checked before analysis. Interviews which were incomplete (because of some technical default in recording) were not considered for analysis.

In addition, separate files with demographic characteristics/profile and household characteristics of all respondents were prepared for easy reference to demographic characteristics of the respondents.

2.4.3 Qualitative Data Analysis

The qualitative data analysis aimed at achieving the following:

- i. Creating patterns of conditions of work and employment and current practices;
- ii. Identifying connections and associations between various aspects of conditions of work and employment
- iii. Identifying connections and associations between the perceptions of domestic workers and employers of domestic workers as regards to different issues explored through various methods.
- iv. Drawing patterns in the conditions of work and employment, and employment relationships within each of the categories of domestic workers and employers.
- v. Compare patterns across categories of domestic workers and categories of employer-households.
- vi. Identifying other connections, including: conditions of work and employment with domestic workers who have kinship relation with the employer; those who are less than 15 years old and young 15-18 years old domestic workers

- vii. Compare domestic workers assessment of their conditions of work and employment and employers’ assessment towards them.
- viii. Inquire and identify issues of how domestic workers and employers perceive, define and value domestic work and their employment and personal relationships; and how they “structure” and manage employer and employee relationships conflicts and problems.
- ix. Examine how these perceptions, values and nature of relationships shape the conditions of work and employment practices.

Context and content analysis were used to describe the nature of working conditions. Separate reports on details of each aspect of working conditions for Zanzibar and Dar Es Salaam were prepared. This was first explored for each category of employers and DWs in rural and urban settings and the patterns were created and analyzed. A number of questions were asked to confirm both patterned and un-patterned and whether they converged or diverged? For instance, what determined the high or low wage? Or, paid and unpaid work? What patterns were observed between different aspects of working conditions? The wage ranges were guided by the minimum wage rule for domestic work as set by the government of Tanzania which is 40,000 for live-in and 80,000 for live-out domestic workers. The differences in wage were also examined between urban and rural and high income and low income employers. The other question was to look at the relationship between the wage and aspects of working conditions which are types of work, hours of work, rest time, paid leave, other benefits (presence of in kind payment in addition to the wage; living conditions, relations with

the employers, complains or grievances and abuse). Wage was also linked to demographic characteristics such as gender, age, education, background of the domestic work and working experience. The results of the qualitative research on working conditions of domestic workers are described in Part V of this report.

1.4 Summary of Part II

The three-pronged research methodology approach was a deliberate effort to surpass the difficulties of collecting data on domestic

workers. It is a first attempt by the ILO to do so on this sector. It is the hope of the organization that such an approach will provide a firm foundation for future studies of the like. Nevertheless, for Tanzania, the results described herein provide a benchmark of the situation of domestic workers in the United Republic of Tanzania and therefore future progress can be measured from it. More details of on each of the methodological approaches can be found in two publication: ILO, 2014a and ILO, 2014b.

Part III

International and National Regulatory Frameworks

“The challenge of reducing decent work deficits is greatest where work is performed outside the scope or application of the legal and institutional frameworks”⁴⁹

“Domestic work ... must be properly regulated by national legislation so that domestic ... workers enjoy the same level of protection as other workers.” (UN Committee on Economic, Social and Cultural Rights, 2006, paragraph 10)

“Domestic labour standards will also help to right a historic wrong”⁵⁰

3.1 Introduction

Domestic workers make important contributions to the well-being and functioning of families, labour markets and economies; yet, they experience huge decent work deficits due to serious legal and policy gaps. This section reviews existing national laws in both Tanzania and Zanzibar and assesses the effectiveness of the legal provisions in protecting domestic workers and promoting decent working conditions for them. It takes into account the actual conditions of domestic workers and identifies areas where better protection is needed. It assesses the legislation, taken in its entirety, to determine if it covers all categories and types of domestic workers, irrespective of whether they are employed by private individuals and householders or enterprises or other organizations; whether they are part time or full-time workers; and nationals or non-nationals; and whether employed under live-in or live-out arrangements.

49 ILO Conference, 19th Session, Provisional Report, 2002; p.26

50 By Elizabeth McGee, Employer, Brooklyn, N.Y. in the “Domestic Workers count Too: Implementing Protection for Domestic workers”, 2013

A key aim of effective legislative design aiming at the protection of domestic workers is to ensure clarity as regards legal terminology, definition of terms and the scope of the specific laws and regulations concerned. These aspects are also discussed in this section. Where the general labour laws have been applied to domestic workers, the legislative approach and design was assessed to determine if they have the effect of implicitly, excluding domestic workers from their scope. Where certain aspects of working conditions or labour protection for domestic workers or particular groups of domestic workers are regulated by specific enactments or provisions applicable to them, those provisions were assessed to determine if they explicitly define or describe the intended scope of the norm.

A wide range of aspects of employment relationships in Tanzania’s and Zanzibar’s labour legislation covered fall under the following themes: legal definitions and the scope of labour laws; human rights, including freedom of association, bargaining power, fundamental principles and rights at work; protection against abuse, harassment and violence; standards of employment including, written contracts or particulars of employment, working time and remuneration, the living conditions of domestic workers; and the protection of special groups including young workers. Regulation of employment agencies and compliance mechanisms were also assessed. Each theme looks at the provisions of national laws and regulation, the rationale for establishing statutory standards and for regulating a particular aspect of the employment relationship, and references the relevant provisions of the Domestic Workers Convention, 2011 (No. 189) and its supplementing Recommendation (No. 201) for strengthening national laws, policies and relevant institutions.

3.2 Upholding Human Rights of Domestic Workers

The Domestic Workers Convention, 2011 (No. 189) recognizes the promotion and protection of human rights and decent working and living conditions for domestic workers as interrelated and mutually reinforcing objectives. The Convention affirms that domestic workers are, like other workers, entitled to the respect and protection of their fundamental principles and rights at work relating to:

- (a) Freedom of association and the effective recognition of the right to collective bargaining;
- (b) The elimination of all forms of forced or compulsory labour;
- (c) The effective abolition of child labour; and
- (d) The elimination of discrimination in respect of employment and occupation.

Thus, the said Convention envisions the laws and regulations of Parties to the Convention to guarantee decent working conditions to domestic workers.

3.2.1 Freedom of Association

Freedom of association, which may be defined as the right for domestic workers and employers to form and join associations of their choice, is protected by the ILO Convention No. 189.⁵¹ In view of Article 20(1) of the Constitution of the United Republic of Tanzania, and drawing from the ILO Convention, Freedom of Association and Protection of the Right to Organize Convention No. 87 of 1948 and the Collective Bargaining Convention No. 154 of 1981, ratified in 2000 and 1998 respectively, freedom of association in Tanzania is protected by the *Employment and Labour Relations Act* of 2004 vide section 9.⁵² As for Zanzibar, freedom of association

51 See Article 3(2)(a) and 3(3) of the ILO Convention No. 189.
52 It should be noted that the ELRA does not apply to employees

is protected by the *Employment Act* and the *Labour Relations Act* both of 2005.⁵³

Evidently, domestic workers and employers, as part of the employee and employers corpus in the United Republic of Tanzania, are covered by the existing laws. However, this coverage is obscure irrespective of the existence of CHODAWU-Tanzania and CHODAWU-Zanzibar on the part of the employees and ATE and ZANEMA on the part of the employers:

Firstly, it is challenging to get domestic workers to organize on account that most of them, as individuals, have single employers, each one of them having a separate workplace. This has made the work of even registered trade unions for domestic workers such as CHODAWU unable to recruit a meaningful number of domestic workers.⁵⁴ Access to the premises where domestic workers perform their duties is largely prohibited, that is, a domestic worker is not allowed to let strangers into the premises, including trade union leaders. Although CHODAWU has been using local cell leaders to reach out to domestic workers, this effort is yet to realize any good results on the account that most domestic workers hardly want any engagement of local cell leaders in their affairs. It is alleged that some local cell leaders notify domestic workers' employers of the "underground" movements of the domestic workers, a factor that leads to employment termination on the part of domestic workers.

Secondly, domestic workers, particularly those who live-in and who form the majority of domestic workers in the United Republic of Tanzania, work for Twenty Four (24) hours, seven (7) days a week.

in the Tanzania Peoples Defence Force, the Police Force, Prisons Service or National Service, see section 2(1) of act No. 6 of 2004.

53 Acts Nos. 11 and 1 respectively.

54 Personal interviews with CHODAWU-Zanzibar and CHODAWU-Tanzania in Zanzibar and Tanzania on 5 June 2012 and 26 June 2012 respectively.

At the time when they are supposedly resting, they are actually on standby and ready to be called any time for work. As such, although this is not to suggest that they are on their toes for 24 hours every day, it is evident that they work for long hours, some reportedly 16 hours, and during the rest time, they are on standby.⁵⁵ So, when would domestic workers, who live in, organize?

Thirdly, related to the foregoing paragraph, most domestic workers do not know their rights and therefore would not assert them against their employers.⁵⁶ Lack of knowledge on their employment-related rights have far more reaching adverse impact on freedom of association; trade union leaders for registered trade unions or other domestic workers' associations would have to convince domestic workers on their organizational rights. Thus, freedom of association for domestic workers seems more elusive than real for most workers in the sector.

The compounding effect of the above challenges is the fact that there is hardly any inspection in the workplaces of domestic workers irrespective of the fact that Tanzania is a signatory to the ILO Labour Inspection Convention No. 81 of 1947. The Labour inspectorate, which is mandated to enforce labour legislation in the workplaces, including households where domestic workers perform their duties, has numerous challenges that prohibit it from inspecting workplaces, varied households being the least of them.

55 Personal interviews with Kiota Women Health and Development Organization (KIWOHEDE), in Dar es Salaam, on 27 June 2012. Information also obtained from personal interviews with employers of domestic workers between 1 June and 30 June in both Tanzania and Zanzibar.

56 About 80% of the interviewed domestic workers indicated that they did not know that they are also employees let alone having any rights.

Such challenges include insufficient resources in terms of human and financial resources.⁵⁷ Weaknesses in the labour inspection form the fourth challenge to exercising freedom of association by domestic workers. However, there are efforts underway, within the Ministry of Labour and Employment, to develop guidelines and regulations on how labour inspection may be conducted in households as one of workplaces, in this case, for domestic workers.⁵⁸

As for employers of domestic workers, it is also challenging for them to exercise their guaranteed freedom of association in that the existing associations covering employers, ATE and ZANEMA, cater for "institutional" employers making it difficult for the employers of domestic workers to join in as "individuals". This being the case, it is suggested that employers for domestic workers be sensitized to establish a trade union and federation of their own as provided for by the laws in both Tanzania Mainland and Zanzibar.

3.2.2 Collective Bargaining

Collective bargaining, which primarily emanates from the ILO Collective Bargaining Convention No. 154 of 1981, embraces "negotiations which take place between an employer, a group of employers or one or more employers' organizations, on the one hand, and one or more workers' organizations, on the other."⁵⁹ These negotiations are essentially for determining working conditions and terms of employment, regulating relations between employers and workers, and/or regulating relations between employers or their organizations and a workers' organization.

57 See paragraph 3.22 of the National Employment Policy of 2008 of Tanzania which states that "[c]urrently, labour inspection services are provided on a limited basis due to the shortage of qualified manpower and logistic support. This has resulted in non-fulfillment of obligations and also complaints from stakeholders." See also http://www.iali-aiit.org/iali/event_docs/Presentations/Gerd%20Albracht%20ILO.pdf. Accessed on 15 May 2012.

58 See the *Report of the Proceedings of the Tripartite Consultative Workshop for the Preparation of a Tripartite Action Plan on the Promotion of the Domestic Workers Convention (No. 189)* Morogoro Hotel, Morogoro, 23-25 April 2012.

59 See Article 2 of ILO Convention No. 154 of 1981

In Zanzibar, all workers and employers enjoy the right to collective bargaining by virtue of Parts VII and II of the *Labour Relations Act* and *Employment Act* both of 2005. Similarly, both workers and employers enjoy their right to collective bargaining vide Part VI of the *Employment and Labour Relations Act* of 2004 in Tanzania. Generally, the issues involved in collective bargaining include remuneration, terms and conditions of employment, allowances and employment benefits, and employment policies and practices.

Evidently, collective bargaining operates where there are organizations for both the employees and the employers. Since freedom of association is unworkable for most of the domestic workers, one fails to see the practicability of collective bargaining in the sector, good as it is for promoting decent working conditions. As such, given the current conditions, collective bargaining is impractical as far as domestic workers are concerned, much as the law and ILO Convention No. 189 advocate and provide for it.

3.2.3 Non-Discrimination

The ILO Convention No. 189 prohibits discrimination in respect of employment and occupation.⁶⁰ As such, domestic workers must be protected against discrimination in respect of conditions of employment. In particular, Convention No. 189 requires Member States to ensure that remuneration is established without discrimination on the basis of sex.⁶¹ Further, the said Convention prohibits discrimination emanating from the medical testing which an employee may have been subjected to. In furtherance of the said prohibition, the Convention requires Member States to ensure that no domestic worker is required to undertake HIV or pregnancy testing, or to disclose HIV or pregnancy status. Where such testing is inevitable,

60 See Article 3(2)(d) of ILO Convention No. 189.

61 See Article 11 of the ILO Convention No. 189.

Member States are required to put in place arrangements ensuring, among other things, confidentiality and privacy of the domestic worker.⁶²

Protection against discrimination in all spheres of life in the United Republic of Tanzania is founded in the Constitution of the United Republic of Tanzania of 1977. The said Constitution prohibits discrimination on account of nationality, tribe, and place of origin, political opinion, colour, religion or station of life. This is to avoid certain categories of people being regarded as weak or inferior, consequently subjected to restrictions or conditions. It also meant to avoid persons on the other end of the spectrum being regarded as superior, consequently treated differently or accorded opportunities or advantage outside the specified conditions or the prescribed necessary qualifications.⁶³ Also, the Constitution prohibits discrimination in respect of remuneration for work.⁶⁴

Drawing from the Constitution of the United Republic of Tanzania, the *Employment and Labour Relations Act* of 2004 prohibits discrimination which is related to employment relations under similar grounds enumerated in the foregoing paragraph such as colour, nationality, tribe or place of origin, political opinion, religion, sex, gender, pregnancy, marital status or family responsibility, disability, HIV/AIDS, age or station of life.⁶⁵ Further, the law prohibits harassment on the mentioned grounds and discrimination in trade unions and employer's associations.⁶⁶ To ensure that non-discrimination provisions are adhered to, the law criminalizes discrimination and, on conviction, the offender would pay not more than TZS 5 Million.

62 See Articles 3 and 4 of Recommendation No. 20.

63 See Article 13(5) of the Constitution of the United Republic of Tanzania of 1977, as amended.

64 See Article 24 of the Constitution of the United Republic of Tanzania of 1977, as amended.

65 See section 7 of Act No.6 of 2004 of Tanzania.

66 It should be noted that there are three exceptions to discrimination: affirmative action, inherent job requirements, and promotion of employment of citizens.

Similarly, the *Employment Act* of 2005 of Zanzibar prohibits discrimination on the similar conditions stated by Tanzania's *Employment and Labour Relations Act* of 2004. However, within the spirit of the ILO Convention No. 189, the *Employment Act* of 2005 went further to prohibit an employer from requiring HIV testing for a job applicant or an employee in order to ascertain one's HIV status.⁶⁷

Notwithstanding the foregoing protective legal provisions against discrimination, domestic workers, to say the least, are discriminated against at their workplaces in different ways. Although their kind of discrimination may not squarely fit within the definition of discrimination at workplaces, they are usually discriminated against other family members within the households they work in. This is exemplified in various forms including being given different food from that served to the rest of the family members and circumstantially forced to sleep in the kitchen, in house corridors, or in the same rooms with chicken.⁶⁸ Domestic workers, although not rightly forced by their employers to sleep in unbecoming places, they find that those are the areas left for them to rest. For instance where an employer, married with children, has only two rooms, a bed room (for the employer and spouse) and a sitting or living room (where children share), where would the domestic worker sleep?

Thus, one cannot overemphasize the issue of strengthening the labour inspectorate if any meaningful protection of domestic workers is to be guaranteed as envisioned by the ILO Convention No. 189. Its ratification is one thing; its implementation is challenging and requires close follow up to ensure compliance.

67 See section 10(5) of Act No. 11 of 2005 of Zanzibar.
68 Personal interviews with Zanzibar Trade Union Congress (ZATUC) on 6 June 2012 in Zanzibar. Also information gathered from personal interviews with TUCTA and CHODAWU – Tanzania and CHODAWU-Zanzibar, *op cit*.

3.2.4 Forced Labour

The ILO Convention No. 189 prohibits forced or compulsory labour for domestic workers.⁶⁹ The United Republic of Tanzania, having ratified the ILO Forced Labour Convention No. 029 of 1930 and the Abolition of Forced Labour Convention No. 105 of 1957, prohibits any form of forced or compulsory labour.⁷⁰ Article 25 (2) of the Constitution of the United Republic of Tanzania of 1977 provides that “there shall be no forced labour in the United Republic.” The constitutional prohibition of forced labour is reinforced by labour laws:

In Zanzibar, forced labour is prohibited by the provisions of the *Employment Act* of 2005 vide section 5 which defines forced labour to be “any work or service which is exacted upon any person under the menace of any penalty and to which that person has not consented or offered himself or herself voluntarily.”⁷¹ A person who exacts or imposes forced labour or causes or permits forced labour to be exacted or imposed, is guilty of an offence and on conviction and will be liable to a fine of not less than TZS 3 Million or three (3) year-imprisonment or to both fine and imprisonment.⁷² The law recognizes four exceptions to forced labour: work of a military nature, normal civic obligations, work in emergency cases and work for a convict.⁷³

Correspondingly, the *Employment and Labour Relations Act* of 2004 of Tanzania prohibits forced labour which embraces bonded labour or any work exacted upon a person without his/her consent and with a threat of a penalty if the order is not complied with.⁷⁴ In addition to the four exceptions stated in the case of Zanzibar, there is a fifth exception in Tanzania, that is, minor community service.

69 See Article 3(2)(b) of the ILO Convention No. 189.
70 Both Conventions were ratified on 30 January 1962.
71 See section 5(3) of Act No. 11 of 2005 of Zanzibar.
72 See section 5(2) of Act No. 11 of 2005 of Zanzibar.
73 See section 5(3) of Act No. 11 of 2005 of Zanzibar.
74 See section 6 of Act No. 6 of 2004 of Tanzania.

In essence, forced labour exists only when one is not freely engaged to work and, in some cases, threatened to be penalized by the person exacting or imposing work if the domestic worker stands his or her ground. In such instances, the person exacting or imposing work is he or she subject to penalization. The question is, the circumstances under which most domestic workers are subjected to, is there forced labour?

There are a number of categories of domestic workers who, looking at the nature of their recruitment and later their working conditions can rightly be considered forced laborers. The first category is that of domestic workers who are sent to work by parents against their wishes. This category, by large, comprises of workers below the permissible working age but not exclusive of those who are 18 years old or older.⁷⁵ There has been a tendency for the parents to send their children, particularly girls, off to cities and towns to known or unknown employers so that they can work and augment or support their families in the villages.⁷⁶ Although it may be argued that there is no clear sanction, the social sanctions, particularly from the parents are more adverse than any other sanction, taking into account the culture which has been inculcated in most Tanzanians that you cannot go against your parent's wishes lest you risk being cursed. Thus, a domestic worker who has been sent to work against his or her wishes, and more often than not, whose remuneration is sent directly to his or her parents by the employer, also against the employee's wishes, is clearly under precarious position befitting forced labour.

75 See section 4 of the *Law of the Child Act* No. 21 of 2009 of Tanzania.

76 Among the domestic workers interviewed, 30 percent indicated that they were sent to work by their parents against their wishes, while 20 percent indicated that their parents convinced them to leave the villages and find jobs in town. 40 percent indicated that they decided to look for jobs themselves and were not forced. The remaining 10 percent left their villages with the people they knew including neighbours and relatives. Also information derived from personal interviews with ZATUC, TUCTA, CHODAWU and KIWOHEDE, *op cit*.

Another category of domestic workers who may be considered to have been subjected to forced labour are those who freely agreed to work as domestic workers but after acceptance of the job, are forced to work over and above the agreed works.⁷⁷ For instance, a typical domestic worker in Tanzania and Zanzibar would cook, wash and iron laundry, clean the house and its surroundings, and take care of children if any. Now, where such a domestic worker is required to take care of the ailing relative(s) of the employer who has/have been brought to town from the village, this is going against the initial agreement entered into between the parties. As such, the domestic worker, while feeling forced to take care of the "stranger" to the contract of employment, is unable to withhold the services fearing termination of employment by the employer for refusal to take care of the relative. Although one may argue that taking care of a sick relative of the employer is incidental to other domestic works, it is clear that the domestic worker will be exposed and susceptible to the diseases where terms for handling such a situation have not been negotiated or agreed upon by both parties. . Much as hosting of a sick relative may not have been foreseeable by the employer, it should not be placed upon the domestic worker to perform over and above their normal duties just because the employer has an upper hand against such an employee.

Further, some domestic workers have been forced to move from one place to another as their employers moved or, in some cases, they have been moved from their initial workplace to a different workplace such as that of a relative of their employers.⁷⁸

77 This came out clearly in the course of the interviews with almost 60 percent of the domestic workers interviewees stating that what their employers required them to perform as their duties, the employees did not consider them to be part of the agreements to work as domestic workers.

78 About 20 percent of the domestic workers interviewees indicated that they have ever been moved by the employer from their initial workplace to another and back, 10% indicated that they were moved permanently, never went back to their original employer, and 10 percent indicated

This may be done sporadically or permanently. It is done sporadically when a domestic worker is moved, without his or her consent; from one household under the employer he or she has an agreement with to another household, with a new employer. Such an employee would be moved to help the latter employer and later returned to the former employer. Under such circumstances, such domestic workers may be considered to work against their consent for fear of being fired. They oblige, making such domestic work forced labour.

The fourth category of domestic workers who are in what may be considered forced labour are those lured by their prospective employers or informal employment agents into towns or cities for better jobs and life only to find they are supposed to work as domestic workers.⁷⁹

The jobs for which they are promised include shop keeping and secretarial works after some training. Some are taken from their parents on the understanding they are going to town or city for studies. Such domestic workers are presumed forced laborers since domestic work is not what they intended to do. Threats of sanctions, termination of employment and eventual repatriation to the village is sufficient to make somebody oblige to the instructions given by the luring party. Worst still, some of the lured girls find themselves in brothels instead of domestic work or other forms of work that were promised to them.⁸⁰

Although the list of categories of domestic workers discussed in the foregoing paragraphs is not exhaustive, it gives an indication of how forced labour, prohibited by ILO Convention

that from time to time, they shuttle from their employer to a relative or friend of their employer to help. Also, 20 percent of the employers interviewed indicated that they have ever shuttled their employees to go help in their relatives/friends' household a few times when the latter did not have their own domestic workers.

79 This category of workers comprised about 30 percent of those interviewed; some include those who left with relatives and those who looked for jobs themselves.

80 Personal interviews with ZATUC, TUCTA, CHODAWU and KIWOHEDE, *op cit*.

No. 189, by the Constitution of the United Republic of Tanzania of 1977, by the *Employment Act* of 2005 of Zanzibar and by the *Employment and Labour Relations Act* of 2004 of Tanzania, may still be spotted in the domestic work industry.

3.2.5 Child Labour

Child labour is prohibited by ILO Convention No. 189 in that Member States are required to take measures to ensure effective abolition of child labour in the domestic work industry.⁸¹ This prohibition stems from the Minimum Age Convention No. 138 of 1973, the Worst Forms of Child Labour Convention No. 182 of 1999 and Recommendation No. 190 which protect a child from being engaged in labour that is harmful to their growth in respect of educational, health, social and religious aspects.⁸²

In view of the foregoing, Recommendation 201 elaborates on the prohibition of child labour and states that children should not be engaged in jobs that are likely to harm their health, safety or morals.⁸³ As such, Member States are required to identify, prohibit and eliminate hazardous domestic work for children.⁸⁴

In Tanzania, for purposes of employment and in consonance with ILO Convention No. 138, a child is defined as a person below the age of 14 except for employment in hazardous sectors where a child would mean a person under the age of 18.⁸⁵ Thus, children below 18 but above 14 years may be employed except in hazardous sectors such as mines, factories,

81 See Articles 3(2) (c) and 4 of ILO Convention No. 189 and Paragraph 5 of ILO Recommendation No. 201 of 2011.

82 All these Conventions have been ratified by Tanzania; ILO Convention No. 138 in 1998 and ILO Convention No. 182 in 2001.

83 See Paragraph 5(1) of Recommendation No. 201 of 2011.

84 See ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 14 and Paragraph 5(1) of R201 of 2011.

85 See section 5 of Act No. 6 of 2004 of Tanzania.

ships (being employed as a crew), non-formal settings and agriculture. Notwithstanding, a child may be employed in hazardous establishments where such employment relates to training and therefore contributing to child's development.⁸⁶ All worst forms of child labour are prohibited, including slavery, trafficking, debt bondage, prostitution and pornography, and forced recruitment of children for military purposes.

However, for a 14-year old child to be employed, there are conditions to be met such as limiting the child's responsibilities to light work; avoiding assigning the child work that may be harmful to the child's health and development – physical and mental health, spiritual, moral, social and educational development; and ensuring that such work does not interfere with the child's educational development including attendance to school, and participation in vocational orientation or training.⁸⁷

As for Zanzibar, child labour is equally prohibited and much so for the worst forms of child labour.⁸⁸ However, a child is defined as a person under the age of 17 and, where hazardous work is involved, a child would mean a person below the age of 18.⁸⁹ Also, the law defines a young person as someone below the age of 21 but above the age of 17.⁹⁰ As is the case in Tanzania, several exceptions apply in Zanzibar. For example, a young person may be employed but can only be given light duties; such an employee must undergo medical check-up and the medical officer must certify that person's fitness for the work; and also, the young person must undergo regular medical check-up until he or she reaches 21.⁹¹

Another exception relates to employment of a young person in an industrial setting; it is prohibited to employ only members of a young person's family; where a young person is assigned management or administrative duties or service, it must not affect the health and safety of that young person.⁹² Like in Tanzania, engagement of young persons or children in hazardous work is not prohibited if done so for the purpose of training, provided the latter is not below the age of 14.⁹³

Noteworthy, section 6(2) of the *Employment Act* of 2005 of Zanzibar states that “[n]o person shall employ a child in any type of work except domestic work.” This means that a child below 17 years may not be employed, barring the exceptions stated in the foregoing paragraph, but in the domestic work industry. Although in Tanzania a child has a minimum age of employment of 14 years, this is not the case for Zanzibar, which means that children below the age of 14 may legally be employed in Zanzibar. This does not suggest that there are no children below 14 who are employed in domestic work in Tanzania; if there are, it is illegal and offenders may be prosecuted.

Reasonably, most of the children that are engaged in domestic work are either 14 years old or above since they have to first complete compulsory primary education or their parents will be taken to task. This is the case for both Tanzania and Zanzibar. Evidently, domestic workers interviewed in both Tanzania and Zanzibar indicated that they started work when they were above 13 years.⁹⁴ Irrespective of age appropriateness, are children engaged in domestic work free from hazardous work? Does what they do fit within the confines of the exceptions stated?

86 See section 5(5) of Act No. 6 of 2004 of Tanzania.
87 See section 5(2) of Act No. 6 of 2004 of Tanzania.
88 See sections 6 and 7 of Act No. 11 of 2005 of Zanzibar.
89 See section 3 of Act No.11 of 2005 of Zanzibar.
90 See section 3 of Act No. 11 of 2005 of Zanzibar.
91 See section 8 (2) of Act No. 11 of 2005 of Zanzibar.

92 See section 8 (3) of Act No. 11 of 2005 of Zanzibar.
93 See section 9 of Act No. 11 of 2005 of Zanzibar.
94 This is 100 percent of the interviewees. See also the case of *Restuta Mpagi v. Hindu Sinyange* Labour Dispute No. CMA/DSM/KIN-ILA/560/10/1476 where an employee who was terminated from employment was aged 17 and had worked for 18 months.

Without making any unwarranted generalizations, there are children who do domestic work which is hazardous to their health and safety. For instance, domestic workers walk for long distances in search of water which they then have to carry back home; they do laundry for the entire household which at times comprises of 7 to 10 people; and they prepare meals for the entire family.⁹⁵ How can one say such a child's health and safety are in check? Such works are not light as required by law; even worse, they impair the physical and mental development of the child. Engaging a child for long hours deprives him or her of spiritual as well as educational development. This is because the child is too busy to attend any educational training or spiritual centers as rightly stated in the National Employment Policy of 2008 for Tanzania:

“...[the] integrated Labour Force Survey of 2006 found that child labour involved 2,468,488 children, and out of that 591,846 were engaged in hazardous conditions. The worst forms of child labour are in four major areas: commercial agriculture; mining & quarrying; domestic services and commercial sex. This fundamentally deprives children of their rights to education and recreation in violation of international conventions.”⁹⁶

As such, it is submitted that the law, as far as children are concerned, should not assume that domestic work is light in the case of the *Employment Act* of Zanzibar or that every employer would facilitate educational development, among other things, in the case of the *Employment and Labour Relations Act* of 2004 of Tanzania.

95 Personal interviews with ZATUC, TUCTA, CHODAWU, KIWOHEDE, employers and domestic workers themselves in both Dar es Salaam and Zanzibar, between 1 June and 30 June 2012.

96 See paragraph 3.22 of the National Employment Policy of 2008 of Tanzania.

Thus, the law should set the minimum age for children in the domestic work industry which should not be below the age set for other categories of employment.⁹⁷ Also, the law should identify hazardous domestic work and prohibit such work for children under the age of 18.⁹⁸ Further, it is recommended that as ILO Convention No. 189 provides under Article 4(2), the law should clearly “ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training.”

3.3 Abuse, Harassment and Violence

Domestic workers, a large majority of whom are women and migrants, are particularly vulnerable to physical, sexual, psychological or other forms of abuse, harassment and violence because their workplace is shielded from the public and they generally lack co-workers. Live-in workers are of particular concern. Article 5 of the ILO Convention No. 189 provides for protection of domestic workers against all forms of abuse, harassment and violence. In line with the Convention, Recommendation No. 201 urges Member States to provide for accessible complaint mechanisms for domestic workers to report cases of abuse, harassment and violence; ensuring that all complaints of abuse, harassment and violence are investigated and prosecuted, as appropriate; and establishing programmes for the relocation from the household and rehabilitation of domestic workers subjected to abuse, harassment and violence, including the provision of temporary accommodation and health care.⁹⁹

97 See Article 4(1) of ILO Convention No. 189.

98 See ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 14.

99 See Paragraph 7 of R201. See also ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 14.

Although the *Employment and Labour Relations Act* of 2004 prohibits harassment in workplaces, protection of domestic workers against abuse, harassment and violence would generally be by criminal law.¹⁰⁰ This is based on the fact that labour laws generally do not protect workers against criminal acts of the employers; this is done by criminal law. It is submitted that in view of the ILO Convention No. 189, the protection of domestic workers by criminal law when they are abused, harassed or violated against, is insufficient. This is based on the fact that domestic workers are abused, harassed, beaten, and at times, sustain grievous bodily harm and the law in place has not been able to protect them as it has for cases involving other victims of crime. The major insufficiency of the criminal law in protecting domestic workers is the requirement that all crimes must be proved beyond reasonable doubt. Such proof is very difficult to provide, particularly when it involves a domestic worker who may not even have a place to stay while the prosecution, which usually takes long, is going on. In many cases, domestic workers forego prosecution and leave their employers free without pressing any charges against them. Some of the issues which are rampantly facing domestic workers in their workplaces include abusive language, sexual abuse and harassment, and violent behavior of some employers or their relatives.¹⁰¹

As such, in the United Republic of Tanzania, generally, domestic workers are susceptible to abuse, harassment and violence without any recourse. Some of these workers, for lack of knowledge or alternatives, decide to ignore such practices and continue to work, all the while considering such acts as part and parcel of their job.¹⁰²

100 See section 7(5) of Act No. 6 of 2004 of Tanzania.

101 Personal interviews with ZATUC, TUCTA, CHODAWU, KIWOHEDE and domestic workers between 1 June and 30 June 2012.

102 See for instance "When would Harassment/Violent acts done against domestic workers End?" Tanzania Daima, Saturday, June 10, 2012.

Thus, it is submitted that domestic workers should be protected against all unbecoming acts of their employers or members of households in which they work. As rightly recommended by ILO Recommendation No. 201, there should be complaints mechanisms for domestic workers' discomforts; upon receiving reports from such workers there has to be thorough investigation and prosecution of offenders. While this is being done, domestic workers should be afforded opportunities for temporary accommodation and relocation from their abusive or violent employers. Also, such suffering domestic workers should have access to health care and rehabilitation.

The situation is not all grim in Tanzania. A local NGO, Kiota Women Health and Development Organization (KIWOHEDE), rescues children, mainly below the age of 18, from abusive employers and provides them with temporary accommodation, rehabilitates them and later, relocates those who, after training given at KIWOHEDE, still want to work as domestic workers. KIWOHEDE, however, reaches out only to a minority of domestic workers in need and the sustainability of its services is not guaranteed. More specifically, KIWOHEDE caters primarily for domestic workers below the age of 18 and, like any other non-governmental organization, its activities are city-based and dependent on donor funding that could dry out as donors change their focus and goals. These factors call for a critical, more comprehensive strategy for addressing abuse, harassment and violence in Tanzania and Zanzibar.

3.4 Employment Standards

Employment standards, usually set by labour laws and regulations, refer to established benchmarks which set either the minimum standards below which no employee should fall (as is the case with minimum wages) or the maximum limit beyond which no employee should be subjected (as is the case with working

hours).¹⁰³ Also, employment standards “form the basis of negotiations between the parties entering into an employment related contract creating obligations and rights for both parties.”¹⁰⁴ In recognition of the foregoing, ILO Convention No. 189 establishes the benchmarks for employment relationships within the domestic work sector.

The reasonableness of terms and conditions of employment contracts depends very much on the laws and regulations which set the minimum standards and the maximum limits. In view of this, the *Employment and Labour Relations Act* of 2004 of Tanzania provides for inclusion of employment standards in all contracts of employment particularly those in respect of wage determination.¹⁰⁵ This, in essence, covers domestic workers as well in the realm of employees generally covered by the law. However, employment standards which are primarily part of the employment contract may be altered where the contract contains more favorable terms of contract to the employee; or where a contract is altered in accordance with the law; and where there is a collective agreement, a written law regulating employment, wage determination or exemption granted under section 100 which alters the employment standard.¹⁰⁶

As such, employment standards for domestic workers, like for other employees, are well set by the law, irrespective of the fact that alteration of the established standards is allowed by law. This is because while alteration of the established standards is allowed, such alterations have to be done within the confines of law and must be better terms than the benchmarks set in the law. The said employment standards embrace:

103 See Ackson, T., “Employment Standards/Minimum Conditions of Employment” in Rutinwa B., Kalula E. and Ackson T. (eds), *The New Employment and Labour Relations Law in Tanzania: An Analysis of Labour Legislation in Tanzania*, UDSM School of Law Tanzania and IDLL Faculty of Law, UCT South Africa, 2011, pp 58 – 93, at p. 58.
 104 Ackson, 2011, *op cit*.
 105 See section 13 of the Act No. 6 of 2004 of Tanzania.
 106 See section 13(2) of Act No. 6 of 2004 of Tanzania.

3.4.1 Fair Terms of Employment

ILO Convention No. 189 provides for fair terms of employment for domestic workers.¹⁰⁷ This is in recognition of the fact that decent work, which embraces job quality and improved working conditions in terms of, among other things, better wages, social protection, social dialogue, better hours of work and flexibility for employees with family responsibilities, may only be guaranteed for domestic workers where an employment contract has reasonable terms for the domestic worker.

As such, Member States are obliged to ensure that employment contracts involving domestic workers have fair and reasonable terms of employment and that domestic workers are protected against unscrupulous employers.

(a) Information on terms and conditions of employment

ILO Convention No. 189 provides for the protection of domestic workers in an employment relationship by requiring they be informed of their terms and conditions of employment in an appropriate, verifiable and easily understandable manner.¹⁰⁸

In order to ensure effective implementation of the obligation to give information to domestic workers, Article 7 of ILO Convention No. 189 envisages the possibility of having written contracts which shall include terms of contracts in respect of, among other things, usual workplace, the remuneration, the normal hours of work, leave, periods of daily and weekly rest, the type of contract, work to be performed, the provision of food and accommodation, the period of probation or trial period, and terms of termination of employment.¹⁰⁹

107 See Article 6 of the ILO Convention No. 189 and ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 14.
 108 See Article 7 of the ILO Convention No. 189.
 109 See also Paragraph 6 of the ILO Recommendation No. 201 and ILO Convention No. 189 and ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 15.

Further, Member States are urged to provide assistance to domestic workers for understanding the terms and conditions of the employment contract they are entering into. This assistance should be through, among other means, communication of the terms and conditions of employment and provision of samples of domestic work contracts.¹¹⁰

In line with the foregoing, the *Employment and Labour Relations Act* of 2004 of Tanzania provides for the protection of employees' rights through obliging the employer to inform the employees of their rights.¹¹¹ Further, employers are required by law to display a statement of the employee's rights in a conspicuous place at the workplace. As such, the law requires the employer to not only inform employees of their rights but also put such rights in writing and display them at the workplace.

Although the law recognizes both oral and written forms of contracts as discussed hereunder, the *Employment and Labour Relations Act* of 2004 of Tanzania obliges the employer, in furtherance of protecting the employee, to keep in writing most of the terms and conditions of employment. The employer is required to keep in writing the employee's personal details including name, age, permanent address and sex of the employee and also other details such as place of recruitment, job description, date of commencement, form and duration of the contract and the place of work.¹¹²

Further, the employer is obliged to keep in writing the hours of work per day, per week and also rest periods.

Furthermore, the employer is obliged to keep in writing details about remuneration, how it will be calculated and other payments to be made to the employee including payments in kind.¹¹³ Additionally, the employer is required to record in writing the details of other matters which the law may require such an employer to keep in writing. Notably, a copy of all these details written by the employer must be given to the respective employee if the contract of employment is oral; for a written contract, an employee must have a copy of the contract of employment.¹¹⁴ In the event that the written particulars have changed, the employer is obliged to inform the employee about such changes.¹¹⁵

In order to ensure the employer abides by the requirements of law on keeping written particulars of the employee, the law places the burden of proof on the employer in any legal proceeding involving alleged terms of employment.¹¹⁶ This may be exemplified by the case of *Jamila Kaoneka v. Sultan Remanji* where the employer alleged to have employed the employee for housekeeping services in January 2008 and that the remuneration agreed upon was TZS 80,000 while the employee stated that she was employed in September 2005 and the agreed remuneration was TZS 150,000.¹¹⁷ The Commission for Mediation and Arbitration (CMA) decided in favour of the employee on account that it was the duty of the employer to keep in writing the written particulars as the law requires.

Additionally, in ensuring the employee is well informed about the terms and conditions of employment, the employer is obliged to explain the contents of the employment contract if the employee is unable to

110 See Paragraph 6 of the ILO Recommendation No. 201 and ILO Convention No. 189 and ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 15.
111 Section 16 of Act No. 6 of 2004. See also Ackson, 2011, *op cit*, for more information.
112 Section 15(1)(b)-(f) of Act No. 6 of 2004 of Tanzania. However, for an employee who works for less than 6 days in a month the employer is not obliged to keep written particulars of employment, see section 15(7) of Act No. 6 of 2004 of Tanzania.

113 Section 15(1)(h) of Act No. 6 of 2004 of Tanzania.
114 Section 15(1)(a) and (2) of Act No. 6 of 2004 of Tanzania.
115 See section 15(4) of Act No. 6 of 2004 of Tanzania.
116 Section 15(6) of Act No. 6 of 2004 of Tanzania. Also, by virtue of section 15(5) the employer is obliged to keep the written records for a period of five years after termination of employment.
117 Labour Dispute No. CMA/DSM/KIN/13/010.

understand the written particulars of the oral contract, or the particulars contained in the written agreement.¹¹⁸

In Zanzibar, an employer is obliged to keep employment records and submit a return of such records to the Labour Commissioner.¹¹⁹ Although the law does not specifically state which particulars of employment must be kept in writing, it is evident that employment contracts would embrace, among other things, hours of work, remuneration, and other terms and conditions of employment. In ensuring the employee is protected, as is the case with Tanzania, an employer is obliged to not only furnish the employee with a copy of an employment contract, but also ensure that the employee fully understands all the terms and conditions of employment contained in the contract.¹²⁰ The protection of an employee is also exemplified by the requirement that a labour officer shall attest all written employment contracts, meaning there cannot be an employment contract with onerous terms since the labour officer would not endorse such a contract.¹²¹ The burden of proof for any employment related term alleged by the employee is placed upon the employer in order to ensure the employer abides by the letter of law.¹²²

With such elaborate provisions on information on terms and conditions of employment and the fact that the same must be communicated to the full understanding of the employee, the issue remains, is domestic workers' information well kept and communicated to them?

Compounded with other problems explained in the foregoing parts, domestic workers are by and large not considered "conventional" employees and their employers do not keep

written particulars in writing despite the law requiring them to do so. This is evidenced by the fact that at least 98 per cent of the cases involving domestic workers filed at the CMA for Tanzania indicate that there are no written particulars relating to employment terms and conditions. Similarly, in Zanzibar, domestic workers do not have any written information on their terms and conditions of employment. Although the Dispute Handling Unit of Zanzibar is relatively new, there is no indication that domestic workers in Zanzibar are better off than their counterparts in Tanzania to warrant possession of written terms and conditions of their employment.

Notwithstanding, domestic workers who go to work abroad have all their terms and conditions of employment written and also explained to them before they travel to go take up their employment.¹²³

As such, deficiencies in the protection of domestic workers are not a result of the lack of proper legal instruments but rather due to lack of enforcement on account of lax labour inspectorate. Strengthening the labour inspectorate could ensure effective implementation of the law in all workplaces including households, domestic workers' workplaces.

(b) Forms of Contracts

Just as ILO Convention No. 189 recognizes both oral and written contracts of employment so does the *Employment and Labour Relations Act* of 2004 of Tanzania with a caveat that even for oral contracts, as stated in the preceding section, some terms and conditions of employment must be in writing. Similarly, the *Employment Act* of 2005 of Zanzibar

118 Section 15(3) of Act No. 6 of 2004 of Tanzania.

119 See section 48(1) of Act No. 11 of 2005 of Zanzibar.

120 See section 48 (4) and (5) of Act No. 11 of 2005 of Zanzibar.

121 See section 46 of Act no. 11 of 2005 of Zanzibar.

122 See section 48(6) of Act No. 11 of 2005 of Zanzibar.

123 Section 14(2) of Act No. 6 of 2004 of Tanzania. Also, information gathered from personal interviews with the Tanzania Employment Services Agent for Tanzania and some Private Employment Services Agents such as SPS Job Centre & Travelling Agency Ltd, on 27 June 2012 and 5 June 2012, in Dar es Salaam and Zanzibar respectively.

recognizes both written and oral contracts although it limits the length of an oral contract to six months.¹²⁴

Further, the *Employment and Labour Relations Act* of 2004 of Tanzania provides for three types of contract, namely, a contract for an unspecified period of time which comes to an end on retirement or on termination in accordance to the law and the terms of the contract; a contract for a specified period which caters for professionals and managerial cadre and mentions specifically the date when the contract comes to an end; and a contract for a specific task which ends as soon as the task is performed.¹²⁵ However, the law requires that if any of the foregoing contracts requires the employee to work outside of the United Republic of Tanzania, it must be in writing.¹²⁶

Likewise, the *Employment Act* of 2005 of Zanzibar provides for four categories of employment contract: a permanent contract, similar to Tanzania's unspecified time contract; a temporary contract, whose limit is between six months and three years; a part time contract; and a daily-paid contract which may expire at the end of the day or one month from the date of commencement and shall not exceed six months unless the employee changes the type of contract.¹²⁷

Evidently, the domestic worker may enter into any category of employment contracts. The issue which arises is whether domestic workers actually have any form of employment contract. About 80 percent of domestic workers interviewed indicated they were not sure they had any employment relationship with their employers, let alone having employment contracts.¹²⁸

124 See section 45 of Act No. 11 of 2005 of Zanzibar.

125 Section 14(1)(a), (b) and (c) of Act No. 6 of 2004 of Tanzania. See also *Omary Mkele & 20 Others v M/S Shipping Freight Consultant HC*, Labour Division, Labour Dispute No 6 of 2008 (unreported).

126 Section 14(2).

127 See section 44 of Act No. 11 of 2005 of Zanzibar.

128 Personal Interviews with domestic workers in Zanzibar and Tanzania between 1 June and 30 June 2012.

This is irrespective of the legal requirements that some of the terms and conditions of employment must be kept in writing and that the employee must be served with a copy of the same, as discussed under the preceding part.

Thus, domestic workers, for lack of a capable labour inspectorate, are at the mercy of their employers as exemplified by the cases of *Amina Omary v. Ally Mohamed*, *Restuta Mpagi v. Hindu Sinyange* and *Jamila Kaoneka v. Sultan Remanji* in which, among other things, determination of the employment relationship between a domestic worker and the employer was central.¹²⁹ This shows that at times, employers assume domestic workers do not have any employment-related rights. More often, employers disguise the employment relationship with being related to the domestic worker, or the pretext of helping an orphaned person, or as a favor to the domestic worker for staying with the "employer" who does not need any help let alone a domestic worker.¹³⁰ One issue remains: what about other conditions of work? Would such an employer have regard for them?

3.4.2 Working Hours

ILO Convention No. 189 protects domestic workers from being subjected to long working hours without being well compensated. It also requires every human being to rest. The Convention therefore requires Member States to ensure domestic workers are treated like other workers in respect of normal hours of work, overtime compensation, periods of daily and weekly rest and annual paid leave.

129 Labour Dispute No. CMA/DSM/ILALA/57/10/1047, Labour Dispute No. CMA/DSM/KIN-ILA/560/10/1476 and Labour Dispute No. CMA/DSM/KIN/13/010, respectively.

130 Personal interviews with the Deputy Principal Secretary and the Director for Planning of the Ministry of Labour, Economical Empowerment, and Cooperatives, on 4 June, 2012 in Zanzibar.

(a) Normal Hours of Work

Ordinary working hours in Tanzania are not more than nine (9) hours a day, forty five (45) hours a week, and six days a week.¹³¹ While some workers are subjected to 8 hours a day, and work for six days a week, one of the days being only for five (5) hours to make it 45 ordinary hours a week, other workers work for 9 hours a day and only five days a week also totaling to 45 ordinary hours a week. Similarly, in Zanzibar, the normal working hours are not more than eight (8) hours a day and not more than 42 hours in a week.¹³² Irrespectively, an employee who works on shift basis may be required to work for more than 8 hours a day and 42 hours in a week provided that on average his or her working hours do not exceed 48 hours a week.¹³³

Domestic workers, however, do not work for either nine (9) or eight (8) ordinary hours in practice, except for those who live – out, who form a minority group among the domestic workers. Most domestic workers live with their employers and the limit set by the law is, to a large extent, unrealistic. Most domestic workers interviewed and the employers, indicated that the former work for more hours than those set by law, in fact, double the time set by law as 70 percent of the domestic workers interviewed worked between 14 and 16 hours while 20 percent worked between 10 and 14 hours and 10 percent worked between 8 and 10 hours.¹³⁴ Conversely, in Zanzibar, the Minister responsible for labour matters is mandated to make regulations in respect of working hours for, among other categories of workers, domestic workers.¹³⁵

131 Section 19(2) of Act No. 6 of 2004. The law defines a day to be 'a period of 24 hours measured from the time when the employee normally starts work' and a week to mean 'a period of seven days measured from the day the employee normally starts the working week.' See section 18(a) and (c) of Act No. 6 of 2004 of Tanzania.

132 See section 62(1) of Act No. 11 of 2005 of Zanzibar.

133 See section 62(4) of Act No. 11 of 2005 of Zanzibar.

134 Personal interviews with domestic workers and employers between 1 June and 30 June. Also information gathered through the personal interviews with KIWOHEDE, ZATUC, TUCTA and CHODAWU, *op cit*.

135 See section 64(b) of Act No. 11 of 2005 of Zanzibar.

(b) Night Work

Night work embraces work that is performed by an employee at night. Tanzania's *Employment and Labour Relations Act* of 2004 defines night work to be work done between 20:00hours and before 06:00hours.¹³⁶ However, the law prohibits an employer from requiring or even permitting pregnant women who are within the last two months before their expected confinement date, nursing mothers within the first two months after delivery, children below the age of 18 and any employee medically certified unfit for night work, to work at night.¹³⁷

An employee is entitled to 'at least 5% of that employee's basic wage for each hour worked at night.'¹³⁸ If the hours worked at night are overtime hours, the '5% shall be calculated on the employee's overtime rate.' The said night work remuneration, regrettably, has been interpreted by the Labour Court to exclude employees working in shifts who otherwise work at night as their "ordinary working hours."¹³⁹ From this decision, one wonders whether there are any differences between the "5% payment" and the "5% calculated on the employee's overtime rate." Without risking contempt, it is submitted that the law provides for ordinary night work hours which attract the 5% remuneration and also, where such hours are overtime hours, the remuneration to be calculated on the basis of overtime rate.

As for the *Employment Act* of 2005 of Zanzibar, night work is defined as work performed between 22:00hours and 06:00hours.¹⁴⁰ This shows a two hours difference from Tanzania's position, thus, while in Tanzania there are 10 hours for night work, in Zanzibar there are

136 Section 20(1) of Act No. 6 of 2004.

137 Section 20(2)(a), 20(2) (b) (iii), 20 (2) (c), and 20 (3) of Act No. 6 of 2004 of Tanzania.

138 Section 20(4).

139 See *Hamza Jumbe v Salmin Mbaraka*, Revision No 69 of 2008, High Court of Tanzania, Labour Division, Dar es Salaam

140 See section 66 (3) of Act No. 11 of 2005 of Zanzibar.

only 8 hours for night work. The remuneration for an employee who works at night in Zanzibar is the same as the payment for night work in Tanzania, and properly so without the distinction between night work and night shifts.¹⁴¹ Also, in Zanzibar, an employee who works at night may be either remunerated or given time off. Noteworthy, the *Employment Act* of 2005 a pregnant or nursing employee may be exempted from night work if the medical officer certifies as such for the safety and health of the employee.¹⁴²

As for domestic workers who work at night, accounting for about 90 per cent of domestic workers, they are neither paid the 5 percent for working at night nor the 5 percent of the overtime rate for hours they would have worked over and above the ordinary working time. The non-payment for night work may be blamed mostly on the weak labour inspectorate and, to some extent, on lack of awareness of these legal provisions on the part of domestic workers.

(c) Overtime Compensation

The *Employment and Labour Relations Act* of 2004 of Tanzania prohibits overtime work which may be defined as work in addition to the ordinary work, that is, work performed after exhausting the ordinary working hours in a day, a week or a month. However, overtime work may be performed where the employer and an employee have entered into an agreement specifying the terms and conditions of overtime work.¹⁴³ This was expounded in the case of *Jamila Kaoneka v. Sultan Remanji* where the employee claimed overtime payment from an employer while there was no agreement on the same.¹⁴⁴

The CMA stated that there cannot be valid claims for overtime unless there is evidence that the employer and the employee had agreed that the employee should work the overtime hours as required by section 19(3) (a) of the *Employment and Labour Relations Act* of 2004 of Tanzania. It should be noted that the said overtime agreement may be an individual or a collective agreement.

The law prescribes the maximum limit of overtime hours to 50 in a four weeks cycle.¹⁴⁵ Irrespective of an agreement to work overtime and the employee consenting, the employer is prohibited from subjecting an employee to work for more than 12 hours in any given day.¹⁴⁶ The only exception, in which an employee may be subjected to work for more than 12 hours in a day, is where there is an emergency.¹⁴⁷

An employee who works overtime in Tanzania is entitled to not less than one and one-half times the employee's basic wage for any overtime worked in normal working days.¹⁴⁸ Zanzibar's *Employment Act* of 2005 provides for overtime in similar terms as those of Tanzania except that while Tanzania sets the maximum of 50 overtime hours in a four weeks cycle, in Zanzibar it is set at a maximum of 10 hours per week, making 40 hours in a four weeks cycle except where there is a collective agreement which may provide for 15 hours per week.¹⁴⁹ As for remuneration for overtime work, the employee is entitled to not less than double the rate payable per hour for work on a working day, thus, monthly salaryx2/30 divide by 8.¹⁵⁰ As for the overtime hours in terms of the said collective agreement, the remuneration is not less than three times the rate payable per hour for work on a working

141 See section 66(1) of Act No. 11 of 2005 of Zanzibar.
142 See section 84(1) of Act No. 11 of 2005 of Zanzibar.
143 Section 19(3)(a) of Act 6 of 2004 of Tanzania. See also section 63(1) of Act No. 11 of 2005 of Zanzibar.
144 Labour Dispute No. CMA/DSM/KIN/13/010.

145 Section 19(3)(b) of Act No. 6 of 2004.
146 Section 19(1) of Act No. 6 of 2004 of Tanzania. See also section 63(2) of Act No. 11 of 2005 of Zanzibar.
147 Section 17(2) of Act No. 6 of 2004. As to whether the law is actually followed in practice.
148 Section 19(5).
149 See sections 63(1) and 63(3) of Act No. 11 of 2005 of Zanzibar.
150 See section 63(8)(a) of Act No. 11 of 2005 of Zanzibar.

day.¹⁵¹

Evidently, the law is very elaborate and clear on the limit of overtime hours and also the remuneration where an employee is obliged to work over and above the agreed ordinary working hours. However, the domestic workers, who are at the periphery of labour laws, are not paid the overtime pay commensurate to the hours that they work in any day, if they are paid at all.¹⁵² With the strengthening of the labour inspectorate, Paragraph 8 of Recommendation No. 201 on recording of working hours for domestic workers would make a difference, particularly where the domestic workers are subjected to work beyond the maximum hours set by law.

(d) Rest Periods/Public Holidays

In recognition of human nature that every human being needs to rest after work, ILO Convention No. 189 provides for rest periods for domestic workers and equal treatment of domestic and non-domestic workers in Members States. Also, Article 10(3) provides that those hours at which domestic workers are “not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls shall be regarded as hours of work...” and should be compensated accordingly.

The *Employment and Labour Relations Act* of 2004 of Tanzania provides for three kinds of rest periods: daily break, daily rest and weekly rest. While an unpaid daily break/lunch break is only one hour and applies to workers who work for more than 5 hours consecutively, daily rest is set at 12 consecutive hours between the end of work and the commencement of work for another day.¹⁵³

151 See section 63(8)(c) of Act No. 11 of 2005 of Zanzibar.

152 All the domestic workers interviewed (100 percent) were not paid for the overtime that they worked, information gathered during personal interviews with ZATUC, TUCTA, KIWOHEDE and CHODAWU, *op cit*.

153 See sections 23(1), (2), (3) and 24(1)(a) of Act No. 6 of 2004 of Tanzania.

Notably, the 12 hours daily rest may be reduced by agreement or where working hours have been interrupted by the employee for an interval of at least three hours, or where an employee resides at the workplace, or where there is an emergency.¹⁵⁴

Apart from daily break and daily rest, the law provides for the weekly rest period of a minimum of 24 hours between the last ordinary working day in the ending week and the first ordinary working day of the following week.¹⁵⁵ However, the employee and employer may agree to have a rest period of at least 60 consecutive hours every two weeks and thus there would be no 24 hours rest time per week but this would have to be regulated by a written agreement.¹⁵⁶ Also, a weekly rest period may be reduced by eight hours if the rest period in the subsequent week is to be extended by eight hours.¹⁵⁷

In the event that the employee works during the daily break, daily rest period or the weekly rest time, the employer is obliged to pay the employee ‘double the employee’s hourly basic wage for each hour worked.’¹⁵⁸ Thus, payment for work done during the rest periods is well rewarded compared to overtime and night work. Employees who work on public holidays, as is the case for rest periods, are remunerated double the employee’s basic wage for each hour worked’ on a public holiday.¹⁵⁹ With all these protective provisions in favor of the employees, in reality, are domestic workers well protected in terms of rest periods?

Domestic workers, as is the case with other rights discussed in the foregoing parts, are not afforded daily break, daily rest or weekly rest periods. In actual fact, most domestic workers

154 Section 24(2)(a), (b), (c), and section 17(1) of Act No. 6 of 2004 of Tanzania.

155 Section 24(1)(b).

156 Section 24(3)(a)

157 Section 24(3)(b).

158 Section 23(3) and 24(4).

159 See section 25 of Act No. 6 of 2004 of Tanzania, the *Interpretation of Laws Act*, Cap 1 R.E 2002 and the *Public Holidays Act*, Cap 35 R.E 2002.

work for more than 12 hours a day and others for more than 14 hours, and the extra hours they put into work are not adequately compensated. Evidently, the cases of *Jamila Kaoneka v Sultan Remanji*, an employee subjected to 15 hours of work although not staying with the employer; *Amina Omary v. Ally Mohamed*, an employee working till late at night and being unable to go home thereafter and not being compensated, not being given rest period or leave for about 18 years; and *Yohana Seif and Oswald Paulo v. Henry S. Mariwa* in which domestic workers were subjected to work for 13 hours every day without being compensated, exemplify the problem.¹⁶⁰

Considering the majority of domestic workers rest for only 8 hours per day especially because they reside at their workplaces, it is patently clear that domestic workers should be considered a special group the requires specific attention in order to address the issues relating to their working conditions, including rest periods. Recommendation 201 provides for proper recording of working hours, even in cases where a domestic worker resides in the household and therefore entitled to only 8 hours of daily rest. Therefore if he or she has worked for hours over and above the ordinary working hours, by law that is considered overtime and must be compensated accordingly.¹⁶¹ Additionally, domestic workers are not protected in that their rest time as stated by law is not observed by their respective employers.

As for Zanzibar, the *Employment Act* of 2005, like its counterpart in Tanzania, provides for rest periods and an additional requirement in section 65(4) that the employer keeps a record of employee's resting days and posts notices on the resting days for the employees

160 Labour Dispute No. CMA/DSM/KIN/13/010, Labour Dispute No. CM/DSM/ILALA/57/10/1047, Labour Dispute No. CMA/DSM/KIN/876/09, respectively.

161 See section 65 of Act No. 11 of 2005 of Zanzibar which provides for restriction on the number of working days.

at conspicuous places at the workplace. This is in a way, in line with Recommendation 201 which requires keeping of a register for the working hours of a domestic worker, as is the case for other workers. Thus, unpaid daily break, daily rest, weekly rest and public holidays are all similar to the *Employment and Labour Relations Act* of 2004 of Tanzania in terms of number of hours.¹⁶²

As for remuneration, an employee who works on leave or public holiday is entitled to not less than double and half the rate payable per hour for work on a working day which shall be eight (8) hours and should generate a monthly salary x overtime hours x 2.5/30 divide by 8.¹⁶³ However, section 67(1) and (2) of the *Employment Act* of 2005 of Zanzibar provides that an employee who works on a public holiday may be paid not less than double the rate payable for work on a working day or be given a day off. The decision on which of the two options would apply is the discretion of the employer

Irrespective of the slight differences in Tanzania and Zanzibar, the bottom line remains - domestic workers are not protected in either of the two countries as their employers are not keen to observe labour laws. Neither do they consider themselves employers as evidenced below on discussing social security contributions. Thus those employing domestic workers do not consider themselves as entering into an employment relation.¹⁶⁴ Inability of the Labour Inspectorate to perform its functions effectively only perpetrates the laxity of employers on the matter.

162 See section 62(5) (6) of Act No. 11 of 2005 of Zanzibar.

163 See section 63(8)(b) of Act No. 11 of 2005 of Zanzibar.

164 About 80 per cent of the employers, personally interviewed between 1 June and 30 June 2012 in Dar es Salaam and Zanzibar, indicated that although they employed domestic workers, they did not consider themselves as "proper" employers to warrant the use of employment related laws to guide their relationship. Also information gathered from personal interviews with ZATUC, TUCTA, CHODAWU, and KIWOHEDE, *op cit*.

3.4.3 Leave

Leave is a right of every employee, including domestic workers. Under the *Employment and Labour Relations Act* of 2004 of Tanzania and the *Employment Act* of 2005 of Zanzibar, there are four categories of leave: paid annual leave, sick leave, maternity leave and what may be termed as compassionate leave.

(a) Paid Annual Leave

Annual leave is a time off which an employee earns in a year after working with the same employer. The *Employment Act* of 2005 of Zanzibar provides that an employee is entitled to 7 days in every four months an employee would have worked for the same employer.¹⁶⁵ Thus, in a twelve months period of work, an employee is entitled to 21 days as annual leave. Notably, the provisions on annual leave do not apply to an employee who would have worked for less than six months.¹⁶⁶ Further, employees on part time basis are entitled to annual leave commensurate to the time they would have worked with the employer.¹⁶⁷ Noteworthy, whether an employee consents or not, the law prohibits any agreement to relinquish, forego or receive compensation in place of annual leave.¹⁶⁸

Similarly, the *Employment and Labour Relations Act* of 2005 provides for annual leave of 28 days in a 12 months cycle of work with the same employer and also applies to an employee with not less than 6 months working time with the same employer.¹⁶⁹ Likewise, employees who work seasonally are entitled to annual leave.¹⁷⁰ An employer is, as is the case in Zanzibar, prohibited from paying money to the employee in substitution for annual leave.¹⁷¹

165 See section 67(1)(a) of Act No. 11 of 2005 of Zanzibar.

166 See section 67(5) of Act No. 11 of 2005 of Zanzibar.

167 See section 67(7) of Act No. 11 of 2005 of Zanzibar.

168 See section 67(3) of Act No. 11 of 2005 of Zanzibar.

169 See section 29(1) and (2)(b) and Section 31(1) of Act No. 6 of 2004 of Tanzania.

170 See section 29(2)(a) of Act No. 6 of 2004 of Tanzania.

171 See Section 31(7) of Act No. 6 of 2004 of Tanzania.

As for domestic workers, about 70 percent indicated they are never given annual leave. This may also be evidenced by cases filled to the CMA in which employees state that their employers, on account of termination of employment, should pay them for the accumulated annual leave which they were never given while at work. This, in terms of the law, is a problem on the part of the employer whom the law obliges to give leave to the employee. For instance, in the case of *Jamila Kaoneka v. Sultan Remanji* the employee claimed for leave which she never got while working, so were the employees in the cases of *Amina Omary v. Ally Mohamed*, *Fatuma Filly Said v. White Rose Guest House*, *Yohana Seif and Oswald Paulo v Henry S. Mariwa*, *Sharifa Mohamed and Others v. LAKUPA Hair Beauty Studio*, and *Zubeda Ally and 2 Others v. Lina Jonasani*.¹⁷² It is submitted that this problem could be addressed by strengthening the labour inspectorate.

(b) Maternity Leave

The *Employment Act* of 2005 of Zanzibar provides that a female employee is entitled to paid maternity leave of three months or 100 days for a child or multiple births respectively exclusive of annual leave.¹⁷³ This means that a female employee is entitled to both maternity leave and annual leave in the year such employee would have delivered. Maternity leave is given once in a period of three years although the 3 years limit may be waived where a baby dies during maternity leave or there is miscarriage (this might have been intended to be still birth) in which case the employee would have to resume work after the expiry of six weeks of maternity leave.¹⁷⁴

172 Labour Dispute No. CMA/DSM/KIN/13/010, Labour Dispute No. CMA/DSM/KIN-ILA/560/10/1476, Labour Dispute No. CMA/DSM/KIN/410/12/8, Labour Dispute No. CMA/DSM/KIN/876/09, Labour Dispute No. CMA/DSM/KIN/513/10/1279, and Labour Dispute No. CMA/DSM/KIN-ILA/12/09/362 respectively.

173 See section 71(1) and (2) of Act No. 11 of 2005 of Zanzibar.

174 See section 71(4) of Act No. 11 of 2005 of Zanzibar.

Noteworthy, an employee may not resume work before the expiry of 8 weeks after delivery unless a medical officer certifies about the fitness of the employee in which case, resumption of work should not be earlier than six weeks after delivery.¹⁷⁵ The law guarantees work for an employee returning from maternity leave in that an employer may not terminate such an employee.¹⁷⁶

Along similar lines, the *Employment and Labour Relations Act* of 2004 provides for paid maternity leave of 84 or 100 days for a child or multiple births respectively in a 36-months work cycle except where a child dies within a year of birth.¹⁷⁷ Likewise an employee is prohibited from working within six weeks after the birth of their babies unless a medical officer certifies about the fitness.¹⁷⁸ Different from the position in Zanzibar where an employee cannot work before the expiry of six weeks, in Tanzania an employee can work before the expiry of six weeks. Also, as is the case in Zanzibar, an employee who has been on maternity leave, bearing in mind that such a worker may not be terminated from employment on account of pregnant related reasons, 'may resume employment on the same terms and conditions' as those which prevailed before they took the leave.¹⁷⁹ Notably, an employer is prohibited from requiring or permitting pregnant women and mothers of newborns to work at night two months before the date of confinement and two months after confinement, respectively.¹⁸⁰

Also, in Tanzania, for an employee to be entitled to maternity leave, as is the case with annual leave, must have worked for the same employer for not less than six months and an employee may only be entitled to four terms of maternity leave under the same employer.¹⁸¹ The issue is, are domestic workers availed maternity leave?

While annual leave, rare as it is for domestic workers, is at least conceivable by both the employers and the employees, maternity leave is considered a luxury which if the employees would want, they would have to leave their jobs altogether. This is based on the fact that most of the employers and workers' representative bodies interviewed indicated that the moment a domestic worker, particularly those who live in get pregnant, their employers terminate them.¹⁸² In a few cases which involved domestic workers or workers in similar settings employers have allowed an unpaid maternity leave or gave employees fewer days off than the law prescribes. For instance, in the case of *Sharifa Mohamed and Others v. LAKUPA Hair Beauty Studio*, one of the employees alleged that when she delivered she was given 47 days instead of 84 days and was paid for 30 days only; another employee alleged she was given an unpaid maternity leave; and another one alleged she was given 45 days out of 84 and was paid nothing.¹⁸³

As such, there is hardly any protection for domestic workers who fall pregnant. Taking into account that most domestic workers are females, one can only imagine how their right to paid maternity leave is curtailed by employers who disregard the requirements

175 See section 71(6) and (8) of Act No. 11 of 2005 of Zanzibar.
176 See section 71(7) of Act No. 11 of 2005 of Zanzibar.
177 Section 33(6)(a) and Section 33(7) of Act No. 6 of 2004 of Tanzania.
178 Section 33(3).
179 Section 33(4).
180 See more details under the section on night work in this report.

181 See sections 29(2), sections 30(b)(ii) and 33(8) of Act No. 6 of 2004 of Tanzania.
182 Personal interviews with the employers between 1 June and 30 June 2012, who at least 70 percent of them conceded to the fact that they would terminate employment of their live – in domestic workers if they discovered they were pregnant. Also information gathered from personal interviews with ZATUZ, TUCTA, CHODAWU, and KIWOHEDE, *op cit*.
183 Labour Dispute No. CMA/DSM/KIN/513/10/1279

of the law and, in most cases, go unpunished. These employers, as earlier indicated, act as they do since they know employees are not well capacitated to fight for their rights or put their employers to task for their wrongdoing, even in cases where they, employees, are terminated. While the CMA has helped in many respects to protect workers against unscrupulous employers, it has not succeeded in protecting domestic workers most of whom are transported back to their home villages before they can even engage the CMA.¹⁸⁴ Employers terminate the employment relationship with domestic workers, particularly the live in, easily because they are not obliged to give a notice of termination and because most domestic workers usually do not have a place to stay while pursuing their cases at the CMA, if they have not been sent back to their home villages yet.¹⁸⁵

(c) Sick Leave

Sick leave is availed to an employee who has been in continuous service with an employer for a period of not less than six months and is unable to perform the job they have been employed to do on account of infirmity of mind or body, upon a medical officer certifying the same.¹⁸⁶ The *Employment and Labour Relations Act* of 2004 of Tanzania provides that an employee is entitled to a minimum of 126 days in a leave cycle of 36 months provided they have worked with the employer for more than six months.¹⁸⁷ This is in two folds: the first 63 days the employer must pay an employee full pay as if the employee worked and the other 63 days an employee is only entitled to half pay. After the 126 paid sick leave, the employer is at liberty to terminate employment on account of ill health.

184 Personal interviews with ZATUC, TUCTA, CHODAWU and KIWOHEDE, *op cit*.

185 *Ibid*

186 See Sections 29(1), 32(3)(a) and 32(4) of Act No. 6 of 2004 of Tanzania.

187 Section 32(1) (2) and 30(1)(b)(ii) of Act No. 6 of 2004 of Tanzania.

In such cases, the employees' issues will be dealt with by the respective social security institutions to which the employee would have been a member and which would provide incapacity or invalidity benefit or pension, as appropriate.¹⁸⁸ Also, the law does not oblige an employer to pay an ailing employee where the employee is entitled to pay sick leave under any other law, fund or collective agreement.¹⁸⁹ In Zanzibar, the *Employment Act* of 2005 provides for paid sick leave which is granted by the medical board in the event that the employee who has worked for not less than six months continuously with the same employer is sick or has suffered an accident or has contracted a disease arising out of and in the course of employment and is unable to work.¹⁹⁰ Such leave would be for 12 months: for the first six months the employee would be fully salaried while for the other six months, in case the employee has not recovered within the first six months, remuneration is slashed by half.¹⁹¹ Thereafter, the employer is at liberty to terminate employment if the employee's infirmity continues. In the event that the ill health does not arise out of and in the course of employment, the conditions are similar to those of Tanzania except that in Zanzibar an employee will be entitled to a longer paid sick leave, thus, two months fully salaried while three months are half paid.¹⁹² After five months the employer may terminate employment on medical grounds.¹⁹³

188 See for instance, the Parastatal Pensions Fund Act No. 14 of 1978; the Public Service Retirement Benefits Act No 2 of 1999; the Political Service Retirement Benefits Act No13 of 1999; Local Authorities Pensions Fund Act No.9 of 2006; and the National Social Security Fund Act No.28 of 1997.

189 Section 32(3)(b). For instance, the *Public Service Retirement Benefits Act* of 1999 provides for sickness benefits and therefore employees covered by the Public Service Pensions Fund (PSPF) established by the said law are entitled to paid sick leave and the respective employer is not obliged to pay such an employee.

190 See section 69(1) and 69(6) of Act No. 11 of 2005 of Zanzibar. For a more detailed discussion on the issue of "arising out of and in the course of employment," see Ackson, T. "Disability benefits and workers with HIV/AIDS: Coverage issues and challenges in the United Republic of Tanzania," *International Social Security Review*, Vol. 61, 4/2008, pp. 75 – 94.

191 See section 69(3) of Act No. 11 of 2005 of Zanzibar.

192 See section 69(2)(b) of Act No. 11 of 2005 of Zanzibar.

193 See section 69(2)(c) of Act No. 11 of 2005 of Zanzibar.

Noteworthy, an employee “who has become too ill to perform his or her current work due to HIV/AIDS,” is equally entitled to sick leave and termination of employment would follow the foregoing conditions.¹⁹⁴

Domestic workers are practically not protected when they get sick. As is the case with annual and maternity leave, sick leave is not guaranteed to domestic workers. This is based on the fact that most households would have one domestic employee and in the event that employee cannot perform their work, a replacement is readily available and the domestic worker is immediately terminated from employment.¹⁹⁵ This is particularly the case for illnesses that last as long as the leave term, that is, 126 days in Tanzania and 12 or 5 months in Zanzibar for illnesses that arise out of and in the course of employment or not, respectively.

An employer may not be able to wait that long for a domestic employee to recover. At least 60 percent of the interviewed employers indicated they would wait for their employees to recover but for “short term” illnesses such as malaria in which case they would also shell out medical bills while 10 percent indicated they would wait for their employees to recover but such employees would have to go to their respective homes and come back after recovering without any commitment, on the part of the employer, to medical care.¹⁹⁶ The remaining 30 percent indicated that it would be very difficult for them to retain an employee who is sick and unable to work since the work they are employed to do would be on hold during the entire time such an employee is sick, something they can afford to do.

Admittedly, the latter category stated they would only keep an employee who although sick, he or she can still perform some duties such as cooking and cleaning the house.

As such, a domestic worker’s right to sick leave is not properly exercised in practice, again, on account of employees’ lack of awareness of their rights, on the one hand, and lax labour inspectorate, on the other. The situation is alarming particularly because the trend is increasingly that whereby domestic workers are terminated from employment as soon as they get sick, contrary to the provisions of law which entitles them to a sick leave before an employer can terminate them on account of incapacity to perform their duties.

(d) Compassionate and Other Forms of Leave

The *Employment and Labour Relations Act* of 2004 of Tanzania provides for a three (3) days paternity leave for a father of a child birthed by his wife.¹⁹⁷ This leave is given once in a period of three years irrespective of the number of children one would have in three years.¹⁹⁸ Also, where an employee has an ailing child or there is death of the employee’s child, spouse, parent, grandparent, grandchild, or sibling, s/he is entitled to paid four (4) days leave in a leave cycle of 3 years.¹⁹⁹ Recognizing that an employee may need more than 4 days in 3 years to attend various family issues, the law gives an employee a leeway to ask for more days which would be unpaid.²⁰⁰

In Zanzibar the *Employment Act* of 2005 provides for temporary emergency leave which caters for such events as death of employee’s parent, child or spouse for a period of three days and death of a sibling or half brother or sister as well as death of parents-in-law for

194 See section 69(4) of Act No. 11 of 2005 of Zanzibar.

195 Personal interviews with ZATUC, TUCTA, CHODAWU and KIWOHEDE, *op cit*.

196 See also the case of *Amina Omary v. Ally Mohamed* Labour Dispute No. CM/DSM/ILALA/57/10/1047

197 See section 34(1)(a) of Act No. 6 of 2004 of Tanzania.

198 See section 34(3)(a) of Act No. 6 of 2004 of Tanzania.

199 See section 34(1)(b) of Act No. 6 of 2004 of Tanzania.

200 See section 34(3)(b) of Act No. 6 of 2004 of Tanzania.

a period of one day.²⁰¹ Also, leave without pay is available to employees for a period not exceeding three months on account of an employee giving birth before completion of one year of service, contrary to Tanzania where the law requires maternity leave be granted to an employee only when she or he has worked for a minimum of six months.²⁰² Also, leave without pay is available in Zanzibar where an employee would like to take care of her/his ailing child, parent, or dependant; accompany a spouse travelling out of Zanzibar for leave; attend a funeral of a relative out of Zanzibar; and where a female employee has lost her husband.²⁰³

Further, leave without pay for up to six months may be given by the employer, upon approval by the Commissioner of Labour, where an enterprise has ceased to operate or operates below capacity.²⁰⁴ Upon expiry of the said leave without pay, an employer may either reinstate the employees or terminate their contracts of employment, after notifying the Commissioner in writing one month prior to the reinstatement or termination.²⁰⁵ The Commissioner has powers to decide on whether the employees should be terminated or reinstated.²⁰⁶ *Force majeure* may also call for leave without pay in Zanzibar for a period not exceeding one month and the Commissioner for Labour and a trade union must be notified in writing before the expiry of two weeks.²⁰⁷

The discussed forms of leave, in essence, are available to all workers although the question remains: is this truly the case for domestic workers? In reality, with the exception of leave without pay which is very elaborate in the case of Zanzibar and has a longer time, compassionate leave is virtually given to most of the domestic workers when they have

lost their loved ones or have ailing relatives. At least 60 percent of the domestic workers interviewed indicated their employers have never given them leave to attend to their sick relatives or funeral and wedding ceremonies of their relatives.²⁰⁸ Similarly, at least 70 percent of the interviewed employers indicated they have given their employees compassionate leave several times but the maximum period the employees were allowed for leave was 7 days in any eventuality.²⁰⁹

Comparatively, compassionate leave and other forms of leave are more readily available to domestic workers than the annual, maternity or sick leave, which are considered longer and prejudicial to the employers as stated in the foregoing paragraphs.

(e) Flexibility in Working Hours

The *Employment Act* of 2005 of Zanzibar provides for flexibility of working hours in that a collective agreement may provide for averaging of working hours in which case the normal limits put in terms of working hours per day and week will not be taken into account. In particular, the law provides for averaging of working hours for a period of up to four months and in this case an employee would be required to work for forty five (45) ordinary hours in a week or ten hours in a day over the agreed period not exceeding 12 months.²¹⁰ Additionally, the law allows averaging overtime hours up to five hours in a week over an agreed period of up to four months and not exceeding 12 months.²¹¹ Generally, averaging of working hours gives the flexibility to both the employer and the employee so that they, by agreement, make flexible arrangements which suit their workplaces.

201 See section 68 of Act No. 6 of 2005 of Zanzibar.

202 See section 71(1)(a) of Act No. 11 of 2005 of Zanzibar.

203 See section 71(1)(b-f) of Act No. 11 of 2005 of Zanzibar.

204 See section 71(2) and (3) of Act No. 11 of 2005 of Zanzibar.

205 See section 72(1) and (2) of Act No. 11 of 2005 of Zanzibar.

206 See section 72(3) of Act No. 11 of 2005 of Zanzibar.

207 See section 71(9) of Act No. 11 of 2005 of Zanzibar.

208 Personal interviews with the domestic workers in both Tanzania and Zanzibar between 1 June and 30 June 2012.

209 Personal interviews with the employers of domestic workers in both Tanzania and Zanzibar between 1 June and 30 June 2012.

210 See section 62(2) and (3) of Act No. 11 of 2005 of Tanzania.

211 See section 63(4), (5) and (6) of Act No. 11 of 2005 of Tanzania.

The *Employment and Labour Relations Act* of 2004 of Tanzania provides for two kinds of flexible arrangements: compressed working hours and averaging working hours. Compressed working hours refers to an arrangement arising out of a collective agreement between the employer and the employees to the effect that in a particular week, without compromising the 12 hours a day and 45 hours a week limits, workers would be subjected to work without overtime payment.²¹² As for overtime hours, the compressed working week agreement may provide for not more than ten hours overtime in a week.²¹³ Thus, for a compressed working week, an employee may work for 45 hours as ordinary hours and only 10 hours overtime hours.

On averaging working hours, an employer and employees may enter into an agreement on working hours to the effect that employees would be subjected to work not more than 40 ordinary hours of work per week and 10 hours per week as overtime calculated over the agreed period.²¹⁴ While a compressed working week is only valid for a week, averaging working hours may be up to a maximum of one year.²¹⁵

As is the case with domestic workers not being protected against long working hours, the flexible arrangements discussed under this part, boasting coverage of all employees, does not cover domestic workers in practice: Where there is no freedom of association, there cannot be collective bargaining, and therefore no collective agreement. Domestic workers therefore, do not enjoy any flexible working arrangements provided by law, because for them all the time is working time.

212 Section 21(1) and (2) (b) of Act No. 6 of 2004 of Tanzania.
 213 Section 21(2) (c) of Act No. 6 of 2004 of Tanzania.
 214 Sub-sections 22(2) (a) and (b).
 215 For similar concepts see Du Toit, D, et al, *Labour Relations Law: A Comprehensive Guide* 4 ed (LexisNexis Butterworths 2003) at 495.

3.4.4 Remuneration

Remuneration refers to all kinds of payments which are due to an employee arising out of an employment relationship.²¹⁶ The ILO Convention No. 189 provides for coverage of domestic workers in minimum wage legislation without discrimination on the basis of sex.²¹⁷ Article 12 provides for payment of remuneration directly to the domestic worker in cash, bank transfer, bank cheque, postal cheque, money order or other lawful means of monetary payment, with the consent of the worker concerned and at regular intervals at least once a month. Further, remuneration to a domestic worker, as is the case with other workers, may be partly paid in kind on the conditions that firstly, such proportion paid in kind is agreed by the workers; secondly, it is for personal use and benefit of the worker; and thirdly, that the monetary value of the payment in kind is fair and reasonable.²¹⁸

In Tanzania, in line with the Minimum Wage Fixing Convention No. 131 of 1970, ratified in 1983, provides for what ILO Convention No. 189 promulgates, minimum wage for domestic workers.²¹⁹ The minimum wage in Tanzania is set in three broad categories: domestic servants employed by Diplomats and Potential Businessmen whose minimum wage is TZS90,000; Entitled Officers for domestic services the minimum wage is TZS80,000; while other people employing domestic workers are obliged to pay TZS65,000.²²⁰ It should be noted that live-in domestic workers may have 68 percent of their salaries deducted for the

216 Sections 4 and 27.
 217 See Article 11 of ILO Convention No. 189.
 218 See Article 12(2) of ILO Convention No. 189.
 219 See also Minimum Wage-Fixing Machinery Convention No. 26 of 1928, the Equal Remuneration Convention No. 100 of 1951 and Minimum Wage Fixing Machinery (Agriculture) Convention No. 99 of 1951.
 220 See the *Regulation of Wages and Terms of Employment Order, 2010* GN. No. 172 of 2010. The Officers entitled to domestic services include retired President, Vice President, and the Prime Minister each entitled to a cook, a laundry man, domestic servant and a gardener as per the *Political Service Retirement Benefits Act*, of 1999, Act No. 3 section 9(2)(j-m), 12(2)(f-i) and 14(2)(f-i) respectively. Notably, the exchange rate by end of July 2012 was 1USD to TZS1,580.

food and other services in which case, those entitled to TZS65,000 would only be entitled to TZS20,800 after deducting TZS44,200.²²¹ The deductions recognized by law are evidently prohibited by ILO Recommendation No. 201 which states that “...when a domestic worker is required to live in accommodation provided by the household, no deduction may be made from the remuneration with respect to that accommodation, unless otherwise agreed to by the worker.”²²² Since the law allows deductions to be made to the domestic worker’s remuneration on account of food and other services, it is submitted that such a law needs to be amended in order to give effect to the provisions protecting domestic workers as recommended by ILO Recommendation No. 201.

In alignment with ILO Convention No. 189 which requires Member States’ legislation to provide for??, and taking stance from Article 23(1) of the Constitution of the United Republic of Tanzania which provides for the right to just remuneration without any kind of discrimination, the *Employment and Labour Relations Act* of 2004 guarantees equal remuneration for men and women for work of equal value.²²³ As for the manner of payment as envisaged by ILO Convention No. 189, the *Employment and Labour Relations Act* of 2004 provides for modes of payment being cash payment, a cheque or direct deposit into an account designated by the employee in writing.²²⁴

In ensuring that the employee is not inconvenienced in following up the remuneration, the *Employment and Labour*

221 See Regulation 4(4) of GN. No. 172 of 2010.
 222 See paragraph 14(d) of ILO Recommendation No. 201.
 223 Section 7(10).
 224 Section 27(1)(b) of Act No. 6 of 2004 of Tanzania. See also Section 27(1)(c) which provides that in case payment is by cash or cheque, the employer must ensure that remuneration is given to the employee in a sealed envelope. Also, section 27(2)(b) provides that where an employee receives remuneration by direct deposit in an account, the employer must also give the written statement of particulars relating to remuneration in a sealed envelope.

Relations Act of 2004 of Tanzania provides that payment of remuneration must be made during working hours, at the place of work and on the agreed payday.²²⁵ Notably, on a mutual agreement, payment may be made in installments.²²⁶

Further, the employer is allowed by law to pay part of the remuneration in kind on the condition that such payment must be customary or desirable in the specific sector.²²⁷ Apart from being customary or desirable, payment in kind is conditioned on: not being in the form of alcoholic beverages or noxious drugs; being for the personal use of the employee and his family; and that the value of the articles offered as partial payment of remuneration in kind must be fair and reasonable. These requirements of the law fall squarely within the requirements of ILO Convention No. 189 although practice, particularly for domestic workers, hasn’t seen the law at work.

Related to the issue of payment of remuneration is the issue of deductions: the law allows deduction under various circumstances including compliance to the income taxation laws in force, collective agreements, court orders or arbitration awards and repayment of debts owed by the employee.²²⁸

Deductions for repayment of debts must be acknowledged by the employee in writing before an employer can make any deductions.²²⁹ For repayment for the loss or damage occasioned by the employee, five conditions must be met: the loss or damage must have occurred in the course of employment and must be attributable to the

225 Section 27(1)(a) of Act No. 6 of 2004. See also Section 27(3) which provides that for employment contracts for specific tasks, payment of remuneration may be made at the end of the respective contract period.
 226 Section 27(3) of Act No. 6 of 2004 of Tanzania which also provides that such advance payment of remuneration may not be considered as a loan and cannot attract interest.
 227 Section 27(4).
 228 Section 28(1)(a).
 229 Section 28(1)(b).

fault of the employee; the employer must have informed the employee in writing, the cause, the amount and the method of calculation of a debt; the employer must have given the employee reasonable opportunity to defend against the cause, the amount and the method of calculation; the deductions must not exceed the actual amount of the loss or damage; and that the deductions for loss or damage caused by the employee must not exceed one quarter of the employee's remuneration in monetary terms.²³⁰ In ensuring that the conditions set before deductions are made are met, the law criminalises an act which contravenes the conditions of deductions.²³¹

In Zanzibar, the *Employment Act* of 2005 as its counterpart, guarantees equal remuneration for men and women for work of equal value.²³² As for domestic workers, the minimum wage is set at TZS60,000 per month.²³³ On modes of payment of wages, time of payment of wages, place of payment, and conditions relating to deductions, the *Employment Act* of 2005 has similar provisions to those of the *Employment and Labour Relations Act* of 2004 of Tanzania.²³⁴ However, the *Employment Act* of 2005 prohibits the employer from obliging the employee to make use of shops established by the employer.²³⁵ It is also prohibited for one to receive wages on behalf of the employee unless the latter has given written permission.²³⁶ Another notable feature in the *Employment Act* of 2005 is the fact that it obliges the labour officer to require an employer who is not incorporated or resident in Tanzania to pay a bond equivalent of one month's wages for all the employee of such an employer.²³⁷

230 See sections 28(2)(a - e) and 28(5)(a-b) of Act No. 6 of 2004 of Tanzania.
 231 Section 28(6).
 232 See section 10(2)(b) of Act No. 11 of 2005 of Zanzibar.
 233 See paragraph b(iii) of Circular No 1/2012 of Zanzibar.
 234 See sections 98, 100, 101 and 103 of Act No. 11 of 2005 of Zanzibar..
 235 See section 98(4) of Act No. 11 of 2005 of Zanzibar.
 236 See section 102 of Act No. 11 of 2005 of Zanzibar.
 237 See section 99 of Act No. 11 of 2005 of Zanzibar.

Notwithstanding, domestic workers are subjected to, among other things, arbitrary deductions, irregular/non-payment of their remuneration and "forced" payment in kind. As for arbitrary deductions, employers have been blamed for paying employees less minimum wages than established by law for reasons unknown to the employees. For instance, in the case of *Yohana Seif and Oswald Paulo v. Henry S. Mariwa*, the employees were paid TZS30,000 contrary to the then prevailing minimum wage of TZS48,000 under the repealed *Regulation of Wages and Terms of Employment Order* GN No. 311 of 2002.²³⁸ A similar scenario is in the case of *Elias Isaack and Another V. Dr. Kavishe* where the employees were paid lesser than the minimum wage; and also the case of *Feda Anyingisye v. Kalinali*.²³⁹ Also, 50 percent of the interviewed domestic workers, and their information corroborated by 40 percent of the interviewed employers, indicated they were paid lesser than the minimum wage.²⁴⁰ Other deductions made were in respect of "accidental" causes of loss or damage to their employers' properties such as breaking household utensils.

Domestic workers have also been subjected to work without any remuneration, at times, with a hope that when they leave employment their salaries would be paid in sum. To their amazement, the employer would terminate employment and give them fare to return to their home town, if they are that lucky. Some employers would just terminate employment at night leaving the domestic worker with no place to go to.²⁴¹ This may be exemplified by the case of *Restuta Mpagi v. Hindu Sinyange* where the employment was terminated at night and the employee had no choice except

238 Labour Dispute No. CMA/DSM/KIN/876/09.
 239 Labour Dispute No. CMA/DSM/KIN/ILA/5596/2008 and Labour Dispute No. CMA/DSM/KIN/180/09/483 respectively.
 240 Personal interviews with the domestic workers and employers between 1 June and 30 June 2012, *op cit*.
 241 Personal interviews with ZATUC, TUCTA, CHODAWU, KIWOHEDE, and domestic workers, *op cit*. At least 30 percent of the interviewed domestic workers indicated that their remuneration was held by their employers and the former trusted their employers with their salaries for safe keeping.

to leave the household without any payment except her clothing. Also, the employee in the said case was never paid remuneration for about 18 months she worked.²⁴² The CMA, admittedly, stated that "...by considering the circumstances and traditions of some of the employers of housekeepers/house girls, they usually like to accumulate salaries for the employees."

Further, domestic workers, irrespective of the protection which the law currently offers, employers have been reported to "force" employees to "accept" payment of remuneration in kind. This happens where the employer decides to give to the employee used items for personal use such as clothing and at the end of the day when the employee asks for remuneration, they indicate that the clothes which were previously given and accepted by the domestic worker constitutes remuneration.²⁴³

Most repulsive is the fact that remuneration for domestic workers have been given to people other than the workers themselves contrary to the requirements of the law. In some cases remuneration has been paid to parents, family members or "employment agents." Remuneration is reportedly paid to parents when the domestic worker is considered a "financier" of the family particularly where such worker has been "forced" to work against their wishes.²⁴⁴ In such circumstances, the employer and the parents of such worker would have an agreement to the effect that the employer remits the salaries to the parents and not the employee. As for the employment agents, this is done where a person who takes the domestic worker to the employer demands from the employer or employee payment for the services rendered,

242 Labour Dispute No. CMA/DSM/KIN-ILA/560/10/1476

243 At least 40 percent of the domestic workers interviewees indicated that at some point their employers gave them articles which accounted for remuneration.

244 Personal interviews with ZATUC, TUCTA, CHODAWU and KIWOHEDE and domestic workers, *op cit*.

not once, but in perpetuity. Such agent would either demand a certain percentage from the salary of the employee, which would have to be remitted monthly by the employee, or lures the employee, particularly child domestic workers, as though they are safe-keeping the money for the employee while in actual sense there is no money for the employee at the end of the day. Demanding re-payment from the agent by the employee might attract termination of employment and being sent to the villages without a single penny.

As such, although domestic workers are considered equal to all other employees in both Tanzania and Zanzibar and therefore protected in respect of remuneration they are on the edge of the protection that the law offers.

3.4.5 Occupational Safety and Health

Occupational safety and health is a very important component for all workplaces in order to ensure the welfare of employees with respect to health and safety is protected. Article 13 of ILO Convention No. 189 provides that every domestic worker has the right to a safe and healthy working environment. Member States are required to put in place measures which would take into account the peculiarities of domestic work and ensure occupational safety and health of domestic workers. The measures, as paragraph 19 of ILO Recommendation No. 201 states, should aim at minimizing and eliminating work-related hazards and risks, in order to prevent injuries, diseases and deaths and promote occupational safety and health in the household workplace and collecting and publishing statistics on accidents and diseases related to domestic work. Also, there should be provision for adequate and appropriate system of inspection with adequate penalties for violation of occupational safety and health laws and regulations. Notably, the said

measures may be put in place progressively.²⁴⁵ The *Occupational Health and Safety Act* of 2003 of Tanzania generally obliges the employers to ensure that the factories and workplaces are all safe and do not endanger the health of employees working in the specific establishments. Looking at the definition of who an employee is and what constitutes a workplace, one gets a feeling that domestic worker and their respective workplaces are covered.²⁴⁶ However, when the procedural aspects of the law are considered, the households, which are largely the workplaces for most domestic workers in Tanzania, are excluded from the ambit of the law. For instance, factories and workplaces are supposed to be registered by lodging an application, in which, among other things they must show “capital investment of the whole undertaking,” to the Chief Inspector who in turn issues a certificate of registration and the compliance license.²⁴⁷ In Zanzibar, the *Occupational Safety and Health Act* of 2005 provides for similar requirements as those of *Occupational Health and Safety Act* of 2003 of Tanzania.²⁴⁸

These requirements, as such, do not connote to embrace households on account that there will be a few, if any, employers of domestic workers who would want their houses inspected just to keep the employee in the house. In the course of this research, it was evident that there is a general consensus that no single employer would let the inspectors in their houses, justifiably, on account of privacy. Just as Article 17(3) of ILO Convention No. 189 provides, inspection of households need to have due respect for privacy.

Evidently, domestic workers are not covered by the law relating to occupational health and safety in the United Republic of Tanzania. As such, the existing law needs to be amended to take into account the fact that domestic work is a distinct sector whose workplaces, the households, need to be covered in the law so that the employers ensure health and safety of domestic workers. The suggested changes, however, need to take into account the issue of privacy of households and the employers. Notably, households are considered safe because the employers reside in the same households with the domestic workers.²⁴⁹ This argument however, doesn't take into account the fact that some domestic workers are made to sleep in kitchens, corridors, passages, or where chickens are kept, as indicated elsewhere in this report.

3.4.6 Social Security

Taking into account the social risks which may befall domestic workers, not only when they are working but also when they become frail and unable to work, ILO Convention No. 189 provides coverage of domestic workers by the existing social security institutions as is the case for other employees.²⁵⁰ As is the case with other employees, payment in kind availed to the domestic workers must be taken into account on calculating the social security contributions to be made by both the employer and the domestic worker.²⁵¹ When domestic workers cross border for work, paragraphs 20(2) and 26(c) of ILO Recommendation No. 201 urge Member States to conclude bilateral, regional or multilateral agreements which would provide to migrant domestic workers equality of treatment, preservation and portability of social security entitlements.²⁵²

245 See ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p.19.

246 See section 3 of Act No. 5 of 2003 of Tanzania, where “workplace” is defined as any premises or place where a person performs work in the course of his employment.

247 See sections 16 and 17 and the First Schedule of Act No. 5 of 2003 of Tanzania.

248 See sections 3, 20, 12 and 22 of Act No. 8 of 2005 of Zanzibar.

249 Personal interview with employers between 1 June and 30 June 2012, *op cit*.

250 See Article 14 of ILO Convention No. 189.

251 See Paragraph 20(1&3) of ILO Recommendation No. 201.

252 See also ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p.19

Social security law in Tanzania provides for coverage for all employees in the formal sectors which are specifically targeted by the legislation: the *Parastatal Pensions Act* of 1978 covers employees in all parastatal organizations and public institutions, all private companies in which the government owns shares, private companies that are not covered by any other social security fund, all parastatal organizations that have been restructured through privatization, sale, or liquidation and non-pensionable employees in the parastatal organizations.²⁵³ The *National Social Security Fund Act* of 1997 covers employees in the private sector, government ministries and departments employing non-pensionable employees, parastatal organizations employing non-pensionable employees, and ministers of religion, the self-employed, any other employed person not covered by any other social security scheme, and the informal sector, albeit minute.²⁵⁴ Additionally, the *Local Authorities Pensions Fund Act* of 2006 covers almost all categories of workers including those in the local government authorities, the Local Government Loans Board, the Local Authorities Pensions Fund, any institution owned by a local government authority, self-employed, temporary employees and any institution that elects to contribute to the LAPF.²⁵⁵

Other laws on social security in Tanzania include the *Public Service Retirement Benefits Act* of 1999 for the public sector employees; the *Political Service Retirement Benefits Act* of 1999 for political leaders; *Provident Fund (Government Employees) Act*, cap 51 for

253 See section 5 of Act No. 14 of 1978 as amended by section 4 of the *Parastatal Pensions (Amendment) Act* of 2001, Act No. 25.

254 See section 8 of Act No. 28 of 1997. For more details see Ackson, T. and Rutinwa B. R. International Encyclopaedia of Laws, Social Security Law Supplement 72 Council of Europe and Tanzania, vol. 5, 2010 and Ackson, T., *Social Security Law and Policy Reform in Tanzania with Reflections from the South African Experience*, LAP Lambert Academic Publishing, Saarbrücken, Germany, 2009. See also See "NSSF establishes pension for the informal sector" *Tanzanian Daily News*, Sunday, 15 June 2008, (translation supplied).

255 See sections 2 and 3 of Act No. 9 of 2006.

non-pensionable employees in the central government; *Community Health Fund Act* of 2001 for all the people in the areas where such schemes are established; *National Health Insurance Fund Act* of 1999 for the employees in the public service; and the *Workmen Compensation Act* of 2008 which caters for employees whose employers would have registered with the Workmen Compensation Fund.²⁵⁶ The said registration envisages the employers who are engaged in business, thereby impliedly excluding domestic workers whose employers are not necessarily doing business.²⁵⁷

As for Zanzibar, the *Zanzibar Social Security Fund Act* of 2005 caters for virtually all categories of workers in the public and private sector provided they have an employer and receive remuneration.²⁵⁸ The law also covers self-employed persons who choose to become members voluntarily. As is the case with the *National Social Security Fund Act* of 1997, the *Zanzibar Social Security Fund Act* of 2005 also empowers the Minister responsible for finance matters to declare certain categories of workers as employees and therefore would become members of the Zanzibar Social Security Fund.

Further, political leaders in Zanzibar, as is the case with the *Political Service Retirement Benefits Act* of 1999 of Tanzania, are covered by different laws and schemes as stated by the *Pension (Political Appointees) Act* of 1990 which covers Political Appointees such as the Member of the Revolutionary Council, Minister, Deputy Minister, Speaker of the House of Representatives, Mayor of the Zanzibar Municipal Council, Regional Commissioner, and District Commissioner while the *Specified State Leaders Retirement Benefit Act* of 1988 covers the President of

256 Acts No. 2 of 1999, No. 3 of 2001, No. 8 of 1999 and No. 20 of 2008 respectively.

257 See section 71 of Act No. 20 of 2008.

258 See section 2 of Act No. 2 of 2005 of the laws of Zanzibar.

Zanzibar and the Chief Minister.²⁵⁹

Evidently, domestic workers in Zanzibar would be covered by the *Zanzibar Social Security Fund Act* of 2005 while in Tanzania they would be covered by the laws covering the private sector such as the *National Social Security Fund Act* of 1997, the *Parastatal Pension Fund Act* of 1974, the *Local Authorities Pensions Fund Act* of 2006, and the *Community Health Funds Act* of 2001. However, despite the broad terms used which are all-embracing, domestic workers in both Zanzibar and Tanzania are not covered. The main reason cited is the fact that employers of domestic workers are not ready to contribute to the social security institutions for domestic workers.²⁶⁰ Conversely, employees are not ready to pay “taxes” on the already meager income.²⁶¹ This is further compounded by the fact that income for domestic workers may be unreliable as employers pay sparingly as they wish. Also, even if the legislation were to cover domestic workers, the social security institutions may not be ready to incur huge administrative costs following up domestic workers who have isolated or individual employers as this complicates matters to the enforcement machineries.

It is submitted that the law should not only extend coverage of social security to domestic workers but also provide the mechanisms for enforcing such laws taking into account the disparities between employers and the distances that may be involved in tracing one domestic worker after another.

259 Acts Nos. 1 and 4 respectively as amended by Act No. 7 of 1995 of the laws of Zanzibar

260 Personal interviews with the employers of domestic workers between 1 June and 30 June 2012, *op cit*. Notably, at least 40 percent of the interviewees indicated that they would rather give all the salary to the employee than contribute to social security schemes which may fail to take care of the employee upon the occurrence of social security. The employers would therefore rather “save” remuneration for their employees than pay to a social security scheme. Surprisingly, about 90 percent of the said employers are people who are covered by social security institution.

261 Personal interviews with domestic workers between 1 June and 30 June 2012.

3.5 Protection of Specific Groups

Domestic work as a distinct sector embraces different categories of workers including child domestic workers, live in workers, and migrant workers. Each of these categories has different working circumstances and need protection which considers their specificities. In view of this, ILO Recommendation No. 201, with the zeal to protect all categories of domestic workers as ILO Convention No. 189 envisages, urges Member States to adopt measures for better ways of protecting the mentioned categories of domestic workers:

3.5.1 Child Domestic Workers

In line with ILO Conventions No. 132 and 182, ILO Convention No. 189 requires Member States to ensure that “work performed by ... children does not deprive them of compulsory education, or interfere with opportunities for further education or vocational training.”²⁶² Reinforcing the protection of children as stated by ILO Convention No. 189, Recommendation No. 201 requires Member States to prohibit domestic work that is likely to harm the health, safety or morals of children, and also prohibit and eliminate such child labour.²⁶³ Also, Member States are urged to strictly limit the working hours to ensure children are given adequate time for rest, education and training, leisure activities and family contacts; prohibit night work; restrict work that is excessively demanding physically or psychologically; and establish or strengthen mechanisms to monitor the working and living conditions of children domestic workers.²⁶⁴

Child domestic workers, as discussed under child labour, embrace workers between the age of 14 and below the age of 18 for Tanzania and those below the age of 17 for Zanzibar. Zanzibar, in line with the prohibition of worst

262 Article 4(2) of the C189. See also ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p.19 – 20.

263 See paragraph 5(2) of Recommendation No. 201.

264 See paragraph 5(2) of Recommendation No. 201.

forms of child labour, ensures the protection of child domestic workers through, among other things, requiring employers to facilitate medical check-up for their employees without which a labour officer, who is supposed to attest and endorse the employment contract, will refuse such attestation.²⁶⁵ The said medical check-up would keep in check the health of the domestic worker and a medical officer would certify whether such a child is fit to be employed in domestic work according to his/her age.²⁶⁶ Further, as indicated under child labour discussion, the *Employment Act* of 2005 of Zanzibar requires employers to medically check the child workers every year until they reach the age of 21. This means that the law protects child domestic workers as their health is monitored so as to check if the work they are doing is harmful to them or not. Also, the *Employment Act* of 2005 of Zanzibar prohibits employment of children who attend or is required to attend compulsory education, meaning, a child who has not completed primary education may not be employed.²⁶⁷ Impliedly, since most of the children start a 7 years compulsory primary education at age 7, a child below 14 may not be employed. Additionally, a child domestic worker may not be assigned to heavy duties, duties involving chemicals or any other duty which may be injurious to their health and safety.²⁶⁸

In Tanzania child domestic workers are protected through the provisions which prohibit child labour. As is the case with Zanzibar, child domestic workers are not supposed to be exposed to hazardous working environments, should not be deprived of compulsory education and should be allowed to continue with education or vocational training. However, the question is whether child domestic workers, as the law provides, are protected:

265 See section 46(2)(d) of Act No. 11 of 2005 of Zanzibar.
 266 See section 8(2)(b) of Act No. 11 of 2005 of Zanzibar.
 267 See section 8(1) of Act No. 11 of 2005 of Zanzibar.
 268 See section 8(2)(a) of Act No. 11 of 2005 of Zanzibar.

Firstly, although in Zanzibar the law requires employers to ensure the children they employ have been certified as fit by a medical officer for the job, there is no evidence that medical check-up is actually carried out.²⁶⁹ Reportedly, children have been involved in hazardous and “over-demanding” types of work such as fetching water from long distances and taking care of large families.

Secondly, the law does not limit working hours specifically for child domestic workers, provided the child has access to education. As such, a child may be subjected to “overwork” on the account that they have to complete their working hours while at the same time attending education or vocational training. As such, it is submitted that the law should specifically state the working hours of children which should essentially be lesser than those of the rest of the workers so as to cater for education and leisure time for the children.

As indicated earlier on, monitoring living and working conditions of domestic workers generally is not done on the account of insufficiently equipped labour inspectorate as well as inadequate legal framework. The same can be said for child domestic workers who may be subjected to long hours of work, excessive demanding types of work, and who are deprived their right to time for education and rest time. As such, protection of child domestic workers depends on a well functioning labour inspectorate.

3.5.2 Live-in Domestic Workers

Live-in domestic workers embrace a distinct category of domestic workers who live in the household they work in. They reside within the household of their employer. They

269 About 95 percent of the domestic workers interviewed in Zanzibar indicated that they did not have medical check up when they were employed. Only five percent indicated that they had medical check up but this was not at the beginning of the employment contract, it was done because they got sick. Also information derived from personal interviews with the employers, ZATUC, TUCTA, and CHODAWU, *op cit*.

could be living in the same house with their employers or, in a servant's quarter provided by the employer in the same compound with the employer. Article 6 of ILO Convention No. 189 provides for protection of live-in domestic workers in that they should be guaranteed decent living conditions that respect their privacy. Given this setting and based on responses, live-in domestic workers may be subjected to long working hours and at times, placed on stand-by duty, and thus to “[p]eriods during which domestic workers are not free to dispose of their time as they please and remain at the disposal of the household in order to respond to possible calls”. Based on this reality, ILO Convention No. 189 requires such extended time be regarded as hours of work and compensated accordingly.²⁷⁰ Live-in domestic workers are also entitled to keep in their possession their travel and identity documents.²⁷¹

Additionally Recommendation No. 201 urges Member States to put in place mechanisms to ensure recording of working hours, regulation of standby periods, night work, rest during the working day, weekly rest, compensatory rest, and annual leave.²⁷² Specifying live-in domestic workers, Recommendation No. 201 provides that where accommodation and food are provided by the employer then a domestic worker ought to be entitled to a separate, private room that is suitably furnished, adequately ventilated and equipped with a lock, the key to which should be provided to the domestic worker; access to suitable sanitary facilities, shared or private; adequate lighting and, as appropriate, heating and air conditioning in keeping with prevailing conditions within the household; and meals of good quality and sufficient quantity, adapted to the extent reasonable to the cultural and religious requirements, if any, of the domestic

worker concerned.²⁷³ These requirements, however, should take into account the prevailing conditions in the whole household. Further, in case the employer would wish to terminate employment for any reason other than a serious misconduct, Recommendation No. 201 provides for reasonable period of notice and time off during notice period for a live-in domestic worker to be able to seek new employment and accommodation.²⁷⁴

Evidently, the law in both Tanzania and Zanzibar does not specifically provide protection for live-in workers except that in Tanzania, live-in domestic workers are regrettably supposed to get lesser remuneration than their counterparts who are not live-in workers as indicated earlier on. In essence, it is submitted that the law should take cognizance of the fact that live-in domestic work in Tanzania is a norm rather than an exception and therefore protection of live-in workers is very vital. For instance, in the case of *Restuta Mpagi v. Hindu Sinyange* a live-in domestic worker, who happened to be a child aged 17, was forced out of the house at night on account of mixing the shirt of the employer's child with clothes of adults.²⁷⁵ Clearly, such a mistake is not gross misconduct to warrant termination of employment immediately, not to mention, at night. On the issue of accommodation, reportedly, the employers have in several cases subjected the live-in domestic workers to sleep in the kitchens, corridors, living rooms, sharing rooms with opposite sex family members and at times sleeping in places designated for keeping chickens.²⁷⁶ Although these conditions may be attributed to the station of life of the specific households, submissive as the live-in domestic workers may be, these conditions are unfair and dangerous for the health and safety of the employee.

270 See Article 10(3) of the ILO Convention No. 189.
271 Article 9(c) of the ILO Convention No. 189.
272 See paragraphs 8 – 10 of ILO Recommendation No. 201.

273 See paragraph 17 of ILO Recommendation No. 201.
274 See paragraph 18 of Recommendation No. 201.
275 Labour Dispute No. CMA/DSM/KIN-ILA/560/10/1476.
276 See part 3.3.3. of this report.

ILO Recommendation No. 201 provides that food provided to live-in domestic workers should be of good quality and sufficient quantity, taking into account cultural and religious requirements of the live-in domestic worker; this, however, is not the case for some of the households and may be blamed on the legal inadequacies, especially lack of guidelines on what the live-in domestic worker is entitled to. In some households, live-in domestic workers are subjected to eat leftovers which may not necessarily be sufficient or even of good quality.²⁷⁷ In other cases domestic workers have to prepare separate food from what the rest of the household eats, which in most cases depicts poor quality as though to reflect the status of the live-in domestic worker which is considered lesser than the rest of the family members in the household.²⁷⁸

As such, it is recommended that the law provide for protection of live-in domestic workers in order to ensure that, among other things, food and accommodation offered are palatable to the safety and health of the worker. Further, the law particularly that of Tanzania which allows deductions for food and accommodation availed to the domestic worker should be amended in accordance to ILO Convention No. 189.

3.5.3 Migrant Domestic Workers

Migrant domestic workers are workers who work in countries other than their own. Protection of migrant domestic workers stems from Article 8 of ILO Convention No. 189 which provides that Member States should ensure that national laws and regulations require a written job offer and contract of employment stating for migrant domestic workers their terms and conditions of employment when recruited in one country for work in another. In particular, the said job offer and contract

277 Personal interviews with ZATUC, TUCTA, CHODAWU and KIWOHEDE, *op cit*.

278 *Ibid*.

of employment must provide the name and address of the employer and of the worker; the address of the usual workplace or workplaces; the starting date and, where the contract is for a specified period of time, its duration; the type of work to be performed; the remuneration, method of calculation and periodicity of payments; the normal hours of work; paid annual leave, and daily and weekly rest periods; the provision of food and accommodation, if applicable; the period of probation or trial period, if applicable; the terms of repatriation, if applicable; and terms and conditions relating to the termination of employment, including any period of notice by either the domestic worker or the employer.²⁷⁹

On account of the vulnerability of the migrant workers, Article 8(4) of ILO Convention No. 189 provides that Member States, among other things, should take measures to specify the conditions under which domestic workers are entitled to repatriation at the end of their employment. Also, Recommendation 201 provides that Member States should put in place measures to help migrant domestic workers in their respective jurisdictions including access, preservation/portability and protection of their social security entitlements; assistance services and facilities like interpretation services and emergency housing; provision of information; and access to complaint mechanisms and legal remedies.²⁸⁰

Migrant workers working in Zanzibar are protected vide Section 57 of the *Employment Act* of 2005 of Zanzibar which provides that a contract of employment involving a foreigner must be in writing and attested by the labour officer. The written contract of service for a foreigner must specify, in line with the provisions of ILO Convention No. 189, full names of the employer and employee; full address of the employee and the name of the

279 See Articles 8(1-3) and 7 of the ILO Convention No. 189.

280 See paragraphs 20(2), 21, 22, 23 and 20 of the ILO Recommendation No. 201. See also ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. pp. 21 – 22.

country of origin; nationality of the employee, qualifications, title and nature of work to be performed; duration of the contract; probation period; the place of work; remuneration for the employee; the liability when the employee dies in service of the employer; the retirement benefits; police clearance certificate; and any other requirements specified in the regulations. Although this provision would protect migrant domestic workers just as it does other employees, item six of section 57(1)(c) provides that the written contract of employment must specify the name of the enterprise or company the employee is engaged to work for. The issue is, what if the employer of the domestic worker is an individual? This item, it is submitted, should be amended so as to embrace the fact that domestic workers are not necessarily employed by companies or enterprises and so individuals should also be considered if protection to migrant domestic workers is to be guaranteed.

As for Tanzania, migrant domestic workers leaving Tanzania are protected vide section 14(2) which provides that “[a] contract with an employee shall be in writing if the contract provides that the employee is to work outside the United Republic of Tanzania.” This means that migrant workers from Tanzania going to work elsewhere are protected in terms of ILO Convention No. 189 while those coming to work in Tanzania are protected as other employees and therefore may have oral contracts save for the written particulars of employment discussed under part 3.4.2 of this report.

Although migrant workers in both Tanzania and Zanzibar are generally protected like other employees, it is submitted that the vulnerabilities and specificities of the migrant workers should be considered and thus the law should provide specifically for migrant domestic workers whose terms and conditions

of employment, for lack of labour inspection, are being derogated.

3.6 Private Employment Agencies

Private Employment Agencies (PEA) include institutions that are concerned with recruiting and deploying workers for various jobs. The PEA work in two ways: may assist households to identify candidates for employment, while assisting domestic workers in identifying a job offer. They may also employ domestic workers themselves with a view to making them available to households. ILO Convention No. 189, concerned with protecting domestic workers, requires Member States to protect domestic workers and migrant domestic workers recruited or placed by private employment agencies against abusive practices.²⁸¹

In particular, Member States are obliged to determine the conditions governing the operation of PEA; to ensure adequate machinery for the investigation of complaints by domestic workers; adopt measures to adequately protect domestic workers and prevent abuses; and also take measures to ensure that fees charged by agencies are not deducted from the remuneration of domestic workers.²⁸² Further, in view of protecting migrant domestic workers, Member States are required to collaborate with each other as appropriate in protecting domestic workers against abuse by PEA.²⁸³ Member States are also required, where workers are recruited in one country to work in another, to consider concluding bilateral, regional or multilateral agreements to prevent abuses and fraudulent practices.²⁸⁴

281 See Article 15 of the ILO Convention No. 189.

282 See ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at pp. 22 – 23.

283 See Paragraph 26(1) of ILO Recommendation No. 201 and the LO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. pp. 22 – 23.

284 See Article 8(1) of ILO Convention No. 189 and LO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. pp. 22 – 23.

Measures taken by Member States must include laws or regulations specifying the respective responsibilities of the agency and the household and providing for penalties, including prohibition of agencies that engage in fraudulent practices or abuses.²⁸⁵ Additionally the measures should aim at preventing forced labour and trafficking in persons and promoting access to social security and monitoring the activities of PEA particularly those relating to recruiting persons to work as domestic workers in other countries.²⁸⁶ By Recommendation 201, paragraph 23, Member States are obliged to promote good practices by private employment agencies in relation to domestic workers, including migrant domestic workers.

In Tanzania, in view of improving and expanding employment services as per the ILO Convention on Employment Services No. 88 of 1948 which obliges competent authorities in the Member States to take “necessary measures to secure effective co-operation between the public employment service and private employment agencies not conducted with a view to profit” regulates the PEA.²⁸⁷ The National Employment Policy of 2008 provides that, among other things, “[t]he Government will improve and expand public Labour Exchange Centers and establish a regulatory framework to facilitate registration, monitoring and self-regulation of private Employment Agencies for quality assurance.”²⁸⁸

Also in line with the said Convention, the *National Employment Promotion Services Act* of 1999 establishes Private Employment Promotion Agencies or Agents (PEPA) and provides for their duties including operating on the basis of complementing each other

to ensure efficiency, effectiveness and trustfulness in delivering services.²⁸⁹ Section 20 of Act No. 9 of 1999 requires that all PEPA apply for registration to the Commissioner for Labour. Notably, the law allows PEPA to charge fees for the services rendered.²⁹⁰ Since ILO Convention No 189 prohibits PEA from charging fees on the remuneration of the domestic workers recruited or placed by PEA, it is evident that such requirement for charging fees is uncertain as to who pays the fees to PEPA: Is it the employee or the person who needs an employee through PEPA? In order to effectively give effect to the provisions of ILO Convention No. 189, the *National Employment Promotion Services Act* of 1999 needs to be amended so that the uncertainty is cleared and the domestic workers, one of the beneficiaries of the services of PEPA, are well protected.

In keeping the eye on the doings of the PEPA, the Government established the Tanzania Employment Services Agency (TaESA) under the *Executive Agencies Act* of 1997.²⁹¹ TaESA is tasked to offer services such as placement, advisory, information, and cross-border placement; to regulate, register and monitor public and private employment services agencies; and to regulate issuance of work permits and monitor employment of non-citizens.²⁹² As such, PEA activities in Tanzania are regulated by TaESA which currently has registered about 29 PEA out of the existing 53.²⁹³ Evidencing that TaESA does monitor the activities of PEA, they have information on all workers recruited by PEA to work abroad. Specifying domestic workers, between 1 July 2011 and March 2012, 1,398 domestic workers were recruited and placed by PEA in Tanzania in foreign countries such as Oman and Dubai. Notably, domestic workers recruited and

285 See Article 15(1)(b) of the ILO Convention No. 189.

286 See Paragraph 26(2) of the ILO Recommendation No. 201.

287 See Article 11 of ILO Convention No. 88 which was ratified by Tanzania on 30 January 1962.

288 See Paragraph 3.19.2 of the National Employment Policy of Tanzania of 2008.

289 See section 18 of Act No. 9 of 1999 of Tanzania.

290 See section 19 of Act No. 9 of 1999 of Tanzania.

291 Cap 245 R.E 2002.

292 See TaESA, *Revised Brochure*, undated.

293 Personal interview with officials of TaESA conducted in Dar Es Salaam on 27th June 2012.

placed by registered PEA in foreign countries are more protected in terms of decent working conditions than those in Tanzania particularly when one considers the fact that their contracts of employment have to be in writing, vetted by the Tanzania Embassies/ Consulates in the countries where such workers are to be placed, and agreed and signed by the parties before a domestic worker leaves the country.²⁹⁴ Irrespective of the foregoing, Tanzania has not ratified ILO Convention on Private Employment Agencies No. 181 of 1997.

In Zanzibar, PEA activities are regulated by the *Employment Act* of 2005 vide section 32 under which the *Private Employment Agents Regulations* 2012 are made.²⁹⁵ The Regulations provide for registration and functions of PEA in that PEA are to provide services for matching offers and applications of employment; register and assess jobseekers and refer them to relevant employment opportunities; assisting jobseekers to enhance their chances of successes in the labour market; and dissemination of labour market information.²⁹⁶ Notably, different from Tanzania and in line with ILO Convention No. 189, no fee is supposed to be paid by the jobseekers to PEA for any services rendered.²⁹⁷ Also, the Labour Commissioner is obliged to inspect PEA's premises which give the Revolutionary Government of Zanzibar a chance to monitor the activities of PEA. Since PEA is a relatively new phenomenon in Zanzibar, there is no registered PEAs at the moment although there are a few pending applications yet to be reviewed and their fate determined and only one company that had provisional registration

by Mid June 2012.²⁹⁸

Notwithstanding, there are "informal" PEAs that deal mostly with recruitment and placement of domestic workers locally in both Tanzania and Zanzibar. This category of PEA has been blamed for the abuse and mistreatment of domestic workers on account that they are the culprits of non-payment of remuneration for the domestic workers as they require employers to pay them directly and not domestic workers. Although some of the informal PEAs demand a certain percentage monthly from the employers of the domestic workers, some of them are paid the entire salary on the pretext that they send the money to the domestic workers' family; in some cases, employers are informed that they can stay with the domestic worker even without paying them salaries since staying with them is already a "big" favor to such workers.²⁹⁹ Since payment of remuneration is supposed to be paid to the employee as ILO Convention No. 189 requires, it is suggested that the law, particularly in Tanzania, as Zanzibar's *Employment Act* of 2005 provides, should categorically state that remuneration must be paid directly to the employee barring few exceptions as determined by the law such as court orders. However, since the problem exists even in Zanzibar where the law is very clear, strengthening the labour inspectorate would be the most viable approach in order to effectively protect domestic workers in the spirit of ILO Convention No. 189.

3.7 Compliance and Enforcement

ILO Convention No. 189, in view of ensuring the provisions on protection of domestic workers are not in vain, provides for compliance and enforcement and requires Member States to guarantee appropriate

294 During the interviews, I had an opportunity to look at some of the contracts which contained all the necessary information such as capacity of employment, duties of the employee, terms and conditions of services, leave, working hours, repatriation conditions and the fact that the employer pays for repatriation, and remuneration.

295 Legal Supplement (Part II) to the Zanzibar Government Gazette Vol. CXXI No. 6437 of 16 March 2012.

296 See rule 17 of Government Gazette Vol. CXXI No. 6437 of Zanzibar.

297 See rule 18 of Government Gazette Vol. CXXI No. 6437 of Zanzibar.

298 Personal interview with the Government officials of the Revolutionary Government of Zanzibar, *op cit*.

299 Personal interviews with the employers and employees between 1 June and 30 June 2012 and with ZATUC, TUCTA, and CHODAWU, *op cit*.

mechanisms for resolving disputes and redressing complaints.³⁰⁰ On this, Member States are required to ensure that, as is the case with other employees, domestic workers have effective access to the court, tribunals or other dispute settlement mechanisms.³⁰¹ Further, Member States are obliged to establish effective and accessible complaint mechanisms and means of compliance for the protection of domestic workers.³⁰² Another obligation is for Member States to develop and implement measures for labour inspection, enforcement and penalties, with due regard for the special characteristics of domestic work.³⁰³ As such, “[a]rticle 17 strikes a careful balance between securing the protection of domestic worker’s rights and the privacy of the household in which they work...”³⁰⁴

In Tanzania, compliance and enforcement of labour related laws is provided for in the *Employment and Labour Relations Act* of 2004 and the *Labour Institutions Act* of 2004. While the former essentially states the rights and obligations of the parties to employment relations, the latter spells out the institutions dealing with compliance such as the dispute resolution institutions like the Commission for Mediation and Arbitration (CMA) and the Labour Court and the compliance machineries like the Labour Inspectorate. Similarly, in Zanzibar there is the *Employment Act* of 2005 and the *Labour Relations Act* of 2005 both being concerned with regulating employment relations and the institution for dispute handling machineries such as the Dispute Handling Unit (DHU) and the Zanzibar Industrial Court.

In essence, as evidenced by the cases involving domestic workers which have been dealt with at the CMA with an option to take the matter to the Labour Court if aggrieved by the CMA determination, domestic workers have access to dispute resolution institutions, only that the practicability of exercising such right is relatively limited by other factors such as information on the existence of the CMA and the available remedies for the domestic workers who would otherwise like to seek redress.³⁰⁵ The levels of awareness on one’s rights are very low to the extent that unscrupulous employers mistreat and abuse the domestic workers and the latter do not pursue the matters for they do not know what to do.³⁰⁶ On account of this, Recommendation No. 201 advocates for “awareness raising and provision of information on legislation and enforcement complaints mechanisms, investigation and prosecution of complaints, assistance to victims, [and] access of labour inspectors to the workplace.”³⁰⁷

Notwithstanding, the labour inspectorate is weak and therefore it is difficult to ensure the provisions of the existing labour laws are actually complied with by the employers so that domestic workers are protected. This being the case, although the law provides the framework for adequate and appropriate system of inspection of workplaces, and the attendant penalties for violation of law, domestic workers are largely un-protected. It is submitted that since the labour inspectorate, even if it were capable of inspecting the rest of the workplaces, there is still a challenge for them to inspect households which are workplaces of most domestic workers.

300 See ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 24.

301 See Article 16 of ILO Convention No. 189.

302 See Article 17(1) of ILO Convention No. 189.

303 See Article 17(2) of ILO Convention No. 189.

304 See ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 24.

305 At least 80 percent of the interviewed employees did not know their rights generally.

306 Personal interviews with ZATUC, TUCTA and CHODAWU, *op cit*.

307 ILO, *C189 & R201 at a glance*, International Labour Office, Switzerland, 2011, at p. 25. See also paragraphs 7, 19(b), 21 and 24 of ILO Recommendation No. 201.

The challenge is based on the account that households, as acknowledged by ILO Convention No. 189, are private and their privacy needs to be carefully considered. At the moment, no inspections are done in the households but there are efforts underway at the Ministry of Labour and Employment to prepare guidelines on how households should be inspected while at the same time respecting the privacy of employers and their households. This is in line with paragraph 24 of ILO Recommendation No. 201 which provides “[i]n so far as compatible with national law and practice concerning respect for privacy, Members may consider conditions under which labour inspectors or other officials entrusted with enforcing provisions applicable to domestic work should be allowed to enter the premises in which the work is carried out.”

3.8 International Cooperation and Collaboration

International cooperation and collaboration is very important for any successful initiative such as this of protecting domestic workers. The ILO Convention No. 189 provides that Member States shall take measures to cooperate with each other to ensure the effective application of the provisions of this Convention to migrant domestic workers.³⁰⁸ Such cooperation may be bilateral, regional and global. For instance, since Tanzania has been sending domestic workers to Saudi Arabia, Dubai and Oman, it is important that Tanzania bilaterally cooperates with these countries to ensure domestic workers recruited in Tanzania for work in the said countries are well protected.

Although to date the employment contracts have protective provisions on the part of the employee, it would be more holistic to protect all domestic workers going to work in other countries if Tanzania had bilateral agreements

308 See Article 8(3) of ILO Convention No. 189.

with the host countries. This is based on the fact that currently, the protection is guaranteed for individual workers depending on the terms and conditions of their employment. As such, international cooperation would enhance:

“the protection of domestic workers, especially in matters concerning the prevention of forced labour and trafficking in persons, the access to social security, the monitoring of the activities of private employment agencies recruiting persons to work as domestic workers in another country, the dissemination of good practices and the collection of statistics on domestic work.”³⁰⁹

3.9 Summary of Part III

This part of the report identified critical gaps and lessons learned in the legislative frameworks and governance structures around domestic work in the United Republic of Tanzania. Despite the multitude of measures introduced or announced, violations of the rights of domestic workers remain widespread, both as workers and as human beings. In summary, this part of the report has outlined the following:

- a. The exclusion of domestic workers from national labour and social security legislation remains a major challenge, although national legislation, typically, is deficient in catering for all forms of workers; as such, domestic workers are subjected to poor working and living conditions, ranging from terms of employment, working time, leave rights, remuneration to occupational safety and health, factors that constitute an important source of their social and economic vulnerability;

309 See paragraph 26(2) of ILO Recommendation No. 201.

- b. Domestic workers face multiple forms of discrimination based on such grounds as sex, nationality, race, ethnicity, religion, etc.; but the government is often hesitant in tackling discrimination comprehensively; because the forms of discrimination domestic workers face do not fit squarely within the definition of discrimination provided by law, addressing discrimination based on current law minimizes the chances of success in eliminating discrimination against domestic workers;
- c. Child labour in the domestic work industry are subjected to standards that are different from other categories of employment especially in the case of age of employment; also, definition of works considered hazardous for children does not account for hazardous work performed by child domestic workers;
- d. Governance structures and mechanisms largely deal with migrant domestic workers as security risks or victims rather than as workers with rights;
- e. The sponsorship system for migrant domestic workers, all live-in, is fraught with lack of know-how and inefficiencies, and void of rights as a reference framework;
- f. Partial legislative steps in the form of unified standard contracts, decisions for the regulation and monitoring of private employment agencies, etc., often fall short on measures protecting the labour rights of migrant domestic workers, and remain incomplete, reversible, and un-enforced;
- g. Domestic workers' access to justice is restricted and inadequate in the face of the labour abuses and exploitation they

encounter, the latter being exacerbated by absence of comprehensive frameworks.

Assessment of existing labour laws and prevailing legislative practices has revealed weaknesses and loopholes that disadvantage employers and workers alike, with the latter being disadvantaged the most. Taking into account both the actual conditions of domestic workers and the areas identified where better protection is needed, a regulatory initiative, using a more comprehensive and better integrated approach, and based on defined policy objectives is called for, as a matter of priority. This is essential for delivering decent work for this category of workers in both Tanzania and Zanzibar.

While it is desirable to include domestic workers within the scope of generally applicable national labour laws, it has been shown that the specific characteristics of domestic work warrant amendments to existing laws or the enactment of supplemental legislation designed to protect the labour rights of domestic workers more specifically. Where a combination of legislative instruments is opted for in creating a regulatory framework for the protection of domestic workers, the governments of Tanzania and Zanzibar may wish to clarify the relationship between these instruments.

The Domestic Workers Convention (No. 189) and its supplementing Recommendation (No. 201) adopted in June 2011, is a good starting point. The two instruments provide a basis for the introduction of legislative initiatives and governance reforms that are rooted in rights based approach. Now is an opportune time to revamp national legislation pertaining to employment and to reform governance structures in line with international labour and human rights standards to which the governments of Tanzania and Zanzibar

are signatories to, taking into account the country's industrial relations system.

Using the larger domestic workers' rights framework of the Convention (189) and Recommendation (201) can help de-stigmatize the perception and treatment of domestic workers in Tanzania Mainland and Zanzibar. The shift from an insular approach hinging on cultural relativism with respect to workers' rights to a rights-based universality approach needs to take place to allow for the recognition and utilization of benefits from multicultural societies. The fact that all the governments and workers' organizations have voted for the Convention should be capitalized on for the effective protection of migrant domestic

workers, particularly women. The initial step, clearly, is the ratification of Convention 189 which will show the commitment of policy makers for protection of domestic workers' labour rights. On the legislative front, the legislative bodies have a critical role to play in amending Labour Laws to include domestic workers and/or introduction of specific legislation for domestic workers. For real change to happen, legislative changes, fully supported by leadership commitment, need to be followed up by coordinated follow-up and allocation of resources for enforcement. A national action plan, taking into consideration legislative changes, will further accelerate efforts to protect domestic workers.

Part IV

Demographic Profile of Domestic Workers and Their Employers

“The most common way people give up their power is by thinking they don’t have any”

Alice walker

“The most potent weapon in the hands of the oppressor is the mind of the oppressed”

Stephen BIKO

4.1 Introduction

This part of the report focuses on the profiles of domestic workers and employers. The aim is to understand how the sector is shaped by individual and household characteristics as well as various processes in and around the household arenas and the domestic labour markets in the United Republic of Tanzania (URT). The main argument this chapter develops is that, given the continued poor and uncertain working conditions in the domestic work sector, profiles of Domestic Workers (DWs) and that of their employers plays a great role in shaping the sector in various ways. We zoom in on households found in urban and rural areas to analyze who does the work, their age, education, marital status, their mobility, and migration life style to understand how they directly and indirectly contribute in shaping the sector.

4.2 Estimating the Number of Domestic Workers in Tanzania

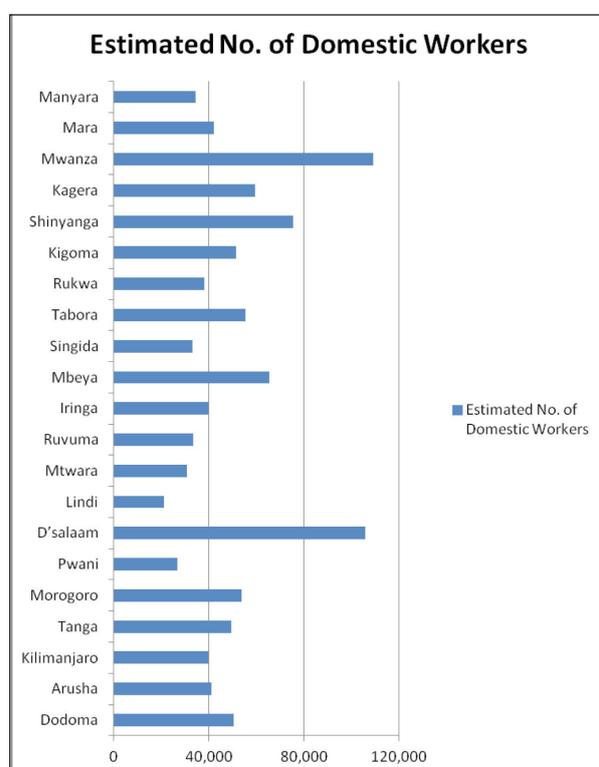
The Rapid Empirical Survey of Domestic Workers in the URT has revealed that there are 883,779 domestic workers in mainland Tanzania and 203,622 in Zanzibar working within an employment relationship by declaring themselves as domestic workers. This represents 5 per cent of the total working population that, legally, falls within the age-group of between 15 – 64 years in Tanzania

(23.47 million as of 2012 Population and Housing Census). However, if we consider the people performing domestic tasks and hidden in informal arrangements, the number increases to 1,728,228 (7 percent of the total working population) reflecting that a large number of people are involved in domestic work without necessarily being recognized as workers.

In estimating the number of domestic workers in the URT, the survey used existing information from integrated labour force surveys. Based on over 15-year range of statistics it was found that in 2000 Tanzania had 600,867 people who were classified as performing household work. This was nearly double the size of government employees at that time. In 2005 the number of Tanzanians classified as doing domestic work in the integrated labour force survey was 703,646 and was estimated to grow at the rate of 3.2 annually (URT/ML, 2005). Using such assumption this report was able to compute the number of domestic workers to 883,779 by 2013. However, as the report argues (in subsequent sections) the direct way of estimating domestic work is very vulnerable to underestimation for three reasons: (i) most traditional national surveys, by design, target broad objectives rather than place-specific work; (ii) the traditional national surveys are usually done after a long interval; most significantly, domestic work is very diverse with dimensions that can be hard to cover through traditional survey; (iii) many factors are standardized and harmonized – following global and regional protocols which can, more likely than not, neglect local realities. One would ask, if that is the case, how perfect were the survey results? In this survey, weighted averages from each region were used to estimate the size of domestic workers. Availability of 2012 national population census (URT/Census, 2012) provided figures with various characteristics such as household size, age profiles and total

population in each region. Extrapolation of the number of domestic workers in Tanzania from the Population and Housing Census of 2012 resulted to 1,728,227 domestic workers in URT, equivalent to 3.8 per cent of the total population that currently stands at 44,933,923. This is over two folds the size based on official projections of integrated labour force survey. However, the proportion differs from region to region (Fig 4.1).

Figure 4.1: Estimates of Domestic Workers by Regions in Mainland Tanzania



Source:

ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

Despite the available figures, the results indicate a serious underestimation of domestic workers. Respondents who directly identified domestic work as their primary activity were only 42 per cent of the total number of domestic workers identified from eight categories. In addition, the survey found that 90 percent of domestic workers in Tanzania were live-in while the remaining 10

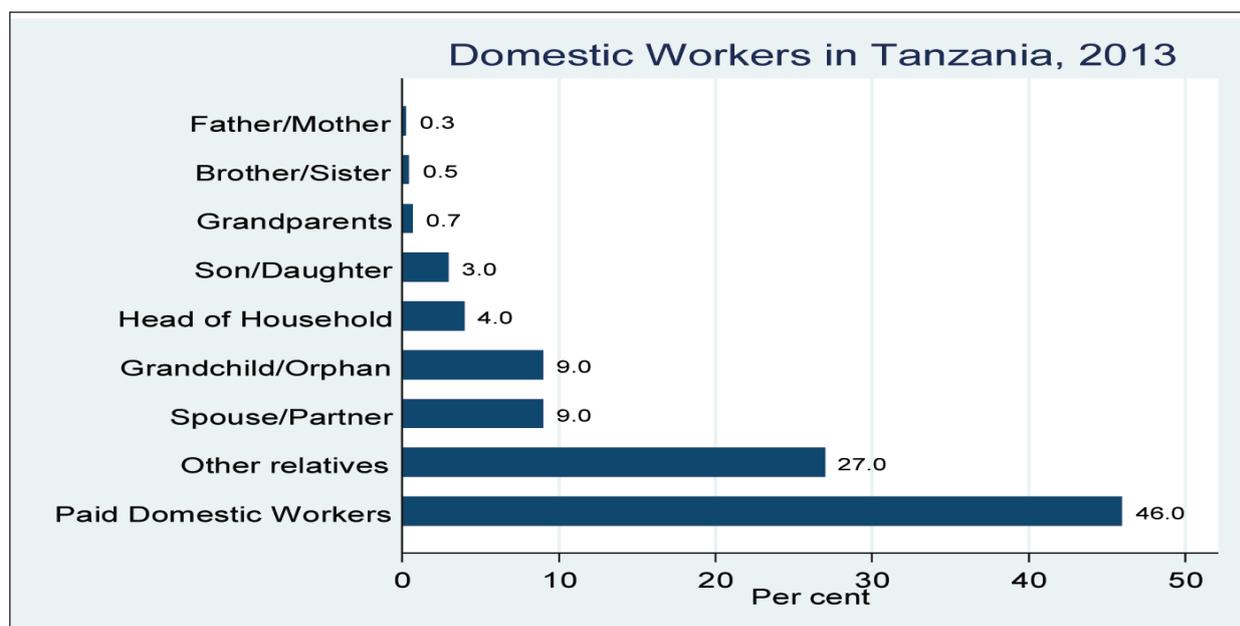
per cent were live-out. Of the live-in domestic workers, 374 (35%) were male and 694 (65%) were females who worked in rural (320; 30%) and urban (747; 70%) areas.

4.3 Who Performs the Domestic Work in the URT

ILO (2013a; 2013b) confirmed that, about 70 - 90 per cent of household tasks in URT are performed by female domestic workers in private household sphere and that a paid or unpaid domestic worker's work is imbued with the 'like one of the family'.

According to the study, 54 per cent of domestic work in Tanzania remains unpaid because domestic works are performed by household members (Fig. 4.2) such as foster children, daughters, relatives, grandchildren and paid domestic workers. This informality in employment for domestic work manifests itself in various ways. In Tanzania, the relationship between DWs and the recipient of the service rendered (employers) is always regarded as a traditional form of mutual assistance amongst the household members; thus, treated more like assistance and not an employment relationship. Such practices are rooted in the families, clan and finally the society. For instance, a town-based family is likely to get a DW through the kin's network (family, sub-clan and clan) from place of origin. This agrees with Kiaga (2012:iv) who asserts that, the dependency on kin networks (*undugu*) in the recruitment of DWs in Tanzania is common and it is not only embedded in pre-existing cultural practices but is also symptomatic of continuing uneven development in Tanzanian society. She emphasized that "..... [the] use of kin networks has a practical and economic utility for domestic worker in her struggle for survival in the face of insecurity and poverty that pervades the rural areas".

Figure 4.2: The scope of Domestic Workers in Tanzania

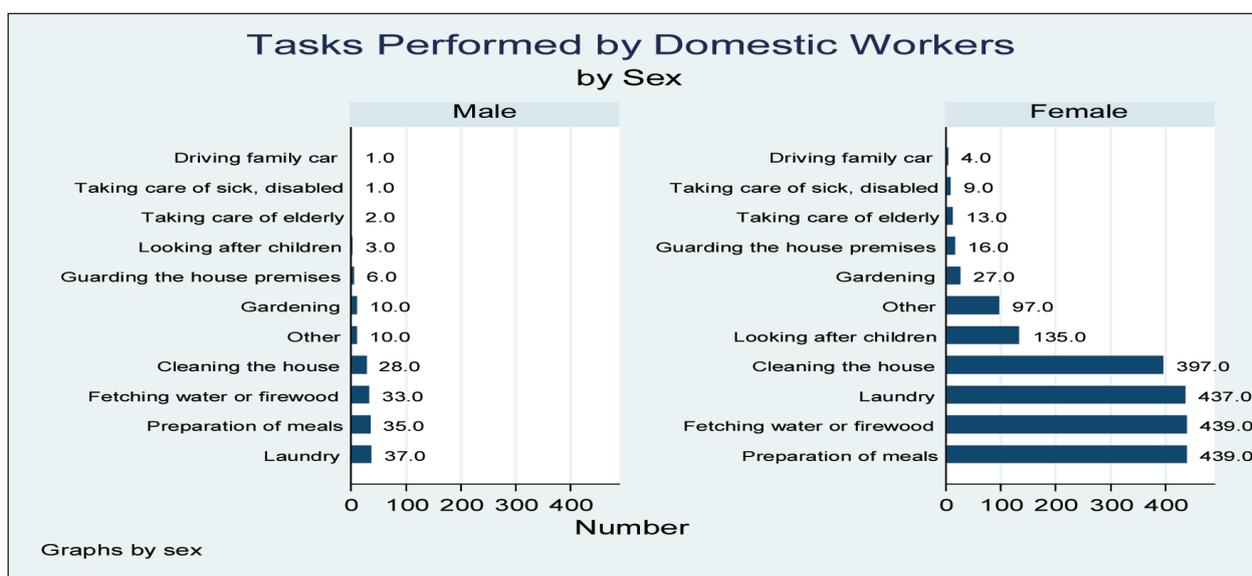


ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

4.3.1 What Do Domestic Workers Do in URT?

Generally, sexual division of labour (Fig. 4.3) and workload disparity are common within the domestic work industry in Tanzania and permeates gender roles for men and women within the households. One of the reasons for such differences is that men in Tanzania (and in Africa in particular) have secured and articulated traditional gender roles. As a result women within the domestic work sector are burdened to a number of household activities – which are less remunerative and of little interest to men. These sexual divisions permeate gender roles within households and responses to life and livelihoods of women and men in the sector.

Figure 4.3: Tasks of Male and Female Domestic Workers in URT



ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

Within the household, the most predominant tasks performed by female domestic workers are preparation of meals, laundry, fetching water or firewood for home use, cleaning the house and looking after children, taking care of the sick and old and others (Fig. 4.3). Most female domestic workers interviewed for this study also had obligations outside the household, including gardening and shop-keeping. Male domestic workers agreed that, female domestic worker's workload was considerably larger than their own, and they typically referred to them as women's domestic workloads. Generally, there is little difference in the usual tasks performed between live-in and live-out workers. Both categories have a long list of jobs³¹⁰ and work long hours, with tiring working days.

Comparison between Tanzania mainland and Zanzibar shows that, most predominant tasks performed by female domestic workers (90 per cent) in Tanzania mainland are preparation of meals, washing and ironing clothes, fetching water or firewood for home use, cleaning the house, and looking after infants. Slightly less common (70-83 per cent) in Mainland but done principally by female domestic workers in Zanzibar is taking care of the sick, disabled and elderly members of the household, taking care of the garden, driving the family car, guarding the house premises and other tasks. The gender division of labour in domestic work sector does not only shape the life of male and female domestic workers but also the male and female employers.

Despite the growth in women's employment, women employers continue to be largely responsible for domestic work, the responsibility which directly qualify them to be the 'managers' of the domestic workers they hire. This has resulted in women employers being the likely persons for hiring domestic workers because they are unable to negotiate an equitable division of domestic labour with their male partners (Rollins 1985, Ng 1993). Stiel and England (1997:380) also noted that it is usually the women in the households who 'employ and manage' the domestic workers.

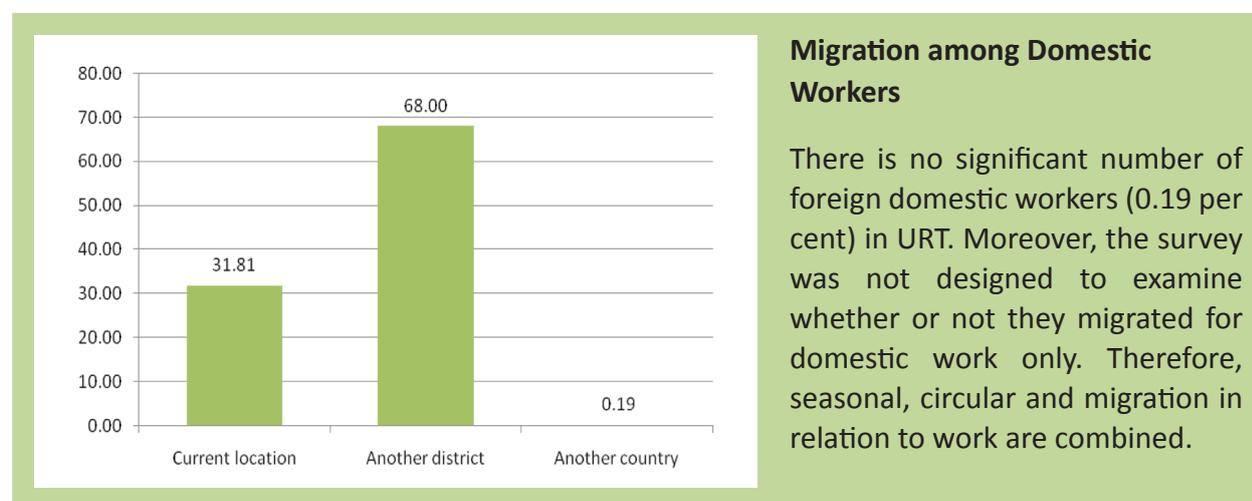
The shift of responsibility from female employers to domestic workers has burdened the latter in a number of ways. They do a number of household duties and childcare responsibilities (Fig. 4.2) and have failed to launch effective competitive strategies because the in-door work subject them to limited interactions with the outside world compared to their male counterpart.

4.3.2 Place of Origin and Migration Patterns of Domestic Workers in URT

A large number of domestic workers (68 per cent) work in districts outside their place of origin or birth, indicating that they are migrants. The root causes for migration in Tanzania are multiple and multifaceted. Poverty and its feminization, social exclusion, gender and ethnic discrimination, domestic violence, displacement, social conflicts, and loss of parents, husbands, wives, relatives and guardians are some of the most common factors.

³¹⁰ But live-in are more burdened because they have to perform different duties till late at night.

Figure 4.4: Place of Origin of Domestic Workers in URT



ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

By far, poverty is the most important factor in pushing domestic workers into domestic work far from their home village and/or district. A prime motivation for them is to earn money but often they are also motivated by the desire to do what they consider is expected of them. For instance, some domestic workers relocate to a relative's house to help out with domestic work while attending vocational training classes. Seasonal migration from rural to urban areas also prevails especially after farming seasons when the demand for household labour in farming households declines.

All in all, the rural to urban migration for the purpose of seeking employment is a common phenomenon and is among the reasons for domestic workers' migration. Of the total domestic workers reached in the urban setting, at least 218 are male and 615 are female. As employers migrate to urban areas for employment opportunities, domestic workers have often followed suit because the labour market is with employers.

4.3.3. Work place, Relationships and Kinship networks

The relationship between domestic workers and employers within households was also observed. Generally, the relationship in and around households is shaped and re-shaped by employers and employees as well as by other household members such as spouse/partner, son/daughter, son-/daughter-in-law, father/mother, brother/sister, grandchild, grandparent, orphan, other relatives, and unrelated members within and beyond the household. For instance, the type of activities, work load and working hours increased with increased number of household members as well as their status (infants, school children, old, young, sick, diplomat, ministers and so on). The study also found that, a domestic worker is likely to be a live-out when the size of household is small and a live-in when the size is large because the household workload is likely to increase. Live-in DWs were reported to perform a number of activities, for long hours, compared to their live-out counterparts.

Moreover, opting to hire a live-in (90%) or live-out (10%) domestic worker was also associated with employer's life style and social cultural factors. In most cases, a live-in domestic worker is in call 24 hours a day. Living-in means if the employer feels like going to a party at 22 hours, the worker may have to spend sleepless night waiting to open the door for the employer, at no extra pay to the domestic worker for that service. The study also found that living-in is becoming difficult for women and men beyond the age of mid 20's³¹¹.

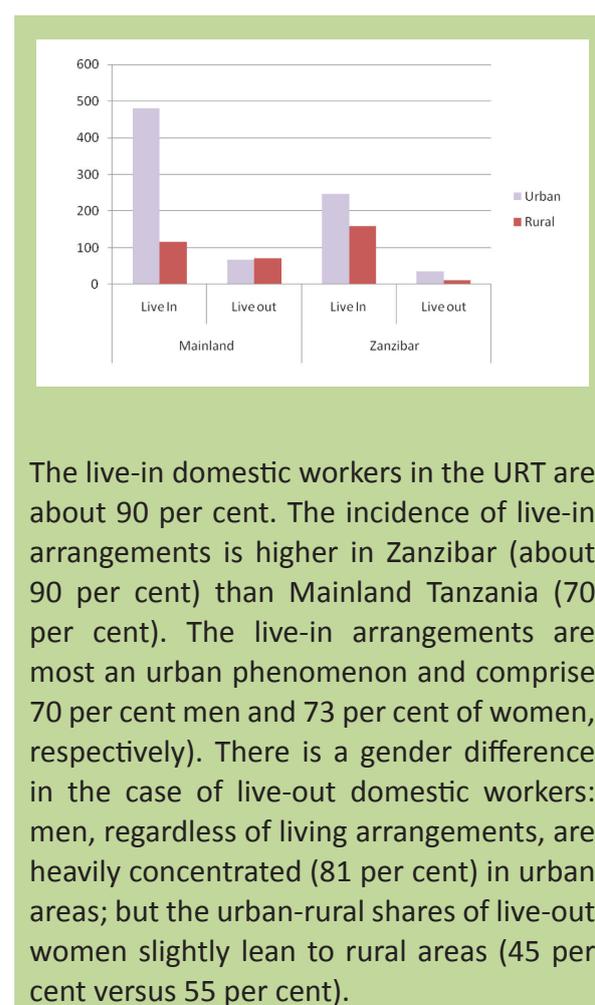
According to the study, members of household who are 'related to the employers of domestic workers' are 764 (64%) and fall in different categories. Of those domestic workers related to the employers, 694 (59%) are women. This is an indication of more involvement of women in underpaid and unpaid domestic work compared to men.

The high per cent (64) of live-in domestic workers who are 'related to employers' has many implications. Kiaga and Kanyoka (2011:13) confirmed that, the relationship between the head of the household and domestic works in Tanzania reveals the dependence relationship (kinship) in labour opportunities. They also pointed the common practice where a domestic worker is called 'dada' or 'kaka' meaning sister or brother, which crystallizes that a domestic worker is one of the family member and hence disguises this as legitimate employer and employees relationship (ibid.:14). The resultant relationships remain to be a verbal agreement between families (Kiaga 2007; Kiaga 2012:2). In such relationships, the performance of domestic workers remain in the realm of family and personal relations and not perceived or acknowledged as being part of the formal public policies on labour employment (Part V).

311 More than 75% of domestic workers for this study were below 25.

In Zanzibar the number of live-in domestic workers is high compared to live-out. The same trend is observed for the mainland (Fig. 4.5)

Figure 4.5: Location and Living Arrangements of Domestic Workers in URT



The live-in domestic workers in the URT are about 90 per cent. The incidence of live-in arrangements is higher in Zanzibar (about 90 per cent) than Mainland Tanzania (70 per cent). The live-in arrangements are most an urban phenomenon and comprise 70 per cent men and 73 per cent of women, respectively). There is a gender difference in the case of live-out domestic workers: men, regardless of living arrangements, are heavily concentrated (81 per cent) in urban areas; but the urban-rural shares of live-out women slightly lean to rural areas (45 per cent versus 55 per cent).

High rate of house/room rents to accommodate domestic workers in urban areas, trust and the fact that most domestic workers are far from their home village and districts are the reasons for live-in prevalence. For instance, one of the in-depth interview, respondents from Zanzibar said; "all my two domestic workers come from Tanganyika' – meaning Tanzania mainland. In this case, the domestic worker is likely to be a live-in until he or she is settled.

90 per cent of domestic workers in Tanzania are live-in and represent a peculiar form of employment arrangement and employer-employee relationship. Uniqueness and ambiguities arise from the domestic worker's 'work place' being her or his employers 'home'. Other studies by Stiel and England (1997:343) and Gregson and Lowe (1994) asserted that, the employer-employee relations in a live-in setting can lead to exploitation and abuse of power.

Generally, the employer-employee relationship in Tanzania like elsewhere in the world (Cohen 1991; Bakan and Stasiulis 1995) has many disadvantages because a workers' workplace is his or her employer's home with a high degree of personalism in a private (as opposed to the usual public) domain of work. So, the domestic worker (both live-in and live-out) blurs the boundaries between 'home' and 'work' and 'public and private' which in turn complicates the employer-employee relations. Personalism can also be extended to gift-giving by employers. Romero (1992) interpreted this form of benevolent materialism as some attempt to 'buy' compliance while Kanyoka (2014) interpreted the gift-giving as a strategy to strengthen the employers own image as 'kind and generous'. This means, the mention of 'household' as an arena is not by chance. It is characterized by different practices – social and material and also by different discourses.

4.4 Other Demographic Characteristics of Domestic Workers

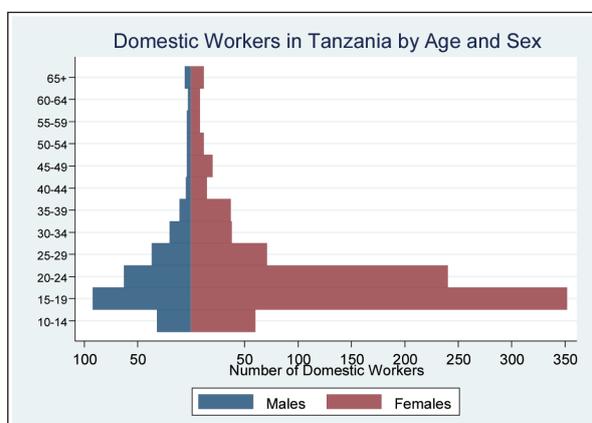
Three key demographic characteristics of domestic workers were studied. These are age, education and marital status, all of which were segregated by sex.

4.4.1: Age

The Domestic Workers Convention, 2011 (No. 189) calls for each member state to set a minimum age for DWs consistent with provisions of the Minimum Age Convention, 1973 (No. 138), and the Worst Forms of Child Labour Convention, 1999 (No. 182) and not lower than that established by national laws and regulations for workers. At the national level, Tanzania mainland, under the *Employment and Labour Relations Act* of 2004, defines a child as a person below the age of 14 except in hazardous sectors in which case persons of up to 18 years are considered children. In accordance with the *Employment Act* of 2005 of Zanzibar, a child is a person under the age of 17 and a young person is someone below the age of 21 years but above the age of 17 (ILO, C189).

Figure 4.6 segments the age of domestic workers which is divided into twelve categories from an age of 10 years to 65+ years for both female and male participants, with women being the majority (75%). It was further observed members of the household who are working as domestic workers as their primary or secondary job consisted of mainly domestic workers that are within the age group of 20-24 years, the majority of whom are women. The other groups comprise of domestic workers whose age is between 35-39 years and 45-49 years. The age group of 55+ however is less observed in domestic work due to less mobility and the gradual exit from labour market as a result of old age.

Figure (4.6): Age Profile of Domestic Workers in URT



Source: ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

The average age for domestic workers (all combined) in Tanzania is 22 years; the minimum is 10 years and the maximum is 80 years. More than 75 per cent of domestic workers are below 25, with the majority falling within the age range of 15-19 years old. This indicates the potential for youth employment and a widespread practice of child labour (Fig. 4.6). One reason for such trend is the high availability of labour force as a result of minimal absorption of primary school leavers. Poverty in many households in the United Republic of Tanzania is another reason young people are subjected to job search in order to support themselves and supplement their parents and siblings.

Over half (N=1186) of domestic workers in Tanzania are 25 years which shows the presence of energetic workforce in the sector and about 53 per cent are in the paid category. Interestingly, majority of unpaid fall in the age group of 15-19 years and most of them are live-in, employer's relatives and those who do not know that what they do is domestic work and it is a paid job. While there are a number of employers do not pay their domestic workers, the law is very clear that such an act is a misuse and abuse of power. This violation

of rights and other forms of inequality and injustice has been perpetuated by employers due to domestic workers lack of experience as a result of their new and young age into the sector, failure to negotiate their labour rights because of ignorance, and lack of inspection on the part of the Labour Inspectorate.

Comparison between Tanzania mainland and Zanzibar shows that 52 per cent of male domestic workers in Tanzania mainland are aged between 15-24 years compared to 78 per cent of their female counterpart in this age group. Females form the largest group of domestic workers. In Zanzibar, a large number of male domestic workers are older than female and stay the longest in the sector. The largest age group for domestic workers in Zanzibar is 25 years and above (32% among males and 45% among females). Notably, the percent of domestic workers under the age of 15 was 19 per cent for male and 11 per cent female indicating a higher risk of child domestic labour.

4.4.2: Education and Gender

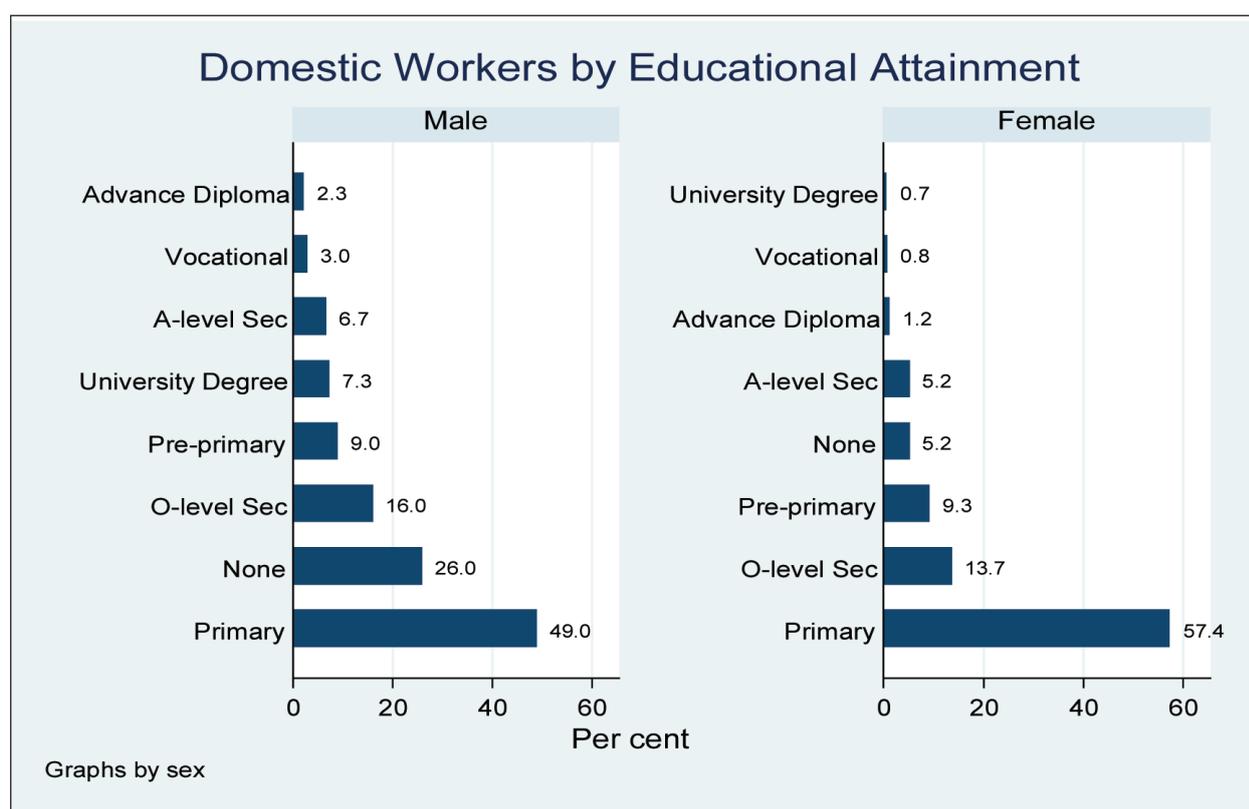
With regards to education, the Domestic Workers Convention, 2011 (No. 189) calls on Member States to ensure that the work performed by domestic workers under the age of 18 does not deprive them of compulsory education or interfere with opportunities to participate in further education or vocational training. This is also in line with National laws in both Tanzania Mainland and Zanzibar.

71 per cent (N=1186) of DWs have completed primary education and the majority are females (57%) compared to males (49%). The remaining levels of education shared 29 percent. More men have attained higher educational qualification, that is, ordinary level secondary school (16%) and University (7.3%), compared to women whose percentages were 13 and 0.7 respectively (Fig. 4.7). Low level of

education amongst male and female domestic workers, coupled with poverty (Kiaga 2007; Kiaga and Kanyoka 2011), are the major reason for their high engagement in domestic work, a sector that retains a high demand of workers. Other reasons are associated with

social cultural factors and division of labour from childhood (Part V). For instance, in an African setting, women are seen as people who are born for domestic work, are needy and naturally imbued with nurturing and home-care abilities from their childhood.

Figure 4.7: Education Level for Male and Female Domestic Workers



ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

Overall, education attainment among domestic workers is very low amongst male and female domestic workers in both Tanzania Mainland and Zanzibar. Of concern is the significant number of those who have never attained any formal education or did not complete any formal education. One other notable observation is that, the number of secondary school leavers in Tanzania Mainland and Zanzibar taking on domestic work is high – showing the potential of domestic work in easing the youth unemployment problem.

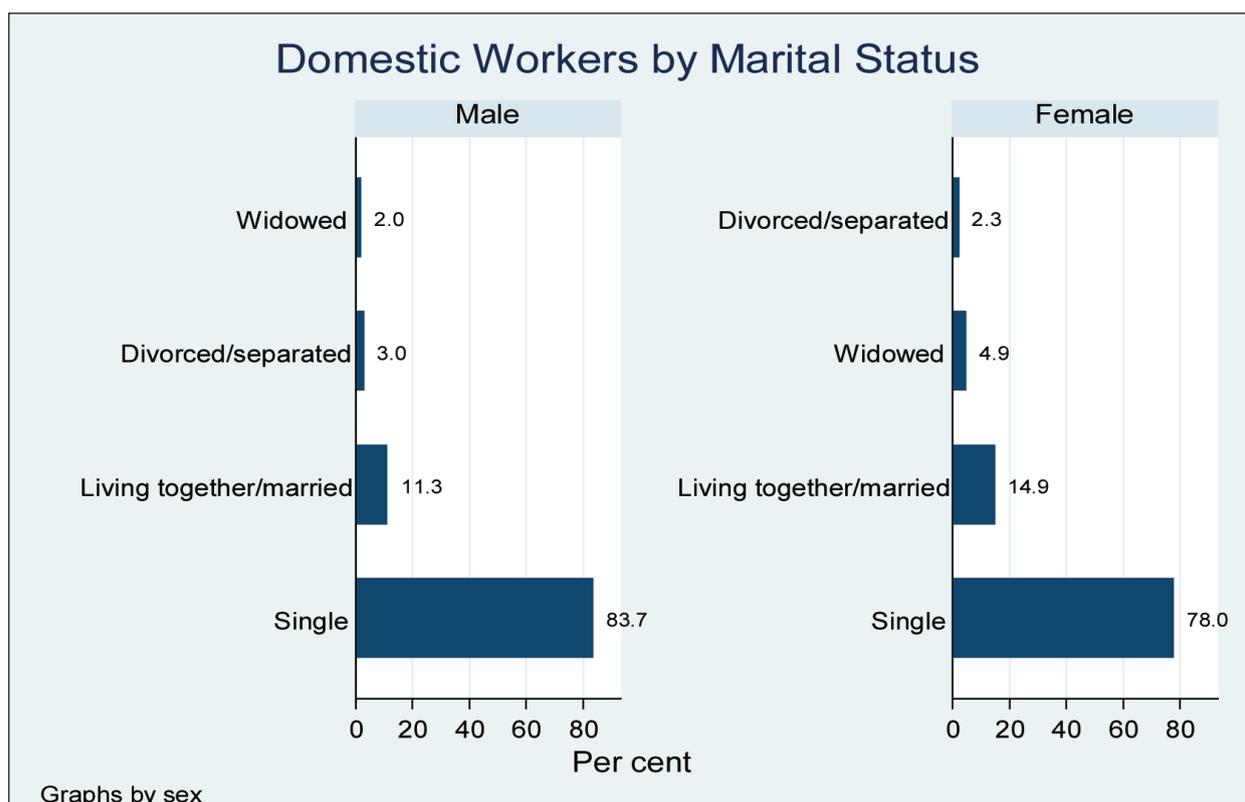
4.4.3: Marital Status

In terms of marital status, the majority of domestic workers are single (26.2%) and of those, 78 per cent are females and 83.7 per cent males. Those who are married or stay with partners are about 11.3 per cent male and 14.9 per cent females; the rest are divorced or widowed (Figure 4.8). The fact that the majority of domestic workers are single, divorced, or widowed contributes hugely in shaping the lives of domestic workers. They face challenges in scheduling activities and are flustered with heaps of responsibilities. They are thus required to juggle them all through

a hectic schedule. Moreover, raising children may be daunting without a second hand to help; simple tasks may take longer and can become difficult to accomplish. They need to

take care of their own children (and those of their employers), providing them with all that they need, at the same time teaching them to evolve as disciplined children.

Figure: 4.8 Marital Profiles of Domestic Workers in URT

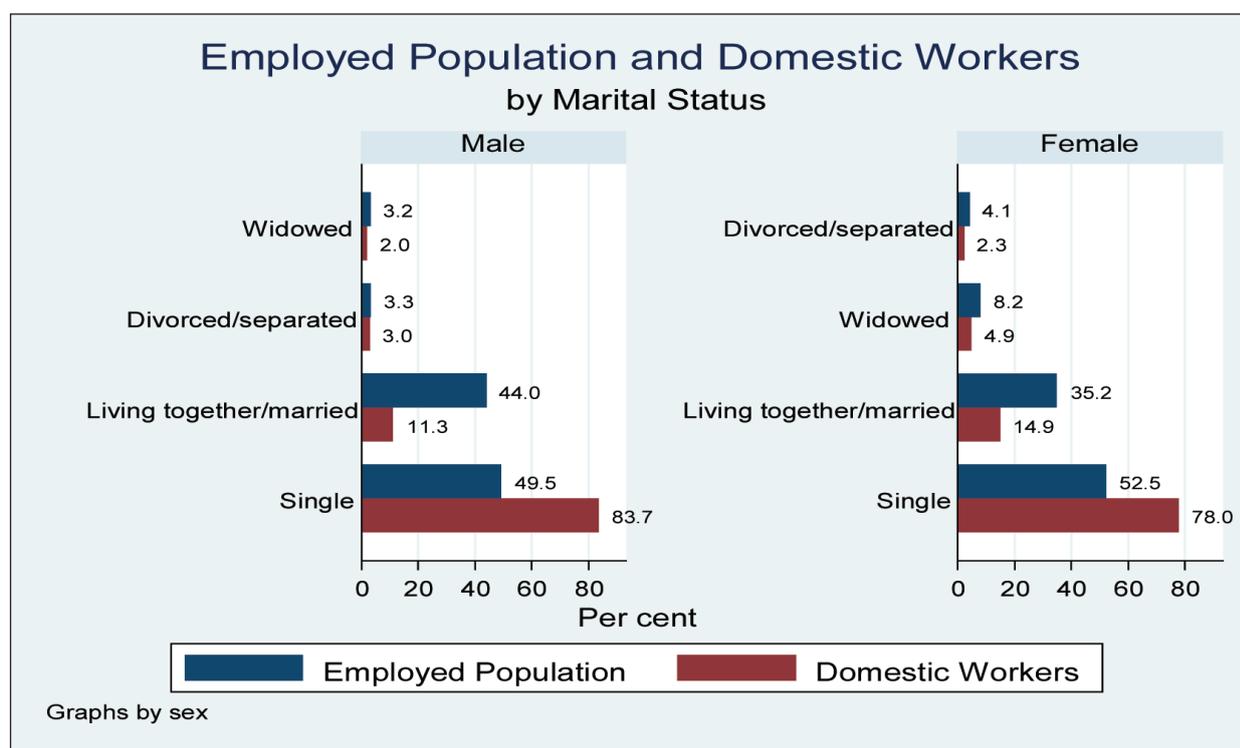


ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

They often face financial difficulties and it is tough to plan for all expenses and to have savings through a single paycheck. They often rely on family support and most of them do get help from their children, who often get involved in child labour. Single, divorced and widowed DWs often have very few alternatives for work, get difficulties in obtaining a permanent job or just cannot afford to be mobile in search of better jobs especially when their children are below school age, a situation which has

long-term consequences for their work status as well as income. Changing jobs for divorcee or widower is very risky because it can reduce their chances of being viewed as reliable and hardworking. As such, they tend to remain with one employer for a long time to ensure they get money for their children, no matter how little it is. Staying with one employer for a long time is also a strategy in the pursuit of good reference to the next job.

Figure 4.9: Employed Population *viz-a-viz* Domestic Workers Marital status



ILO Rapid Empirical Survey of Domestic Workers in URT, 2013

Neither the international labour standards nor the national laws make any provisions for ‘marital status’ of all workers, in particular in relation to access to job and employment. The only reference these legal frameworks make is with regards to issue of discrimination. Yet, the aspect is very important because marital status discrimination in Tanzania (and elsewhere in Africa and the world) occurs when a person or persons are granted or denied certain rights based on their marital status. Marital status discrimination is not restricted to a certain gender or sexual orientation, although it may impact certain populations more than others. For instance, in Tanzania married men (in some category of jobs mostly government jobs) are offered promotions more often than single men, even when controlling for work performance and seniority. Unmarried workers and single workers without children are more flexible and are expected to travel more for work;

they also feel they have to work at hours extra to or times beyond those expected of working parents. In addition, parents are more likely to get time off from work to attend their children than non-parents.

However, going back to ‘marital status’ and “drawing from the Constitution of the United Republic of Tanzania”, the *Employment and Labour Relations Act* of 2004 prohibits discrimination which is related to employment relations under different grounds such as colour, nationality, tribe or place or origin, political opinion, religion, sex, gender, pregnancy and so on...” (Part III). However, since it is very clear that the Labour Inspectorate in Tanzania is dysfunctional (paper work does not match with practices); one wonders if the discrimination on basis of marital status is not rampant and has ever been reported.

4.5 The Profile of Employers of Domestic Workers in URT

For the purpose of setting minimum wages, the Employment and Labour Relations Act recognizes three categories of employers - Diplomats and Potential Businessmen; Entitled Government Officers; and the rest of the employers as the final category. This final category has often included high to low income households.

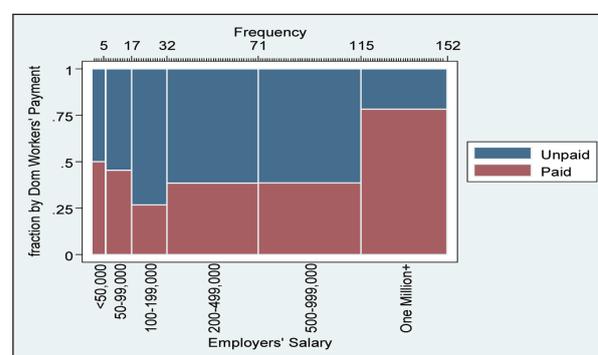
Survey results suggest that about 53 per cent (5,009,076) of all households in Tanzania employed a domestic worker in one way or another (weighted results using 2012 Census). Household-employers which employ non-related domestic workers living in their residence, which have relatives and foster children who regularly perform the domestic tasks for the household, and which employ live-out domestic workers on full time or part time basis, account for about 6.7 per cent of national household population.

Households that employ domestic workers are generally well off. Over 97 per cent are in formal settlements, use modern roofing material. About 93 per cent of employers reported a monthly household income above Tanzania shillings 200,000; the rest, including those with unpaid domestic workers, reported incomes below Tanzania shillings 100,000. Using income as an indicator, the survey gathered evidence of what can be considered tendency of employers to pay or not pay their domestic workers for services rendered.

In order to make this analysis, employers' salaries were categorized into 6 groups namely: <50,000 Tshs; 50,000-99,000 Tshs; 100,000-199,000 Tshs; 200,000-499,000 Tshs; 500,000-999,000 Tshs and One million and above (Horizontal scale down). The horizontal scale up shows the cumulative number (frequency) of employers interviewed, by their salary. For

instance, there were only 5 employers with income less than 50,000Tshs; 17 (Fig. 4.10) employers with income between 50,000 and 99,000 Tshs, etc. The vertical scale shows the proportion of domestic workers who are paid or not paid their salary. For instance: of those employers that earn <50,000 Tshs, only 50 per cent paid domestic workers their salary.

Figure 4.10: Income Levels for Employers and the Trends in Payment of Domestic Workers



ILO Rapid Empirical Survey of Domestic Workers in URT,

The incidents of salary payment among domestic workers are very varied and cannot be generalized. Above fifty percent (ranging from 58% to 73%) of domestic workers employed by those with income levels between 100,000 – 999,000 declared they have either not been paid at all, in monetary terms, or their payments are irregular, contrary to what is stipulated in the national labour laws, and lastly, for most, their payments were given to a third party (parent, guardian and agents) and hence not paid if at all the Human Rights Based Approaches (HRBAs) has to be followed (Action-aid 2012). The HRBAs builds on international human rights law, and goes beyond a legal or technical approach to rights. It is against the rich and powerful actors who often deny the rights of marginalized groups (incl. domestic workers) and keep control over productive resources and individual wealth and income. It challenges abuses of power at local, national and international level (www.People-Action.org).

Further analysis on material life style shows that, employers who are able to pay domestic workers and pay them regularly, live in permanent structures with good roofing materials, in secure settlement scheme (e.g. low and medium density, surveyed), and have access to electricity, fridge and clean water, among other measures of social status. Regardless of income size, a high level of unpaid workers (70-90%) prevails, especially in households with foster children and relatives and in those where the domestic worker did not know if she/he was doing domestic work.

Three factors are considered in relation to employers' income levels and domestic workers' payments: relationship between employer and domestic worker (relatives, foster children), the live-in and live-out

phenomena, employer's income, and lastly, employer's deliberate move by not paying workers who do not know their rights as domestic workers.

4.6 Summary of Part IV

Based on domestic worker's profiles, it is important to understand that their work is just one of the examples of the employment relations that prevail in one particular type of informal economic activity in Tanzania. It is important not to lose sight of their profile characteristics that ultimately define their employment status and their life. In light of the fact that these workers own only their labour, they are categorized as people in uncertain employment status and living condition.

Part V

Working Conditions in the Domestic Work Sector

“Somebody else takes the burden of work off your shoulders, and the anxiety of leaving children behind. Everybody has to acknowledge this”

An employer in the Philippines

“She is very serious; I am so scared to tell her about additional salary, though I have stayed longer with her for 14 years now. This job needs tolerance”

A domestic worker, Chukwani, Zanzibar

5.1 Introduction

The main argument this part of the report develops is that, domestic workers in the United Republic of Tanzania are insecure and are exposed to increasing risks and uncertainties. Labour discrimination, unpaid and underpaid work, exclusion, deprived liberty; brutality and exploitation characterize the sector. The findings draw on qualitative data and information in addition to what is presented in Part IV of this report because numerical data is nothing if they are not visualized to explain the reality.

According to official labor statistics, there are at least 5.24 million domestic workers in Africa, accounting for 1.4% of the total employed workforce and 4.9% of the paid employed workforce by 2010³¹². It is further estimated that around 70 per cent of domestic workers across Africa are women. This figure goes with the current findings in the United Republic of Tanzania where 75 per cent of domestic workers are women (Part IV).

312 <http://www.ilo.org/global/publications/books/WCMS173363/lang--en/index.htm>

Before this part of the report focuses into the working conditions of domestic workers, it is deemed necessary to first highlight two key aspects in determining the working conditions of domestic workers. First is the recruitment of domestic workers and second is living arrangement of domestic workers, whether live-in or live-out.

5.2 Recruitment of Domestic Workers in Tanzania

In United Republic of Tanzania, the large numbers of domestic workers are recruited through social networks and informal means – by word of mouth – through friend, agents and town based brokers, relatives and fellow domestic workers. Studies by International Domestic Workers Network (IDWN) in the Tanzania indicated that, 68 per cent of workers are recruited through friends or family members, 10 per cent applied personally, seven (7) are employed through recruitment agency and 2 per cent others (URT, 2013). The family and relative recruitment modalities is what Kiaga (2007; 2012:iv) calls *Undugu*, a fundamental recruitment of domestic workers in Tanzania through kinship networks and social relationships.

The recruitment is divided in two major categories: Those who are recruited locally or within the country and those recruited informally and formally to work abroad especially in Arab states. In mainland Tanzania, formal recruitment of domestic workers to work abroad is done through Tanzania Employment Services Agency (TaESA) and between July 2011 and March 2012, a total of 1,398 domestic workers were recruited by Private Employment Agencies, through TaESA to work in Oman and Dubai. Such tendencies agree with Esim and Smith (2004) views that, a number of DWs from Beirut migrate to Arab states.

However, large proportion of recruitment of domestic workers in Tanzania is largely internal, from rural to urban areas (Part VI). There is also a growing market in regional and continental domestic labour markets which are not well documented. For instance, South Africa has been receiving a number of migrant domestic workers from Zimbabwe and Mozambique. Likewise in Kenya, there are migrant domestic workers from Somalia, Sudan, Bénin and Burkina Faso (URT, 2013). In Ethiopia, about 200,000 domestic workers migrated to Middle East in 2012 and double

that figure used irregular routes including human trafficking (Kanyoka, 2013a).

There is an overall lack of standardization in recruitment processes, terms of labour contracts and in-country working conditions lead to increasing concerns of the prevalence of human trafficking of domestic workers and most of them are invisible. The IDWN Regional Office for Africa, pointed the following reasons for invisibility, underestimation and lack of traceability and records of domestic workers in Africa (Textbox 5.1).

Textbox 5.1: Invisible domestic workers in Africa and the challenges

- numerous young girls carrying out housework and other duties for households that are not their own, either for cash, or board and lodging, or virtually nothing
 - it is common for domestic workers to be related to their employer by kinship; in such cases they remain unpaid and are not regarded as employees
 - in places where domestic work carries a social stigma, domestic workers may refuse to identify themselves
 - domestic workers in Africa are subjected to human rights abuses, and exploitation tends to be concealed by their employers
 - trafficking into domestic work is growing in several countries in the region and there is need for more studies to unveil the dynamics in this aspect.
- Vicky Kanyoka, IDWN Coordinator for Africa (2013)

Human trafficking is the recruitment, transport, receipt and harboring of people, by means of coercion, threats or deception, for the purpose of exploitation, including labour exploitation. Each year thousands of economically disadvantaged men and women migrate from Africa continent to work in Arab states as domestic workers (Kanyoka, 2013a). Many of these women and men leave their homes because of the limited options available in their local communities. It is often perceived that human trafficking involves the movement of persons from one location to another through informal channels involving criminal syndicates, agents and brokers, social and familial networks. However, migrants

enlisting in formal recruitment may also find themselves in situations of labour exploitation and abuse as we shall see later.

5.2. Major Types of Recruitment Arrangements in Tanzania

The following are key types of recruitment arrangements:

- (a) Kinship networks of relatives and kinsmen through whom domestic workers are recruited (Kiaga, 2007). It includes ethnicity, friendship and similar regions from which the employer and employees hail. Here, domestic

workers are recruited through friends, neighbors, village men and women and ethnic member's social networks. Verbal arrangement which is commonly done in the following employment relations. This type of recruitment is often informal, non-contractual except to depend on a verbal agreement.

- (b) Registered and unregistered individual recruitment agencies sourcing domestic workers from rural to urban centers. In most cases, recruiters (agents) are based in town, have pleasing personality and sometimes are linked to rural based sub-agents (recruiters) who are closely connected to poor families who are so casual in entrusting their daughters and sons to go to urban centers. Agents or recruiters (*madalali*) are involved in falsify employment contract in favor of them. ILO (2013:2) noted that, many agencies charge high fees for their services and they deliver fraudulent employment contracts or make use of chain of brokers who in turn fraudulent the terms of employment.

Recruitment through a registered and unregistered individual recruitment agency is a two-way process, a give and take - a money and service (professional, experience) driven process. While a domestic worker is driven by money, the employer is driven by service - the experience and professional status of individual domestic worker. Employers for this type of recruitment consider professionalism, which has changed the entire system in hiring the domestic worker. The use of individual agents (*madalali*), reference from employer's colleagues, neighbors, domestic worker's reference letter and are some of the recruitment process emerged as a result of contractual arrangements.

5.2.2. Key Determinants for Recruitment

Methods

(a) Employer's Economic Status

Recruitment process is largely determined and shaped by income and status of employer's. High income employers in Tanzania prefer to recruit a contractual live-out domestic worker while low income prefer non-contractual live-in domestic worker. The higher income employers are mostly expatriates, Indians, rich business people and high government officials. Some of the household have two domestic workers, the live-in and live-out or both live-outs depending on their choices and the nature of work.

These dynamics are not by chance. Rich households can have fewer children but the households menu is tabled with variety of food, use different recipes and standards (measurements). Likewise, it can have fewer people but washing clothes involve buying specific type of soap, sorting them according to their color, use of washing machine, calculating duration for washing, drying, ironing and packing in the wardrobe. Workers confidence and independence, experience and skills help them to acquire job in such households.

(b) Social practice imbedded in traditional and cultural repertoires

In the above section, we have indicated how recruitment of domestic workers is shaped by processes that aim to secure quality services. But the locally embedded nature of domestic work is real and existing, is historically rooted and is rapidly changing because the local and global dynamics of labour market interact in place specific ways. It is therefore important to understand how the local operates as a social space in which practices and process take

place that make domestic work more than only shaped by and responding to the quality of the service – the cooking, washing and so on. It is beyond experience and skills, because household arena and the domestic work bind individuals and their society in different ways, ethnically, culturally and across gender as an economic and social activity through which they engage. The local settings - families, sub-clan and clan and kinship groupings is very powerful in shaping the recruitment process for domestic workers in Tanzania.

The social practices shape and determine the access and recruitment of domestic workers in different ways. Kiaga (2007) suggests that middle-class urban households use social capital in the form of kinship networks. She emphasized that,

“..... understanding of the significance of an employment relationship must begin with understanding the recruitment of domestic workers. Studies on the recruitment of domestic workers in Tanzania have found, for example, that it is not any kind of domestic worker who is increasingly recruited, but rather young, rural girls related to their employer by kinship or other filial affinities popularly known as *Undugu*. What is significant about such recruitments is the impact it has on the employer-employee relationship for the domestic workers (Kiaga 2007: 3).

During the study, employers were asked a number of questions to understand why kinship social network still exists in Tanzania. A number of reasons were given:

Table 5.1: Employers reasons for hiring domestic worker through kinship relations

S/n	Major reasons given for hiring a family or clan member (kin members)
1.0	Lack of employment opportunities in the family/clan
	Helping a relative to earn an income
	It helps to reduce dependency
2.0	Reduction of poverty
	Reduces poverty within the family and clan
3.0	Trustworthiness and respect
	It helps to maintain respect in the household as a result of family relations
4.0	Maintain security and control
	Easy traceability in case the domestic worker is involved in theft
	The relative is also an internal security to inform employer on various issues
	To avoid untrustworthy men and women to have an affair with a domestic worker. A relative domestic worker (male or female) act as watchdog to avoid it.
5.0	Relative can stay longer to avoid inconvenience

ILO Survey on Domestic Workers in URT, 2013

Despite the above advantages for hiring a relative or kin member, the employment arrangement is characterized by “**underpaid and unpaid work**” relations. This study has indicated clearly that relatives are the most affected ones and majority is live-in. A few cases are illustrated here:

“... I am staying in my brother’s house to make sure it is clean and I also take care of six cattle. I live together with a security guard who is responsible to watch the house day and night. We all come from the same village and same ethnic group. My brother promised to take us to school after some years and we don’t know when because we need replacement of other workers for us to go to school and we are not sure when this can happen. So far we are not paid...” (A male domestic worker, Dar Es Salaam).

Another related scenario:

“...I am not paid anything. My employer promised to assist me in future music career. But it is now long overdue. Four year have passed by now” (A male domestic work, Dar Es Salaam).

Contesting scenario:

“.....I am a live-in worker, my payment

are very uncertain. Sometimes I get cash, some time in-kind payment. I am planning to stop soon. Selling burns (*maandazi*) and flat breads (*chapattis*) in the evening is the option I am planning to pick. I need independence. Laboring in household is too exploitative and uncertain...” (Female employer, June 22, Mwanakwerekwe Zanzibar).

5.3 The Living Conditions of Domestic Workers

Virtually, most domestic workers in Tanzania are live-in (90%) thus requires exploring why and to what extent the two phenomena helps in shaping the recruitment processes in Tanzania. Both live-in and live-out processes results to a number of social practices which are not fixed. They change depending on the status of employer, relationship between employer and domestic worker, location, number of household members and so on. They continually evolve and are either accepted or contested – a sign of struggle, resistance and re-working of social processes. A number of reasons were given by employers and domestic workers (Table 5.2 & 5.3) regarding their prevalence for live-in and live-out phenomena’s which explains their desire to chose a certain social practice.

Table 5.2: Reason for live-in preference by domestic workers and employers

Domestic workers views	Employers views
(a) I just like it because I learn a lot of things	(a) There is too much freedom for live-out, the parents of my DWs do not allow her to be out of the house.
(b) Life is difficult to live out. I am saving here	(b) DWs is a good company when my husband is away for an official or private trip
(c) It was my employers decision and not my own	(c) It is more settled with a live-in, everything is in order all the time
(d) Old people need help in the house all the time	(d) I have a lot to do in the evening than day time
(e) It is convenient because I am not married	(e) It is convenient because my worker is available all the time
	(f) I prefer live-in for security and protection in the house
	(g) I have no other place for my domestic worker to stay other than my house
	(h) I need to trust a live-in because I am just alone in the house my children are independent
	(i) The live-in is also a security guard day and night
	(j) Easy to control the personal behaviour
	(k) I have children, live-in worker is helping me throughout
	(l) If I get sick the domestic worker takes care

ILO Qualitative survey on Domestic Workers in URT, 2013

From the table, most employers preferred the live-in domestic recruitment style which provide a crucial household and care services to most households in Tanzania. By virtue of living in the household, live-in domestic workers and their employers build close ties and learn different social practices by working and living together. All else being equal, living in the homes of their employers has also meant that live-in domestic workers work more hours than live-out, excessively long hours with little to no rest has well-documented impacts on health, and constitutes a violation of the human right “to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay” (UDHR art. 24).

5.4 Aspects of Working Conditions of Domestic Workers

5.4.1 Employment Contracts

In the situational analysis, 80 percent of domestic workers interviewed were unsure of their employment relationship in the sense of the type of contract they have with their employers. This is irrespective of the legal requirement that some of the terms and conditions of employment must be kept in writing and the employee must be served with the copy of the same. The common practice in United Republic of Tanzania is oral contract.

5.4.2 Remuneration

Generally, the situational analysis of domestic workers in the United Republic of Tanzania has observed four main domestic workers remuneration practices which are:

- (a) Paid exactly end of the month (timely);
- (b) Paid monthly but with irregularities and extended number of days;
- (c) Underpaid and/or wages withheld until the worker is about to leave employment; and
- (d) Paid when the domestic worker makes demands and in some cases involves his/her parents to claim for it. The payment is either cash (money) or a combination of cash and in-kind.

In practice, the highest wage for live-in DWs in Tanzania is Tshs 30,000 while for live-out range between Tshs 40,000 - 50,000 contrary to stipulated labour laws. In most households, there are no operating procedures for planning wage rates. There is therefore a major difference and variability in the wage allocation depending on individual (employer) interest. Rarely the wage takes into consideration the amount of work of the DW and hours spent.

The wage allocation to domestic workers in Tanzania varies considerably. They depend on a number of factors, namely: (i) DW's age, (ii) the location (rural and urban setting) (iii) marital status (iv) number of children (v) skills and knowledge (vi) the live-in and live out phenomenon and (vii) provision of incentives in addition to monthly wage. Most Tanzanian employers do not consider accommodation and food (for live-in) as part of incentive (though they agree that it is expensive) but the non-Tanzanian (experts) do count them. The incentives for live-in and live-out domestic workers are somehow different. Live-out is mostly given items or commodities which

cater for their entire household or 'family use' such as maize flour, sugar, rice, soap, tea bags, salt, fare, school supplies for children, meat, Khanga and second hand clothes for DW and/or children and parents. Live-in get things to eat instantly, small cash, second hand clothes, time to roam around during weekends and others do not work on Sundays.

One employer reported how she was providing incentives to his workers:

"You know for us we just give them fare especially when they work extra hours. We pay when it is religious ceremony such as Ramadhan. I pay about 5,000. But this is rare. When I invite people on Ramadan for example, I can ask all the two DWs to come to work and I give TShs 10,000 for each. But on Sundays because the family wants to be alone they prepare things for Sundays on Saturdays. One goes to the market and cook the other one does the cleaning. (Upanga, Dar Es Salaam).

Some employers arrange and guarantee their live-in or live-out DWs to open bank account in SACCOs or formal banks. In one hand, this arrangement is partly an incentive and exposure to financial facilities for DWs but in the other hand, it is a mechanism to hold them around (esp. live-in) because majorities do not know how to close the account if they want to quit the job.

(a) Modalities of Payment

The modalities for domestic workers remuneration systems/arrangements differ considerably. Findings from the qualitative research on employment practices and working conditions in Zanzibar and Dar Es Salaam reveal that other forms of "exchange" and social arrangements between the employer-household and the domestic worker or his/her family were governing the rendering of

services by some domestic workers to private households. Food and shelter, schooling and financial aid are some of the “currencies” at work in these arrangements. These informal social arrangements may explain the considerable proportion of domestic workers reportedly not being remunerated. They depend on a number of factors that surround the domestic sector. The following are some of them:

a. *The basic and additional tasks assigned to domestic workers:* Those who perform two tasks are paid higher compared to those who perform the basic tasks only. As we have seen in the previous parts of this report, in most households the basic tasks are cleaning, washing, cooking and taking care of children. Other extra task may include taking care of old, sick, taking children to school every day and helping with other business undertakings such as selling shops. However, there is no rule of thumb for extra payment. It is largely depending on employers’ discretion.

b. *Relationship with employer or head of households:* Again, as in the previous section, this type of relationships has tremendous impacts on the way domestic workers are remunerated. In household where the employer and employee assume ‘real’ or ‘fictitious kinship relations’ domestic workers are paid low wages. Those who are paid high claim to have ‘work relationship’ (‘wapo kikazi zaidi’) hence, limited social ties. Most of them rent their own room outside the working place or live in servant quarters within their employer’s compound. Those in servant quarters do not pay utilities such as water bills and electricity. In one hand, it is a privilege but on the other hand, the worker remains in control because

the employer-employee relationship is determined to a large extent by employer. Domestic worker’s self autonomy and ability to protect their rights become severely compromised because often times, the domestic workers feel obligated to reciprocate with gratitude, obedience and extra hour’s service. Predominantly, workers felt that the costs are externalized into them directly and indirectly because they are paid less than what they are promised before. Others claimed that, continuous day to day deductions are common phenomena when the workers make mistakes.

c. *Education, gender and age of domestic workers:* Through the qualitative studies, it was learnt that, demographic characteristics such as gender, age, education, background of the domestic worker (migrant, non-migrant, skilled, unskilled etc) and working experience determined the remuneration systems. In-depth interviews with domestic workers confirmed that, education is one the criteria for high wage because of attainment of knowledge, skills (e.g. language, use of various equipment) and awareness. Live-in young female domestic workers (14-16 years) earned between TShs 15,000-20,000. Some of them were not assigned specific tasks such as preparing food for infants, use of washing machine, gas cooker and electrical cooker because of their age and lack of skills and exposure.

For the case of education, a good example is drawn from Zanzibar Island. One domestic worker who completed ordinary secondary school earned TShs 300,000. Other two who finished form II earned TShs. 40,000.-

Likewise, in Tanzania mainland, a 14 year old female domestic worker who completed form II claimed to receive high amount compared to her friends who had finished primary education. Studies by ILO (2012b:2) confirmed that, in developing and developed countries alike, the domestic workers who belong to the poorest segments of society have little access to other work or employment and limited educational opportunities. KAFA (2010:9) reported that, domestic workers can receive salaries between two extremes (low and high) because of differences in level of education and experience - two sought after characteristics for employers.

The amount of wage for domestic workers is also dependent on age. Grown-up male and female domestic workers are paid higher than young or children domestic workers. Most grown-up workers, have children, are married or single and live in employer's servant quarters or a separate rented house far from employer's house. This means, individual responsibilities are also taken into account when employers set for their DWs wage. Moreover, grown-up people have tended to cluster into live-out work because they usually have family responsibilities and therefore cannot meet the long hours expected by employers.

It was also observed that, old workers (35 and above) in domestic work want to be treated well and to receive a fair wage, decent accommodation and proper meals. Age and experience was explained to be an indicator for their commitment and trust which they claimed should be an added advantage for provision of better service.

d. *Rural and urban origins and location of employer:* Through the qualitative interviews, it was learnt that, respondents from rural locations get lower wages than those from urban centers. High interactions and mobility amongst domestic workers in urban centers, access to diversity of employers and domestic workers and competition amongst urban based employers to keep hold of their workers contribute to wage disparities between rural and urban domestic workers. High interactions in urban enable opportunities for domestic workers to gain skills from friends, neighbors and television demonstrations on various duties (e.g. cooking) that satisfy a wider array of employer's life styles. They have chance to compare what is paid to friends and to ask for a fair wage as a result of their social networks. However, DWs face many challenges particularly the live-in. Stiel and England (1997:343) and Gregson and Lowe (1994) confirmed that, the live-in employer-employee relations in most cases can lead to exploitation and abuse of power. This assertion agrees with one female respondent in who said:

"When you live-in the same house with employer, they can demand a lot because they see you there. In the night when they want something to eat they will call you and you have no power to say no. As long as you are awake, then you have to stay awake with them too" (Buguruni, Dar Es Salaam).

Live-in domestic workers in Kibada, Dar Es Salaam (outskirt) work more than 14 hours a day with a number of activities - planned and unplanned and in some cases without specific hours to act on them. DWs earn between TShs 30,000-35,000 while in city center (Kawe) is

between TShs 40,000-50,000.- Those who get TShs 40,000 and above are married and/or live-out DWs.

- e. *Sparsely vs concentrated urban areas:* Majority of live-out domestic workers work in sparsely locations inhabited by rich officials, individuals and business men such as Oyster Bay, Upanga and Mikocheni in Dar Es Salaam. They get a minimum wage of TShs. 80,000 while others receive between TShs 100,000-150,000 and return bus fare (TShs 1,000-3,000). During religious ceremonies they get cash and/or in-kind incentives. The hours of work range between 07-21hrs. In few cases, they work until late at night when employers have special events in the house. Majorities knows how to cook and are able to do extra jobs to make cake, bread, pizza, burns and flat-bread (*chapattis*) for extra money. Likewise, live-out gardeners, they do fencing and gardening activities in various homes after working hours to get extra income. Some live-out receive bonus and 'labour-tying incentives' when working long hours such as cooking variety of food and attending bunch of visitors in the house.

(b) Wage record keeping, deductions, delays and irregularities

Under normal circumstances, domestic workers do not put records of their wage, unless for the amount which is unpaid. Some employers put records in counter book or file and domestic worker get opportunity to see it when they sign payment. Few workers explained that for the days which they do not work (for one reason or another), employers count them and deduct when payment is made. Other deductions are done when domestic workers break household utensils;

burn clothes while ironing, spoil food when cooking or do not put in the fridge. Interviews with some employers explained various reasons for not sharing records and having irregularities in paying domestic workers. Few examples are given:

"We do not write down the amount because we trust each other. Even if we say we should record, my housegirl does not know how to read and write, so it doesn't make difference. We can decide to lie to her but we are not doing so because to us cheating is a big sin" (A female employer, 69 years, Chukwani Zanzibar).

Another one said:

"Sometimes it happens you may not be paid on time, but for me it is not a big issue. I knows my employer is no longer working and she is too old, she depends on her older son who is living in Dubai. He used to send money in each month but not in fixed date. I used to wait because once she receives it she pays me my share. (A female employer, 74 years, Kiembesamaki Zanzibar).

Majority of domestic workers are not satisfied with the amount of wage they receive. Not only that, but also delay in paying, paying in small installments, irregularities (some month are not paid and compensated later) and unnecessary deductions of which some of them are exaggerated. The amounts to be paid depend on many factors and most of them are personal. They depend on: (i) employers sense of humor (ii) the salary and status of employer (iii) employers number of children (iv) employer commitment to his extended family back to his or her home village (v) the prevailing range of wages in the neighborhoods (vi) the amount of wage paid by friends and colleagues in the office and finally some employers follow the government rates.

Nevertheless, a number of employers are not sure of the required national rates in which they should pay both for Zanzibar and mainland Tanzania. Few quotes are given below:

"I do not know the minimum wage, I guess it is TShs 40,000 for live-in and 60,000 for live out. I think this amount is not bad due to difficulty in life prices have gone up our wage is also low so we can't pay her that much. But if she will do works as instructed we can increase" (69 years, female employer, Chukwani).

Another one said:

I have heard about T. Shs. 40,000. But I am not sure if all employers pay this amount because life is becoming tough day after day. I am a retired person and I get a very small amount of retirement allowance" (65, female employer, Temeke).

In summary, out of all domestic workers identified by the survey, some 53 per cent reported being paid, in cash and/or in kind. This proportion is similar in rural (52 per cent) and urban (53 per cent) areas. The share of paid domestic workers is slightly higher among women (55 per cent) than among men (44 per cent). The incidence of explicit remuneration for work rendered tends to be higher among male domestic workers employed in rural areas (85 per cent) and among female domestic workers employed in urban areas (62 per cent).

5.4.3 Working Hours

ILO estimates that 70 per cent of domestic workers in Africa benefit from limitation of normal weekly working hours on an equal footing with other workers. Some 57 per cent have the same legal entitlements to annual leave as other workers, while 87 per cent are covered by a minimum wage and a similar

coverage, by law, exists in respect of maternity protection (ILO 2013:3).

Working hours and the amount of tasks are much related. Arranging fixed hours to accomplish a certain activity was reported to be difficult for live-in domestic workers than live-out because the later have to work and leave the house. However, eating time for children, time to go to school and time to prepare food were said to be stable. While most households in mainland cook three times a day (breakfast, lunch and dinner), in Zanzibar few households do so. They care much about breakfast and lunch but not dinner and therefore domestic workers get time to rest during evening hours. At dinner, most households in Zanzibar eat light meal such as bread and flat bread (chapattis) which is accompanied with beans, fish or meat sauce. While in mainland rice and ugali the main food eaten for either lunch or dinner.

Getting time to rest for domestic workers depends on whether the domestic worker finished early or late the daily work and whether s/he is allowed to do so. Most domestic workers wake up at 5 or 6 early in the morning and retire at 8 or 10 pm in the evening. Generally activities in the households change depending on a number of issues: (i) Fasting period for Muslims (food varieties) (ii) school time (for household with children) (iii) the status of employer (iv) number of dependants and people who need attention (elders, sick fellows, postnatal and breastfeeding mothers) (v) number of economic activities in the household (vi) size of the household and (vii) diversity of household members.

For babysitters who work in their own home, time or the schedule for working is somehow stable, but it can slightly change if the mother of the child is late to pick the child from domestic workers home. But they do not work on Saturdays and Sundays.

However, a number domestic workers (live-in and live-out) confirmed that they worked long hours with no compensation. One domestic worker confirms:

My working time are not fixed they do vary and keep on changing, depending on the time I wake up and also what work I decide to do first. When the employer's granddaughter is around, I wake up earlier than the day when she is not around. Also during Ramadan we usually wake up early in the morning to do some tasks and prepare Iftar (evening meal) and daku (night meal). I'm not required to be compensated because I wake-up early or not. If you are employed as a DW you have to do all the household tasks no matter what time you wake up or sleep. (Female domestic worker, 28 years, Kiembesamaki, Zanzibar).

Resting for domestic workers is always unpredictable, although some domestic workers confirmed getting time to rest especially on Sunday. Such freedom is given to male than female domestic workers. Some worker's reported that getting time to rest was a nightmare. They do that when employers travel to their home village. Majority had no chance to go on leave and for those who did so, payment is not made for the days they have not worked. Surprisingly, some domestic workers are not aware if they have rights to be paid during their holidays.

All else being equal, working hours for live-out domestic workers are lesser than live-in domestic workers. However, if the live-out is engaged in more than one household, the cumulative working hours are almost the same as that of the live-in. One advantage for live-out with part-time jobs is, they are able to apportion hours for job and private matters. Total working hours (all type of

domestic workers) range between 4-14 hours with variations as indicated previously. Some domestic workers are restricted to communicate to friends, neighbors' and relatives. Their phones are monitoring. Other domestic workers do know how to operate their mobile phones. When they ask for help from domestic workers or the employers, everything is disclosed.

On the other hand, the situational analysis did find a number of employers who provide paid annual leave to domestic workers, pay for their transportation as well as provide them with some little gifts for the family. Most domestic workers manage to go home when they have family problems but yet the request can be denied. One domestic worker tells more:

"A few months ago my grandmother passed away. When I asked the permission to travel the following day, my employer denied. She told me I was supposed to attend a number of activities in the house and I should travel after two days. I told myself I better go because I was not at peace. I packed my thing and the next morning I left and reached home when the burial ceremony was over. I was so sad. When I told my elder sister about the story, she could not believe if someone (my employer) from the same village can do that. While at home, she kept calling and asking when I was travelling back. I decided to switch of my telephone and stayed for a week. When I came back she was unhappy. We could not greet each other. There are so many things which I am afraid to report. In short, we work under difficult conditions. It is because of poverty." (20 years, female domestic worker, Kawe, Dar Es Salaam).

Generally, majority of domestic workers reported to face difficult working condition. Isolation, exclusion, victimization and all kinds

of abuse surround their life. In one incidence, domestic workers told a sensitive story. She said:

I started working when I was 11 years old. The house was full of children and we were all sleeping in shared bed. I was sleeping with two other ladies, the relative of my female employer. Later I was moved to a corridor and slept without a mosquito net. It was not easy. Moreover, it was very risky because at one time I was about to be raped by the father of the house. We often get conflicts with female employers when such things happen. Most DWs do not share they keep quite (22 years female domestic worker, Chukwani Zanzibar).

5.4.4 Social Protection Coverage

Under the ambit of social protection coverage, the situational analysis was able to ascertain the extent to which domestic workers accessed maternity protection, enjoyed occupational safety and health as well as social security coverage.

(a) Maternity Protection

In most cases, when a live-in domestic worker gets pregnant, she voluntarily leaves her job or is asked by the employer to leave. A few cases were reported of employers granting unpaid maternity leave to the domestic worker for a few days as if such provisions are in the discretion of the employer. Notably, in both cases, the employers are knowingly and/or unknowingly in violation of the national labour law. As one domestic worker put it, 'Getting pregnant as a female live-in domestic worker bad luck and most likely the job is terminated'. For those who are lucky, they will be allowed to go home for delivery and replacement will be made. Some will continue as live-out but they never get maternity leave until the time of delivery. However, some employers try to

find solution (as stated before) by finding an accommodation out of the house, taking care of the lady and the baby, trying to find who is the father of the baby and if possible making the father accountable (paying cost of living and if possible living together as family).

(b) Occupational Safety and Health

The *Occupational Health and Safety Act* of 2003 in Mainland Tanzania and the *Occupational and Health Act* of 2005 are geared towards safe workplaces, which do not endanger the health of employees. However, definition of who an employee is and what constitutes a workplace has served to isolate domestic workers. No evidence of households which were inspected for the safety and health of domestic workers was found in both mainland Tanzania and Zanzibar. Domestic workers reported concerns on how they have to fend for themselves if injured at work. Seemingly, most employers are yet to regard their households as legitimate work places.

(c) Social Security Coverage

Both mainland Tanzania and Zanzibar have several regulatory frameworks for social security. Three reasons have repeatedly been cited for the lack of coverage among domestic workers: (1) Until as recent as 2011, the operational structures of the social security schemes did not provide for employers of five or less employees. These schemes are still considering the huge administrative costs for taking on individual employers; (2) The short-term nature of domestic work contracts (as short as three months) do not motivate employers to initiate what they consider a cumbersome process; and (3) Domestic workers are not willing to contribute part of their meager salaries to these schemes which they do not understand the working modalities.

5.5 Termination of Employment

Many domestic workers said that, it was easy to terminate the contract to an employer who is not a relative and if the worker has been working for a short period of time without knowing each other very well. But for relative employers, the case is different. A male domestic worker commented:

“Relative employers complicate matters; they tend to associate the employment to the entire family back in the village. If you tell them you want to quit, they insist on negotiations and come up with new ideas such as sending you to vocational tailoring school, driving, hair dressing and so on. They also use tricky approach, by complaining to the relatives back to the village in order to convince you to change your mind” (Temeke, Dar Es Salaam).

Some employers give high incentive and many promises to bribe the domestic workers, the parents and guardians in order to reverse the decision. In some cases they call domestic workers parents and guardians to negotiate. However, a number of strategies were mentioned by domestic workers when planning to quit. Among others are:

- (i) will lie to the employers I want to go home for a short break to greet my parents and relatives;
- (ii) will talk to the agents who helped me to get the job, for her to look for an alternative worker to replace me;
- (iii) will leave the house without saying good bye;
- (iv) this working place is just part of many others which I will also work and therefore, I don't care to do so;

- (v) I do not trust my employers, continuing working can create difficult working condition in the house, I better go; and
- (vi) Insist in quitting. If I continue staying, conflict may arise.

It was also reported that, sometimes it is hard for domestic workers to quit because they worry to end up to a worse employer. They agreed that, if the wage is fair other issues can be tolerated. They went home for a short break and came back. Female domestic workers confirmed:

“ I have decided to come back myself. I earn TShs 30,000 per month that is enough. I can't quit this place, I do not have any other option. If I get something else to do I will leave but I think I have no other option since I do not have any skills” (Kawe, Dar Es Salaam).

But other domestic workers refused to stay where the situation was unbearable. A female domestic worker tells more:

“In my first employment I was being paid TShs 20,000. I stayed for 6 months only. The employer was beating me every morning. I had marks on my back. I requested for a phone so I that I can talk to my mother, the women refused. She wanted me to pay for the cost of the phone call while she was not paying me my wage as we agreed before. She kept on cheating me that she was keeping the money for me. I tried to tolerate but failed and escaped” (Buguruni, Dar Es Salaam).

Some employers reported that, staying with domestic workers was not an easy task. Some were stubborn and did not listen. When girls got the boyfriends in the neighborhood, it was worse. Female employer comments:

“She thought the man will marry her. I

knew she was aspiring to get married. We quarreled about that man because she is an innocent girl. I advised her to bring the man so I can see him, but the man did not come. Instead the man wanted her to move to his house. I asked her what if the man go and kill you there! But she really wanted to go so she refused all my advice. We found out later that the man was lying to her. He ran away from the girl. He said he did not want the girl anymore. He was not even giving money to her to attend her maternity clinic. Because I lived well with her, I paid the costs. She is like my young sister. I stayed with her, she will give birth, and I will take care of her child and continue to work. She takes good care of my child so I want to assist her to develop as well" (Oysterbay, Dar Es Salaam).

A number of issues were mentioned which could help to improve the relationship between employers and domestic workers. Value the work they do, consider the number of years ones has worked, guiding them properly, sharing jokes and being charming, being appreciative, not abusing them (verbal and physical abuse), giving them incentive

when they do better than before and helping to planning together for stable alternative future job and career.

Two employers quotes are made to show their perception in this matter:

" Our obligations is to develop them, to care for them, live with them as children, give freedom when tired, do not punish them too much, take them to school or madrasa, when they get old to help with marriage arrangement" (24 years old male employer, Kiembesamaki, Zanzibar).

Another one said:

"I should make sure they do not make mistakes and to do my work the way I want" (46 years female employer, Tomondo, Zanzibar).

However, majority agreed that, in order to create a good working environment with domestic workers, it is better to listen to their views, treat them well, not to be serious over them, not to mistrust them completely, not to abuse them and to give them salary on the right time.

Yet, a number of disputes and grievances occur between domestic workers and employers.

Table: 5.2 Reasons for domestic workers and employer’s household disputes and grievances

Employer’s cause of disputes	Domestic worker’s cause of disputes
a) Not reporting when they don’t appear at work	a) When yelling to the children
b) Being accused for stealing (food, other household items)	b) Not being assisted by other household members
c) When DWs found having an affairs with husbands	c) Paying wages in small installments
a) Delay in doing activities	d) Employers not fulfilling promises
e) Not cleaning house and dishes properly	e) Cheating not telling the truth
f) Lack of respect by DWs or employer	f) Religious differences
g) Befriending people who are not friends to the employers	g) Getting pregnancy
h) Eating too much/excessively	h) Not getting time to rest
i) Mistrust	i) Not allowing to go for a break at home for death or other matters
j) Oversleeping	j) Long working hours
k) Cheating and telling lies	k) Stubborn boss
l) Being too stubborn	l) Unfriendliness /rude
m) Communicating with neighbors’ about household affairs	m) Beating and yelling
n) Bad eating habits by DWs	n) Racist
o) Stealing	o) too arrogant
p) Breaking things in the house	
q) Rude	

ILO Qualitative survey on Domestic Workers in URT, 2013

Below is example of stubborn domestic workers who did not go along with her employer because she was somehow rude and not trustful.

I did not like to have a live out but I am compelled. Because I had not found a live-in that I can trust. Before employing the current live out I had several live-in DWs. The first one was from the mainland (Mtwara). I was living with her before I went for further studies. When I left for further studies, I gave her too much freedom so she was not staying at home. I found it difficult so I took her back to her home place. The second one was from Zanzibar. It is my husband who looked for her from his relatives here in Unguja. This one decided which task she will do and which she will not do, despite the fact that I have told her obligations. So when I went to give birth to my second child she did not even come to the hospital. When I came home the house was so dirty, and she cooked her own food and eat. Though I was still not energetic, I had to cook by myself, and wash clothes. I thought she was not good for me anymore. I paid and she left. After all now my kids have grown they stay with their grandmother when I am not there. On weekend I take them and I and my husband do all the work. (63 years, female employer, Mwanakwerekwe Zanzibar).

5.6 Additional Focus on Zanzibar

In the following section, much attention is focused in Zanzibar Island. This is due to the fact that some social cultural aspects differ from that of mainland. For instance, buying food from the market is mostly done by male employers in Zanzibar while in mainland it is done by female employers and domestic workers. Also, a number of domestic workers in Zanzibar are migrants from Tanzania mainland and therefore the live-in and live-out option plays a great role.

An interview with CHODAWU officials from Zanzibar, gives some insight on domestic workers condition:

“A big proportion of domestic workers (28% of girls; 19% of boys) are young and of school age, less than 18 years old; many are migrants from Mainland and Pemba. They are ‘hidden’; do not have job security and contract of employment, are underpaid and overworked. Although the minimum wage is TSh 60,000 per month, many hardly receive Tsh10,000. One solution is unionizing and educating domestic workers on their rights. There is need for improvements in labour inspection to know their wage and condition. CHODAWU has carried out an awareness-raising event on C189 and plans to hold a seminar for domestic workers and employers of domestic workers. Here, about 43 domestic workers are members of CHODAWU and this is a big achievement (Mr Makame, Zanzibar).

Most domestic workers in Zanzibar are young female girls who have finished primary education and a few have finished secondary education. Majority are single migrants from mainland regions namely Mtwara, Lindi, Dar Es Salaam, Tanga, Mwanza, Singida, Shinyanga

and Coastal region to name a few. Majority (74%) get less than official minimum wage for domestic worker (Table) while the rest are paid TShs 40,000 (for live-in) and in some exceptional case the highest wage was TShs 150,000. One domestic worker was a child who migrated from Mtwara and she was paid between TShs 10,000-20,000. While the employer claimed that the child got the job on her own, the child denied and said it was the employer who discussed with her father in all matters regarding the employment. The father agreed the child to labour for household duties, on condition that, the employer should take her to school while working.

The story is also similar to the one where an employer (in Zanzibar) was staying with a foster child since when she was eight (8) years. At first the child was getting nothing, but later when she turned 15 years she was paid TShs 20,000 and was obliged to send TShs 10,000 to her parents. During the interview, she was 23 years old and the amount increased to TShs 30,000. The first story tells something about every day forms of haziness and complex setting in the household arena and domestic sector. The second one is an evidence that a live-in domestic work is often been a ‘life-cycle occupation’, meaning that a domestic worker can begin working with a family at a very young age and stay with the family for long time. From the two cases, it is evident that, both employers and domestic workers shape the life of one another, to form one reality-the arena. Moreover, the life of child domestic worker is largely shaped by the parent and employer due to child’s inability to speak-up, forced labour and denial of child rights.

Dynamics in households face many. The paid, unpaid, underpaid and even the well paid ones. A male domestic case (Textbox 5.3) from Zanzibar confirms this:

Text box: 5.3 Wage can be used as a mechanism of power and control

“I am among the well paid domestic workers here in Zanzibar. I get TShs 150,000. But this is nothing. All my personal life ends in this household. I have no time to see what is happening out here. I work for a big and extended family and spend long hours with no time to rest. When I finish household work in the morning, I become a shopkeeper and in between I break to prepare lunch. After closing the shop, I cook dinner and clean all the dishes which have been used for breakfast, lunch and dinner. Although they treat me like a relative, no one is helping. I go to bed very late. I receive some incentives but not every month. When I get sick they treat me and if my parents are sick they give me between TShs 10,000-20,000 to send home. This is done in purpose. They know if they don't do so I will have to go and take care of them. It is a mechanism to ensure I remain here. It is tough life but I have no alternatives. My family is extremely poor”.

(A male domestic worker and shop keeper, Zanzibar)

It is common to hear many employers in Tanzania say that they treat domestic workers they hire as they would treat a ‘daughter’ or a ‘member of the family’. On the surface, this reference tries to show the closeness in relationship. By portraying a relationship in personal terms, many employers pretend to validate as kind and fair rather than truly equalizing an inherently asymmetrical relationship of service rendered. Underneath the surface, such references serve to absolve

the employer of responsibility towards the rights of the domestic worker as an employee. The true fact is, in the eyes of the householder, having a live-in domestic worker who is also participating in business undertakings often perceived as enjoying the luxury of having around-the-clock service. Often times, the fair wage and incentives reinforce inequality, power and control by making the domestic worker to feel duty-bound and to work extra hours.

But things are worse when it is a true ‘relative’ or a ‘family member’. A story by an urban live-out female domestic worker tells, more:

“I have worked in domestic sector for years since when I was 14 years in this place. But a few months ago, my mother called me to come and take care of my sister’s child. My sister is very ill and my mother is a teacher. She could not stop working. I used to get TSh. 40,000 per month. Though it was small, but I managed to rent a room and to furnish it. Now my mum is giving me between TShs 10,000-20,000 to buy few things I need. I have agreed that because she is my sister. My mother and my sister can help me if I get sick or pregnant”.

The above narratives provide the true picture of real life amongst ‘relatives’ in domestic sector. The workers are often unpaid. The arrangement puts the domestic workers status in limited options – making the domestic worker feel obligated to reciprocate with obedience and gratitude with the expectation that if she gets sick or becomes pregnant she should be assisted by either her mother or the sister. This is the context which prohibits her to demand for her fair remuneration. The narrative serves to highlight some kind of social pressure and norms from the family and/or parents that deny domestic workers a basic level of fairness. In this context the DW remains the vulnerable part in the employer-

employee relationship, *but* secure in the mother-daughter relationship, a way of life.

Live-out domestic workers in Zanzibar are fairly paid compared to live-in. The highest observed (N=1) received TSh. 300,000. The difference with Tanzania mainland is that, in Zanzibar, the live-out are generally younger, pro-active and work in multiple households (N=28), in foreigners (N=10) as well as locals. Allocation of specific hours in foreigner's households is a common practice, forcing domestic workers to take on part-time jobs. It gives freedom of choices for many workers and two employment modalities: part-time and full-time arrangements. Multiple household skills (e.g. language) and professional competence are avenues which make most workers to retain their jobs in more than one household. More than half of the live-out in Zanzibar attained secondary education (form II-IV) and are able to communicate in English and Kiswahili.

Specialized live-out domestic workers in 'babysitting' only are also commonly done in Zanzibar. They remain in their own home and the employer brings the child in the morning and collects the child after working hours. These are mostly aged women and are mostly paid below the official minimum wage of Zanzibar. The remuneration arrangement is different from a monthly wage system. Women baby sitters get TShs. 2,000 per day, TShs 50,000 per month and others TShs 20,000 in two month time and are highly networked in ensuring the rates remains within the on-going range. In other words they charge TShs 50,000; 60,000 and 100,000 per month. The average working hours are 8-10 hours per day but in between the women are able to do their own domestic work in their home especially if the child is asleep. One notable observation is that the relationship between the baby sitter and the employer is friendly. In some cases the baby can sleep over if the employer fails to

pick her or him child for various reasons. This implies, the baby sitter will work overnight and in-kind and extra cash is considered.

The second type for specialized babysitting is that, the babysitter goes every morning to the employer's house for only one specific work – babysitting. The payment is about TShs 10,000 per month and in addition to that, they get food to feed their children on a monthly basis. Most of them are widow and divorced women. Many times they also get paid in-kind items such as Khanga, clothes for their children and grandchildren and other items. However, this category of domestic work is contested particularly if one works for a relative and for more than one child. A middle-aged live-out widowed female domestic worker from Zanzibar tells more:

"I am tired to work as domestic worker. I am thinking to quit and own my own business. I am a widow, I work for a relative, my uncle. My uncle's and I we have grown together and we know each other very well. Him and the wife they pay me TShs 10,000 per month. I also get breakfast, lunch and dinner and they give me some food to bring with me at home. This is a peanut. They have four young children take care. My uncle works in town and he joins the family during the weekends. I have now stopped working for some days but my uncle and his wife have never asked me why I have not gone to work. I don't like the job anymore. All the time the wife suspects me to be doing evils things such as stealing from the house. I took this job because my uncle is a friend of mine and we know each very well since our childhood. I took the job because my uncle asked me because the wife is naturally lazy, she does not want to learn. To me, the job was a help to my uncle as a relative" (Rural setting, Zanzibar).

However, the fact of being given food for herself and children by the employer ceases to be an advantage if too much of the domestic worker's wage is deducted from her wage in exchange for the food and 'expected' future help from the uncle; if she is expected to work without sufficient rest with four children to take care of and if the working condition is unfriendly on the side of the uncle's wife. This speaks of struggles of women in this sector and the single and widowed ones feel it most. They face additional challenges if they are dismissed or must escape from an exploitative or abusive employer, as they often become helpless as well as unemployed mothers and head of the households. The story also tells something if one works in the household where the female HH is a lazy one and unemployed. One can opt not to go to work deliberately, to make the lazy wife work and to know the difficulties one handles.

In rural areas (Makunduchi and Kusini ward), the live-in rural were few (the same for Tanzania mainland. Most of the live-in found were relatives of the employer or head of households. They helped with children and other household chores and the wage range was between TShs 5,000-30,000. Again, this amount is well below the minimum age for domestic workers in Zanzibar and could be a reason for domestic workers in Zanzibar to opt for live-out, both younger and part-time domestic workers as well as middle-aged and elderly women.

5.7 Common Forms of Abuse in Domestic Work Sector in Tanzania

5.7.1 Child Labor

Child labour is one of 'less invisible' forms of domestic work (ILO 2013:1). In Africa, 9 out of 10 child domestic workers are girls (ILO 2013:3), in Kenya about 200,000 children below the age of 18 engaged in domestic

labour (ibid). Part of this has been linked to the increasing vulnerability of fostered children to situations of exploitation. In Tanzania, many young domestic workers are below age 18 but above 15 work as live-in, majority are girls and do not go to school. Additionally, most employers have no plans to take them to school. Child labour is widely happening in most households in Tanzania, some children are employed independently while others are helping their mother in the households. Some few children are aware that, what they do is not right but others are not. They fall in unpaid and underpaid condition of work and take the job to pay school fees and feed the family back in rural village. Some of them the wage is given directly to the third party, the parents or guardians in their village. In such arrangement even negotiating and how much to be paid is done by either the parent or guardian. Such arrangement subject the child DWs to depend on food and accommodation only.

Others do child laboring in the household while taking care for their own child in live-out phenomena. They hire a single room and employ another child (it is cheap) to take care for their own child. They face critical life style condition and psychological touchier. Reflecting the burdens of pregnancy, irresponsible male partners to help take care of their child, lack of food, lack of health care, lack of money to hire proper domestic worker, struggle to balance working and breastfeeding time, high cost of living and fare costs are some of the issues that surrounds their life style.

By hiring another child to take care for their own children, they form another type of child labour network - A child domestic worker and employer of another child. The principle operator is a child, a mother and head of own household. The lucky ones take their children to their mothers, elder sisters and grandmothers back to their home village. Many times, children who are in child labour

tend to hide their age by overestimation or pretending not to know. Yet, a number of issues can be uncovered through in-depth studies.

There is growing awareness throughout the world of the degree to which children under age 18 undertake all sort of roles and occupations – some paid, some unpaid – to help support their families or meet their own upkeep. These working children are often deprived of opportunities childhood should offer for schooling, nurture and personal development under the protection of those who love them and have their best interest at heart.

Among the largest groups of child workers in URT are those working as domestics in the households of people other than their own families. Such practice of employing children and sometimes very young children, to help around the house is widespread in many countries of Africa, Asia and Latin America as it used to be in America and Europe a century ago (Black, 2002:1).

In one incident, an employer of migrant domestic worker in Zanzibar claimed to have given the child a home, to eat and sleep. But it was no longer ‘upbringing’ but ‘employment’. The notion of giving a child home was often used to mask the fact of employment so as to avoid its implications – especially the right to compensation for the child labour. Unfortunately, the responsibility to provide the child with care, nurture, and developmental support is also often avoided. The right to childhood itself is denied, let alone other childhood rights such as right to education.

It was also observed that, domestic child labour is prevalent in concentrated an unplanned settlement and most of them are live-in

and work under extremely compromised conditions. They face a vast array of labour and human rights violations on a daily basis, including: overwork, nonpayment of wages, loss of freedom of movement and physical and psychological and sexual abuse as we shall see later.

Factors propelling children into domestic work in Tanzania

There are many factors propelling children into domestic work in Tanzania, a few are summarized below:

- (i) Children are supporting their mothers in shouldering their burden in their household as well as in the household in which the mothers are working as domestic workers.
- (ii) Irresponsible male partners (fathers) – especially in fishing and mining communities where a number of men go (pulling beach seines, fishing as crewmembers and laboring in mines) leaving the children’s burden to their female partners. Most women opt to send their children to town to reducing the household burden e.g. food, shelter, health costs etc and to start their own life.
- (iii) The work they undertake is seen as natural and part of upbringing.
- (iv) The URT is one of the countries where the incomes are low, employment opportunities are few, and education is limited. This has made an available pool of female and child labour to undertake menial occupations readily exit.
- (v) As far as girls are concerned, domestic work is one of the few occupations for which no training is needed – or for which upbringing is itself is training.

- (vi) Poverty in the many households, rural and urban. This has made the work that used to be undertaken as part of the growing up in the child's own home to be commercialized but for paid, unpaid and underpaid work.
- (vii) Uneven pattern of economic development in the country is creating more demand for young domestic workers and simultaneously creating more supply.
- (viii) Growing group of marginalized families, impoverished by HIV/AIDs, single headed households that seek desperate solutions to survive – including trading children's labour.
- (ix) Children and adolescents are often preferred to adults because they are cheaper to hire, more malleable and cost less. Their youth and dependence on their parents and relatives also means that they are unable to resist plans made on their behalf to send them away to the household of strangers.
- (x) The process of recruitment is a driving factor because it is a job on its own as one gets paid (the agent – *madalali*). It is commercialized, more organized, as agents and traffickers trawl rural areas offering incentives to parents.
- (xi) Increase of internal migration from rural to urban centers in search of employment opportunities is making the child domestic labour to grow.
- (xii) The escape from poverty in the households is the overwhelming motivation – both for the girls and their families.
- (xiii) Parent's death, divorce and separation play a great role in adding the supply for child domestic workers.
- (xiv) Unwanted and early pregnancies by mothers have serious implication in shaping the life of children and families. Children end up in town to search for domestic work.
- (xv) Prostitution and lack of commitment and seriousness by mothers.
- (xvi) Parents/guardian overdrinking and inability to meet household costs and to care for children.
- (xvii) Escaping social cultural problems and brutality deeds, such as killings and beating of children.
- (xviii) Homeless and street beggars children's are prone to child labour.

With all those factors, distance from parents/guardian, community of origin, lack of self-esteem, illiteracy and possibility pregnancy are consequence of sexual abuse which lead workers descent into prostitution of a child domestic dismissed of the most cursory of reasons.

5.7.2 Domestic Violence and Sexual Abuse

Domestic workers are vulnerable to exploitation and abuse, as reported by vast majority (65%) in this study. Not many domestic workers are able to disclose household sexual abuses or harassment. They often turn the story to 'unknown third party' and talk about friends, relatives or previous abuses. This culture of silence or talking for the third party perpetuates the attitude of servitude as justification for the abuses suffered. During the study, the most prevalent incidence are; the sexual harassment by male domestic employers, beating by female employers, underpayment and unpaid wages, verbal abuses, restrictive movements, lack of freedom to negotiate, to rest and to communicate. However, there is

an increase in awareness among domestic workers on sexual abuse but many DWs do not know their rights and where they should report to. This has made many victims to lose their job and leave their wages behind. Very few domestic workers have knowledge on CHODAWU³¹³ and they also fear to be charged some consultation fees charged by officials. Generally, occurrences of abuse are higher in Tanzania mainland than Zanzibar.

The violence in and around the households, in private or public sphere, is a local and a global problem. It is well connected to gender, unjust human rights and bad and outdated social cultural practices. Multi-Country Study on Domestic Violence and Health in Tanzania suggests that 56% of women and 48% of men believe wife beating is normal (WHO, 2005). Many studies confirm that domestic violence is drastically underreported in Tanzania (Kivulini, 2010). According to a survey conducted by Kivulini in 2009³¹⁴ (Kivulini, 2010:7), 85 per cent of women experience psychological violence, 56 per cent physical violence and 48 per cent sexual violence.

Due to widespread acceptance of violence, feelings of shame and lack of resources, most women who experience violence do not report it to formal or informal services. WHO (2002), also reported that, 60 per cent of all women experiencing violence had never gone for help from any formal service or authority. Kivulini³¹⁵ (2010) found that, 80% of women experiencing violence in Tanzania had not reported the situation to anyone. These alarming statistics reflect the rampant belief that abuse of women is acceptable.

WHO (2002) revealed that, approximately 42 per cent of Tanzanian men and 56 per cent of Tanzanian women believe that men have

313 CHODAWU stands for Conservation, Hotels, Domestic and Allied Workers Union (Tanzania)

314 In five regions – Mwanza, Mara, Shinyanga, Singida and Kagera (in rural and urban settings)

315 An NGO based in Mwanza, Tanzania

the right to beat women. Indeed, 56 per cent of women surveyed by Kivulini agreed it was important for a man to “show his wife who was the boss”, and 61 per cent believed that a “good wife” obeys her husband regardless of her situation. The view that women “deserve to be beaten” is also common among local government leaders. Furthermore, Kivulini’s survey revealed that leaders are poorly equipped to support women experiencing violence. Eighty three percent of local leaders did not know how to address legal issues and less than 40 per cent had received formal training about women’s rights. Beliefs that perpetuate violence are most entrenched in rural areas. Thus, it is not surprising that women from rural districts are significantly more likely to experience abuse than those from urban districts. Kivulini found 66 per cent of women from rural districts had experienced sexual or physical abuse compared to 57 per cent in urban districts (Kivulini 2010:7).

In 2011 the Government of Tanzania and UNICEF study on Violence against children found out that children, male and female, of age 13 to 17 were subjected to various forms of sexual violence. The study further reported that incidents of sexual violence are more often not reported to relevant authorities due to a number of reasons, which include social stigma, intervention by perpetrators, corruption and intervention by relatives. There is an increasing recognition in Tanzania that gender discrimination is a wider community problem. Gender-based violence (GBV) is a grave reality in the lives of many women in Tanzania. It results from gender norms and social and economic inequities that give privilege to men over women.

Intimate partner violence is highly prevalent in Tanzania. A study conducted by WHO (2001-2002) found that, of 1,820 women in Dar Es Salaam and 1,450 women in the Mbeya District found that, 41 percent of ever-partnered

women in Dar Es Salaam and 87 percent in the Mbeya District had experienced physical or sexual violence at the hands of a partner at some point in their lives. In both areas, 29 per cent of those experiencing physical intimate partner violence experienced injuries, with over a third of them having been injured in the past year (WHO 2005).

Violence against women is a critical issue in Tanzania not only in domestic work industry but in all the places where women are represented. In farming, fishing, pastoral community, government and non-governmental offices, mining, trading sector and all others. Violence is unacceptable (Chapter III, ILO conventions) whether perpetrated by employers or recruitment

agents, in public or private sphere, in peace time or in times of conflict.

Gender based violence is rampant in Tanzania, with domestic violence, rape, sexual harassment, physical and psychological intimidation. Domestic workers are key actors. They are victims as well as first witnesses in the households. To get an idea of the direness of the situation, apart from Kivulini's case, the Tanzania gender facts violence shows that 3 out of 10 girls have experienced gender based violence, 49 percent of sexual abuses occur at home, 23 percent while travelling to or from schools and 15.1 percent occur in the schools (IPP Media Group, 9th October, 2012). There are many cases from the media, a few are highlighted below:

(i) "What does the law say on domestic violence in Tanzania?"

Leila Sheikh
The Citizen, 16th June, 2013

".....Tanzania does not have a Domestic Violence Act as yet. There is a section in the Law of Marriage Act (LMA) (1971) in Section 66 which has touched on spousal violence which does not provide remedy for punishment to offenders. Neither does it describe the various forms of domestic violence in their entirety.

Various studies, some conducted in Tanzania have shown that at least six out of ten women have experienced domestic violence within marriage or in the domestic environs, some among couples who cohabit. The definition of domestic violence needs to encompass spousal violence as well violence between couples who are cohabiting albeit without formalized structures like marriage.

It also has to take into account violence against children within the domestic environs as well as violence against the aged in the context of battery of elderly parents by their children. Domestic violence is the most common and widespread forms of violence in Tanzania. It includes physical violence; mental torture; emotional abuse; being deprived of food and/or shelter; being isolated and ostracized within the family structure; being deprived of care and treatment during illness; verbal abuse; and being denied respect.

Unfortunately, perpetrators of domestic violence do so with impunity, with the confidence that 'No Action- Legal or Social would be taken against them'.

A Journalist student from St Augustine University, Mwanza writes more:

(ii) “Domestic violence against women in Tanzania, the never-ending story”

By Maria John Mtambalike

“My husband beat me to the extent that he destroyed my one leg, but I never report anywhere because I love him and he beat me because he loves me too.”

This is one statement among many that represents a cultural acceptance of domestic abuse by a number of women in Tanzania.

Statistics shows that 85% of all victims of domestic violence are women, one among every four women experience domestic violence and those who are mostly affected are women aged between 20 to 24 years old. Most cases are never reported.

Mara is a region where a large number of domestic abuse cases are reported. This is either due to the fact that more women actually report cases of domestic violence or that they occur with a higher frequency than other regions in Tanzania. Take for example two cases that have been reported from the Mara region: one is Neema Ngoko, who was brutally beaten by her husband and locked indoors for two weeks despite her being pregnant, and Stella Nyakuboi who experienced violence leading to death inflicted by her husband out of a jealous rage.

In Dar Es salaam the situation occurs, but few people have the courage to report it. Amina Rashid is among one of many women who experiences abuse by her husband because of jealousy, to the extent that is has destroyed one of her legs, however she doesn't want to report it anywhere. She believes that beating is a part of her life and that her husband has the right to beat her because he loves her. This view is representative of a strong cultural attitude surrounding domestic abuse, where acceptance by women is strong.

.....Mr. Majaliwa, a father of four children, explained that the tendency to beat one's wife is not good because it affects children psychologically and it can influence them to disrespect their mother, and possibly become violent later in their lives. He added that there some women who feel that to be beaten is a sign of love so they try their best to make their husband angry so as to beat them. He emphasized that education needs to be provided to women so as to know their human rights.

According to the Tanzania Legal and Human Rights Centre 2012 Human Rights Report, the Tanzanian constitution expressly provides for the rights of women. There are also police directives and programs which address issues of Gender Based Violence. For example, Tanzania's Poverty Reduction Strategy Papers (PRSP) lists violence against women as one of its indicators of poverty, a feature that is rare among PRSPs in other countries. Also, the Ministry of Community, Gender and Development has established a national committee on gender based violence. Gender based violence is a criminal offence in Tanzania under Part XV of the Penal Code". <http://wewriteforrights.wordpress.com/2013/08/11/domestic-violence-against-women-in-tanzania-the-never-ending-story/>

(iii) "Tanzania: Domestic violence a serious concern"

Dar Es Salaam, IRIN: 20th April, 2006

"Tanzania is one of several low-income countries with a high rate of domestic violence, according to a recent study by the World Health Organization (WHO) on women's health and domestic violence against women. The WHO study, launched on Wednesday in Tanzania's commercial capital Dar Es Salaam by Sofia Simba, the minister for community development, gender and children, said 30 percent of victims of violence in the east African country ended up with serious injuries due to severe beating.

Halima Mikidadi, 42 and a resident of Dar Es Salaam, is one such case. "I was beaten by a man with whom I was living and had a child with," she said. "It was some 15 years ago. He used a stick to beat me and broke my kneecap. I had to undergo an operation to insert a plate in my knee. I have never recovered because the injured left leg is now shorter. The man was never taken to court. After some years our relationship ended, and he is now married to another woman. I have left it all to God."

Ananilea Nkya, the executive director of Tanzania Media Women's Association "Domestic violence is rampant for various reasons, including patriarchal and cultural beliefs as well as practices that degrade women. A man can do anything against a woman simply because he had paid dowry."

The association has a legal aid project for abused women. "We have helped hundreds get legal redress," Nkya said. In compiling its report, WHO conducted surveys in Bangladesh, Brazil, Ethiopia, Japan, Namibia, Peru, Samoa, Serbia and Montenegro, Tanzania and Thailand. The Tanzania survey involved 1,820 respondents in Dar es Salaam and 1,450 from Mbeya region. "Of those beaten, more than 20 percent in Mbeya and 15 percent in Dar es Salaam had lost consciousness," Simba said, quoting the report.

Women in Tanzania, as well in the other countries covered by the study, reported being punched, kicked, dragged, choked, intentionally burned and, in some of the worst cases of sexual violence, threatened with weapons. Those who experienced physical or sexual violence faced several health problems, including pain, difficulty in walking and carrying out daily activities, dizziness and erratic memory.

The study also revealed that 7 percent of the women were beaten by their partners while pregnant. In Dar es Salaam, 38 percent of those beaten while pregnant reported being punched or kicked in the abdomen. In Mbeya, these figures were 12 percent and 23 percent, respectively.

About one-quarter of the women interviewed in Tanzania had also been subjected to non-partner physical violence from the age of 15 years, the main perpetrators being teachers, who were mentioned by more than half of all women who reported physical abuse. The study also found that one in 10 women had experienced sexual violence by a non-partner since the age of 15, with boyfriends and strangers being the most frequently mentioned perpetrators. About one out of 10 respondents reported sexual abuse before age 15.

Many of the women who participated in the study believed that a husband has a right to beat his wife under certain circumstances, ranging from not adequately completing housework to refusing sex, being disobedient and being unfaithful".

The Gender Based Violence is a local and a global phenomenon. The local and global processes are connected to form struggle and contestations!. A 27 year old University student from Thailand, confirms that GBV is a global issue, in WHO (2005:2):

“The beating was getting more and more severe... In the beginning it was confined to the house. Gradually, he stopped caring. He slapped me in front of others and continued to threaten me... Every time he beat me it was as if he was trying to test my endurance, to see how much I could take”.

And in Brazil, another woman is quoted:

He got this gun, I don't know from who... And he would tell the girls: “I'm going to kill your mother... The day will break and your mother will be dead right here...”. ... “I would sleep in a locked bedroom and with a dog inside the room with me. My dog. So he would not kill me”.

Women and girls who are violated experience adverse health and well being impacts – including physical injury and emotional pain (see Maria's and IRIN's stories). An equally damaging consequence is the economic cost to individuals, households, communities and States at large. Implementing protections that prevent discrimination and violence against local and migrant domestic workers could be more cost effective than post-violation assistance. The economic effects of violence for individuals include increased absenteeism from work, decreased labor market participation, reduced productivity, lower earnings, investment and savings. Families bear the direct financial costs of violence in expenses to treat survivors and bring perpetrators to book. A study of households in Uganda (East Africa) found that each household incurred an average cost of \$5 per incidence of violence – a substantial

amount considering that the average per capita income in Uganda is only \$340. Violence against women is often correlated with emotional impacts on children, including disruption in schooling for the children of survivors. Such delays in the educational development of children can have long-lasting economic consequences for individuals and households.

5.7.3 Human Trafficking

According to the U.S. State Department report on trafficking, Tanzania is a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labour and sexual exploitation (USAID 2008:11). Tanzanian girls from rural areas are trafficked to urban centers and the island of Zanzibar for domestic servitude and commercial sexual exploitation. Some domestic workers fleeing abusive employers fall prey to forced prostitution. While statistics on trafficking are difficult to obtain because of the underground nature of the phenomenon, existing evidence indicates that it is a significant problem in Tanzania. For example, in 2007, the Ministry of Labour withdrew nearly 1,100 victims from forced child labour situations (ibid:11).

While there is a lack of global data on undocumented female DWs, rough estimates indicate that there are at least 1.2 million in Asia region. Trafficking for economic exploitation represents close to one-third of forced labour trafficking, and 56 per cent of these victims are women and girls. The United States 2011 trafficking in persons report highlights a disturbing and previously invisible trend, where women migrant DWs who offer sexual abuse in the home are forced into prostitution after employers turn them over to their parties and restrictive labour laws prevent them from seeking help. In some countries trafficking DWs

is significant. In Indonesia for instance, nearly 60 per cent victims assisted in 2009 were DWs (UN, 2011). Children are an especially at-risk group – the ILO estimates that 40-50 per cent of the 12.3 million people affected by forced labour worldwide are under the age of 18. In West and Central Africa nearly 90 per cent of trafficked domestic workers are girls. A World Bank study estimated that annual rates of rape and domestic violence translated into 9 million years of disability-adjusted life years lost, including premature mortality, disability and illness (ibid.)

5.8 Survival Strategies of Domestic Workers

The 10 per cent live-out domestic workers should not be under-estimated (Table 5.3). It is a growing market in Tanzania and elsewhere in Africa. In one hand, it grows mutually as part of social practices in social relations and recruitment processes and on the other hand it is a gradual process of escaping dependency and challenges existing in and around the domestic sector. Lack of DWs influence over working time arrangements, long open ended hours and insufficient rest and exploitation are some of the reasons for escaping dependency.

Table 5.3: Reason for live-out preference by domestic workers and employers

Domestic workers views	Employers views
(a) I feel better when I go home after work	(a) Live-in can steal properties especially those from Tanganyika (mainland)
(b) There is no much work in the evening	(b) Food and accommodation are expensive for live-in workers
(c) Have works to do in my own house	(c) My live-out is from Zanzibar. If she is a crook I know where to get her because the parents are in Zanzibar
(d) I need time to rest and share with friends	(d) I have little work for a live-in domestic worker
(e) I am too old to stay in employers house	(e) Bad habits annoys me this is why I prefer a live-out
(f) I am less exploited when I am out	(f) My live-out is a student gets school fees and stays with his own parents
(g) I married with two children I can't live-in	(g) Live-out know what to do, are professional than live-in

ILO Qualitative Research on Domestic Workers in URT, 2013

The labour markets in Tanzania and elsewhere in Africa are very dynamic. ILO (2013:2) confirmed that, geographical movements in Africa remain largely internal, i.e. from rural to urban centers and from rural to other rural areas; and international migration remains largely within the continent. These dynamics

reflect the power of labour markets and how these markets (live-in and live-out, local and global) interact and shape each other in many different ways. While the local markets (rural to urban) in Tanzania have deep historical roots, the regional, continental and global markets involve transnational migration, competition

and need for quality service. They are the expression of the desire for development through a self-controlled and self-managed market, which allows DWs and living nature to interact with the market on their own terms, thereby reducing their dependency from traditional and internal markets. With live-out markets, employers are more specific; their desire is to get better services, which makes the domestic workers to be competitive in searching jobs in local, continental and the global markets. For instance, in Cambodia, household and language skills for migrant DWs are mandatory and contract is drawn in two languages, English and Khmer UNIAP (2011:24).

In-depth interviews with some employers indicated the following with regard to live-in and live-out recruitment processes:

“At one time we had no body at home and we were robbed day time. After the robbery we changed and got a live-in though my husband prefers live-out workers. But I differ with him, because live-out can go home before I arrive from the office without finishing the household duties. I have to work myself very late hours” (Female employer, Mwanakwerekwe Zanzibar).

And:

If you have a live-out domestic worker it is easy to avoid a number of conflicts especially when the worker is becoming so familiar with neighbours who are not your friends or good neighbour. The good part of live-in is to let him or her do anything and at any time (Employer, June 27, Mwanakwerekwe, Zanzibar).

From the above cases, the labour market in Tanzania plays a key role in creating social networks (kinship, friendship, ethnicity etc) of dependency that give employers almost absolute control over the labour particularly in live-in working condition.

Other common strategy for escaping dependency is through the internal and external migration. By doing so, they escape dependency and at the same time they find new labour markets and new sets of social relations and practices. With few resources in their households, domestic workers in Tanzania largely migrate from rural to urban areas in another district within the country. Yet, their mobility go with too many challenges. Young men and women often engage in marginal works which are highly risky including prostitution and crime – smoking *marijuana* and pick-pocketing (*vibaka*) in urban areas. For migrant domestic workers, more sexual risk behavior and increased risk in HIV/AIDs is a challenge, not only in mobile persons but also in partners staying behind due to a number of factors, such as loneliness, peer pressure and lack of financial support.

This means, partners who stay behind may also engage in riskier sexual behavior. In some instances, employers recruit DWs from rural areas and involve them in slavery-like practices - the sexual commercial exploitation. Medard et al., (2014) observed a number of migrant girls and women from rural areas to highly concentrated fishing areas. Owners of bars, guest houses and hotels recruit them in commercial sex in order to respond to the demand of fishing crew and camp owners seeking to spend their cash for day's fish. Piore (1975) also argued that, lack of employment and poor working condition can create a vicious circle for DWs especially when there is little incentive from the employer.

A new emerging set of relations to escape dependency and long, open ended hours has been largely found in Zanzibar. The baby sitting arrangement is done at domestic worker's own home and the employer's travel to bring and pick the child. It is greatly commercialized in Zanzibar while in Tanzania mainland; occasionally a child can be sent to

a friend, a relative or neighbour and picked later with little cash or in-kind payment. In urban centers (mainland and Zanzibar) other domestic workers work in more than one household for permanent and part-time jobs. Many times, such live-out domestic workers stressed that they choose such working modalities because of freedom. This struggle to work part-time to be home baby sitters goes beyond generating income per se and involves escaping dependency relations and unfair working conditions.

The unequal relations of power between domestic workers and their employers are among the reasons for these new emerging relations and counter tendencies. The domestic workers have gradually developed an antipathy to the power concentrated in the hands of employers. This is why everyday forms of struggle, resistance and counter tendencies evolve. Unfair working conditions in the households and labour markets seem to be the major driving force of social change in domestic sector. This underscores the social political meaning and importance of labour markets: they are the expression of the desire for development through self-controlled and self-managed labour markets. However, the labour markets in domestic work in Tanzania are situated in a fragile environment. Lack of power by domestic workers to compete with powerful actors – the employers, the agents of employers (*madalali*) and finally the relatives through the social cultural norms and practices imbedded in kinship arrangements contribute to domestic workers powerlessness. Influence by family networks such as parents and kins member play a great role.

5.9 Summary of Part V

Domestic worker's labour relations and recruitment process is related and shaped by many factors including; labour market transactions, kinship, social networks and the

political and legal processes in and outside the country. The social relations and networks between a domestic worker and employer is narrowed - reducing negotiation power of domestic workers indicating a higher degree of stratification of the sector and integration into labour market and capitalist economy of this important sector. With global and local interactions, the future career path for low skilled labour is becoming uncertain because skilled, pro-active and migrant domestic workers are becoming more competitive.

In Tanzania, the employer of domestic worker plays a vital role in determining the living and working conditions of domestic worker's in his or her employment. The relationship between the employer and the domestic worker consist of several facets; it is not only a work relationship, since the nature of domestic work at times creates emotional ties between the employer and the domestic worker. It makes clear the need for action at the structural level (the legal framework) and at the micro-level where the real practices contribute to discrimination against and exploitation of these workers.

However, the existing regulations in Tanzania do not encourage employers to respect the rights of domestic workers. Regulations uphold the employer's position of power over their employee and discourage workers who have suffered regulations from seeking redress. For instance, the reluctance to interfere with the privacy of the home (by police force investigators) prevents authorities from effectively monitoring the situation of domestic workers or investigating allegations of abuse. Generally, domestic workers in URT are voiceless; their rights are denied with unpaid and underpaid working condition. They are socially and physiologically abused, humiliated, excluded and denied their rights in many different ways. All in all, gender discrimination plays a role in perpetuating

the violence and abuse and in maintaining the silence on what is happening in homes of many employers in Tanzania.

In general, working conditions of domestic workers in Tanzania are found to be embedded in oppressive material conditions, including isolation, loneliness and powerlessness, and invisibility. Exploitation is imposed by long working hours, unpaid labour, unpaid overtime and limited and/or lack of time off. Violation of rights perpetuates inequality and injustice. The potential exploitative work relations may

result from an employer with little 'concern with equity and fairness' employing a live-in domestic worker with a low 'sense of self-worth'. Sometimes, lack of awareness on the part of employers could contribute to some form of unfair treatment of domestic workers. Despite their vulnerability, live-in and live-out domestic workers are not helpless victims. Their strategies for survival and struggles to form social networks (through CHODAWU³¹⁶ and IDWN) in order to organize themselves for change, have been persistent themes.

316 For instance in 2013, IDWN organized a meeting in Mwanza with participants from Kagera, Mara and Mwanza to form domestic workers networks through CHODAWU regional offices.

Part VI

Policy Implications

“The ILO Convention on Decent Work for Domestic Workers presents a tremendous opportunity. Ratification is an entry point to institutionalize the protection of domestic workers, and states will be accountable for elimination of all forms of discrimination, especially labour discrimination.”

Gardy Costas Sanchez, 2013

6.0 Introduction

This report gives account of the existing legal protection of domestic workers in Tanzania through the eyes of the ILO Convention No. 189 and Recommendation No. 201. This is done in order to determine the extent to which Tanzania and Zanzibar laws protect domestic workers as a distinct category but also as part of the corpus of employees. The report also gives an analysis of the demographic characteristics of domestic workers and the existing working conditions in the sector. This part concludes and summarizes the recommendations made in the report to help build policies that will best promote and create fair and decent work for domestic workers, strengthen social protections that ensure decent work conditions for domestic workers, and that cultivate an environment for domestic workers to invest in themselves and consider themselves as workers.

6.1 General Observations

The study leading up to this report set out to conduct a rapid survey of domestic workers in Tanzania, for both Mainland and Zanzibar. In particular it aimed at providing information that allows for in-depth understanding of

domestic work and its dimensions in Tanzania. Ultimately the methodology employed in this survey is expected to be replicated in similar countries for the same purpose based on a country requirement. One of the objectives of the study was to design and test an innovative survey methodology for identifying and enumerating domestic workers and households that employ domestic workers, taking into account the constraints and invisible forms of domestic work mentioned in previous chapters, and ultimately provide reliable estimates of the number of domestic workers and employer-households and other key characteristics. The study estimates (using the population of 2012 that was reported at 44,933,923) that the number of domestic workers in Tanzania is approximately 1,728,227. This is over two fold the size based on official projections of integrated labour force survey. Over 90 per cent are engaged in preparation of meals, washing and ironing clothes, fetching water or firewood for home use, cleaning the house, and looking after infants. The other 10 percent are engaged mostly in taking care of the sick, the disabled, the elderly, and of gardens; driving the family car as a means of transportation; and guarding the house and premises.

In terms of gender distribution of domestic work in Tanzania, this survey found that 75.3 percent of domestic workers are females and the remaining 25 percent are males. The average age of the domestic workers is 22 years, the minimum is 10 years and maximum 80 years. More than 75 percent are below 25, indicating the potential for youth employment and child labour tragedy within this kind of employment. Over 97 percent of households employing paid domestic workers are in formal settlement. At least 93 percent of employers of domestic workers have an income that is above 200,000. The remaining 7 percent have an income below 100,000 and this includes. In addition, at least 91 percent of all employers

of domestic workers own a fridge, an indicator that most employers of domestic workers can afford to pay their employees if they chose to oblige by the law.

The legal analysis revealed that domestic workers are by and large protected by the existing laws governing workplaces, particularly when one considers the fact that the laws cover all employees (except for sectors that are covered by other laws such as the Police and the Tanzania People's Defence Forces). Irrespectively, it is evident from the discussions in the previous chapters that domestic workers, in practice, are in the periphery of legal protection to the extent that their protection is only seen when they access labour dispute machineries like all other workers. In some cases, the provisions of the law, such as those of the *Workmen Compensation Act* of 2008 and the *Occupational Health and Safety Act* of 2003 both of Tanzania and the *Occupational Safety and Health Act* of 2005 of Zanzibar, clearly do not cover domestic workers in that the definitions of workplaces and the requirement for registration for the employers is well beyond the purview of employers in the domestic work sector although the definitions of employee/worker seem all encompassing.

On account of the flaws in some of the existing laws which by their very nature purport to cover all employees, domestic workers inclusive, this chapter makes various recommendations targeted at improving the working conditions of domestic workers. Increased participation of women in domestic work, the potential tragedy of child labour, increasing number of domestic workers living in with low level of education, and non-payment of salary by employers leave a vacuum for policy instruments to shape the employment environment of this sector. Realization of decent work and improved working conditions for domestic workers will

depend heavily on whether and to what extent enforcement of laws and regulations within this area of employment can take into account most of these findings and recommendations. It will also depend on a well-articulated set of national objectives for DWs, developed with key ministries and stakeholders; capacity to implement the desired outcomes for DWs; and accountability.

Finally, the report concludes that the methodology and approach adopted in this report are capable of providing improved estimates of domestic work and can be replicated in other countries with similar conditions to the United Republic of Tanzania.

6.2 Recommendations for Building an Effective Policy Environment for Decent Work for Domestic Workers in the United Republic of Tanzania

In recognition of the importance of the domestic workers in Tanzania, as house servants, child minders, cooks, cleaners, and most importantly, house managers for families with working couples, and the fact that without it the most protected "formal" sector would be shaken and could possibly collapse as would the economy of the country, this report is recommending the following:

6.2.1 Define Domestic Work with Distinct Scope of Coverage of Domestic Service

Previous chapters raise questions about the appropriateness of the existing definition of domestic work in Tanzania. They demonstrate the confusion in the current legal framework of who a domestic worker is, making their protection complicated. Domestic workers in the United Republic of Tanzania (URT), in one form or another, come under the legal coverage of the labour laws. However, incorporation of various broad categories of tasks and generalization of domestic work under labour laws blurs the limits of domestic work. While broad categories of workers are

included in the domestic group, this definition is confined to a household setting, excluding workers in commercial and industrial settings such as small and medium scale shops, who in essence, are considered domestic workers by their employers. The definition of the household (the workplace of a domestic worker) is also blurred, given the various ways in which the household has been defined in the country. General labour laws therefore allow for only partial regulation of domestic work.

It is submitted that the coverage of domestic workers should be confined to those who work and are employed in a household setting only. An all-encompassing definition of who a domestic worker is to the extent of encroaching on other “better” protected sectors, is counterproductive. For instance, the inclusion of watchman, bar attendant and valet in the category of domestic workers group disadvantages such workers who, if properly categorized, would benefit the working terms and conditions in their respective sectors. This is particularly the case where one considers what a watchman, bar attendant and valet do in the household is not different from those who work in the better protected sectors. Exemplifying by remuneration, the minimum salary for the mentioned categories of workers, if properly categorized in their sectors, would be TZS 80,000 while currently, if their employers pay them TZS 65,000 the employer may still be complying with the applicable law.

Thus, proper categorization of the workers, in line with the envisioned coverage by the ILO Convention No. 189, would protect not only the domestic workers from the “confusion” which currently exists but also other categories of workers who are mistakenly considered domestic workers and yet have their own specific sectoral categories that are equally protected by the law, and at times, better than

the domestic workers, the group in which they are currently lumped.

Irrespective of the very elaborate list of categories of workers who are covered as domestic workers, there are a number of other workers who also qualify to be domestic workers but are excluded from coverage by both law and practice. One of the categories of workers in Tanzania and Zanzibar that is excluded from the ambit of domestic workers is that of workers who perform household duties at the unoccupied premises of their purported employer. These workers clean the house, do gardening, and at times act as watchmen for the premises. Although one may argue that the law covers this category of workers, in practice they are not covered. Notwithstanding that even those in the “proper” households are not well protected in practice, domestic workers in the unoccupied premises are even worse off and are could face difficulties in enforcing their rights in the labour institutions as they might fail to prove that there was a contract of employment. This is based on the fact that the employer may argue that such workers were never employed but would only be engaged for specific tasks or on a daily basis which means once the task is completed or the day ended, such workers are free to be engaged by other people or employers.

Another category of workers who are not covered by the regulatory framework and in practice is that of domestic workers who are purported family members or relatives of the putative employer. This category of workers forms one of the big groups of excluded workers under the disguise of family ties or relationship. Related to this group is the adoptive children who also do domestic work but are not treated as such on account that the “employer” is actually fostering them and, at times, doing them a favour by providing them shelter. Such people perform all the functions

of a domestic worker but the “employer” would want to dodge responsibility and therefore alleges that there is no employment relationship.

The exclusion of domestic workers is implied for an even larger group of workers in what would be in the categories of those covered by the letter of law. This exclusion is caused by the lack of labour inspection in the “workplaces” of domestic workers which translates to lack of compliance, enabling employers of domestic workers to get away with breaches of law in their households. Therefore, although the law is broadly all embracing, there are domestic workers who are, at least in practice, excluded from the ambit of the law because of the nature of their work or because of the weak labour inspectorate.

Strengthening the labour inspectorate, it is submitted, will ensure that all categories of domestic workers are protected against the unscrupulous employers who currently dodge their responsibilities.

It is recommended that the laws in the United Republic of Tanzania be reviewed and amended to take into account the elaborate definition of domestic work as stated by LO Convention No. 189. It is submitted that the existing confusion of what domestic work is, which is perpetuated by law, will be dealt with and the employers and employees will equally know whether they are in domestic work employment relationship or not.

6.2.2 Formal Recognition of Domestic Workers as Real Workers

The informal nature of domestic work and related uncertainties about the existence of an employment relationship often lead to ambiguities regarding to the mutual rights and obligations of workers and employers. This has disadvantages for both parties, with

particularly pronounced power imbalance in favour of employers.

Social norms and customs or tacit agreements do not provide adequate protection of domestic workers’ fundamental human rights, which includes “just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity” and “rest and leisure, including reasonable limitation of working hours”. To a large extent, the prevalence of long working hours; the absence of daily and weekly rest periods; sub-minimum wages; high incidence of delayed payment of wages; lack of access to medical care and social security including maternity benefits for women; all of these issues result from the lack of established, formal employment relationships.

Undoubtedly, many employers treat their domestic workers well but the absence of legal standards and formal contractual arrangements renders workers completely dependent on the goodwill of employers. As the subordinate party in the employment relationship, domestic workers are vulnerable to exploitation and abuse. In case of disagreements over wages and other terms of employment, they are in a weak position and lack concrete basis on which to raise and enforce any legal claims.

Formalizing employment relationship assists in achieving a better recognition of domestic workers as “real workers”, and of the important work they do for the safety, cleanliness and care of the household.

Formalizing the employment relationship also benefits employers. Statutory requirements are a useful guide for negotiating or proposing specific contractual arrangements with a prospective employee. Clarity and transparency in rights and obligations, in general, will help the parties

to avoid misunderstandings and maintain a harmonious employment relationship. In case of problems, the employer could also rely on law and formal contractual arrangement for redress and just resolution.

A first step towards facilitating formalized employment relationships is putting in place inclusive labour and social laws and regulations in line with international human rights and labour standards, including the Domestic Workers Convention, 2011 (No. 189). But this is not sufficient. The two main ideas that need to be recognized are that one, domestic work is real work and two, domestic workers are workers with rights. Because social customs, imaginary kinship relationships, and vestiges of colonial and ancient traditions partly explain informal domestic work arrangements (as well as unacceptable forms such as domestic servitude, child labour and forced labour), concerted efforts towards changing attitudes and perceptions, and raising public consciousness about domestic workers' rights and social value are necessary. Making domestic workers and their contribution to families and economies more "visible" to the public, such as through better data, contributes to these efforts.

6.2.3 On the importance of contracts and a paper trail

On employment contracts, domestic workers should receive full information on their terms and conditions of employment, preferably through a written contract. Contracts lay down the key terms and conditions of employment. A written contract is a strong manifestation of formality and a proof of existence of an employment relationship. It plays an important role in empowering domestic workers and is a guarantee of decent working conditions if applied. Legislation in both Tanzania Mainland and Zanzibar make a written contract mandatory and require

employers to provide a written statement of particulars with specific provisions on the conditions of the employment. This needs to be enforced to improve the protection of domestic workers, both local and migrant.

It is strongly advised that the government set a mechanism for supporting domestic workers that are not able to read or understand terms of contracts or statements of particulars, due either to illiteracy or language barrier. The same holds true for many employers who also need guidance in understanding their rights and obligations in an employment relationship, and how to define the terms and conditions of an employment contract.

In addition to contracts, other forms of paperwork are vital:

- i. Records: Payslips or other types of proof of payment, working time records, and the registration of contracts with a public body;
- ii. Easy, transparent procedures: Administrative procedures and institutions that make it easy for employers and workers to register employment contracts, register with the social security system and pay their social insurance contributions
- iii. Working time for live-in domestic workers: in designing working time regimes for live-in domestic workers, the following are some highlights to help guide policymakers in thinking about limiting and regulating the working time of live-in domestic workers.

6.2.4 Clarifying key notions and concepts for domestic workers

(a) Start time and end time

The most apparent characteristic of live-in

domestic work is the difficulty in identifying start and end time. “Live-ins” are considered to be available for work around the clock, from the moment they wake up, to the time they go to sleep, and beyond. A typical scenario that illustrates the difficulty in registering end time is, for example, when the domestic worker is told she is free to retire to her room, and then called on 20 minutes later to fetch the employer a drink or snack. In this case, when would the accurate end time be placed? This also implies that the start time and end time can vary from day to day. These characteristics create difficulties in establishing fixed schedules and, as a result, limiting working time. For this reason, start time, typically the time at which the domestic worker starts her first task, or is called on for the first time in the day, and end time, typically the time at which the last task had ended, and/or when the domestic worker was no longer available to perform tasks at the request of the employer, must both be clearly defined and recorded to ensure that the daily limits in force are respected.

Regulating the working time of live-in domestic workers also means clarifying the difference between working hours, standby hours, and breaks. Because very often no distinction is made between working hours and non-working hours for live-in domestic workers, the notion of overtime and standby time does not exist, and work in excess of the normal hours is often not remunerated at all. This leads to long hours of somewhat unpredictable work flow that is not regularly punctuated by clear break periods.

Improving the working time of live-in domestic workers means reducing the periods during which it is unclear if they are working or if they are resting. A key finding from the research is that domestic workers are not truly able to enjoy rest periods unless they are genuinely free to dispose of time as they

please, including by leaving the household premises. It is clear that, like all other workers, domestic workers should be present during the hours they are contracted to work (which may include standby hours). However, when they are on daily rest, weekly rest, or leave, it should be clear that they are allowed to leave the household in order to fully dispose of time as they please. In addition, sufficient breaks during the work day need to be ensured. This is the best way of ensuring that domestic workers can genuinely enjoy their rest periods. Interruptions during sleep must also be strictly limited to emergencies to ensure that the domestic worker is getting adequate rest.

(b) Formalize the employment relationship

Many domestic workers do not have the capacity or power to negotiate working time arrangements with their employer. Live-in domestic workers and employers of live-in domestic workers should be encouraged to have clear, open communication on tasks, working time and daily and weekly rest. Regular check-ins would allow both employers and domestic workers to raise concerns and make needed amendments to the working time arrangements. Once established, working time arrangements should be written, and working time and remuneration recorded regularly, using the definitions provided above. A good tool that records a work schedule, tasks performed and real hours worked helps to promote a harmonious work relationship and prevents misunderstandings.

Promote formal employment practices in the home: In addition to setting regulation, attention must be given to awareness raising and the development of tools for domestic workers and employers to better manage the employment relationship. This process could start with the development of standard or

model contracts. These could be supported with published guides on the legal obligations in employing domestic workers directed at employers and domestic workers.

As in most employment relationships, domestic workers and employers should agree at the outset on the tasks to be performed, the work schedule including periods of rest and overtime, appropriate remuneration for the work performed, and a schedule for when payments are made.

Working time of live-in domestic workers is best regulated through the use of practical tools that are simple and accessible to both workers and employers. Tools would be introduced ideally in the following order: 1) written standard or model contract, 2) agreed schedule of tasks to be performed and regular breaks negotiated and agreed upon, and 3) tools designed to record tasks, working time and breaks, and pay slips.

These tools will also have to be extensively disseminated and promoted, and the practice of negotiation encouraged. Organizations of workers and employers have a key role to play in this respect, raising awareness of their constituents and helping them to learn appropriate behaviours in the domestic employment relationship.

Given the extensive working hours reported by live-in domestic workers, priority must be given to limiting the working time of live-in domestic workers. To make these measures effective, programmes should also be developed to extensively raise awareness and promote good employment practices in the domestic work sector. Following are considerations policymakers may wish to make to effectively protect live-in domestic workers from overwork.

Limit working time: In working time

regulation, define normal hours of work, rules regarding standby, rest periods and breaks, and encourage workers and employers to negotiate clear work schedules, including start times and end times. Limit standby time and overtime hours, and define how these periods are to be remunerated. Set adequate periods for short breaks during the day, and daily rest to ensure domestic workers have time to get adequate rest. Set strict conditions under which night work can be performed and sleep/daily rest can be interrupted. Ensure that domestic workers are allowed to leave the household for their periods of break, daily rest, and weekly rest. Ensure compensatory rest in case of exceptional work during rest periods, especially at night, is, irrespective of financial compensation. Also, require employers to document the domestic worker's work schedule as well as any extra hours worked. Such provision can also provide that these records are accessible to the worker and the authorities charged with supervising compliance with the legislation, such as labour inspectorates.

(c) Empower Domestic Workers

Previous chapters also brought to light multiple forms of oppression domestic workers face based on class, nationality, gender, and race. Current labour laws in the United Republic of Tanzania are not comprehensive enough to guarantee basic workers' rights for domestic workers or provide them protection from, or remedies for, employer abuse. While legal reform in both Tanzania Mainland and Zanzibar is necessary to codify rights and remedies for domestic workers, it may not be sufficient. An approach that is community-based and enables domestic workers to organize can empower communities to generate meaningful social change, including addressing conditions of power and privilege that cause domestic worker abuse and oppression. Effective organizing of domestic

workers to form trade unions has been shown to be rather challenging. Worker centers or worker cooperatives however, could serve as one stop-shop for domestic workers where they can get information or lodge complaints relating to a broad range of issues. In line with the ILO Convention No. 189, it is suggested that there should be complaints mechanisms for domestic workers' discomforts and that after receiving such complaints there should be thorough investigation and prosecution of offenders. While this is being done, the domestic workers should be afforded opportunities for temporary accommodation and relocation from their abusive or violent employers. Also, such victimized domestic workers should have access to health care and rehabilitation. These initiatives, coupled with widespread and sustained awareness about rights of domestic workers, emphasis on socio-economic value of domestic work, and profiling of domestic work as a sector, training and education of domestic workers could facilitate social change, alongside legal reform efforts. Guidelines and regulations on how labour inspection may be conducted in households as one of workplaces for domestic workers as well as better monitoring and evaluation of enforcement initiatives, are also necessary. Greater access to homes should be supplemented with more inspectors, more blitzes, tougher penalties, and greater capacity for analyzing and integrating national policy, planning and budgeting processes, and coordinated implementation.

(d) A union is necessary to protect the rights of workers

It is suggested that employers for domestic workers also be sensitized to establish a trade union and federation of their own as provided for by the laws in both Tanzania and Zanzibar. There is no time like the present to put efforts of employment associations and civil society organizations together. Working with CSO's

already working with domestic workers could accelerate achievement of domestic workers' protection. Partnership with state organs (UIF, SAPS, Local Government, CCMA) and other non-state institutions such as academic institutions and trade unions e.g. the involvement of DWRP in various initiatives, is encouraged.

(e) Improve Protection of Domestic Workers

A domestic worker's scorecard with indicators for what stands as domestic worker's rights and employer's scorecard with indicators of what is expected of them, could help build a culture of compliance and rights. Parallel to this approach, there must be measures to compel employers to do the right thing and impose sanctions where necessary. The tension between the role of the state as protector of domestic workers and the need to empower domestic workers must be neutralized.

The labour inspectorate should be strengthened in terms of sufficient resources such as human and financial resources, training and re-training in specific matters relating to domestic workers. This should go hand in hand with the preparation of inspection and labour compliance guidelines for the domestic work sector. It is submitted that the local authorities should be involved since they are the ones who know domestic workers in their localities. This will ensure the protection afforded by law to other employees is extended to domestic workers. For instance, a strengthened labour inspectorate will ensure that work performed by domestic workers who are under the age of 18 and above the minimum age of employment does not deprive them of compulsory education, or interfere with opportunities to participate in further education or vocational training. Also, strengthening the labour inspectorate will

ensure that Paragraph 8 of Recommendation No. 201, on recording of working hours for domestic workers, makes a difference, particularly where the domestic workers are subjected to work beyond the maximum hours set by law.

Also, it is suggested that the inspectors under the *Occupational Health and Safety Act* of 2003, in collaboration with labour inspectors, should inspect workplaces for the domestic workers, the households, to ensure that they comply with the health and safety standards. Security of employment for those who are studying and work is needed so they are able to complete their studies.

(f) Remuneration

On the account that domestic workers are the most lowly paid workers in both Tanzania and Zanzibar, the fact that the law in Tanzania allows 68 percent deductions for live-in domestic workers, is unrealistic. Considering the spiraling inflation, TZS 20,800 payable to live-in domestic workers as minimum wage is absurd, to say the least. Although this minimum wage reflects what the employers get so that they are able to pay their domestic workers, it is unjustifiable that the minimum wage of a domestic worker is so low to be able to sustain a domestic worker even if unpalatable food and accommodation is provided by the employer. Thus, it is proposed that the law on remuneration should reflect the realities in the market since the domestic workers also use the same facilities and purchase goods from the same markets that other employees and employers purchase.

There is a need to revise the minimum wage of domestic workers relative to inflation and changes in living standards. This suggestion also applies to Zanzibar where domestic workers are supposed to get TZS 60,000, without any distinction between live-in and

other domestic workers. It is submitted that the salaries given to domestic workers are very low and subjects the workers to financial dependency all the time.

Related to the foregoing, the law should provide for protection of live-in domestic workers in order to ensure that, among other things, food and accommodation offered are palatable to the safety and health of the worker. Further, the law particularly that of Tanzania which allows deductions for food and accommodation availed to the domestic worker should be amended in the letter of the ILO Convention No. 189.

For the types of work performed by domestic workers and remunerated as such while in actuality qualify for categories outside domestic work should not be treated other than domestic work. For example, two domestic workers who also load business cargo should be paid as workers employed in the formal sector. Paying them otherwise perpetrates employer's evasion in paying benefits to such workers. Low income on the part of the employer should not translate to low salary on the part of the employee, the domestic worker.

In order to ensure domestic workers are well protected, particularly in issues of remuneration and other working conditions, commensurate with the workload, it is also recommended that domestic workers should have a separate wage board as a distinct sector. It is submitted that this will protect domestic workers and their peculiarities, currently not the case, as they are lumped together with other categories of workers under the Domestic and Hospitality Services Sector Wage Board. Some employers are already paying more than required, but we cannot rely on employer's kindness because this is not the norm. Wages of domestic workers could be arranged on the basis of

tasks assigned if inside work such as cleaning, washing, cooking, children, or gardening or guarding. This pattern is somehow clear in Zanzibar where domestic is needed mostly for cleaning and mothers takes care of the children and cook. There could also be a person for gardening, guarding and washing for those who can afford. This approach simplifies other arrangements such as training and allocation of time and money.

(g) Address Child and Youth Labour Issues

Employment of child labour is present in some places in urban Zanzibar and in urban Dar es Salaam which should be areas of intervention in the future. To address the issue of child labour and improve working conditions of young workers of legal working age in domestic work, special consideration should be given to the needs and vulnerabilities of this category of workers when reviewing policies, regulations or the legal framework.

It is submitted that the law should specifically state the working hours of children which should essentially be lesser than those of the rest of the workers so as to cater for rest, education and training, leisure time and family visit. Night work should be prohibited and work that is excessively demanding, whether physically or psychologically, restricted, to protect their health and safety. This should go hand in hand with the law specifying the minimum age for children in domestic work. Further, the law should specify hazardous domestic work and prohibit such work for children under the age of 18. Parallel to these efforts, the law must stipulate punitive measures for employers that place at risk the child's and young person's well-being, education, physical or mental health, or spiritual, moral or social development.

With increasing numbers of young people looking for jobs to no avail, policy makers in

Tanzania may want to consider the potential of domestic work to absorb these young people. This can be achieved by not only improving working conditions of domestic workers but also by facilitating career development prospects into domestic work such that skills that domestic workers gain during their tenure, for example cooking, become recognized by, among other, vocational training institutes. Most importantly, as the trade unionist in Tanzania have suggested, there is a need to recognize domestic work as a profession with recognizable skills.

Many child domestic workers had already dropped out of school, or were never enrolled, due to their family's poverty. The prohibition, prevention and elimination of child labour in domestic work, the protection of young domestic workers of legal working age, and awareness raising and the provision of education or vocational training should be at the heart of the initiatives to be developed by governments, the social partners, including domestic workers' organizations, and civil society organizations.

Immediate and effective measures to secure the prohibition and elimination of the worst forms of child labour, namely slavery-like practices, the sexual commercial exploitation of children, the participation of children in illicit activities and hazardous work, are called for.

To be effective, laws and policies must be promoted through preventive measures and, where necessary be enforced by appropriate penalties. National appropriate measures should be developed to tackle child labour in domestic work and to identify and register young domestic workers when they can legally work.

These efforts will be in vain without a proper system or mechanisms for monitor

working and living conditions of children in child labour situations and young workers in domestic work; without accessible complaint mechanisms; and without access to justice and legal redress. Supervision and State oversight of young domestic workers are important means to protecting the rights of children in child labour and young domestic workers. Such supervision can be guaranteed through provisions of contract requirements which will help ensure good conditions of employment and respect of workers' rights and monitoring of their employment.

Legislative and regulatory action should be accompanied by safety net measures in order to make them sustainable. Experience shows that economic growth, respect for labour standards, universal education and social protection, together with a better understanding of the needs and rights of children, can bring about a significant reduction in child labour.

Awareness raising campaigns and advocacy against child labour in general, and child domestic work in particular, capacity building of social partners for a better comprehension of child labour, support to domestic workers organizations, are other measures that could contribute to abolish child labour in domestic work or to improve the working conditions of young domestic workers.

Withdrawal of more than 6000 children from child labour in domestic work by the Conservation Hotels Domestic and Allied Workers' Union (CHODAWU), with ILO support, is indicative that child labour in Tanzania can be eliminated.

(h) Protecting rights of migrant domestic workers

Like in most African countries, the number of internationally migrating domestic workers in

Tanzania is increasing. Migrant workers in both Tanzania and Zanzibar are generally protected by law but their terms and conditions of employment are being derogated or could potentially be derogated.

In Zanzibar, for example, a written contract of employment is required and must specify the name of the enterprise or company the employee is engaged to work for. This item, if submitted, is restrictive, not supporting the prevailing realities, and should therefore be amended to embrace the fact that domestic workers are not necessarily employed by companies or enterprises but also by individuals. In Tanzania Mainland, emigrating DWs are protected by Tanzanian law in accordance with terms of ILO Convention No. 189; immigrating DWs, however, are subjected to the same terms as those of local DWs which include lack of formal employment contract. While emigrating DWs get pre-departure information that include information on the laws and regulations of the destination countries, sensitisation to culture and language, migrant workers' rights, and contact details of embassies in the destination countries, those immigrating do not receive such information on arrival to Tanzania.

It is submitted that the vulnerabilities and specificities of the migrant workers should be considered and thus the law should provide specifically for migrant domestic workers (both emigrating and immigrating), guaranteeing them access to effective protection from exploitation and abuse and to equality of treatment as well as access to complaint and redress mechanisms, irrespective of their nationality. One way for addressing the challenges faced by migrant domestic workers and for coping with emerging issues related to migrant domestic workers is for the Ministry of Labour to work closely with immigration departments and also with social partners,

civil society organizations and migrant domestic workers themselves.

Bilateral agreements or memoranda of understanding between countries of origin and destination are important instruments to complement national legislation and provide for better or more specific protection of migrant workers. Such agreements provide for organised and regular labour migration between countries of origin and destination with a view to avoiding irregular movements, excessive costs in migration and exploitative conditions. They can also be instrumental to address gaps in sectors that are often not covered in national labour codes, such as the domestic sector. These instruments should have provisions on the working conditions of the migrant domestic workers in line with ILO Convention No. 189 and other relevant conventions. For these agreements to be effective, they should include provisions for mutual and/or independent monitoring and evaluation.

Regulation of private recruitment agencies in both countries of origin and destination is vital for securing decent working and living conditions for migrant domestic workers. Entry to the recruitment industry is in many countries restricted through a licensing system, which allows the authorities to limit recruitment to companies that have the resources and capacity to recruit migrants under decent conditions, and to suspend or cancel licenses for violations of regulations. This system is however costly and hard to enforce, and monitoring and enforcement mechanisms are required to ensure that the regulatory framework is implemented adequately.

Trade unions can develop cooperation agreements that give migrant domestic workers the opportunity for support and follow-up via the trade unions of the receiving countries. Migrant workers could especially

benefit from access to social security while in Tanzania as well as from access to health care.

(i) Social security schemes covering Domestic Workers

Generally, provisions for social security benefits in Tanzania Mainland and Zanzibar cover domestic workers. Despite the broad terms used which are all-embracing, in reality, domestic workers in both Zanzibar and Tanzania Mainland are not covered because of various reasons. Either employers of domestic workers are not ready to contribute to the social security institutions for domestic workers or employees are not ready to pay “taxes” on the already meagre income. Furthermore, unreliable or irregular income for domestic workers makes regular payment challenging and social security institutions may not be ready to incur huge administrative costs chasing employers or employees. Also, registration of employers in the social security schemes in Tanzania Mainland envisages employers who are engaged in business, thereby impliedly, excluding domestic workers whose employers are not necessarily doing business.

It is recommended that the law should not only extend coverage of social security to the domestic workers but should also provide for mechanisms on how enforcement of such laws would be effected taking into account the disparities between the employers and the distances which may be involved in tracing one domestic worker after another. Recently, doors were opened to employers with less than 5 employees to make contributions. It is an opportunity that needs to be explored further and seized so domestic workers can be covered. Since some employers do not make contributions for themselves it is highly unlikely they would make contributions for the DWs. Targeted support to such employers and workers, is advised.

6.3 Summary of Part VI

Knowing what to do is no longer enough to ensure the making of decent work for domestic workers a reality. Previous studies have shown that policies directed at domestic workers have previously failed due to a lack of coherence in solving the eminent problems in this sector. It is the hope of the authors that this report begins to fill that gap by recommending a number of policy initiatives regarding the domestic sector in the United Republic of Tanzania. Among them is a

stronger monitoring of recruitment and of employment agencies has been proposed to ensure respect for domestic workers' rights. Overall, the report indicates clearly that much work is still needed to improve the working conditions of domestic workers, starting with a close collaboration between different Ministries, activist groups, unions and policy makers who are willing to take responsibility over a number of sensitive issues surrounding this sector.

Annexes And References

Annex 1 Rapid Empirical Survey: Methodological Note

Survey Organization

The number of field staff for the survey was initially planned to be 12 persons, grouped into 3 teams, each team consisting of 4 interviewers, one of whom would be team leader. The interviewer's load was estimated to be about 5 to 6 household interviews per day. According to this set up, each team was to cover 20 to 24 sample households per day. However, the actual survey revealed a need for additional field staff. Hence, local specialist had to organize training for four more field staff. It was decided to visit households up to two times, in case the respondent was absent or was not available for interview during the first visit. Envisaging more than two visits was declared to likely and substantially increase the cost of survey as it entailed overnight stay of the interviewer in such cases.

Sampling Frame

A meeting was organized with the National Bureau of Statistics of Tanzania to discuss the sampling frame of the domestic workers survey. The National Bureau of Statistics appointed experts to liaise with the national team along with ILO experts to agree on the best approach of making use of sample frame that will provide a most realistic sample. Given that work on the national population census was still ongoing, it was agreed that waiting for the availability of a sampling frame based on the 2012 census reports was not wise. It was therefore decided to use the 2002 census reports for the domestic workers survey.

Hence two alternative choices were available: the use of the existing master sample or the use of the full list of households in the study sites. The use of the master sample was in a sense easier as the sampling instruments

were readily available, but given that the master sample had already been used by many researchers from different institutions, the households in the master sample were reported to be overburdened with participation in various surveys and therefore would likely be less cooperative in the new proposed survey on domestic workers. Here, it was suggested to consider alternative choice, i.e., the use of full list of households in the study locations as sampling frame and drawing a new sample for the purpose of the domestic workers survey. This alternative involved coming up with a complete new list of study locations and maps selected for the survey in order to benefit from a more cooperative sample of households.

Drawing the Sample in the Study Locations

The sampling was done under a very careful technical guide of both local and international experts. In particular, two separate files were constructed one for urban areas and the other for rural areas. Each file was organized by region and sorted within regions by ascending order of the enumeration codes. It was ensured that the codes are geographically constructed and neighboring areas have sequential codes. After organizing the two files, the number of enumeration areas in each region was counted and the required number of sample enumeration areas in each region was calculated by the method of square-root allocation. Square-root allocation is a compromise procedure between equal allocation (where each region receives the same number of sample enumeration areas) and proportional allocation (where the share of sample enumeration areas in each region is proportional to its total number of enumeration areas in the frame).

Once the required number of enumeration areas in each region was determined as described above, the sample enumeration areas were drawn in each region by probability proportional to size using a systematic sampling procedure. Size was measured in terms of the number of households in the enumeration area according to the 2002 census.

Selection of households

The survey estimated between 70 and 190 sample enumeration areas. The calculation was based on a fixed sample of 20 households per enumeration area in line with an interviewer load of 20 households per day. Once the sample enumeration areas were selected, the corresponding boundaries were confirmed using maps and assistance from local and government leaders. Then the fresh listing of the households in the sample enumeration areas was carried out to update new housing units which might have been constructed or old units destroyed since 2002 census. Also, some housing units might have been no more living quarters.

The final stage in sample selection was drawing a sample of households from the newly listed frame of households in each sampling site. Sample selection was carried out using systematic sampling. It involved a random start and the calculation of a step according to which every fixed number (the value of the step) is selected in the sample from the household list.

The listing operation was necessary to update the enumeration areas as new housing units might have been constructed or old units destroyed since census date. Also some housing units might no more be living quarters (for example, they have become workplaces) and some households may have left the enumeration area replaced by ones.

Pre- testing Questionnaire Before the Main Survey

The other important aspect of approach to the domestic worker survey in Tanzania was pre-testing research tools. This was undertaken a few weeks before the main survey. The main objective of pre-testing was to determine the effectiveness of the domestic survey questionnaire and to determine the strengths and weaknesses of the questions format, wording and order.

The specific objectives of the pre-testing were to:

- Adapt the questionnaire to reflect the existing arrangement of domestic job, working life and other conditions in the domestic work of Tanzania;
- Test the clarity of the questions regarding domestic workers and aspects of household and employment characteristics of those who employ them using labor market of Tanzania as a case
- Use the testing as part of the training avenue for enumerators and also to find ways of recruiting the respondents.
- Ascertain the time required to finish the questionnaire filling in one per household;
- Examine the effectiveness of sampling method, survey logistics and administration; and,
- Test for the clarity, logical flow and response rate to the questions.

Two methods were used during the pre-testing process:

Participating pre test: By this type, one tells the respondents that the pretest is a practice run. Rather than asking the respondents to simply fill out the questionnaire, respondents are asked to explain reactions to question form, wording and order. This was done in two stages. The first was done as a mock exercise guided by ILO international expert and enumerators. The second stage was through the researchers in the field who looked at the questionnaire and helped to fine-tune it.

Undeclared pre test: It is a type of pre-test whereby the respondent is not informed, or one intends to conduct it for real. The research team conducted this after revising the questionnaire based on the first method results i.e. participating.

Throughout the pre-testing process, the team was keen to understand whether the logical flows of the questions and the overall survey protocol was indeed bringing about a smooth operation and contextual oriented results. The other critical focus of the pilot was testing the methodology of the sample design, data collection methods, , the related aspects of data entry, coding and processing. In order to

have a clear picture of the overall setting of the pre-test survey the results were entered into data catch screen, processed and analyzed.

The output of analysis for pre-testing were mainly descriptive analysis and frequency tables.. Given the immense importance of the results, the findings helped to inform the survey team on possible adjustments before the main survey. In addition, the survey team was requested to submit a separate report on issues encountered in the field that might be worthwhile sharing to avoid problems. The pre-testing exercise also involved consultations with experts who have been working on labour surveys in Tanzania. Translation of the questionnaire into Kiswahili facilitated further understanding and expectations of the responses to the questions from majority of the respondents who did not understand English. The pre-testing exercise involved 510 people from 100 households which included all the households in the administrative wards of Kinondoni Municipal in Dar-Es-Salaam region. The choice of Kinondoni Municipal was due to the fact that, the place had mixed population that comprised households with rural and urban characteristics.

ANNEX II – Qualitative Research: Methodological Note

Two Interview Topic Guides (ITGs) were developed, one for employers of domestic workers and the other for domestic workers.

How the Interview Topic Guides (ITGs) were developed

Draft topic guides were initially formulated on the basis of the research questions. These were verified and reviewed by holding two consultative discussions with (i) five representative of domestic workers, three CHODAWU officials and (ii) five ILO staff members from Dar Es Salaam. The groups were asked to identify and ventilate the aspects which domestic work that the workers and employers considered as important for understanding the situation in domestic work in Tanzania. The group discussions brought out critical issues and perspectives that shape relationships in domestic work in the country. The draft topic guides were revised and elaborated, and then subjected to pilot test.

The ITGs were drafted in English and translated into Kiswahili to ensure that the interviewers had a common understanding of basic terminologies and concepts of labor and employment conditions in DWs sector

In-depth Interviews

This section provides the context under which the interviews and FGD were conducted. Interviews with domestic workers were conducted during the day and those with the employers mostly in the evening or weekends. The process of interviewing was somehow challenging as shown by the amount of time taken to complete the work which was 3 months instead of 20 days as planned before. In Zanzibar it was easier than in Mainland

except for fewer employers who were trying to control and listen to the domestic workers during interviews. Some employers demanded research permits from the researchers before the interview could take place. For instance, one employer lied to the researchers that his domestic worker was a foster child while he was not. In some cases, other employers tried to pretend that domestic workers were relatives while they were not related and some could dare to hide and claimed not to have a domestic worker in their house while neighbors and local leaders confirmed that they had. In one incidence, a male employer upon his return from the work he intervened and refused the interview to continue for his wife (female employer) and domestic worker. Later on it was discovered that the domestic worker was 13 years old, an age which was below the employment standards, and therefore the domestic worker was involved in child labor and child abuse.

Since most domestic workers interviews took place in the households because domestic worker were not allowed to go far, other employers tried to monitor the researcher's and domestic workers conversation through the windows and one tried to take a video. Some employer's had CCTV cameras in their houses and others kept wondering by moving inside and outside their houses and did not let some domestic workers speak comfortably. Some domestic workers stopped talking when they saw their employer coming out of the house or returning from work or heard a car sound. However a good number of employers understood when they were told that it was an individual interview and gave their domestic worker spaces. The researchers had to cope up with all these situations to

ensure their respondents were comfortable before proceeding with the interviews. Some employers were happy when they heard that similar questions were going to be asked to them as also. Some employers wanted to know the nature of the questions before they could let their domestic workers talk. One

employer refused to let his domestic worker talk after he was interviewed and did not want to show a copy of employment contract which he claimed he would have done that after the interview. Some employers refused to talk about their income and claimed that it had nothing to do with domestic worker enrolment agreement.

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