

*“Strengthening the Voice of Rural Women Farmers for Improved Livelihoods”*  
Review of Labour Act, 2003 (Act 651) and other labour laws from a gender perspective

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1. Introduction.

NETRIGHT has commissioned a review of Review of Labour Act, 2003 (Act 51) and other labour laws from a gender perspective to inform NETRIGHT’s women’s economic and labour rights work. This work, which is under the *“Strengthening the Voice of Rural Women Farmers for Improved Livelihoods”* Project, arises from a finding of Phase 1 of the Project that Ghana’s labour laws were possibly an impediment to improving conditions of work across the economy.

The terms of reference of this report are to:

- Undertake a gender review of the Labour Act, 2003 (Act 651) and other labour laws and policies in Ghana
- Identify the gender gaps in the labour laws and policies
- Make recommendations for reform

Work in Ghana is characterised by informality and precarity, a situation deepened by gender, occupational and spatial inequalities. Meanwhile, employment regulatory mechanisms are not fit for purpose considering the structure of the labour market.

The structure of the labour force and labour relations in Ghana are framed by a) the country’s location in the global economic order as a source of primary agricultural commodities and natural resources- mainly gold and oil under the control of transnational capital; b) four decades of policies which were underpinned by a search for foreign direct investment on the promise of a cheap, flexible and compliant labour force; and c) the restructuring of the economy as a result of decades of agricultural stagnation, deindustrialisation and the expansion of services and natural resource extraction.

The work situation in Ghana is part of a global trend of the informalisation of work and expansion of precarious work, the rise of the gig economy, zero-hour contracts and what has been described as bogus self-employment. This has come about because of decades of economic liberalisation policies have resulted in the ousting of the Fordist model of work and an increase in irregular migration for work around the globe.

According to the SDGs document, about half the world’s population lives on the equivalent of about US\$2 a day. Related to this, in many places, jobs do not protect working people from poverty, substandard working conditions, inequality and discrimination. Certain categories of workers – people with disabilities, women, youth, and migrants – face obstacles in accessing decent work and vulnerability to abuses. Globally, employment growth since 2008 has averaged only 0.1% annually, compared with 0.9% between 2000 and 2007. Over 60 per cent of all workers lack any kind of employment contract, while fewer than 45 per cent of wage and salaried workers are employed on a full-time, permanent basis, and even that share is declining. In 2019, more than 212 million people will be out of work, up from the current 201 million. 600 million new jobs need

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to be created by 2030, just to keep pace with the growth of the working age population (SDGs Declaration, 2001)

The COVID-19 pandemic has revealed very clearly that too many people in Ghana live from hand to mouth, and any disruption in their ability to work pushes them in to existential crises. While they may not be classified as income poor under the highly restricted definition of income poverty, they survive with great difficulty.

The proliferation of poor quality of work in Ghana and elsewhere is concerning for several reasons:

- It is changing work cultures and fashioning new conceptions of, and attitudes to work that are not vocational. This affects productivity and dedication to work and can make it difficult to improve the conditions of work. This may appear to be a paradox in a context of job scarcity. However, it breeds a culture of wanting to put as little effort into poorly paid work as possible to free up time for other income-earning activities.
- It undermines the importance of work beyond pay. The idea of work as the key route to participation in the economy and to full citizenship, as providing access to public and private goods and services, as well as entitlements arising out of paying taxes and a stake in the success of the nation cannot be realised with precarious work. Neither can we realise other values of work such as identity, status, and social mobility.
- Poor quality work has ramifications for the economy's capacity to deliver on its development goals. When economies grow, but fail to produce decent jobs, an increasing number of people live in poverty and therefore do not have purchasing power. This has been the situation in many sub-Saharan African countries in the last four decades. As far back as 2005, the United Nations Economic Commission for Africa (ECA) drew attention to this issue, arguing that poverty had been unresponsive to growth because the majority of people have no jobs or secure sources of income (*ECA, 2005, p. 1*). This point has been reiterated more recently in 2016 in a World Bank Report on Expanding Job Opportunities in Ghana (Honorati and Johansson) which notes that economic growth had become less efficient in reducing poverty because it has been driven by sectors that do not generate much employment (*Honorati and Johansson de Silva, 2016, p. 13*).

In short, work can only deliver on its promises when it is gainful, or in the language of the ILO, decent. Decent work in the ILO definition is work which is productive, and guarantees fair income, equality of opportunity in the workplace, safe and fair working conditions, the right to social security and freedom of organisation. The current national development agendas of structural transformation as contained in the Ghana Beyond Aid Agenda, the One District One Factory and the Planting for Food and Jobs agendas have to be assessed in terms of their decent work creation abilities and their contribution to gender equitable structural transformation. As Oduro and Ackah (2017) have noted, “the structural transformation of an economy should be measured not only by changes in the structure of production but also by the contributions of different economic actors to this change and how the welfare of different groups in society has been impacted by these changes. The role of women and men in the process of structural change, how they have been impacted by this process and how gender relations may have been changed as a result are important considerations” (p. 317).

This report is structured as follows. This introduction is followed by a section that discusses Ghana's commitment to Decent Work. Section three discusses the Measurement of Decent Work by examining the key indicators of decent work. The fourth section provides a background to the work situation in Ghana, while section five examines labour relations and conditions of work in the various sectors of the economy while the sixth section critically assesses the labour laws, institutions and policies that govern labour relations, followed by an examination of some of the initiatives undertaken by successive Ghanaian government to deal with employment creation. The last section of the paper makes recommendations for reform in the regulation of work and the transformation of the world of work to make decent work the norm and not the exception.

## 2. Indecent Work is in breach of the 1992 Constitution, National Policy and Regional and Global Commitments.

### *The 1992 Constitution*

The situation of work in Ghana is in breach of the 1992 Constitution on the right to work and the state's responsibility in that regard. Article 24 on Economic rights guarantees the right to decent work. Article 24 (1) provides that every person "has the right to work under satisfactory, safe and healthy conditions, and shall receive equal pay for equal work without distinction of any kind." Other sub-sections of Article 24 provide the assurance of rest, leisure and reasonable limitation of working hours and periods of holidays with pay, as well as remuneration for public holidays; and the right to form or join a trade union of choice for the promotion and protection of a worker's economic and social interests. Article 21 on the freedom of association provides Ghana's workers the space and cover to join trade unions or any other associations to pursue their interests.

Under the directive principles of state policy, specifically under Articles 35, 36 and 37 on Political, Economic and Social Objectives, these rights are elaborated further. Under the Economic Objectives (Article 36 (1)), the State is enjoined to take all necessary steps "to ensure that the national economy is managed in such a manner as to maximize the rate of economic development and to secure the maximum welfare, freedom and happiness of every person in Ghana and to provide adequate means of livelihood and suitable employment and public assistance to the needy". Article 36 (2) (a) sets out the principles of decent work.

### *ILO Conventions ratified by Ghana.*

These constitutional guarantees are reinforced by Ghana's obligations under the international conventions of the ILO and its acceptance of Agenda 2030. Ghana has ratified various international and regional human rights conventions including the ILO's 8 fundamental conventions. These are considered to be fundamental principles and rights at work: freedom of association and the effective recognition of the right to collective bargaining; the elimination of all forms of forced or compulsory labour; the effective abolition of child labour; and the elimination of discrimination in respect of employment and occupation. These principles are also covered by the ILO Declaration on Fundamental Principles and Rights at Work (1998).

#### The ILO's 8 Fundamental Conventions

1. Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
2. Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
3. Forced Labour Convention, 1930 (No. 29) (and its 2014 Protocol )
4. Abolition of Forced Labour Convention, 1957 (No. 105)
5. Minimum Age Convention, 1973 (No. 138)
6. Worst Forms of Child Labour Convention, 1999 (No. 182)
7. Equal Remuneration Convention, 1951 (No. 100)
8. Discrimination (Employment and Occupation) Convention, 1958 (No. 111)

Furthermore, Ghana has commitments under the AU's Agenda 2063, the UN's Agenda 2030, and the Comprehensive African Agricultural Development Programme (CAADP) which are relevant here.

#### *The SDGs*

The Sustainable Development Goals, unlike the predecessor MDGs have included a wide range of additional goals and issues in their remit of 17 goals. Three of these are particularly relevant to this discussion. These are the goals related to gender, employment, and inequality. SDG 8 is “to promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all”.

While all the SDG 8 targets are inter-connected, synergistic and will together address decent work deficits and gender inequalities in the labour market, targets 8.3., 8.5, 8.7, and 8.8 are particularly relevant for addressing gender gaps in the labour markets. Target 8.3. is to “Promote development oriented policies that support productive activities, decent job creation, entrepreneurship, creativity and innovation, and encourage the formalization and growth of micro, small and medium sized enterprises, including through access to financial services”; 8.5 is to achieve full and productive employment and decent work for all women and men, including for young people and persons with disabilities, and equal pay for work of equal value by 2030; while 8.7 is about the prohibition and elimination of the worst forms of child labour and forced labour. Target 8.8 protects labour rights and promotes safe and secure working environments for all workers, including migrant workers, particularly.

SDG 5, which is to “achieve gender equality and empower all women and girls”, has targets on ending all forms of discrimination, all forms of violence, and harmful practices such as child, early and forced marriage and female genital mutilation (5.1-5.3). For our purposes, the most important of these, which are directly about work are 5.4. “to recognize and value unpaid care and domestic work through the provision of public services, infrastructure and social protection policies and the promotion of shared responsibility within the household and the family as nationally appropriate” and 5a “Undertake reforms to give women equal rights to economic resources, as well as access to ownership and control over land and other forms of property, financial services, inheritance and natural resources, in accordance with national laws” and 5c “Adopt and strengthen sound policies

and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels” (SDG 5 Targets).

SDG 10 is to “reduce inequality within and among countries.” Its targets for in-country inequalities are particularly useful. Target 10.1 is to progressively achieve and sustain income growth of the bottom 40 per cent of the population at a rate higher than the national average in 2030, while 10.2 is to empower and promote the social, economic and political inclusion of all, irrespective of age, sex, disability, race, ethnicity, origin, religion or economic or other status. Target 10.3 is to ensure equal opportunity and reduce inequalities of outcome, including by eliminating discriminatory laws, policies and practices and promoting appropriate legislation, policies and action, while 10.4 is to adopt policies, especially fiscal, wage and social protection policies, and progressively achieve greater equality. All of these are applicable to labour market issues.

### *The AU’s Agenda 2063*

The AU’s agenda 2063 has 7 main aspirations namely:

1. A prosperous Africa based on inclusive growth and sustainable development
2. An integrated continent, politically united and based on the ideals of Pan-Africanism and the vision of Africa’s Renaissance
3. An Africa of good governance, democracy, respect for human rights, justice, and the rule of law
4. A peaceful and secure Africa
5. An Africa with a strong cultural identity, common heritage, shared values, and ethics
6. An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children
7. Africa as a strong, united, and influential global player and partner

Agenda 2063 clearly states under aspiration 1, the need to ensure African people to have a high standard of living, a quality life, sound health and well-being. It also states the need to eschew all forms of discrimination. It is also stated in the pointers under aspiration 1 that: “Economies are structurally transformed to create shared growth, **decent jobs** and economic opportunities for all”. Aspiration 6 also clearly states the need to have an Africa that has empowered women to play rightful roles in all spheres of life, ensure full gender equality and empower the youth.

### *AU Social Policy Framework*

The Social Policy Framework (SPF) was adopted by Africa’s Ministers of Social Development in 2008 to guide African Union (AU) Member States in their development and/or implementation of appropriate national strategies and programmes. It was developed to “complement and supplement on-going national and regional programme and policy initiatives such as the Poverty Reduction Strategy (PRSP) and NEPAD, and to close the gap where it was deemed that these did not adequately address social issues”. The first of the eight pillars of the regional plan set out in the SPF is Social Protection. Some of the recommended measures under this pillar are:

- setting up community-based or occupation-based insurance schemes on a voluntary basis
- providing social welfare services and employment guarantee schemes
- Introducing and extending publicly financed non-contributory cash transfer schemes.

There are several recommendations on employment that speak to a gender equitable decent work agenda. These include supporting the implementation of the *Ouagadougou Declaration on Employment and Poverty Alleviation in Africa* including the key priority actions in its Plan of

Action and Follow-up Mechanism; placing employment at the centre of economic policies, including employment targeting, and conducive working conditions; facilitating the promotion of private sector investment for job creation; promoting employment creation and enhancing employment prospects for youth by implementing the recommendations of the 2002 Alexandria Youth Employment Summit; establishing close links between educational institutions and the labour market through, for example, apprenticeship schemes and industrial placements, to encourage and promote work-related skills training; reviewing, adoption and implementing legislative, administrative and other appropriate measures to ensure that women and men, including those who are disabled have equal access to wage employment in all sectors of the economy in accordance with ILO Conventions. Others are to adopt policy measures to ease the burden of the multiple roles played by women by enabling them to arrange their working hours in a manner that allows them to participate in paid employment and achieve a work-family life balance; give the informal sector the necessary support by removing administrative, legal, fiscal and other obstacles to its growth, and facilitate its employment creation functions with access to training, credit, advisory services, appropriate legislation, productive inputs, social protection, and improved technology; promote and support technical and vocational training in trades, skills, crafts, and engineering fields such as construction, civil and mechanical engineering to create self-employment opportunities, and raise the level of productivity in the informal and small-scale formal sectors; and develop an extension of social security and social protection to cover rural and informal workers as well as their families.

Under the theme Gender equality and women`s empowerment, the policy recommends that member countries implement the key instruments such as 1994 Dakar Platform of Action and the 1999 Africana Plan of Action to Accelerate the Implementation of the Dakar and Beijing Platforms for Action for the Advancement of Women. It also recommends that member countries create conducive environment to enable women to participate in non-traditional occupations in the productive sector.

#### *CAADP*

The Comprehensive Africa Agriculture Development Programme (*CAADP*) is Africa's policy framework for agricultural transformation, wealth creation, food security and nutrition, economic growth, and prosperity for all. In Maputo, Mozambique, in 2003, the African Union (AU) Summit made the first declaration on CAADP as an integral part of the New Partnership for Africa`s Development (NEPAD). CAADP has four key focus areas for agricultural improvement and investment. These four key pillars - `Sustainable Land and Water Management`; `Market Access`; `Food Supply and Hunger`; and `Agricultural Research`. Each pillar oversees various programmes working to achieve CAADP`s goals:

- "Farmers taking part in the market economy and enjoying good access to markets so that Africa, capitalizing on its comparative and competitive advantages, becomes a net exporter of agricultural products.
- "A more equitable distribution of wealth for rural populations - in terms of higher real incomes and relative wealth. Rural populations will have more equitable access to land, physical and financial resources, and knowledge, information, and technology for sustainable development.

CAADP's pillars and goals imply adherence to decent work in agriculture among smallholders and agricultural labour in countries implementing the programme, though this is not explicit. CAADP has also made efforts to gain acceptance by policy makers of the need to address gender issues in agriculture. In June 2015, the Twenty-Fifth Ordinary Session of the Assembly of the AU committed to enhancing women's contribution to and benefit from formal agriculture and agribusiness value chains. Member countries therefore agreed to integrate gender responsive indicators in the CAADP results framework of the Malabo Declaration on Accelerated Agricultural Growth and Transformation for Shared prosperity and improved livelihoods. All these commitments provide the bases to assess the quality of work and ascertain its decency or otherwise.

### 3. Measuring decent work in an informal economy of self-employment

#### *What is decent work?*

First used in Article 23 of the Universal Declaration of Human Rights (1948), the concept of decent work was relaunched in 1999 in the report of the Director General to the International Labour Conference meeting in its 87<sup>th</sup> Session. Decent work has now become a universal objective that is included in major human rights declarations, UN Resolutions, and outcome documents from major conferences. These include the World Summit for Social Development (1995), World Summit Outcome Document (2005), the high level segment of ECOSOC (2006), the Second United Nations Decade for the Eradication of Poverty (2008-2017), Conference on Sustainable Development (2011) and in the UN's 2030 Agenda for Sustainable Development (2015). Promoting quality employment and realizing decent work has been recognized as one of focus areas for G20. Along with global policy developments at the ILO under its Decent Work Agenda, in recent years, G20 adopted a wide range of policy commitments, which are currently reflected in the Employment Plan (Ghai, 2003).

Four components of decent work are elaborated in the Secretary-General's report: employment, social protection, workers' rights, and social dialogue. Decent work applies not to workers in the formal economy but also to unregulated wage workers, the self-employed and home workers. Decent work also entails adequate opportunities for work, remuneration, and embraces safety capacity and level of development. The four components also emphasise the social relations of workers, the fundamental rights of workers including freedom of association, non-discrimination at work, and the absence of forced labour and child labour. Social dialogue speaks to the ability of workers to exercise their rights to present their views, defend their interests and engage in discussions to negotiate work-related matters with employers and authorities.

Decent work sums up the aspirations of people in their working lives. It involves opportunities for work that is productive and delivers a fair income, security in the workplace and social protection for families, better prospects for personal development and social integration, freedom for people to express their concerns, organize and participate in the decisions that affect their lives and equality of opportunity and treatment for all women and men. Productive employment and decent work are key elements to achieving important development agendas.

#### *Measuring decent work*

For this exercise, we use aspects of the Framework on the Measurement of Decent Work developed by the ILO (2013). It covers ten substantive elements which are closely linked to the four strategic pillars of the Decent Work Agenda, that is, (a) International labour standards and fundamental

principles and rights at work (b) Employment creation (c) Social protection and (d) Social dialogue and tripartism. These are: (i) employment opportunities; (ii) adequate earnings and productive work; (iii) decent working time; (iv) combining work, family and personal life; (v) work that should be abolished; (vi) stability and security of work; (vii) equal opportunity and treatment in employment; (viii) safe work environment; (ix) social security; and (x) social dialogue, employers' and workers' representation. These 10 substantive elements represent the structural dimensions of the decent work measurement framework under which both statistical and legal framework indicators on decent work are organized and classified. There is an additional substantive element related to the economic and social context for decent work. Indicators for this do not measure decent work per se, but rather provide data that relates to the context of decent work in an economy. The quantitative indicators are derived from official national data sources. The legal framework indicators are qualitative, and primarily based on legal and policy texts. Both sets of indicators are equally vital for the Measurement of Decent Work and are mutually reinforcing and thus both essential for monitoring progress towards decent work in a national economy. For the qualitative assessment of institutions, laws, and policies, we propose the following guide to be loosely applied as appropriate:

- a. Assumptions about the nature of work
- b. What problems they prioritise
- c. What they ignore
- d. Which provisions need amendment
- e. What new types of provisions are needed?
- f. Whether provisions for enforcement are adequate

The Institutions, laws and policies include the Labour Act, Employment Policy, Children's Act, the Labour Commission, CHRAJ, Ministry of Labour, Labour Inspectorate, and the Labour Tribunals. In addition to using this framework we must consider the fact that many workers in Ghana are self-employed and do not have employers. This introduces challenges regarding both the metrics of decent work and the question of state responsibility for ensuring decent work that we need to keep in mind.

#### 4. Background Situation of Work in Ghana

Ghana's economy has grown consistently over the last two decades, reaching its highest annual growth in 2012 with oil production. While its extractive growth model has generated jobs, most of the new jobs have been in low-earning, low-productivity trade services, the demand for which has increased with rapid demographic urbanization. 71.3% of working people are involved in informal work (72.8% of working men and 68.3% of working women). Many of these jobs are more social safety nets than sources of meaningful livelihoods.

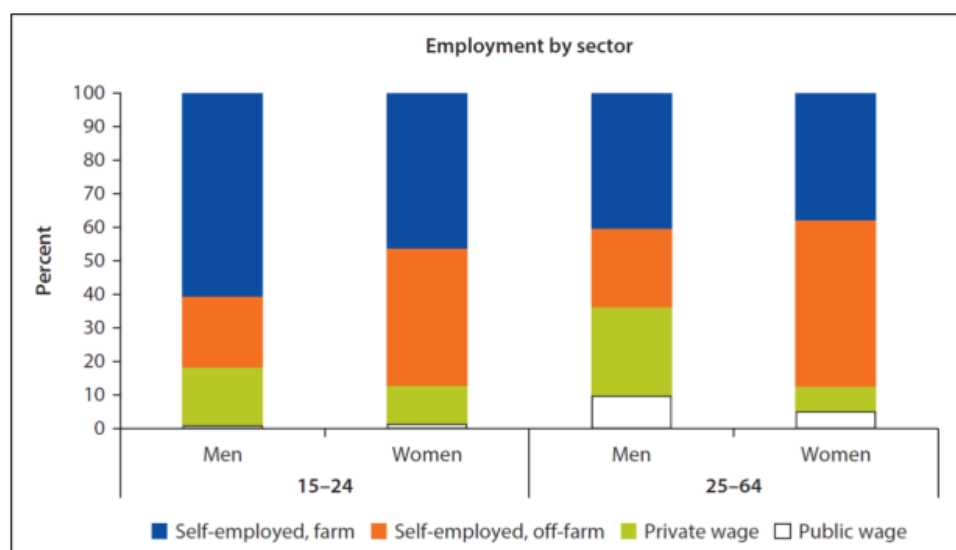


**Table 1: Employed Population 15 Years and older by level of Informality, region, age group, locality, and sex**

Status	Ghana			Urban			Rural		
	Male	Female	Both Sexes	Male	Female	Both Sexes	Male	Female	Both Sexes
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0
Formal	27.2	31.7	28.7	29.7	33.6	31.0	21.3	26.7	22.9
Informal	72.8	68.3	71.3	70.3	66.4	69.0	78.7	73.3	77.1

Source: GSS, 2019

**Figure 1. “Sector of Employment, by Age Group and Gender”**

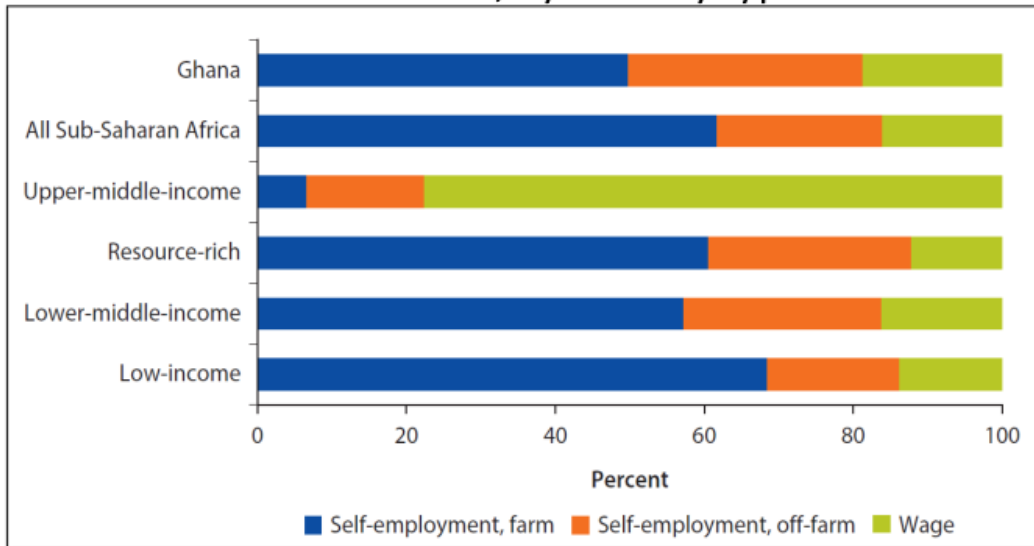


Source: Honorati & Johansson de Silva (2016:52)

Additionally, most Ghanaian workers are self-employed, either on-farm or off-farm, i.e. four out of five workers work in farm and off-farm household enterprises.

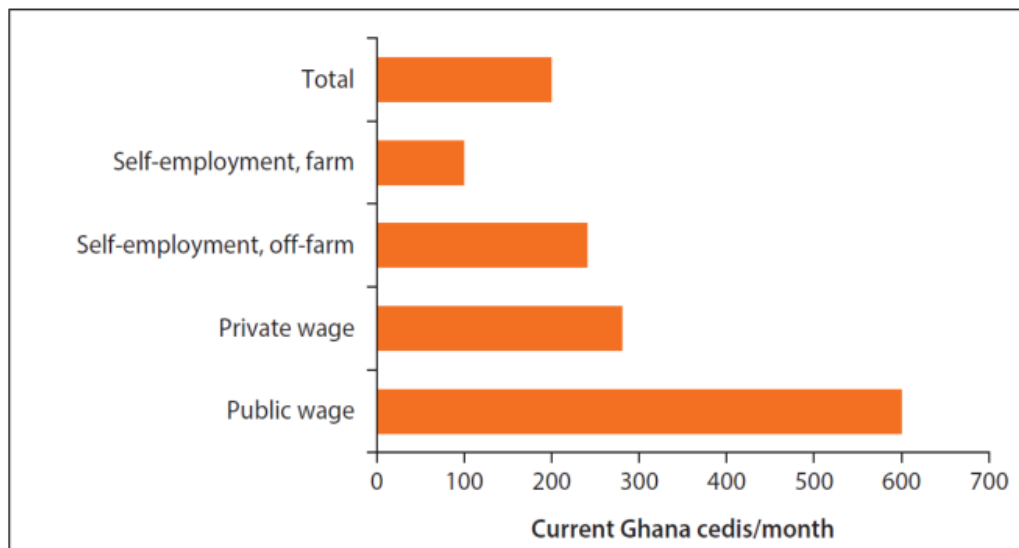
The wage sector accounts for only 22% of all jobs, most of them informal, and offering little job security. A gender and age wage disaggregation of sectors of employment shows a higher proportion of women work off farm, irrespective of age, although older women are less likely to be private wage workers and more likely to be public wage workers than younger women (figure 1). This structure of employment is in keeping with the averages for both Sub-Saharan Africa and lower-middle income countries (Figure 2).

Figure 2. “Employment structure in Ghana and Sub-Saharan Africa, by country type”



Source: Honorati & Johansson de Silva (2016:40)

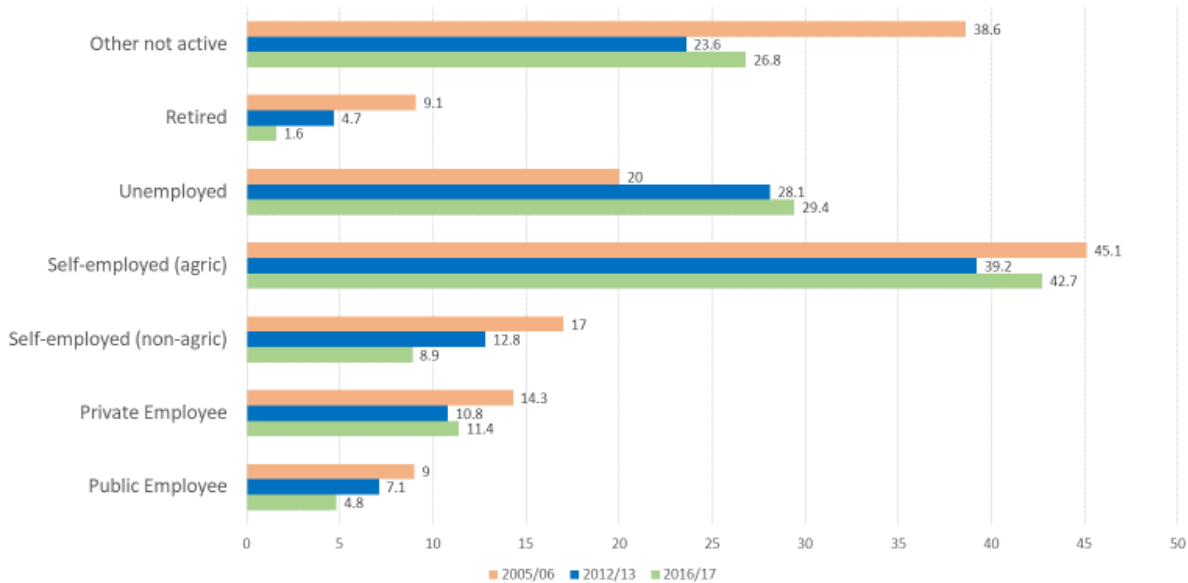
Figure 3. “Median Monthly Earnings, by Sector of Work”



Source: Honorati & Johansson de Silva (2016:43)

Figure 3 above, which compares monthly earnings show why Ghana living standards surveys have shown consistently that most of the poor in Ghana are smallholder farmers (Figure 4) and demonstrates clearly that the sector of work matters.

Figure 4. "Poverty Incidence by employment status of household, 2012/13-2016/17 (Poverty line=GHC1,314)"

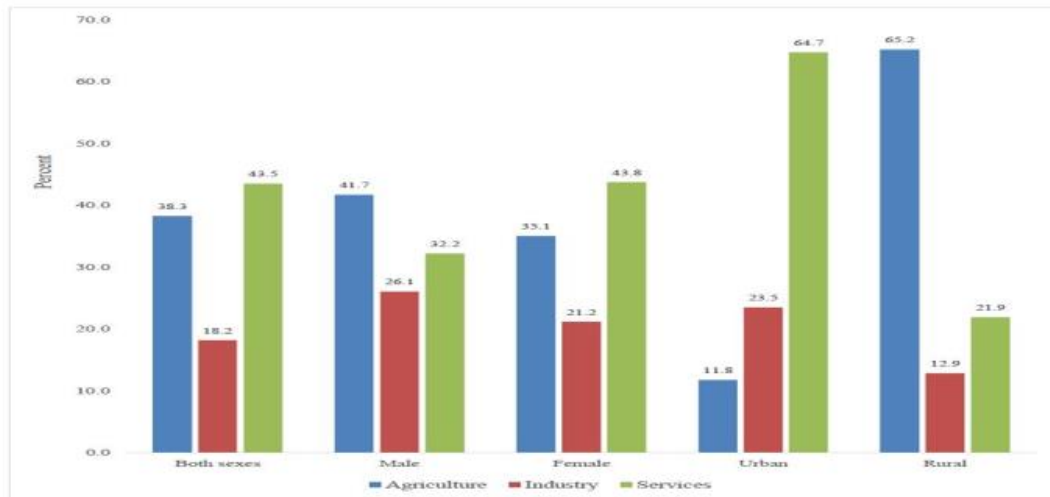


Source: Ghana Statistical Service 2018:33

Agriculture remains the single largest employer, accounting for two out of five jobs, and one in four persons works in the trade services sector. Outside agriculture, another 36% of jobs are in the form of self-employment in off-farm activities. Most of these household enterprises are made up of one person (an own-account worker), and as such do not create wage employment.

Figure 5 indicates that the services sector (43.5%) engaged the bulk of the employed population followed by the agricultural (38.3%) and industry (18.2%) sectors. Males (41.7%) were more likely than females (35.1%) to be engaged by the agricultural sector. On the other hand, females (43.8%) were more likely than males (32.2%) to work in the services sector.

**Figure 5: Currently employed population 15 years and older by major industry group, sex and locality**



GSS 2019

As a recent GOGIG report has noted, “the relatively low growth in high-value added jobs in industry, particularly mining, and the rapid increase in jobs in low-value added services is likely one reason why GDP growth in Ghana has been less able to reduce poverty since 2005, compared to earlier decades. Negative assessments of the country’s economic condition and personal living conditions are widespread across key socio-demographic groups. This is more pronounced among rural residents and those with no formal or only primary education than among urbanites and the highly educated” (GOGIG, 2020). According to the 2019 Afrobarometer Report, 6 in 10 Ghanaians (59%) felt the country was “going in the wrong direction”, and those who saw the country as “going in the right direction” fell to 35% in 2017, a decline of 15%. Many citizens said the government was performing “fairly badly” or “very badly” in narrowing income gaps (66%), improving living standards of the poor (56%), and creating jobs (54%). Sixty-two percent of Ghanaians described the country’s economic situation as bad, and 58% described their personal economic situation as very bad. Overall, the approval ratings on indicators of the government’s economic performance have declined sharply since the 2017 survey, with approval on management of the economy recording a significant drop of 20 percentage points.

**Table 2. Currently employed population 15 years and older by major industry group.**

Industry	Gender		
	Male	Female	Both Sexes
Agriculture, forestry, and fishing	41.7	35.1	38.3
Mining and quarrying	2.6	0.5	1.5
Manufacturing	7.4	16.1	11.9
Electricity, gas, steam, and air conditioning supply	0.3	0.1	0.2
Water supply, sewerage, waste management	0.2	0.2	0.2
Construction	8.9	0.2	4.4
Wholesale and retail trade	12.6	29.4	21.3
Transportation and storage	7.1	0.3	3.6
Accommodation and food service activities	0.8	5.4	3.2
Information and communication	0.5	0.1	0.3
Financial and insurance activities	1.4	0.8	1.1
Real estate activities	0.3	0.0	0.2
Professional, scientific, and technical activities	0.9	0.3	0.6
Administrative and support service activities	0.8	0.3	0.6
Public administration and defence	2.5	1.1	1.8
Education	5.8	4.4	5.1
Human health and social work activities	1.2	1.7	1.5
Arts, entertainment, and recreation	1.3	0.2	0.7
Other service activities	3.2	3.2	3.2
Activities of households as employers	0.2	0.6	0.4
Activities of extraterritorial organizations and bodies	0.0	0.0	0.0

Source GSS 2019.

According to Baah-Boateng (2012), there is a considerable reduction in the gender gap with respect to labour force participation and employment rates. Secondly, the quality of employment of females has seen improvements on account of the higher representation of women in paid and/or formal sector employment as well as highly skilled occupations. However, these improvements have failed to translate into a narrowing gender wage gap. On the contrary, the gender wage gap in Ghana has widened since 1991. In addition, the female-male unemployment rate gap has been seen widening in recent times.

The lack of progress in the gender wage gap is linked to the gender segmentation of work. Employment in Ghana is largely gender segmented, and this is most evident in the employment figures for agriculture, mining and quarrying, manufacturing, construction, wholesale and retail trade, transportation and storage and accommodation and food service activities. Although agriculture is the most important occupation for both men and women, it is less than 40% for women. Women are very dominant in wholesale and retail trading, manufacturing, accommodation, and food services, while men dominate mining and quarrying, construction, and transportation and storage (Table 2).

Beyond the figures, the gender segmentation of work can be seen in terms of sub-industry positioning and tasks. So, while both men and women are active in agriculture, agriculture is gender segmented in scale of operations, crop cultivated, and tasks (Tsikata, 2017).

**Table 3: Main occupation of currently employed population 15 years and older**

Main Occupation	Gender		
	Male	Female	Both Sexes
Legislators/Managers	2.5	1.2	1.8
Professionals	7.9	5.0	6.4
Technicians and Associate Professionals	3.3	1.2	2.2
Clerical Support Workers	2.1	1.2	1.6
Service/Sales workers	12.2	33.0	23.0
Skilled agriculture/fisheries workers	40.0	34.4	37.1
Craft and related trades workers	15.7	18.7	17.2
Plant machine operators and assemblers	11.0	0.6	5.6
Elementary occupations	5.2	4.7	4.9
Other occupations	0.1	0.0	0.0

GSS, 2019

Gender segmentation can also be seen in Table 3 on occupations. Men are twice as likely as women to be legislators/managers and technicians and associate professionals, while women are twice as likely as men to be service and sales workers. When it comes to plant machine operators and assemblers, the gap between men and women is even wider. In the crafts and related trades and in the elementary occupations, the gap is much narrower. However, it is important to note that even in the same occupation men and women often dominate different tasks and positions.

One result of the gender segmentation of work is that women have less access to well-remunerated jobs than men. Among self-employed workers, women earn 50 per cent less than their male counterparts compared with women in wage employment who earn 25 per cent less than men (Baah-Boateng, 2012; Oduro and Ackah, 2017). Baah-Boateng (2012) argues that technically, there are two types of labour market discrimination, and these are occupational segregation and wage discrimination. Occupational segregation which measures the unequal distribution of occupation may constitute discrimination if it results from individual characteristics such as sex, race, ethnicity, and religion. On the other hand, segregation does not necessarily suggest

discrimination if it is prompted by differences in skills or preferences of job seekers. Similarly, wage differentials between two groups of people indicate discrimination only if the observed differentials are caused by differences in superficial characteristics rather than productive characteristics such as education, experience, and effort among others (Baah-Boateng, 2012). While some have argued that women’s labour market situation is linked with their skills gaps and preferences, there is evidence of wage discrimination against women, in the labour market. The literature has established a long history of occupational segregation nurtured by colonial policies and male migration, reinforced by discriminatory practices in other spheres of life (Tsikata, 2009).

**Table 4: Selected Time Use Indicators**

	Women	Men
Time spent on unpaid domestic work, 10 years and above, in minutes	171	66
Time spent on unpaid caregiving, 10 years and above, in minutes	68	22

Ghana Time Use Survey, 2009

For example, the gender segmentation of work is reinforced by the bigger burden of unpaid reproductive work that girls and women carry. As table 4 below shows, the time use survey found that women spent about three times more time on unpaid domestic work and care giving than men. Although these are 2009 figures, they establish without a doubt that caregiving burdens have implications for women workers.

#### *Labour Relations underpinning Work in Ghana*

The labour relations underpinning work are a key site of labour regulation that is often neglected. In Ghana, there is a mosaic of labour relations hiding under the broad rubrics of wage work and self-employment. In both rural and urban Ghana, the self-employed are the a) own account farmers and owners of non-farm micro enterprises. Some of them have employees while the majority do not. In some cases, people combine several livelihood activities that can include both own account work, wage employment and /or contract farming. This could involve multiple activities throughout the year or in different seasons.

Wage work can be either formal or informal, agricultural, or non-agricultural work in sectors such as services, construction, manufacturing, and mining. It could be short-term or long-term, all year or seasonal, occasional, or part-time work. For these categories of wage work, it is possible to identify an employer, although the terms and conditions of work vary depending on whether the employer is the government, a private firm or an individual.

A new development which is noteworthy is the fact that wage work can now be procured through private employment agencies and informal employment agents. Although the stock of work which is found through agencies and agents is quite small, they are becoming increasingly important and are actively used by the banking sector, other private sector service organisations and by households to recruit domestic workers. Employment agencies and agents are largely facilitating

the conversion of wage workers into independent contractors or workers with an unclear employment status. These include Taxi and Trotro drivers who drive someone's vehicle and pay a fixed sum at the end of the day, and more recently, uber drivers, using their own vehicles and paying a commission for accessing passengers through an app. Other such workers are those who sell food and other consumer goods on behalf of wholesalers and producers for a commission. In the insurance and banking businesses, certain kinds of workers are paid in commissions for the business they bring in.

Formal wage workers are paid monthly, while their counterparts in informal work are paid with a range of arrangements- by day or by task, or at the end of a production cycle, in money and/or in kind. In the new economy arising from the growth in services such as rites of passage celebrations, entertainment and leisure, workers' low wages are supplemented by tips from clients.

Different sectors of the economy have their own labour arrangements related to the nature of work in the sector and the customary law that has developed around work. As an FAO-ILO report notes, "Rural employment is a critical means for poverty and hunger reduction, as labour is often the only asset that poor people own. The main problem with employment in rural areas, however, is that many jobs do not ensure decent levels of income and sustainable livelihoods. Rural workers are at the heart of the food production system but are disadvantaged in many respects. They are among the most socially vulnerable, the least organized into trade unions, and the least likely to have gender equality in opportunities and pay, and access to effective forms of social security and protection. Many of them are employed under poor health, safety, and environmental conditions" (FAO-ILO, 2012).

In agriculture, an important factor in the poor work conditions and low earnings of self-employed producers and poor wages and conditions of farm workers is the low levels of budgetary investment in the sector which is anchored by smallholders and a household-based production system, with a growing contract farming and agricultural wages sector. There are also the labour relations that involve exchanges of land and labour, embodied in traditional agricultural tenancies such as *abunu* and *abusa*, as well as in contract farming. Contract farming is enjoying good press in the agrarian change literature and in policy circles as a win-win approach to agricultural modernisation. Agricultural tenancies have long been considered a positive response to land scarcity and the lack of capital facing many small-holders, particularly migrant farmers, and therefore, are not much scrutinised or regulated. A critical examination of the terms of traditional share contracts and contract farming arrangements suggests that many of them externalise the costs of labour, leaving workers and their families unprotected from risks such as sickness, poor harvests and long-term insecurity, while tapping into the social capital that drives pre-capitalist patron client labour relations. Many such arrangements are also between men, predicated on the unpaid labour of women and children.

Where own account producers and service providers depend on the unpaid labour of household members, these people, who are often wives, children, and other family relations, known as contributing family workers, are counted among the self-employed. They work in return for maintenance and in some cases, a share of the farms they contribute to cultivating. Kojo Amanor and others have found that household members increasingly have preferred to strike out on their own either as paid labourers on other peoples' farms or as producers. This is an important agrarian



labour issue often involving conflict within household production systems, that threaten its ability to sustain agriculture, particularly its export crop sectors that provide much needed foreign exchange.

The resistance by agricultural workers to their working conditions has created labour shortages in agriculture which are not linked with agricultural intensification or the transfer of agricultural labour to industry. Labour shortages have resulted in the widespread use of weedicides in small-holder agriculture. The problems of work in agriculture are compounded by the poor management and regulation of land, which has resulted in land scarcity, dispossession, and conflicts.

In the artisanal fishing industry (around the Volta Lake and in coastal marine fishing for example, payment is done once a year at the end of the season. During the season, the 30 or so members of the fishing company are fed and clothed and their health and other needs taken care of by the owner of the company. The distribution of profits at the end of the season is determined by *abusa* principles- one third to the net, another third to the boat and the remaining third is shared among all the members of the company, amounts depending on the seniority of the worker. Women, as wives of the head of the company, process and sell the fish and cook meals for the company. They often have female assistants with whom they have separate labour arrangements that are much more contingent and insecure than those of company members.

#### *The Problem of reproductive work*

All the labour forms discussed above are underpinned by reproductive work within the care or domestic economy. The invisibility of this aspect of work has contributed in no small way to longstanding care deficits caused by the lack of public investments in care. It is well known that the responsibility for home-based care and domestic work as well as the tasks of ameliorating the care deficits of public institutions falls mainly on women and girls, who are also heavily involved in unpaid household-based production as contributing family workers. Paid, mostly female domestic workers are also involved in care work and their terms and conditions are some of the most problematic.

The care deficit in Ghana is exacerbated by the low coverage of care institutions and the high numbers of children needing care per household. This is a common problem in many African countries. Secondly, rural Africa has few technologies for reducing the drudgery of domestic work, with the distances to water and fuelwood growing because of land dispossession, the privatisation of the commons and climate change. Moreover, household expenditure decisions do not prioritise technologies to ease domestic work. The effects of the care deficit are both short and long term. Together with the gender segmentation of productive work, it has an adverse effect on women's earnings and their ability to grow their enterprises, acquire assets and make financial contributions to their households. In the long-term, it undermines the conditions for the reproduction of a healthy and skilled workforce. Some of the decent work deficits related to work in the different sectors of the economy are presented below in Table 5.

**Table 5: Gender and Sectoral Segmentation of work**

Sector and Kind of Work	Terms and conditions	Decent work deficits	Gender composition
Agriculture			
Own account	Income from produce	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave. Usually has no control over the pricing of inputs and the pricing of outputs.	Both men and women segmented by size and scale of farming and resource control
Formal Wage work	Monthly salary	Increasingly insecure, but with the most decent work protections	Mostly men
Contributing family worker	In kind	No proper terms and conditions- wages, holidays, leave and pension. Fails all 10 decent work conditions	Mostly women
Contract farming	On the sale of produce after input costs deducted	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave. Usually has no control over the pricing of inputs.	Mostly men, but reliant on household labour provided by women and children
Agricultural tenancy	A proportion of harvest	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Mostly men/some women
Informal wage work	By day By task	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave. No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Both men and women, but men paid by day and women by task
Fishing			
Company owner	Paid proportions for boat and nets and own labour	No protection from shocks and illness ad income insecurity. No provisions for paid leave, paternity leave. Stronger party in wage negotiations with company members and with wife.	Men
Company member	Paid end of season and fed and maintained during season	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave. Vulnerable to exploitation by company owner. Wage arrangements and use of child labour highly problematic and need abolition	Men, use child labour as well
Wife of company owner	Paid in kind for processing fish and cooking for company	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave. Employment dependent on marriage status	Women
Employee of wife	Paid end of season	No protection from shocks and illness ad income insecurity. No	Women, some very young

		provisions for paid leave, maternity leave. Employment status affected by the situation of employer.	
Services			
Formal wage work	Monthly	Increasingly secure	Men and women
Informal wage work	Piece rate; task	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Women and men
Agency worker	Paid monthly but by agency	Do not receive equal pay for equal work. Agency deductions can be onerous. Are not treated like permanent employees. No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave. Domestic workers do not get the minimum wage and are not guaranteed the payment of salaries at the correct intervals.	Women and men
Domestic worker	Paid cash /and or kind	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave. Payment terms fraught; no arrangements for the fact that this is like no other work and that the home is a specific workplace.	Women
Own account	Income	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Women and men
Independent contractor	Paid for services	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Women and men
Commission on sales	Paid on the basis of sales	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Women and men
Industrial/Manufacturing Agro-processing			
Formal wage work	Monthly	Increasingly insecure with the features of informal work	More men than women
Informal wage work	Piece rate; per task, by day	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Women and men
Agency worker	Paid monthly but by agency	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Women and men

Own account	Income	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Women and men
Independent contractor	Paid for services	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Men
Commission on sales	At regular intervals	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave.	Women and men
Home worker	Piece rate	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave. Usually has no control over the pricing of inputs.	Women and men
Home -based work	Income	No protection from shocks and illness ad income insecurity. No provisions for paid leave, maternity leave. Occupational and environmental health issues not addressed	Women and men

### *Conditions of work*

Looking at the work conditions in each sector and specifically the nature of labour relations, only formal wage work can be said to fulfil most of the ten conditions of decent work. Even then, the growing insecurity of work has resulted in many more jobs looking like work in the informal wage economy- insecure, poorly paid and with poor work life balance. Many of the labour arrangements fall foul of most of the ten conditions, although we would not classify them as work to be abolished (v). The terms and conditions of workers in the fishing company and domestic workers are within the category of terms that should be abolished- end of season payments, and end of term payments and payment in kind. Certain cases of self-employment need close examination to see if certain relationships cannot be classified as employer and employee relations. These include commission, agency, and some contract relationships such as homework and contract farming.

**Table 6: Crosstabulation of Sector of work and some indicators of decent work**

Sector of employment	Was there a contract			Employer provide health insurance		Paid holiday/leave		Paid sick/maternity leave				Social Security		Subsidized medical care		
	Yes written	Yes verbal	No	Yes	No	Yes	No	Yes paid sick leave	Yes maternity leave	Yes both	No	Yes	No	Yes, Free	Yes, subsidized	No
<b>Government</b>	91.2	5.9	2.9	32.5	67.5	81.5	18.5	50.9	3.0	30.5	15.6	80.3	19.7	9.7	17.0	73.3
<b>Parastatals</b>	76.9	15.4	7.7	61.5	38.5	73.1	26.9	53.8		15.4	30.8	76.9	23.1	34.6	15.4	50.0
<b>NGOs</b>	55.1	28.6	16.3	18.4	81.6	44.9	55.1	34.7	12.2	12.2	40.8	38.8	61.2	16.3	10.2	73.5
<b>Cooperatives</b>	65.0	25.0	10.0	40.0	60.0	40.0	60.0	40.0		15.0	45.0	50.0	50.0	25.0	5.0	70.0
<b>International organization/ Diplomatic Mission</b>	81.3	12.5	6.3	31.3	68.8	50.0	50.0	56.3	12.5	6.3	25.0	56.3	43.8	12.5	25.0	62.5
<b>Private Sector</b>	25.1	46.8	28.1	8.1	91.9	22.4	77.6	19.5	4.0	5.4	71.1	17.3	82.7	5.7	8.1	86.2
<b>Other</b>	25.0	62.5	12.5	12.5	87.5	12.5	87.5	12.5		12.5	75.0	37.5	62.5	12.5		87.5
<b>Total</b>	43.7	35.4	21.0	15.2	84.8	38.9	61.1	28.4	3.8	12.3	55.5	34.9	65.1	7.1	10.6	82.3

Source: Computation based on GLSS 7

Table 6 shows a crosstabulation of sectors of employment against key indicators of decent work. The analysis is based on GLSS 7 data, and buttressing the concerns raised about various labour relations. In terms of written employment contracts, the government sector ranked highest with 91.2 percent, followed by international organizations/diplomatic missions with 81.3 percent of workers with written contracts. Parastatals, cooperatives, and NGOs followed with 76.9 percent, 65.0 percent and 55.1 percent, respectively.

Taken together, 43.7 percent of workers across all the sectors had written contract. Verbal contract account for 35.4 percent of all contracts. The private sector and “other” sectors have the highest percentages of verbal contract representing 46.8 and 62.5 percent, respectively. Also, 21.0 percent of employees across the sectors have neither written nor verbal contracts. The private sector is the sector has the highest percentage of employees without any form of contract representing 28.1 percent. Although a significant number of employees seem to have some contract (either written or verbal), the relatively low percentage of written contract (43.7) underscores the difficulty of protecting worker’s rights across sectors.

With regard to employers offering health insurance to workers, Table 6 above shows that only 15.2 percent of employees across the sectors are offered any form of health insurance. Parastatals (61.5%) and cooperatives (40.0%) are the sectors with the highest level of health insurance provision for workers. Only 32.5 percent of workers in the government sector were provided health insurance. The private sector provided the least percentage of health insurance representing 8.1 percent.

With regards to holidays or leave with pay, many respondents (61.1 percent) did not enjoy paid holiday or paid leave. Specifically, 81.5 percent of workers in the government sector had paid holiday or leave. A significant percentage of respondents in parastatals (73.1 percent) also enjoyed paid holiday and leave. Generally, the private sector had the smallest percentage of workers with paid holiday or leave.

Paid sick leave or maternity leave is a key issue in past and recent labour discussions. Table 6 shows that only 28.4 percent of workers across the sectors receive paid sick leave. Maternity leave with pay accounted for just a paltry 3.8 percent while both sick and maternity leave represent 12.3 percent. Many respondents (55.5 percent) did not have paid sick leave or paid maternity leave. Women workers thus experience a double disadvantage with respect to leave.

In terms of social security, government workers had the highest percentage of workers (80.3%) with social security. The private sector accounted for 17.3 percent. Taking the sectors together, only 34.9 percent of respondents had access to social security from their places of work. The majority (65.1 percent) did not have social security from their employers. Finally, majority of respondents (82.3 percent) had no subsidized medical care from work.

Table 7 Crosstabulation of Job status and indicators of decent work

Job status	Was there a contract			Employer provide health insurance		Paid holiday/leave		Paid sick/maternity leave				Social Security		Subsidized medical care		
	Yes written	Yes verbal	No	Yes	No	Yes	No	Yes paid sick leave	Yes maternity leave	Yes both	No	Yes	No	Yes, Free	Yes, subsidized	No
Paid employee	53.7	31.6	14.8	18.7	81.3	48.4	51.6	35.1	3.8	15.2	45.9	43.9	56.1	8.5	12.7	78.8
Casual worker	7.1	50.0	43.0	2.4	97.6	3.8	96.2	3.6	3.0	1.5	91.9	1.9	98.1	2.0	2.0	96.1
Paid apprentice	3.1	45.9	51.0	2.0	98.0	2.0	98.0	4.1	10.2		85.7	1.0	99.0	4.1	7.1	88.8
Agric self-employed without employees			100.0		100.0		100.0		100.0				100.0		50.0	50.0
Agric contributing family worker	33.3		66.7		100.0		100.0				100.0		100.0			100.0
Total	43.7	35.4	21.0	15.2	84.8	38.9	61.1	28.4	3.8	12.3	55.5	34.9	65.1	7.1	10.6	82.3

Source: Computed based on GLSS 7

Table 7 shows a crosstabulation of job status and decent work indicators. 53.7 percent of paid employees have a written contract while 31.6% have a verbal contract and 14.8 percent have no contract. Also, only 7.1 percent of casual workers and 3.1% of paid apprentices have a written contract. 81.3 percent of paid employees have no health insurance from their employers. The percentage is higher for paid apprentices (98%) and casual workers (97.6%). Furthermore, while 48.4 percent of paid employees are entitled to holiday or leave with pay, only 3.8 percent of casual workers and 2.0 percent of paid apprentice have this term and condition of employment. Agricultural self-employed and Agricultural family workers received neither health insurance nor paid holidays or leave. 45.9 percent of paid employees received neither paid sick nor maternity leave. Among casual workers, 91.9 percent did not receive any paid sick or maternity leave. Also, 85.7 percent of paid apprentice did not have paid sick or maternity leave from their employers. Furthermore, among the paid employees, only 43.9 percent were provided social security by their employers. Only 1.9 percent of casual workers, and 1.0 percent of paid apprentice workers are provided social security by their employers. In addition to this, the Table 7 also show that only 12.7 percent of paid employees, 2.0 percent of casual workers, and 7.1 percent of paid apprentice are provided subsidized medical care by their employers.

## 5. The Laws, Policies, and Institution

Agencies addressing Labour Issues in Ghana and their functions

### State Agencies

Agency	Status	Functions/ Purview
<b>Commission on Human Rights and Administrative Justice [CHRAJ]</b>	Established in 1993 under the 1992 Constitution by Act 456	It has three (3) broad mandates, namely, human rights, administrative justice, and anti-corruption.
<b>National Labour Commission [NLC]</b>	Established under Section 135 of the Labour Act, 2003 (Act 651).	Mandated to facilitate the settlement of industrial disputes, settle industrial disputes, investigate labour related complaints, particularly unfair labour practices, and take necessary steps to prevent such disputes. The Commission has the powers of a High Court in respect of the enforcement of attendance of witnesses and production of documents.
<b>Ministry of Employment and Labour Relations [MELR]</b>	Established by Section 11 & 13 of the Civil Service Act, 1993 (PNDC Law 327).  Executive Instrument 1 (EI 1), issued in January 2013	Mandated to formulate policies on Labour and Employment issues, develop sector plans, coordinate Employment and Labour related interventions across sectors, promote harmonious labour relations and workplace safety, monitor & evaluate policies, programmes/ projects for accelerated employment creation for national development. MELR exists to coordinate Employment opportunities and Labour-Related Interventions in all Sectors as well as promote decent Jobs and ensure Harmonious Labour Relations in Ghana.
<b>Ministry of Gender, Children and Social Protection [MOGCSP]</b>	Created by an Executive Instrument 1 (E.I. 1) in January 2013 as a successor to the Ministry of Women	Mandate to formulate gender, child development and social protection policy. Co-ordinate gender, child, and social protection related programmes and activities at all levels of development. Develop guidelines and advocacy strategies for use by all Ministries, Departments and Agencies (MDAs) and in collaboration with Development Partners and civil society organizations, (CSOs) to ensure effective gender and social protection mainstreaming. Facilitate the integration of gender,



	and Children's Affairs	children, and social protection policy issues into National Development Agenda. Ensures compliance with international protocols, conventions, and treaties in relation to children, gender, and social protection. Conduct research into gender, children, and social protection issues. Monitor and evaluate programmes and projects on gender, children, the vulnerable, excluded and persons with disabilities
<b>Department of Cooperatives</b>	Derives its powers for the performance of its duties from the provisions of the <u>Co-operative Societies Decree, 1968 (NLCD 252)</u> and the Co-operative Societies Regulations (L.I. 604).	Mandates include the Registration of co-operatives: any group of persons that have as their objective the promotion of their economic interest may be registered as a co-operative with limited liability. The Registrar may resolve any dispute that touches the business of a co-operative. The Registrar may do this on his/her own or through an arbitrator. Other functions are group formation and the sensitization of potential groups of people on the benefits of co-operatives and their preparation (involving nurturing for a period of time) for registration.
<b>Department of Factories Inspectorate</b>		Factories Inspectorate is responsible for the promotion of measures that would safeguard the health and safety of persons employed in workplaces in accordance with Factories, Offices and Shops Act, 1970 (Act 328).
<b>Labour Department</b>	An arm of the Ministry of Employment and Labour Relations.	Mandates are to provide advice on labor policy and all matters relating to labor; Administer labor legislation. Enforce labor laws and working conditions through inspection of workplaces. Promote effective tripartism through co-operation with employers' and workers' organizations. Investigate, find, and ease payment of workmen's compensation claims. Implement employment policies, through the labor market, and sound management of employment services. Provide career/vocational guidance and counseling. Co-ordinate, check and promote self-employment generation in the informal sector for sustainable full employment, economic and social progress. Child Labor desensitization, training, and law enforcement; co-ordination and monitoring of all child labor elimination programmes. Licensing and monitoring of operations of private employment agencies Registration and Certification of Trade Unions and Employers' Organizations. Provision of labor market information statistics in collaboration with other government agencies for human resource planning, development, and use. Ensure Government's continued relationship with and membership of the Internal Labor Organization (ILO) and other labor organizations throughout the world.
<b>Fair Wages and Salaries Commission</b>	Established by the Fair Wages and Salaries Commission Act, 2007, (Act 737)	Mandate is to ensure fair, transparent and systematic implementation of the Government public service pay policy; Develop and advise Government on and ensure that decisions are implemented on matters related to Salaries, wages, grading, classification, Job analysis and job evaluation, Performance management and indicators, and allowances and benefits in the public service with the ultimate objective of consolidation of the allowances and benefits; and undertake negotiations where compensation is financed from public funds.

Private Agencies

Agency	Status	Functions /Purview
<p><b>Trade Union Congress [TUC] of Ghana</b></p>	<p>Backed by the Constitution of Ghana and the Labour Law.</p> <p>Article 21 (E) of the Constitution (Amendment) Act, 1996 [Act 527]</p> <p>Section 79(1) of the Labour Act 2003 (Act 651)</p>	<p>To protect, strengthen, preserver and develop traditions and institutions of democracy and to secure fully the rights and liberties of workers. To promote national freedom, human rights, and world peace. To ensure the ratification and application of ILO and other international conventions with the view of harmonizing world labor practices sensitizing public opinion, both locally and world-wide in favor of acceptable trade union practices.</p> <p>Membership of the TUC includes: General Agricultural Workers Union [GAWU], Timber and Woodworkers` Union [TWU], Industrial and Commercial Workers Union [ICU], Construction and Building Materials Workers` Union [CBMWU], Ghana Mineworkers` Union [GMWU], Ghana Private Road Transport Union [GPRTU], Maritime and Dockworkers` Union [MDU], National Union of Seamen [NUS], Railway Workers Union [RWU], Railway Enginemens` Union [REU], General Transport Petroleum and Chemical Workers` Union [GTPCWU], Public Service Workers` Union [PSWU], Public Utility Workers` Union [PUWU], Communication Workers` Union [CWU], Teachers and Educational Workers` Union [TEWU], Federation of Universities Senior Staff Association of Ghana [FUSSAG], Ghana National Association of Teachers [GNAT], National Association of Graduate Teachers [NAGRAT], Polytechnic Teachers Association of Ghana [POTAG], University Teachers Association [UTAG], Health Services Workers Union [HSWU], Ghana Medical Association [GMA], Ghana Federation of Labour [GFL], Local Government Workers` Union [LGWU], Civil and Local Government Staff Association [CLOGSAG]</p>
<p><b>Industrial and Commercial Workers` Union [ICU]</b></p>	<p>Non-Statutory body but backed by constitutional provisions.</p> <p>Article 21 (E) of the Constitution (Amendment) Act, 1996 [Act 527]</p> <p>Section 79(1) of the Labour Act 2003 (Act 651)</p>	<p>Advocacy for good policies and initiatives that inure to the interest of members.</p> <p>The membership of ICU is drawn from a wide range of sectors including manufacturing, service, finance, and hospitality</p>
<p><b>Association of Ghana Industries [AGI]</b></p>	<p>Article 21 (E) of the Constitution (Amendment) Act, 1996 [Act 527]</p> <p>Section 79(1) of the Labour Act 2003 (Act 651)</p>	<p>Formed in 1958 as a business association of over 1200 members, made up of small, medium and large scale manufacturing and services industries in agro-processing, agri-business, pharmaceuticals, electronics and electrical, telecommunications, information technology, utilities, service industries, transport, construction etc. The Association performs the following functions including: Advocating policies that advance the growth and development of industries; Strengthening national industry associations through the sharing of knowledge, experience, and critical information.</p> <p>providing members with a network of contacts and facilitating international trade exhibition to promote members` goods.</p>
<p><b>Ghana Employers Association [GEA]</b></p>	<p>Non-Statutory body but backed by constitutional provisions.</p>	<p>Major role on behalf of its member in the negotiation and signing of CBAs; coordination in decentralised processes. Has four membership categories classified in terms of turnover and dues: "A1", A2", "B", and "C". A 40-member Council governs the Association with representation</p>

	Article 21 (E) of the Constitution (Amendment) Act, 1996 [Act 527] Section 79(1) of the Labour Act 2003 (Act 651)	on the Council somehow proportional to the number of companies in each sector. Its membership includes local and international, large, medium, and small-scale enterprises.
<b>Ghana Co-operatives Council</b>	Registered on January 22, 1973 by the Department of Cooperatives as the Ghana Cooperatives Council	Represents Ghanaian co-operatives nationally and internationally. Creates and encourages economic development of co-operative enterprises and other self-help entities. It does so by; Providing business development and advisory services to co-operatives and other self-help bodies Training and education of co-operatives and other groups Provides information, data and statistical services for co-operatives and other self-help enterprises. Activities here include: Research Collection and Dissemination of information Publicity Promotes micro-finance operations as an added value to non-financial co-operatives. Promotes and creates an enabling environment for co-operative development in the country.
<b>Private Enterprise Foundation</b>	Non-Statutory body but backed by constitutional provisions. Article 21 (E) of the Constitution (Amendment) Act, 1996 [Act 527]  Section 79(1) of the Labour Act 2003 (Act 651)	Association of Ghana Industries [AGI], Ghana Chamber of Commerce and Industry [GCCCI], Ghana Employers Association [GEA], The Chamber of Mines, Federation of Associations of Ghanaian Exporters [FAGE], Ghana Association of Bankers [GAB], The Ghana Chamber of Telecommunications, Ghana Insurers Association [GIA], Ghana Liquefied Petroleum Gas Operators Association [GLIPGOA], Profile of Association of Oil Marketing Companies [AOMCs], Ghana Insurance Brokers Association [GIBA], The Ghana Grains Council [GGC], The Association of Small Scale Industries [ASSI], The Chamber of Bulk Oil Distributors, The Ghana Independent Broadcasters Association, The Ghana Chamber of Young Entrepreneurs, Conference of Heads of Private Second Cycle Schools.
<b>Ghana Federation of Labour [GFL]</b>	Non-Statutory body but backed by constitutional provisions. Article 21 (E) of the Constitution (Amendment) Act, 1996 [Act 527]  Section 79(1) of the Labour Act 2003 (Act 651)	Advocating for policy directives that inure to the interest of its members. The purview of the federation includes: Textile, Garment and Leather Employees' Union. (TEGLEU), Food And Allied Workers' Union (FAWU), General Manufacturing And Metal Workers' Union (GEMM), Union Of Private Security Personnel (UPSP), National Union of Teamster And General Workers (NUTEG), Finance And Business Services Union (FBSEU), Private School Teachers and Educational Workers' Union of Ghana (PRISTEG), Media Of Printing Industry Workers' Union (MEDIANET), ICT and General Services Employees Union
<b>ILO</b>		Established in 1919 The ILO brings together governments, employers, and workers of member states, to set labour standards, develop policies and devise programmes promoting decent work for all women and men.

*Labour Legislation*

<b>Legislation</b>	<b>Purview/Function</b>
Factories, Offices and Shops Act, 1970 Act 328	Deals with registration of factories (including indication of the numbers of male and female employees and of the welfare facilities provided).
Workmen's Compensation Act 1987 and, PNDCL187	This Act covers compensation awarded to workers for personal injuries arising out of and in the course of their employment.
Social Security Law (1991 PNDC 247)	Provides for a new pension scheme to replace the Provident Fund Scheme introduced in 1965. Establishes the Social Security and National Insurance Trust.
Labour Act (Act 651, 2003)	Amends and consolidates the laws relating to labour, employers, trade unions and industrial relations and establishes a National Labour Commission. Applies to all workers and to all employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act 1996 (Act 526)
Labour Regulations, 2007, (LI 1833)	Contains regulations concerning employment agencies, conditions of employment, organised labour, employment of persons with disability, health and employment, restriction on recruitment including prohibition of human trafficking.
Pensions Act, 2007(Act 766)	The National Pensions Act, 2008 (Act 766) establishes a contributory three-tier pension scheme.

*The Labour Act of 2003 (Act 651).*

The Labour Act of 2003, Act 651 is the consolidation of all the laws relating to labour, employers, trade unions and industrial relations, and it also establishes a Labour Commission. It also makes provisions for public employment centres and fee charging employment agencies.

In scope, the Act is to apply to all workers and employers except the Armed Forces, the Police Service, the Prison Service and the Security and Intelligence Agencies specified under the Security and Intelligence Agencies Act of 1996 (Act 526) (Section 1 of Act 651).

The Act is in 20 parts- i. preliminary, focusing on the scope of the Act: ii. public employment centres, iii. protection of employment, iv. general conditions of employment; v. employment of persons with disability; vi. Employment of women; vii. Employment of young persons; viii. Fair and unfair termination of employment; ix. Protection of remuneration; x. special provisions relating to temporary workers and casual workers; xi. Trade unions and employers' associations; xii. Collective agreement; xiii. National tripartite committee; xiv. forced labour xv. Occupational health safety and environment; xvi. Labour inspection; xvii. Unfair labour practices; xviii. National labour commission; xix. Strikes and xx. Miscellaneous.

Although it states that it applies to all workers except those in the security and intelligence arms of the state, the Act's assumptions about the nature of work in Ghana, one of which is that all workers have employers means that it does not apply to the majority of workers in Ghana- the self-employed and other workers who cannot clearly identify an employer such as agency workers, workers paid commissions, workers driving peoples vehicles who are expected to pay the owner a

fixed amount each day, contract farmers and people farming under abusa /abunu relations. These constitute close to 80% of all workers in Ghana according to the latest GLSS 7 (GSS 2019).

This assumption permeates the entire Act and can be seen in the provisions regarding the tripartite committee which is to determine the national daily minimum wage, advise on employment and labour market issues including labour laws, international labour standards, industrial relations and occupational safety and health, among other things. This committee is composed of the Minister for Employment, five representatives of the government, five representatives of employers' organisations and five representatives of organised labour (sections 112 and 113). Thus, the principle of the tripartite privileges employers and employees. Organised labour is not defined under the Act, but trade union is, and it means any association of workers, the principal purpose of which is to promote and protect their economic and social interests, and which is registered under section 84 of this Act and includes a federation of trade unions registered under the Act. Under Section 80 of the Act, two or more workers employed in the same undertaking may form a trade union. In spite of this seeming openness, the practice is that self-employed and informal workers form associations, and it is not clear if these can be registered as trade unions. In practice, some associations have joined the TUC, but do not have the status of unions.

Similarly, the Labour Commission is composed of seven persons, six of whom are nominated by government, employers' organisations, and organised labour, and chaired by a person nominated by employers and organised labour. Its functions clearly show the assumption of all workers as employees. The committee's main functions are to settle industrial disputes, investigate labour related complaints, prevent labour disputes, and promote effective labour co-operation between labour and management (Sections 138 and 139 of Act).

Furthermore, the tripartite arrangements at the heart of the governance of labour relations make organised labour a minority, given that the government is also an employer, and has made it possible to establish a liberal informalized labour regime in which the trade unions have lost a lot of ground. This does not augur well for the regulation of labour generally.

Very few of the sections of the Act are relevant to informal workers. Part x. which has special provisions relating to temporary workers and casual workers, allows an employer to hire a worker on terms that suit the operations of the enterprise (Section 73). What this means is open to question, particularly since the provisions cover only remuneration. Furthermore, the section excludes a large category of workers from application, and these are a) pieceworkers, b) part-time workers, c) share croppers, d) apprentices, e) sea-going personnel in the fishing industry who are wage earners and f) any person who works less than an average of 24 hours a week. If these workers are being excluded because the provisions are not suitable for them, where is their labour regulated and protected?

The Act establishes public employment centres and private employment agencies with very little regulation of their arrangements for workers. It does not for example compel them to pay the minimum wage. Studies have shown that domestic workers recruited by agencies are often paid below the minimum wage (Tsikata, 2011).

A second set of challenges with the Act relate to incomplete/inadequate provisions. Section 16 on types of contract of employment only seeks to establish that how you are paid determines the type of contract you have- if you are paid monthly or weekly, then it is a monthly or weekly contract and if you are paid any other rate, the contract is determinable at will. Given the exponential growth in precarious work, this provision is inadequate and incomplete, in that it does lay out the range of contract of employment possible, and it does not prohibit certain types of contract and terms of remuneration.

Under general conditions of employment, the sections covering annual leave with pay say nothing about who pays for the annual leave, sick leave, and maternity leave of self-employed people and those who for some reasons do not have employers. Would they be paid from tier 3 social security arrangements or tax rebates? An Act of this nature needs to address this critical issue.

Sections 33-44 on hours of work have good provisions. However, section 33 on maximum hours of work, and section 34 on different hours of work do not apply to task workers and domestic workers in private homes. The question is what provisions have been made for them, within the labour law regime in Ghana.

LABOUR ACT PROVISIONS, IDENTIFIED GAPS AND PROPOSED RECOMMENDATIONS

ACT		THE PROBLEM	PROPOSED SOLUTIONS AND AMENDMENTS	USEFUL DOCUMENTS
PART	SECTIONS			
<b>PART I: Preliminary, focusing on the scope of the Act</b>	<b>1</b>	Scope mentions all workers but focuses only on workers with employers. Has no provisions for many workers who are in informal employment.	A reorganisation of the Act with a general set of provisions; as well as separate segments/parts focusing on workers in the different sectors of the economy-agriculture, services, industry, and manufacturing; domestic work. Each section should have clear provisions for formal and informal workers; self-employed people and persons in various contracts and tenancies.	United Nations Declaration on the Rights of Peasants and Other People Working in Rural Areas, 2018.  Domestic Workers Convention No. 189, 2011
<b>PART II: Public Employment Centres and Private Employment Agencies</b>	<b>2-7</b>	The Act has very little on the regulation of their arrangements for workers. It does not for example compel them to pay the minimum wage. Evidence shows that domestic workers recruited by agencies are paid below the minimum wage	More detailed regulations for employment agencies	Domestic Workers Convention No. 189, 2011
<b>PART III: Protection of Employment</b>	<b>Section 16</b>	Given the exponential growth in precarious work, this provision on types of contract of employment is inadequate in that it does lay out a range of contract of employment possible and does not prohibit certain types of contracts and terms of remuneration which fall foul of decent work principles.	Wages in kind, payments at the end of the season, or a multi-year contract should be made illegal. There should be arrangements for fair remuneration for contributing family workers.	
<b>PART IV: General Conditions of Employment</b>	<b>20-32</b>	These Sections covering annual leave with pay say nothing about who pays for the annual leave, sick leave, and maternity leave of self-employed people and those who for some reasons do not have employers.	The labour code should be amended with provisions that guarantee such workers leave with pay financed by a reformed contributory Tier 3 social security system, tax rebates and a Universal basic wage system. Requires the reform of the Social security system.	
	<b>33-44</b>	Section 33 and 34 on maximum and different hours of work do not apply to task workers and domestic workers in private homes. The question is: What provisions have been made for them?	The proposed new sections of the labour law on domestic work and other sectors should have provisions to address hours of work for the different categories of workers, including task workers.	

<b>PART V: Employment of Persons with Disability</b>	<b>45-54</b>	Provisions are quite vague. Special incentives promised to employers and their employees with disability are not specified. No provisions for self-employed persons with disability.	Provisions need to be augmented to include the issues of self-employed workers with disability and the incentives better specified.	Persons with Disability Act, 2006, Act 715
<b>PART VI: Employment of Women</b>	<b>55-61</b>	The section is limited to matters of pregnancy and maternity, annual leave, and sick leave. There is no provisions on the provision of childcare and childcare support, sexual harassment, and sexual violence at work. The Act also does not make provisions for mental health issues which are on the increase.	These sections should be amended to make provisions on child-care and child-care support; the promotion of work life balance for women, gender-based violence both at the workplace and at home. The Act needs provisions to address gender segmentation of work and the devaluation of women`s work and skills	ILO C190 – Violence and Harassment Convention, 2019  ILO R206- Elimination of violence and harassment in the world of work, 2019
	<b>55 -56</b>	<p>Section 55 (1) specifies that unless with her consent, an employer shall not assign or employ a pregnant woman worker to do any night work between the hours of ten in the evening to seven in the morning.</p> <p>It is unclear what went into the determination of this time.</p> <p>Section 55 [2] states that a pregnant woman worker or mother may present a “written complaint” to the National Labour Commission established under section 135 against an employer who contravenes subsection [1].</p> <p>Not all women workers are able to write a complaint, and this could deter many women from making a complaint.</p> <p>Section 56 [1] states that an employer shall not assign, whether permanently or temporarily a pregnant woman worker to a post outside her place of residence after the completion of the fourth month of pregnancy, if the assignment in the opinion of a medical practitioner or midwife is detrimental to her health</p> <p>It is unclear who sanctions the conduct of tests to determine whether going on a particular assignment will be detrimental to the health of the worker. This clause furthermore excludes the woman`s opinion or consent from the decision to go on an assignment or not. It is left to the employer, medical practitioner, or midwife.</p>	<p>This provision needs to be revisited in consultation with women workers.</p> <p>The provision should provide options for women who are not literate to access the labour commission which should facilitate the recording of their complaint.</p> <p>The law needs amendment to make it explicit that women must participate actively in the determination of what would harm them in the workplace.</p>	



<b>PART IX: Protection of Remuneration</b>	<b>68</b>	In a context of extensive gender, spatial and occupational segmentation of work, this provision needs augmentation as equality of work will be difficult to establish. Differences within and between public sector and private sector remuneration and terms and conditions complicates any discussion about equal pay for equal work. The provisions do not address fully in-kind payments, payment by task, and commissions. There are no provisions for the remuneration of unpaid work and the so-called contributing family members who are mostly women. Who protects the remuneration of self-employed workers?	The Act should be amended to make provisions that abolish practices such as in-kind payments, payment once a season, once in several years etc. It also needs provisions for fair remuneration for contributing family workers. The Act needs provisions to address gender segmentation of work and the devaluation of women's work and skills.	
<b>PART X: Special Provisions Relating to Temporary Workers and Casual Workers</b>	<b>Section 73</b>	Allows employer to hire a worker on terms that suit operation of the enterprise. What it means is open to question particularly since the provisions cover only remuneration.  The section also excludes a large category of workers including (a) Pieceworkers (b) part-time workers (c) share croppers (d) apprentices (e) sea-going personnel in the fishing industry who are wage earners (f) any person who works less than an average of 24 hours a week. If these workers are excluded, how is their labour regulated and protected?	Ratification of Domestic Workers Convention and the Convention on Peasant Workers.  The Act needs provisions about measures that reduce the burden of unpaid production as well as household and care work for women by a fairer sharing between men and women and adults and children and state investment in technologies that reduce the drudgery of domestic work.	
<b>PART XI: Trade Unions and Employers' Organisations</b>	<b>Section 80 &amp; 84</b>	Self-employed and informal workers have vibrant associations, and it is not clear if these can be registered as trade unions. In practice, they have joined the TUC in which they have thus far been treated as Junior partners. For example, the Domestic Workers' Union and the Makola Traders' Union are registered trade Unions affiliated to UNIWA (Union of Informal Workers Association). UNIWA is an associate member of TUC and their members are made up of beauticians, streetnet, MUSIGA, mechanics et.c.	Needs augmentation to include processes for the registration of formal and informal associations of workers and their recognition and inclusion as genuine representatives of workers.	Case study of the Self-Employed Women's Association (SEWA), India
<b>PART XIII: National Tripartite Committee</b>	<b>Sections 112 &amp; 113</b>	The assumption that all workers have employers means that it does not apply to majority of workers in Ghana who cannot identify an employer e.g. agency workers, workers paid commissions, workers driving people's vehicles etc. In effect, the principle of the tripartite privileges employers and employees over self-employed persons.	The NTC needs to be reformed to give workers organisations more slots and to include self-employed, domestic, and other informal workers' associations. The functions of the Committee need augmentation to enable it to address the	

			labour conditions of informal and self-employed workers.	
<b>PART XV: Occupational Health, Safety and Environment</b>		Focused on formal workplaces	Needs augmentation to address the home as workplace, markets, and open spaces as workplaces.	ILO R181- Prevention of major industrial accidents recommendation, 1993
<b>PART XVI: Labour Inspection</b>		Focused on formal workplaces	Needs to be extended to a wide range of categories of informal workers and workplaces including the home.	
<b>PART XVII: Unfair Labour Practices</b>		Focused on work of employees	Should include practices in contract farming and other forms of work.	
<b>PART XVIII: National Labour Commission</b>	<b>Section 138 &amp; 139</b>	The arrangements of the commission and that of the tripartite at the heart of governance of labour relations make organised labour a minority, given that the government is also an employer, and has made it possible to establish a liberal informalized labour regime in which the trade unions have lost a lot of ground. This does not augur well for the regulation of labour generally.	The Commission's composition and membership must be amended, and its mandate expanded to address challenges in a world of work that is mostly informal self-employment.	
<b>Omissions</b>				
<b>Domestic work and care</b>		The Act does not have provisions on reducing the drudgery and redistributing the burden of care and domestic work.	The Act needs provisions for Unpaid production as well as housework and care.	
<b>Gender Based Violence</b>		No provisions on gender-based violence	Broader provisions on violence against women	
<b>Mental Health</b>		No provisions on mental health	Act needs to have provisions on addressing mental health needs of workers.	
<b>Resource needs of self-employed workers</b>		No provisions that reference workers access to productive assets - land, credit, and technologies; as well as access to education and basic services.	The Act needs provisions that reference laws that address access to productive resources.	Land Laws.
<b>National Employment Policy</b>		The Labour Act is not in line with the more expansive approach of the National Employment Policy that recognise the importance of regulating informal work.	Labour Act needs to be brought in line with the more expansive approach of the National Employment Policy of 2014	National Employment Policy

### *The National Employment Policy of 2014*

The National Employment Policy (NEP) was completed in November 2014, after several years in draft. The policy's background and situational analysis provides a useful account of conditions of work in Ghana. Three points stand out in this regard. First, it draws attention to the fact that the employment situation in Ghana has not improved much in spite of two decades of improved economic growth, macro-economic stability, and improved infrastructure. Secondly, it argues that employment should be at the centre of the macro-economic policy agenda, thus making clear that it is not simply a sectoral issue. Thirdly, it sets out the primary focus of the policy, which is to address the employment situation, and deal with decent work deficits, targeting, vulnerable groups, the youth, women, and persons with disability (PWDs). In addition to labour issues, the policy focuses on questions of entrepreneurial development, private sector competitiveness, linking agriculture to the other sectors of the economy, research and innovation, vocational and technical skills development, productivity improvement, harnessing opportunities in labour migration and the green economy, among others.

There are specific references in the policy to gender discrimination and to women's issues at work. Under section 1.3.10 on gender and decent work standards, the policy notes women's low participation in formal employment and their high representation in self-employment. The policy attributes this situation to female reproductive and domestic roles, gender imbalances in access to education and training towards formal employment, unfavourable working conditions in the workplace, and lack of assertiveness and self-confidence of some women. While there is general agreement about some of these factors in the literature, the one about women's lack of confidence is controversial in terms of whether it is a cause or effect. Secondly, the systemic character of the gender segmentation of work and employer biases and discrimination in recruitment are not mentioned.

The ten key issues identified as needing attention in the policy document include the large informal sector employment characterised by low productivity, huge informal sector deficits; vulnerable workers and the working poor; youth unemployment; lack of forward and backward linkages between the productive sectors of the economy, uncompetitive private sector, weak institutional capacity for labour administration and coordination of employment; and the lack of accurate and timely labour market information for development decision-making and planning. There is no explicit mention of gender gaps in employment as a critical issue to be addressed. Although point 5 mentions vulnerable workers and the working poor, the gender segmentation of work and other gender gaps, including the gender wage gap are not mentioned.

Chapter two of the policy (pages 30 & 31) itemize nine core values and guiding principles of the employment policy framework. Several of these speak directly to inequalities, good quality economic/inclusive growth, social justice, empowerment and participation, social dialogue, equity, adherence to the constitution, adherence to international labour standards, protection of children against child labour, and community-driven initiatives. However, several are defective in how they have been formulated. For example, the principle of social dialogue is to be promoted through tripartism, which as we have already stated, excludes the self-employed. Secondly, although the equity principle is mentioned in terms of discrimination in the labour market, the focus is on entrepreneurial capacity and equality of access to productive assets, education, and basic services

The policy's goal and objectives focus on decent employment creation, improving the quality of jobs for those already in employment, labour productivity and governance and labour administration. These goals and objective are in consonance with the decent work agenda in identifying the quality of employment as a critical issue to address. While the goals and objectives do not mention gender equality and equity, the framework of equity, fairness, security, and dignity provide the space to address gender discrimination in the labour market.

## **The Ghana National Employment Policy**

### **2.3 Goal**

The goal of the NEP is to create gainful and decent employment opportunities for the growing labour force to improve their living conditions and contribute to economic growth and national development within the framework of equity, fairness, security, and dignity.

### **2.4 Key Objectives**

The key objectives to be pursued to achieve the overall goal are:

1. To create more decent jobs to meet the growing demand for employment.
2. To improve the quality of jobs for those who are employed.
3. To increase labour productivity.
4. To strengthen governance and labour administration.

Source: National Employment Policy. 2014

However, the lack of deliberate commitment to addressing the already existing gender gaps in the labour market through the fashioning of direct measures that promote gender equality and address all other forms of discrimination are a serious omission in the policy.

The National Employment policy document describes its development process. The document, which went through several iterations was reviewed by a range of state and non-state stakeholders. Gender equality and women's empowerment groups were not mentioned in the list of those who participated in the document's validation. It is therefore unclear if and how they were involved. Notwithstanding this, the strategic actions to achieve key objectives of the policy have some measures that address gender inequalities, although this is not a thread running through the measures. Proposed activity 19 of the first objective of creating more decent jobs is to provide special assistance for the development of women's entrepreneurship, and improve their access to credit, provide them adequate institutional support, remove cultural inhibitions, and provide them practical management training to become successful business women and effective role models in society. Activity 22 states that where feasible, to give priority to labour intensive approaches in the production of public goods and services to generate sustainable employment opportunities for the extremely poor in the labour market, especially women.

Under objective 2 to improve the quality of jobs for those already in employment, Activity 3 is to enforce labour laws and regulations, including occupational safety and health at all workplaces. This is an important provision, which if implemented, would address important issues of concern to women workers. However, it does not account for all the identified weaknesses in the law and labour administration. Activity 12 is to pursue measures for improving gender equity in employment to enhance women's access to productive employment opportunities. Activity 13 is to implement specific measures and standards to protect the health of working women during pregnancy, after childbirth and while breastfeeding; while 14 is to ensure the strict enforcement of decent work standards in terms of opportunities for productive work, income, security at the workplace, social protection for workers and their families, better prospects for personal development and social integration, freedom to form unions and equality of opportunity for all. Activity 15 calls for the expansion of social protection mechanisms to protect workers exposed to external shocks and develop new strategies to help them cope with socioeconomic shocks before they are reintegrated into the labour market (NEP, p. 39). Under objective 3.4, which is to enhance labour administration, provisions are made for increasing the capacity for inspections of business premises. The provision is silent on home premises where business takes place and where homebased workers and their employees and domestic workers operate. The document also does not have any provisions for reducing drudgery or promoting a fairer distribution of domestic and care work. These shortcomings notwithstanding, these are important and useful proposed measures that are still yet to be implemented.

The policy identifies the laws, regulations, policies, and programmes underpinning the employment policy (pp. 33-34). Conspicuously missing from the list are the National Gender Policy, the Domestic Violence Act of 2007, Act 732, and work-related gender equity policies and laws. These omissions suggest that no consideration was given to these documents in the formulation of the NEP.

In the implementation arrangements of the NEP, a new body, the National Employment Coordination Council (GNECC) is to be established to support the Ministry of Employment to implement the policy. Its membership is to be made up of representatives of employment generation sectors under the responsibility of the Vice-President of the Republic. Two issues are raised by this Council. First, it could represent a proliferation of policy and operational centres, thus raising issues of effective coordination and how to avoid duplication and contradictions, if its interface with pre-existing labour institutions such as the Tripartite Committee and the Labour Commission are not clarified. Secondly, its composition is not very clear in the policy, although given precedent, it is not likely to have meaningful representation of informal workers and women.<sup>2</sup>

The NEP mentions that the Ministry of Gender, Children and Social Protection (page 46) is expected to work in close collaboration with the employment ministry to ensure social assistance

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<sup>2</sup> The ILO reported that an Interim National Employment Coordinating Committee (INECC) of Ghana held a meeting on Friday 4 March 2016 to validate the roadmap for the implementation of the national employment policy (NEP).

The INECC is composed of members of the Government and line Ministries, Social Partners, and other major stakeholders. The Committee is jointly chaired by the Ministry of Employment and the National Development Planning Commission (NDPC). It should become a National Employment Coordination Council after legal formalities.

programs are linked with labour market policy interventions. This is an important provision which provides the basis for tackling the gender equity deficits in the labour code. There are challenges, however. One of these is that the tripartite approach is very much in place in the institutional roles and responsibilities outlined for policy implementation. Lastly, the policy technical team is composed of mainly public sector representatives, most of whom are men.<sup>3</sup> In terms of representation, this is not balanced. It calls into question the extent to which issues relating to gender equality were considered in discussions. Future technical committees should include representatives of different categories of workers and other non-state actors and employers and should be gender biased.

## **6. Initiatives to Create Employment in Agriculture and the Decent Work Agenda**

In addition to labour laws and policies, there are several global, regional, and national initiatives to regulate production value chains and create employment that have provisions aimed at addressing some decent work deficits. Three of such initiatives- global certification of production, the Ghana Commercial Agriculture Project (GCAP) and the Planting for Food and Jobs will be discussed briefly.

### *Global Certification*

Certification has become a tool for improving labour, phyto-sanitary and other standards in agriculture. Certification agencies and the NGOs that help to implement their programmes often paint overstate the expected benefits of their schemes. Certification schemes such as 4C, Better Cotton Initiative (BCI), Cotton Made in Africa (CMiA), Fairtrade, GLOBALG.A.P, Organic, Rainforest Alliance (RA), and UTZ Certified (UTZ) have been adopted for different commodities such as cocoa, coffee, cotton, fruits and vegetables. Global certification initiatives usually have five components: the environment, social, management, quality, and ethics requirements. It is usually in their social component that labour issues are addressed. For example, the social requirement of LEAF focuses on human rights and local communities, while those of BSCI include work and labour rights- conditions of employment and the empowerment of workers. Rainforest Alliance certification, which is used in the cocoa sector has four key objectives: conserving forests, advancing the human rights of rural people, improving livelihoods of farmers and forest communities, and climate change. From the foregoing, it can be argued that certification systems do not provide detailed provisions for a favourable working environment for workers or for fair wages, social protection, and security.

Annor et al (2016) examined compliance with GLOBALG.A. P standards among smallholder pineapple farmers in Akuapem South, Ghana. The findings of the study show that the lack of access to credit, high cost of farm inputs and high cost of labour are major constraints to GLOBALG.A. P compliance, with many farmers falling below the compliance 95 percentage point. The requirements of the standards and certification process also bring new challenges and costs to producer groups and exporters, and in the absence of already existing markets for certified products, the possibility of making huge gains is low.

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<sup>3</sup> Six of the ten are from the Ministry of Employment and the rest are from the Labour Department, NVTI, NDC and ILO.

Certification bodies are also quite frugal on gender equity commitments. They often have no gender provisions, or when they have them, they are often a reference to other documents. An example of a certification system that has provisions on women is the Ethical Trading Initiative. Among other things, it highlights some issues that are important for women's rights and socioeconomic conditions in agricultural commercialisation projects and the value chains that develop from this. It also contains general principles on gender and work, women's rights at work, maternity/paternity leave days, family-friendly policies to increase the labour force participation of women, development assistance policies which promote the economic role of women and incentives to women to develop their careers through specific training programmes.

#### *The Ghana Commercial Agricultural Programme (GCAP).*

The GCAP aims to develop agriculture in Ghana through inclusive farming along selected commodity value chains. A major thrust of the project is to enhance the role of commercial agriculture and strengthen agricultural value chains. Under the programme, the Government of Ghana seeks to broaden and deepen private sector investment in agriculture – noting that it is already occurring but can be augmented in several ways. One of these is additional agro-processing especially in the horticulture sector to provide alternative markets to local production that is unable to meet European requirements (tastes or standards) and create jobs.

Two aspects of GCAP are relevant to our study. First, the project has created employment opportunities for people in the project areas, through its commercialization approach. However, the focus on commercialization and private sector participation and the adoption of contract farming models, has had negative effects such as the loss of lands and off takers/clients on smallholder farmers in the project areas. There are no explicit provisions under GCAP to ensure adherence to decent work principles such as equal opportunity and treatment in employment, safe work environment, social security, among others.

GCAP does not have many explicit provisions on gender. However, it is the intention of the programme to increase yields by 40%, increase gross margins by 40% and reach 14,000 direct beneficiaries including 40% percent women. There is therefore some level of gender sensitivity in the award of grants under the project. However, the decent work provisions are almost non-existent.

#### *Planting for Food and Jobs (PFJ).*

The goal of the PFJ project is to contribute to the modernization of the agriculture sector that will lead to structural transformation of national economy through food security, employment opportunities and reduced poverty. The objectives of the project are:

- To ensure immediate and adequate availability of selected food commodities.
- To provide job opportunities for the teeming unemployed youth in agriculture and allied sectors.
- To create general awareness for all formal workers and public institutions to farm and establish backyard gardens.
- To serve as food imports substitution

While employment creation is a key tenet of the PFJ programme, there are no explicit provisions to eliminate conditions of indecent work. Grievance redress channels are not provided under the project for beneficiaries with complaints to lodge their issues. In terms of coverage, the project

provides equal opportunity for all as it is implemented across all districts in the country, and targeted at growers in rural, urban, and peri-urban spaces. Mabe et al. (2018) assessed the implementation of the PFJ programme and noted that participation of youth (6%) and women (15%) is very low. Very little has been done to improve the participation of women and youth in the programme. This is a missed opportunity given that youth are facing serious problems of unemployment. These initiatives and programmes would be enhanced by a more robust national labour law regime. In turn, they would enhance the regulatory regime for labour if they incorporated the ILO's agenda for decent work in their labour standard provisions.

## **7. Towards a more robust regime of regulation for the promotion of gender equity in access to decent work**

### *Conclusions*

This review of Ghana's Labour Law Regime has drawn several conclusions.

The first is that the Labour Act and the entire labour regulation regime in Ghana is not fit for purpose in a labour market consisting mainly of self-employed informal workers. This is because the central underpinning of the labour regulation regime is the employer-employee relationship. As the dominant character of employment is self-employment, it is important for a labour regulation system to take this fully into account.

As well, the labour code is gender biased and fails to address the specific disadvantages women experience at work. Therefore, policy and legal reforms are needed to improve labour relations across the board, but especially in the agricultural, fishing, extractive and domestic work sectors. Additionally, legal, and institutional arrangements (laws, mediation and dispute resolution, inspection, enforcement) to specifically support informal work would ensure that workers benefit from structural changes in the economy. With regard to employers, their own improved conditions of work would improve their ability to pay for the services workers they employ, such as casual labour and domestic workers.

### *Recommendations on Law Reform*

To address this bias in the labour regulatory regime, the law needs to be fundamentally amended to include provisions for the range of labour issues raised by self-employment, informal work, and precarious work. Critically, legislative, and institutional reform needs to pay attention to the decent work deficits of domestic workers, workers in household-based production, agricultural work, agricultural tenancies; homework, home based work, contract labour and the emerging gig economy. In so doing, the labour regulation regime also has to address the problem of bogus self-employment and in cases where an employment relationship can be established, ensure that employees, even if they appear to be independent contractors, are protected by the law. The regulation of employment agencies needs a complete overhaul to ensure that the deals they broker do not fall foul of decent work principles. Such regulations should also address their responsibility for workers terms and conditions and social security arrangements. Furthermore, such regulations should address their responsibilities for workers they recruit to work outside Ghana's borders.

The issue of Ghana's migrant workers also needs bilateral arrangements with receiving countries that address the abuse suffered by various categories of employees, particularly domestic workers. A reformed labour law and policy regime requires a broader conception of the workplace to include informal spaces, the home and even outside Ghana. It has implications for the workplace



inspection system, which needs a radical redesign and support to make it smart without it becoming unwieldy and ineffective. The system also needs clear provisions for unpaid production as well as housework and care.

Labour reforms also need to address the entrenched gender segmentation of work and the resulting devaluation of women's work and skills, which has been manifested in the gender pay gap in wage and other kinds of work.

Also important are provisions to address the implications of gender-based violence both within and outside the workplace. Gender based violence outside the workplace affects the performance and welfare of women at work, and therefore should not be of no concern to employers.

The social security and pension system also needs reform to enable it to support workers in times of unemployment, illness, maternity, and livelihood shocks.

The ratification and or domestication of commitments under international and African Conventions and platform documents and agreements would aid the fashioning of a more robust labour law and policy system. In this connection, Ghana needs to ratify key ILO workplace conventions. These include:

- C189 - Domestic Workers Convention, 2011 (No. 189)
- C190 - Violence and Harassment Convention, 2019 (No. 190) and Recommendation 206 (Recommendation Concerning the Elimination of Violence and Harassment in the World of Work)

#### *Other Measures*

The effectiveness of a reformed labour law and regulatory framework depends on other measures that promote the structural transformation of the economy. There is a synergistic relationship between the nature of the economy, economic policy directions and the labour regulation regime. To achieve a fundamental change in labour relations in Ghana, both the economy and the regulatory framework need to change. Thus, in addition to legislative change to meet the challenge of regulating informal work, structural change in the agrarian economy is a prerequisite for systematic improvement in the labour market outcomes for informal workers.

The strengthening of the agrarian economy through improvements in productivity and value addition activities would strengthen the linkages between agriculture and industry in ways which benefit the entire political economy and improve the incomes of farm households.

Matters such as gender inequalities in access to land, labour and capital need to be addressed substantively. This would allow women headed households and women in male headed households to expand their production and save income surpluses which they could apply to quality education for their children. This would enable boys and girls to gain the skills which improve their situation in the labour market.

Also needed are economic and social policies which ensure the equitable distribution of resources, services and opportunities and recognise and support the care economy. Public support for the care

economy would change the profile of domestic work, promote specialisation and standardisation of domestic work, and create employment in the care economy outside the household.

### *Reform Strategies*

How we conceive of reforms are critical to their success. Rather than incorporating new provisions in existing regulations and policy, which mainly covers formal work, a new framework of employment which is centred on informal and non-standard work is critical. This calls for the regulation of informality. This approach will privilege work such as domestic work, and employment in farming, fishing, small-scale mining and other extractive activities and the fast expanding service economy in Ghana.

In terms of how regulation will be organised, a helpful approach would be a national framework with overarching principles and provisions accompanied by regulations for the different occupational sectors (i.e. agriculture, fishing, extractive industries, artisanal production and domestic work) using a decent work paradigm, but addressing the particular labour relations in the particular sector. This is important for tackling the specificities arising from the organisation of production and exchange in the various sectors, while providing a common framework for labour regulation. This has been defined as regulatory decentralisation. Such an approach needs to determine what issues the national framework should tackle and what should be left to sectoral regulation.

Questions to be tackled by legislation would include how to identify an employment relationship and the range of non-standard employment arrangements including seasonal work; a wages regime that covers the wide variation in wage arrangements. Other matters would be the extensively gendered nature of work and conditions of work as well as gender issues to promote gender equity, non-discrimination and reduce the gender segmentation of work and the gender wage cap, protect women workers and also address the implications of their reproductive burdens.

A related issue is that household- based production is very widespread in fishing and farming and service sectors such as urban based food processing and distribution and in artisanal manufacturing. However, each sector has its own organisational principles of work and terms and conditions. These should form the basis of sectoral regulations which take a stand on existing practices and endorse, change, or modify these and make efforts to standardise work. In agriculture for example, share contracts where a landowner farms land with contractors, must be addressed. In fishing, it is the fishing company, while in small-scale mining, reform is needed to the labour system which is currently organised around the interests of the owner of the mining pit. In market trading, the organisation of trading with wholesalers, wholesaler/retailers, retailers as well as employees at each level all linked in a system of commission payments should be at the centre of a revised regulatory system. In the construction industry and in artisanal services, work is undertaken by a range of casual and more permanent employees as well as apprentices who comprise a system that also needs its own regulations.

In domestic work, sector-specific regulation would require making provisions for regulating different kinds of arrangements: workers with multiple employers; domestic workers involved in economic activities; part-time domestic workers, live-in workers and those who come to work daily; domestic workers performing general or specialised functions; workers involved in the

commercial activities of their employers. Specific issues to be regulated include accommodation arrangements for live-in workers; hours of work and holidays; health and safety arrangements; the provision of food and tools of work to reduce drudgery; violence and abuse; end of service provisions. An effective regulatory framework would also need to go beyond labour law per se: in addition to labour law arrangements, the Children's Act needs to be amended to regulate fostering arrangements, education laws need to provide additional regulation for apprenticeships, and social security regulations are needed for all workers. LAWA Ghana's draft regulations (2003) are instructive in this regard.

The labour inspectorate system in Ghana is weak and limited in scope and reach. A new inspectorate system is needed for informal work of different kinds. New institutions are also needed for regulating informal work. It would require that all workers be registration of all workers, something which has become feasible because of the National Identification Scheme.

An important element of regulating informal work is the strength of the organisations of informal workers. This is work in progress and requires enabling legislation to encourage organisations that are fit for purpose.

Regulatory reforms will be contested resisted because they will expose problematic labour relations, and if enforced, will have negative impacts on enterprises and household that rely on over-exploiting labour in the short term. Success will also depend on conditions which have to be created and nurtured - state capacity, the improved consciousness and organisation of large segments of the work force and a fundamental shift in economic policies to strengthen the productive segments of the economy and create jobs. However, the successful reform of the system will be beneficial to workers, employers, the state and private sector as well as the care economy, in short the entire economy and society in creating a labour system that guarantees a living wage and decent work, generates economic multipliers and promises the enlargement of citizenship rights and the development a just and equitable society.

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