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CHILD DOMESTIC LABOUR IN
THE IVORY COAST
Law and Practice

A Minor Field Study

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Abstract

The thesis is based on a Minor Field Study performed in Abidjan, the Ivory Coast, spring 2001. Law and practice concerning child domestic labour is examined, presenting a comparative study of relevant international, regional and national law.

No clear contradiction between international legislation and Ivorian law has been found. The gap between legal theory and the reality (practice) has, however, proved to be wide. Children working in exploitative situations akin to slavery are common.

The study observes that child labour in general, and child domestic work in particular, need to be better controlled and regulated.

Approaches from the national, regional and international level for reaching out to this particular group of child workers are presented, followed by an analysis of the possibility of use of law as a tool to improve the situation.

Abbreviations

ACHPR	African Charter on Human and People's Rights (1981)
ACRWC	African Charter on the Rights and Welfare of the Child (1990)
AfDB	African Development Bank
BICE	Bureau International Catholique de l'Enfance
CEDAW	Convention on the Elimination of all forms of Discrimination Against Women (1979)
CRC	Convention on the Rights of the Child (1989)
CRIN	Children's Rights Information Network
CWA	Child Workers in Asia
ICCPR	International Covenant on Civil and Political Rights (1966)
ICESCR	International Covenant on Economic, Social and Cultural Rights (1966)
ILO	International Labour Organisation
IPEC	International Program on the Elimination of Child Labour
NGO	Non Governmental Organisation
OAU	Organisation of African Unity
SMIG	'Salaire Minimum Inter Professionnel Garanti'; Minimum Salary
SPARC	Society for the Protection of the Rights of the Child
WAO	World Association for Orphans
UDHR	United Nations Declaration of Human Rights (1948)
UNICEF	United Nations' Children's Fund
UNIFEM	United Nations' Development Fund for Women

1 Introduction

Child domestic labour – that is, children under the age of 18 working in other people’s households doing domestic chores – is a widespread but highly invisible form of child employment. The invisibility derives from the fact that each employment is separate and takes place within a private home.

With the introduction of placement agencies, the tradition of letting children participate in domestic work has, during the last couple of decades, moved into a more commercialised system.

Mainly due to poverty, the recruitment of child domestics is a fast-growing informal-sector activity in West and Central Africa. Children, mostly girls, tend to be moved far away from their original family and come under the total control of the employer. This renders them particularly vulnerable to both labour and sexual exploitation.

The great number of children working as domestics in conditions akin to slavery is a matter for deepest concern. According to the **Convention on the Rights of the Child**, unlimited working hours, lack of remuneration,¹ isolation from family,² lack of opportunity of schooling³ and for play and recreation⁴ are all violations of children’s rights.

Therefore, action needs to be taken to reach out to this group of child workers, ensuring them the fundamental freedoms and inherent rights of all human beings.

¹ **Convention on the Rights of the Child** (1989), Art. 32, See Chapter 3.2.

² **CRC**, Art. 9.1 (1): "States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interest of the child."

³ **CRC**, Art. 28.1: "State Parties recognise the right of the child to education and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular: a) Make primary education compulsory and available free to all; b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child and take appropriate measures such as the introduction of free education and offering financial assistance in case of need."

⁴ **CRC**, Art. 31.1: "States Parties recognise the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts."

1.1 Purpose of the thesis

The purpose of the thesis is to investigate the law and practice concerning one of the most vulnerable groups of working children of today; that of the domestic working girls (French expression: *petites bonnes*.)

Applicable international, regional and national law will be contrasted with current practice, that is, what reality looks like today. Areas where law and practice are inconsistent will be highlighted, and approaches from the national, regional and international level to improve the situation will be considered.

1.2 Scope and limitations

This study will focus on the working situation for a *petite bonne* in the Ivory Coast. Hence applicable labour law, as well as relevant children's and women's rights law will fall within the scope of the study. Other forms of discriminatory practices against girls – if not directly linked to the working situation - will, however, fall outside the scope of the thesis, (e.g. female genital mutilation, early marriages, health care discrimination, educational opportunities discrimination etc.)

A child working as a *petite bonne* risks being deprived of several rights set forth in international law. These will be mentioned although the focus will remain on the working situation. The minimum age for admission to employment, working hours and rest, remuneration, recruitment practices and conditions of the work will be studied closely.

1.3 Methodology

The thesis is based upon a Minor Field Study performed in Abidjan, the Ivory Coast. Interviews have been conducted with people from **UNICEF Abidjan**, **ILO**, **The African Institute**, **Save the Children Sweden** and **WAO-Afrique**. A national NGO working in the field, **Bureau International Catholique de l'Enfance**, has been followed in its work. Visits at different placement agencies in and around Abidjan have contributed to the material of the thesis as well.

Much of the written material is collected from handouts and reports from NGOs and the **Committee on the Rights of the Child**. Facts about international and regional legislation have, to a great extent, been taken from internet web sites. National legislation has mainly been collected from the database of a French law firm based in Abidjan.

2 Facts about Child Domestic Labour

Child labour can not be seen solely as a contract relationship whereby work is carried out for remuneration. It occurs in both formal and informal situations, within as well as outside a household, and legally or illegally.

A definition of *child domestic workers* will be given in this chapter. Some statistics will be presented thereafter, followed by a description of the traditional way of placing a child domestic and how this practice has changed into a more commercialised arrangement. The fact that most child domestics are girls as well as the socio-economic factors that lead a child into domestic work, will then be considered.

2.1 Definition of child domestic workers

"Child domestic workers" or "child domestics" are defined in this study as children –to a great extent girls - under the age of 18 who work in other people's households, doing domestic chores, caring for children and running errands, among other tasks. The study focuses on the situation of live-in child domestics, that is, children who work full time in exchange for room, board, care and sometimes remuneration. Although children who carry significant domestic workloads in their own homes face many comparable problems, their situation falls outside the scope of this study.

"Child domestic workers" are a highly invisible group of the child workforce. This is due to the very nature of the work, where each child is separately employed and works within a private home. It is for that reason difficult to reach and to count these child workers.⁵ The invisibility of this group also derives from the fact that most domestic workers are girls. Doing domestic chores in a household other than their own is often seen as only an extension of their duties, and the concept of employment is often missing.

UNICEF and other NGOs⁶ have been conducting research to learn more about child domestic labour. The information generated from these studies shows that, - despite wide social, cultural and economic differences, this occupation has some features that distinguish it from other forms of child labour.

⁵ UNICEF: *Child Domestic Workers*, Innocenti Digesti, 1999, p 2.

⁶ NGOs active in the field of child domestic workers are, for example, BICE, Anti-Slavery International, Save the Children, ILO/IPEC, CWA, SPARC.

First, it is among the lowest status, least regulated, and poorest remunerated of all occupations, whether performed by adults or children. Secondly, most child domestics live in, and are under the exclusive control of the employer. The majority of child domestics are girls and their powerlessness within the household renders them especially vulnerable to sexual abuse. Furthermore, since it is possible for very young children to undertake light household tasks, the age of entry can be as young as five. Lastly, many child domestics do not handle their earnings as they are commonly given to parents or people often referred to as "aunties" who in reality are unrelated recruitment agents.⁷

2.2 Some statistics

According to ILO estimates⁸, there are some 250 million children between the age of 5 and 14 involved in economic activities in developing countries. For almost half of them (120 million), this work is carried out on a full-time basis, while for the remaining part it is combined with schooling. Among school going children, one-third of the boys (33%) and more than two-fifths (42%) of the girls are also engaged in economic activities on a part-time basis.

As being the most densely populated region of the world, Asia (excluding Japan) has the highest number of child workers in absolute terms with approximately 61% of the world's total. In relative terms, however, Africa comes first in the economic activity participation rate of children. With 32% of the world's total, still a little more than two out of five (41%) of the children aged 5- 14 are working. The corresponding proportion is 21% in Asia.

In the Ivory Coast, 51,4% of the 14, 6 million population is less than 16 years old. Of these 1, 5 million (20,4 %) are estimated to be participating in economic activity.⁹ Data on child labour in general, and child domestic labour in particular, are, however, extremely scarce. The reason for this is the absence of an appropriate survey methodology for probing into the work of these children which, for the most part, is a "hidden" phenomenon. Therefore, no figures are available on the number of child domestic workers

⁷ UNICEF: supra note 5, at 3.

⁸ The figures are taken from: www.ilo.org/pu.../ipec/simpoc/stats/child/stats.html, 30/4 2001.

⁹ The figures are taken from "*Les Petites Bonnes à Abidjan – Travail ou Exploitation?*", BICE, Abidjan 1999. A study carried out by BICE-Côte d'Ivoire in 1999, Abidjan. Two hundred girl domestics were interviewed and their answers have laid ground to the statistics used in this study.

in the Ivory Coast. What is certain, however, is that there has been a progressive increase in the number during the last couple of years.¹⁰

2.3 Cultural factors of child domestic labour

The traditional mobility of African children, combined with the sustained economic crisis and poverty of the population, has offered the opportunity for abusive use of child domestic labour.

2.3.1 Traditions of placement

The phenomenon of working children is far from new. It is, and has always been, a normal characteristic of daily life among the poor that children should contribute to the household economy with work of some kind or another.

In the traditional African societies, the involvement of children in the economic activities of their parents is perceived as a way of responsibility training. The work is seen as a component of socialisation, where the child gets integrated into its particular social and cultural environment.¹¹ In this context, the child gets to work in an environment that is physically and socially relatively safe. The communities are homogenous, rural and traditional urban settings in which adults have custodial and protective attitudes towards the children, even if they are not related to them.

As a means of upgrading the children's education and training, there has as well been a deeply rooted tradition of moving children from the family home and putting them into foster care. This placement tradition has at the same time been a form of relief for the child's own family, as the guardian is requested to care of him or her. The child is given to a close family member who is supposed to enrol him or her in school or vocational training. In exchange for the care, the child's free time is spent carrying out chores and minor household work.

In most West African countries, *la filette*¹² was very early introduced to the domestic and/or agricultural duties. These activities were regarded as an indispensable element for the preparation of her future life as a mother and wife. The little girl working in her own or a related family meant a mutual benefit. While the girl was carrying out domestic duties for the family, the family in turn played an important role towards the girl in giving her social

¹⁰ Interview with **Carin Åström**, Regional Representative in West Africa for Save the Children Sweden, March 2001.

¹¹ UNICEF, *The Issue of Child Domestic Labour and Trafficking in West and Central Africa*, Cotonou 1998, p 15.

¹² Translation: "The little girl". The term is also being used for the youngest category of *petites bonnes*.

and cultural education and habits.¹³ As the work was seen as an essential part of the girl's education, it was never remunerated.

2.3.2 Placement at the present time

Although the practice of involving children in work has deep historical and cultural roots, there is a major change in today's world.

"Work as upbringing" in the child's own home or the house of a relative or friends has given way to a commercialised arrangement, where placing agencies are systematically involved. Demands for young domestic workers have grown in the society and their supply is nowadays organised by these placing agencies.

Due to this fact, the trafficking of child domestic workers - within and across borders - is a fast-growing informal-sector activity in West and Central Africa. In most countries of the region, internal trafficking from rural to urban areas is common.¹⁴ Children, whose ages range from 8 to 14, tend to be moved in groups from their rural villages. Due to the economic crisis, parents accept freely to place their children, as they do not see any possibilities of raising them themselves. One result is that more children and young people today are working in households in no way related to their own, often at a considerable distance.

Migrations towards the cities have increased, and placing agencies have rapidly developed in big cities like Abidjan. Profiting from the economic situation which has forced the parents to send away their children to work, most of these more or less informal establishments have proved to care little about legal obligations, as regards the writing of contracts, remuneration issues and social security.¹⁵

As a result of poverty, the child worker has become obliged to take a considerable step beyond the traditional home-based working role. Forms of placement outside the home where he/she is - at least potentially - vulnerable, exploitable, far from parental protection and at risk from criminal elements, have become common.¹⁶

¹³ BICE, supra note 9, at 36-38.

¹⁴ Cross-border trafficking, instead, occurs mainly **from** Benin, Ghana, Nigeria and Togo **to** the Congo, Côte d'Ivoire, Equatorial Guinea and Gabon, supra note 5, p 5.

¹⁵ BICE, supra note 9, at 37.

¹⁶ See www.child-abuse.com/childho...hildwatch/CWI/projects/labour.html, (15/3 2001).

2.3.3 Discrimination against girls

The majority of child domestics are girls, with the world's estimates putting the proportion at 90%.¹⁷ The traditional gender division of labour encourages the use of girls for domestic work. Work for young girls is essentially aimed at training them to become future wives and mothers.¹⁸

The low incomes of households appear to be the major cause why girls - much more than boys - drop out of school to take up domestic work. There is a prevailing low regard for girl's education. Several studies on domestic labour have shown parents' preference to send girls rather than boys to work as domestic servants, many times to help finance the education of the boys.¹⁹ While boys traditionally are regarded as future heads of their families, girls are expected to be taken up - through marriages - by other families. For the survival of a family, educating a boy is considered an investment, while educating a girl is not.²⁰

2.4 Socio-economic factors of child domestic labour

Poverty in West and Central Africa is extreme and at times widespread in some countries. The main cause of domestic labour seems to be the economic situation of both the households supplying the child workers and those receiving them. Children are driven to work by their parents' poverty. Child domestic workers most commonly come from poor, often large, rural families. 45,5% of the parents of the girls working in Abidjan live in small villages. Among those living in Abidjan (34,5%), 65% are unemployed.²¹ Orphanhood is, however, also an important factor that determines the likelihood of children becoming domestic workers.

Most children who become domestic workers are uneducated and find themselves unable to perform any other kind of work. According to a survey conducted in Abidjan in 1999, 52,5% of the *petite bonnes* were illiterate,

¹⁷ ILO, *A New Tool to Combat the Worst Forms of Child Labour*, ILO Convention 182, ILO 1999, p 3.

¹⁸ Friedman, S.A, "*Because they're girls: Targeting the most intolerable forms of child labour and addressing the invisible labour of girls*", Paper prepared for the ILO, Geneva, 1997.

¹⁹ Fetherolf Loutfi, Martha, *Women, Gender and Work*, First edition, International Labour Office, Geneva 2001, p 22.

²⁰ African curiosa: "*The African family is a bird. The head of the bird is the father; he makes the decisions for the family. The mother is the body of the bird. She keeps the family together, and she keeps it alive. The feet of the bird are the sons. They will carry the family into the next generation, while the wings of the bird are the daughters. They will fly away from the family.*" Told by **Alkaan Mooh**, WAO-Afrique, Togo, May 3rd 2001.

²¹ BICE, supra note 9, at 36.

while 39% had attended primary school and only 8,5% secondary school.²² These statistics show that the higher the education the girl has got, the less probable it is that she will be working as a *petite bonne*.

In Abidjan, the majority (52,5%) of girls working as *petites bonnes* are under 18 years old.²³ It is, however, often difficult to estimate the age of the girls as many of them possess neither birth certificates nor identity papers. It is not uncommon for the girls themselves to have only a vague notion about their own age.²⁴

2.5 Summary

In the social arrangement that existed in West African countries in the past, the involvement of children in work was important for their integration into the social and cultural environment.

This upbringing tradition, in combination with the current economic situation of many local communities in these countries, has given way to a commercialised system, where placing agencies are drawing profit out of the (mostly) girls sent out to work.

Today, the sending out of a child or taking in of one, is not primarily designed to serve the child's interest, but that of the taking-in family's household. Consequently, the child is more likely to get exposed to the risks of being cut off from his or her roots, being a victim of sexual exploitation, and being locked up and under the total control of the taking-in family - like a slave.

Without any set of rules to effectively combat such practices, exploitative situations are likely to prevail. The international legal framework for regulating child labour will be examined in the next chapter.

²² BICE, supra note 9, at 10.

²³ BICE, supra note 9, at 27.

²⁴ Talk with a *petite bonne* in Abidjan, March 2001, who was "maybe 11 but not sure".

3 Applicable international law

Internationally, there is a host of standards relevant to child domestic workers. Although there is no international document or article that specifically mention this particular group of child workers, it is clear that the group is covered in the international documents that are to be examined in this chapter.

After an introduction of applicable international standards, the legal framework for regulating child domestic work will be presented. **Article 32** of the **Convention on the Rights of the Child** is the core article in this matter, and the three minimum measures it stipulates are then discussed.

3.1 Applicable international standards

The United Nations has in the **Universal Declaration of Human Rights**, passed by the General Assembly on 10 December 1948, proclaimed that everyone is entitled to all the rights and freedoms set forth therein. These rights should be extended to all human beings without distinction, and without discrimination of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.²⁵ The **Declaration** does as well hold that childhood is entitled to special care and assistance.²⁶

The core instrument concerning children's rights in general is the **Convention on the Rights of the Child**. Since its adoption in 1989 and after more than 60 years of advocacy, this **Convention** has been ratified more quickly and by more governments (all except Somalia and the US) than any other human rights instrument.²⁷ This Convention is also the only international human rights treaty that expressly gives non-governmental organisations a role in monitoring its implementation.²⁸

In addition to this **Convention** and its precursor, the **Declaration of the Rights of the Child** (1959), a number of United Nations standards can be directly or indirectly applicable to child domestic workers. These are: **The United Nations Conventions against slavery** (1926 and 1956), **The**

²⁵ **UDHR**, Art. 2.

²⁶ **UDHR**, Art. 25(3) provides: "Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection."

²⁷ See www.crin.org, p 2 (15/3 2001).

²⁸ **CRC**, Art. 45 a(2) provides: "The Committee may invite the specialised agencies, the United Nations Children's Fund, and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates."

International Covenants on Civil and Political Rights, and on **Economic, Social and Cultural Rights** (1966) and **The Convention on the Elimination of All forms of Discrimination against Women** (1979).

There are as well a number of **ILO standards** that have been used, or interpreted, to cover the exploitation of child domestic workers. These include **Convention No. 138** and **Recommendation 146**, concerning the **Minimum Age for Admission to Employment** (1973), and, very recently, **Convention No. 182** for the combat of the **Worst Forms of Child Labour** (1999).

3.1.1 The Convention on the Rights of the Child (1989)

The basic premise of the **Convention** is that children²⁹ are born with fundamental freedoms and the inherent rights of all human beings.

The **Committee on the Rights of the Child** is the monitoring body. It holds regular meetings and oversees the progress made by States parties in fulfilling their obligations. Each ratifying State must report back on children's rights in the country³⁰ and the **Committee** can make suggestions and recommendations to governments and the **General Assembly** on ways to meet the **Convention's** objectives. Many countries have modified their national legislation in accordance with the **Convention**. This has made it possible to prosecute individual employers guilty of gross violations and it has helped set public awareness campaigns in motion.³¹

The **Convention on the Rights of the Child** does not contain any article that specifically mentions child domestic employment but there are some Articles that have been interpreted to cover it. The core article for regulating child labour in general is **Article 32** of the **Convention**. According to this article, the child has the right to be protected from work that threatens his or her health, education or development. The Article demands that governments set a minimum age under which employment is not permitted and that they regulate hours and conditions of work for those less than 18. The national law shall as well be enforced with appropriate sanctions.

Furthermore, in addition to general rights to development (**Article 6**), non-discrimination (**Article 2**) and respect for the child's best interests (**Article 3**), there are a number of specific rights in the **Convention** that child domestic workers do not, or might not, enjoy. These can be divided into six categories of rights:³²

²⁹ According to **CRC**, Art. 1, a child means "every human being below the age of eighteen years unless under the law applicable to the child, maturity is attained earlier."

³⁰ **CRC**, Art. 44. A ratifying State is obliged to send in an initial report within two years after ratification and then one every five years.

³¹ UNICEF, *The Convention on the Rights of the Child and UNICEF*, London 1998, p 33.

³² UNICEF, *supra* note 5, at 6.

1. Independent identity, selfhood and freedom (**Article 8, 13, 15 and 37**)
2. Parental nurture and guidance (**Article 7, 8 and 9**)
3. Physical and psychological well-being (**Article 19, 27**)
4. Educational development (**Article 28, 32**)
5. Psycho-social, emotional and spiritual development (**Article 31, 32**)
6. Protection from exploitation, including sexual exploitation, sale and trafficking (**Article 32, 34, 35**).

The provisions in the **Convention on the Rights of the Child** are amplified in a number of internationally agreed ILO conventions, where the two main documents on child labour are **Convention No. 138**, on minimum age, and **Convention No. 182** on the worst forms of child labour. The latter **Convention** was adopted in June 1999, and is focused on ending slavery, debt bondage, the forced recruitment of children for use in armed conflicts, prostitution, drug-trafficking and any work harmful to the health, safety and morals of children. Whether it also could be applicable to child domestic workers will be discussed below.

3.1.2 The United Nations Conventions against slavery (1926 and 1956)

The **1956 Supplementary Convention on Slavery**³³ is the only instrument with a specific provision to protect children from being given or traded into domestic service. **Article 1(d)** states that each of the State Parties of this **Convention** shall take practical, legislative and other measures to abolish any institution or practice whereby a child is delivered by his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or of his labour. This shall be done whether or not the child is covered by the definition of slavery contained in **Article 1** of the **Slavery Convention** from 1926.³⁴ The specific provision has, however, never been invoked by national authorities, despite ratification by over 100 states.³⁵

3.1.3 The International Covenants on Human Rights (1966)

Article 10(3) of the **International Covenant on Economic, Social and Cultural Rights** enjoins States Parties to protect children and young people from economic and social exploitation. More precisely, employment in work harmful to their morals, their health or lives, or in activities likely to hamper their normal development, should be punishable by law. The

³³ **The Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery** (1956) See:

<http://www.ilo.org/public/english/standards/ipecc/publ/law/ilc/others/sup1957/index.htm>.

³⁴ **The Slavery Convention**, Art. 1: "Slavery is the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised".

³⁵ UNICEF, *supra* note 5, at 4.

Covenant also commits States Parties to set age limits below which the paid employment of child labour should be prohibited and punishable by law.³⁶

Article 24(1) of the **International Covenant on Civil and Political Rights** states that every child shall have the right to such measures of protection as are required by his status as a minor, on the part of his family, society and the State. This right should be enjoyed by all children, "without any discrimination as to race, colour, sex, language, religion, national or social origin, property or birth".³⁷

The **International Covenants on Human Rights** were designed to transform the principles of the **Universal Declaration of Human Rights** into binding, detailed rules of law. **Article 40** of the **International Covenant on Civil and Political Rights** requires states to submit reports to the **Human Rights Committee** on the national human rights situation every five years. There have, however, been a large number of reservations entered by contracting states, which tend to undermine its effective implementation. The **First Optional Protocol to the International Covenant on Civil and Political Rights** (1966) provides for individual petitions from persons who claim to be victims of a violation by the contracting State of any of the rights set forth in the **Covenant**.³⁸ The **Human Rights Committee** can, however, only call upon the state concerned for explanations, and then make recommendations.

The monitoring of the **International Covenant on Economic, Social and Cultural Rights** lies in the reporting procedure in **Article 16** of the **Covenant**. This procedure is based on a dialogue between the state party and the **Committee on Economic, Social and Cultural Rights**. No provision is made for individual petitions.³⁹

3.1.4 The Convention on the Elimination of all forms of Discrimination Against Women (1979)

Both the **Convention on the Elimination of all forms of Discrimination Against Women** and the **Convention on the Rights of the Child** derive from and are based upon the principles of human rights articulated in the **Universal Declaration of Human Rights** and the **International Covenants on Human Rights**.

The articles of both conventions reflect a single vision based on international human rights law and rooted in the conviction that girls' rights and women's rights are inseparable. Both conventions require States Parties

³⁶ ICESCR, Art. 10(3).

³⁷ ICCPR, Art. 24(1).

³⁸ **First Optional Protocol to the International Covenant on Civil and Political Rights** (1966), Art. 1.

³⁹ Malanczuk, Peter, *Akehurst's Modern Introduction to International law*, 7th ed; Cornwall 1997, p 215.

to protect girls from any form of gender-based discrimination. The **Convention on the Elimination of all forms of Discrimination Against Women** proceeds from the assumption that all practices that harm women, no matter how deeply imbedded in culture they are, must be eradicated. The **Convention** calls upon governments to work towards transforming not only laws, but also culture, in order to achieve gender equity. **Article 5** of the **Convention** calls on governments to eliminate "prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women"⁴⁰

The **Committee on the Elimination of Discrimination Against Women** monitors the implementation of the **Convention**. Within the first year of ratification or accession, and every four years thereafter, states are expected to submit a national report to the **Committee**, indicating the measures they have adopted to carry out the provisions of the **Convention**.

Only the **Convention on the Rights of the Child** has gained more ratifications, accessions and signatures than this **Convention**. At the same time, this is the treaty to which countries have entered the greatest number of substantive reservations. Some of these reservations strike at the very heart of the concept of gender equality and non-discrimination - the foundation of this **Convention**. This is due to the fact that the **Convention** does not contain any internal mechanism to reject reservations considered to be inconsistent with the object and purpose of its obligations.⁴¹

The **Optional Protocol** (1999) to this **Convention** provides for a communication procedure that allows either individuals or group of individuals to submit individual complaints to the **Committee**.⁴² No reservations can be made when ratifying the **Protocol**.⁴³

3.1.5 The International Labour Conventions (1973 and 1999)

The **International Labour Conventions** adopted by ILO offer a more specific legal framework and minimum standards for child labour regulations at the national level.

Eleven international conventions on the minimum age for admission to employment or work have been adopted since 1919.⁴⁴ Among these, **Convention No. 138** and its supplementary **Recommendation No. 146**,

⁴⁰ CEDAW, Art. 5(a).

⁴¹ UNICEF, UNIFEM, *Convention on the Elimination of all forms of Discrimination Against Women and Women's Human Rights*, London 1995, p 6.

⁴² **Optional Protocol to the CEDAW**, Art. 2.

⁴³ *Ibid.*, Art. 17.

⁴⁴ **Conventions**: C5 Minimum Age (Industry) 1919; C7 (Sea) 1920; C10 (Agriculture) 1921; C15 (Trimmers and Stokers) 1921; C33 (Non-industrial Employment) 1932; C58 (Sea) (Revised) 1936; C59 (Industry) (Revised) 1937; C60 (Non-industrial Employment) (Revised) 1937; C112 (Fishermen) 1959; C123 (Underground Work) 1965.

summarise the principles set forth by previous conventions and they apply to all sectors of the economy.⁴⁵

A new ILO standard on the "worst forms of child labour" has recently appeared, namely **Convention No. 182** and its **Recommendation 190**, from 1999. While child domestic work is not explicitly mentioned, the new **Convention** invites ratifying states to take "effective and time-bound measures to reach out to children at special risk and to take account of the special situation of girls"⁴⁶. In addition, the **Recommendation** requires that attention be given to the "problem of hidden work situations in which girls are at special risk"⁴⁷. In defining hazardous work, consideration should be given to "work...for long hours, during the night or without the possibility of returning home each day"⁴⁸. However, despite these guidelines, neither the **Convention** nor the **Recommendation** is explicit about the circumstances in which children should, or should not, work as domestics. It is nevertheless clear that these standards cover this group of child workers.

The enforcement of international labour standards is based on ratification and an obligation of regular, periodic reporting on measures taken to give effect to the provisions of the instruments. Countries that have ratified an ILO convention shall do as its provisions say, in both law and practice. Ratifying governments have to be accountable for non-observance through procedures called "representations" or "complaints" under the **ILO Constitution**⁴⁹. Employers, workers or another country that has ratified the Convention, can initiate this.

Countries that have not ratified certain International Labour Standards can still be asked to send Annual Reports on their law and practice to the ILO. This procedure is, however, only applicable to the fundamental ILO Conventions⁵⁰. Since the new child labour **Convention** is a fundamental ILO convention, starting with the 2001 reporting cycle, there will be an ILO Global Report on Child Labour to be discussed at the International Labour Conference in 2002.⁵¹

3.2 The international legal framework for regulating child labour

Article 32 of the **Convention on the Rights of the Child** reads as follows:

⁴⁵ See: www.ilo.org/public/english/standards/norm/wharare/cld_papr.html, p 24. (15/3 2001)

⁴⁶ **ILO Convention No. 182**, Art. 7 (2e).

⁴⁷ **Recommendation 190**, Provision I; Programmes of Action, (2c iii).

⁴⁸ **Recommendation 190**, Provision II; Hazardous Work, (3e).

⁴⁹ **ILO Constitution**, Art. 24 and Art. 26.

⁵⁰ Fundamental ILO Conventions: Forced Labour: C29 and C105; Freedom of Association: C87 and C98; Discrimination: C100 and C111; and Child Labour: C138 and C182.

⁵¹ ILO, *supra* note 45, at 3.

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, States Parties shall in particular:

- a) Provide for a minimum age or minimum ages for admission to employment;
- b) Provide for appropriate regulation of the hours and conditions of employment;
- c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

The scope of the child's right to be protected against economic exploitation is defined by the reference to "the relevant provisions of other international instruments". This means that any work carried out by children in conditions below those established by United Nations Conventions or by the ILO, are to be considered as economic exploitation.⁵²

The form of recognition of the rights of the child is left to the states. The second paragraph of **Article 32** contains a list with a variety of measures to be taken to ensure protection against economic exploitation. It also establishes some minimum measures to be taken. These are of three types:

- 1 The fixing of a **minimum age** or **minimum ages** for admission to employment.
- 2 The **regulation of the hours and conditions of employment** for the children in accordance with the provisions of the Convention.
- 3 **Penalties or sanctions** to ensure the **effective enforcement** of the article.

These measures must take into account the relevant provisions of other international instruments. While the United Nations Conventions establish general principles, the practical application measures are included in the standards adopted by the International Labour Organisation.

3.2.1 Fixing of a minimum age for admission to employment

Article 10(3) of the **International Covenant on Economic, Social and Cultural Rights** commits States Parties to set age limits below which the paid employment of child labour should be prohibited and punishable by law.

Article 32 of the **Convention on the Rights of the Child** indicates that one or more minimum ages should be fixed, but does not go into further details. Instead, these are specified in the **ILO Convention No.138**, concerning Minimum Age. **Article 2** of this **ILO Convention** establishes at least two minimum ages for admission to employment below which "no one under

⁵² ILO, supra note 45, at 1.

that age shall be admitted to employment or work in any occupation"⁵³. The general minimum age for admission to employment shall "not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years"⁵⁴.

For States whose economy and educational facilities are not sufficiently developed 14 years may be the initial minimum age. Employers' and workers' organisations must in these cases be consulted in order to fix the age for admission to employment at 14 years.⁵⁵

Article 3 of the same **Convention** provides that for employment or work "which by its nature or the circumstances in which it is carried out is likely to jeopardise the health, safety or morals of young persons" a minimum age of 18 years has to be set. Which types of employment or work will fall within the scope of this article shall, also in this case, be concluded after consultations with employers' and workers' organisations.

Lastly, **Article 7** of this **ILO Convention** provides a minimum age for admission to employment that is lower (13 - 15 years) than the general age for the purpose of carrying out *light work*. The Article specifies that light work is work **(i)** which is not likely to be harmful to the health or development of the children and **(ii)** which is not such as to prejudice their attendance at school or their capacity to benefit from the instruction received.

The **ILO Convention 138** is applicable to all sorts of activities, whether the children are remunerated or not.⁵⁶ However, **Article 5** of the **Convention** provides the possibility to initially limit its scope of application. In a declaration appended to the ratification made by the State, the branches of activity or the types of undertakings to which the **Convention** will apply has to be specified. The following seven sectors must, however, not be left out:

1. Mining and quarrying
2. Manufacturing
3. Construction
4. Electricity, gas and water
5. Sanitary services
6. Transport, storage and communications
7. Plantations and other agri-cultural undertaking; but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers.

The exclusion of certain categories of employment or work must be mentioned in the first report submitted to the ILO on the application of the

⁵³ **C138 Minimum Age Convention**, 1973, Art. 2 (1).

⁵⁴ *Ibid*, Art.2 (3).

⁵⁵ **C138 Minimum Age Convention**, 1973, Art. 2(4).

⁵⁶ ILO, *supra* note 45, at 5.

Convention. What these categories of employment or work could consist of is not defined in the **Convention**. During the preparatory work reference was made to employment in family undertakings, domestic service in private households and some types of work carried out without the employer's supervision.⁵⁷

3.2.2 Working conditions

Article 24(1) of the **International Covenant on Civil and Political Rights** states that every child shall have the right to such measures of protection as are required by his status as a minor.

Article 32 of the **Convention on the Rights of the Child** requires provisions to be made for appropriate regulation of the hours and conditions of employment.

3.2.2.1 Dangerous employment or work

The **1956 Supplementary Convention on Slavery** states that any institution or practice where a child is delivered to another person with a view to exploitation should be abolished.⁵⁸

The **Convention on the Rights of the Child** pays particular attention to the issue of dangerous work. Ratifying states have to respect the right of the child not to be obliged to do any work that is likely to be hazardous or to be harmful to the child's health or physical, mental, spiritual, moral or social development.⁵⁹ This means that dangerous or potentially dangerous work should be prohibited for persons under 18 years of age.

According to **ILO Convention No. 138, Article 1**, national policies concerning child labour must aim to raise progressively the minimum age for admission to employment or work to a level consistent with the fullest physical and mental development of young persons. Furthermore, provisions must also be made to prohibit young persons from carrying out types of employment or work that will involve risks, when those economic activities are not covered by the minimum age for admission to employment.⁶⁰

3.2.2.2 Discrimination

According to the **Convention on the Elimination of All forms of Discrimination Against Women** all practices that harm women in a discriminatory way should be eradicated; also those practices deeply rooted

⁵⁷ ILO, supra note 45, at 5.

⁵⁸ **1956 Supplementary Convention on Slavery**, Art. 1 (d), See Chapter 3.1.2.

⁵⁹ **CRC**, Art. 32.

⁶⁰ **ILO Convention No. 138**, Art. 5.

in culture and tradition. Moreover, the girl child should be given the same opportunities as her brothers.⁶¹

The **Convention on the Rights of the Child** reconfirms that gender discrimination is a violation of one of the fundamental principles of human rights, and therefore must be addressed.⁶² All rights shall apply to all children without exception, and it is the State's obligation to protect children from any form of discrimination and to take positive action to promote their rights.

More specifically, the new **ILO Convention No. 182** invites ratifying States to take account of the special situation of girls, and that attention should be given to working situations where girls are at special risk.⁶³

3.2.3 Penalties, sanctions and other application measures

The provisions of **Article 42 - 54** of the **Convention on the Rights of the Child** oblige the State to make the rights contained in the Convention widely known to both adults and children. Sanctions should be adopted to ensure the effective enforcement of the measures, and employment laws should protect those less than 18 from exploitation.

The **ILO Convention No. 138** provides in **Article 9** that "all necessary measures, including the provision of appropriate penalties" should be taken to ensure the effective enforcement of the **Convention**. Particular attention should be paid to the reinforcement of labour inspection services in order to detect and remedy abuse with regard to child labour.

Recommendation 190 states that Parties to **Convention No. 182** should provide that all forms of slavery or practices similar to slavery, such as the sale and trafficking of children and forced or compulsory labour, are criminal offences.⁶⁴ It also states that members should ensure that criminal penalties are applied for violations of the national provisions for the prohibition and elimination of any type of work that is likely to harm the health, safety or morals of children.⁶⁵

3.3 Summary

None of the international treaties applicable to child domestic workers has any article that specifically defines this particular group of child workers.

⁶¹ See Chapter 3.1.4.

⁶² **CRC**, Art. 2.

⁶³ ILO, *supra* note 17, at 2.

⁶⁴ **Recommendation 190**, Art. 12 a.

⁶⁵ *Ibid.*, Art. 13.

Nevertheless, **Article 32** of the **Convention on the Rights of the Child** is relevant for combating the exploitation of child domestics. Through this Article a ratifying State is obliged to provide for a minimum age for admission to employment. It should also provide for appropriate regulations of hours and conditions of employment and for penalties or other sanctions to ensure the effective enforcement of the Article.

The **International Covenant on Economic, Social and Cultural Rights** invites state parties to protect children and young people from social and economic exploitation. According to the **International Covenant on Civil and Political Rights**, every child shall have the right to such measures of protection as are required by his status as a minor.⁶⁶

As child domestic workers most often are girls, the **Convention on the Elimination of all forms of Discrimination Against Women** is applicable. It states that all practices that harm women, or girls, in a discriminatory way should be eradicated, and that the girl child should be given the same opportunities as her brothers.⁶⁷

The **ILO Conventions** on child labour, **No. 138** and **No. 182**, provide practical application measures whereas the **Convention on the Rights of the Child** establishes more general principles. While **Convention No. 138** regulates the minimum ages for admission to employment, **Convention No. 182** invites ratifying States to take measures to reach out to children at special risk and to take account of the special situation of girls.⁶⁸

The monitoring of all Conventions mentioned in this Chapter is based upon a reporting procedure, where the ratifying State has to report back to a Committee on its progress of implementation of the specific Convention, as well as on the current situation in the country. The **Convention on the Rights of the Child** opens up the possibility for NGOs to send in reports as well, while the **First Optional Protocol to the International Covenant on Civil and Political Rights** and the **Optional Protocol to the Convention on the Elimination of all forms of Discrimination Against Women** provides for individual petitions. Persons who claim to be victims of a violation by the contracting State of any of the rights set forth in the **Covenant on Civil and Political Rights** or the **Convention on the Elimination of All Forms of Discrimination against Women** can do such petitions. Ratifying Governments of the International Labour Standards have, as well, to be accountable for non-observance through procedures called "representations" or "complaints" under the **ILO Constitution**. Employers, workers or another country that has ratified the ILO convention, can initiate this.

⁶⁶ See Chapter 3.1.3.

⁶⁷ See Chapter 3.1.4.

⁶⁸ See Chapter 3.1.5.

4 Applicable regional law

There are two regional law documents of interest when looking at the situation of child domestic workers in the Ivory Coast, namely the **African Charter on Human and People's Rights** and the **African Charter on the Rights and Welfare of the Child**. Both documents strongly resemble international human rights documents such as the **Universal Declaration of Human Rights** and the **Convention on the Rights of the Child**, but do, at the same time, emphasise their African origin.

After an introduction of the applicable regional standards, there follows a discussion of the regional legal framework for regulating child labour. As the relevant Articles in this part to a great extent are very similar to the international ones, the focus will be put on the differences.

4.1 Applicable regional standards

The African Regional Human Rights System of the **Organisation of African Unity** (OAU) comprises two treaties applicable to child domestic workers. These are the **African Charter on Human and People's Rights** (1981) and the **African Charter on the Rights and Welfare of the Child** (1990). Both treaties have enforcement mechanisms.

4.1.1 The African Charter on Human and People's Rights (1981)

The 1981 **African Charter on Human and People's Rights** has been ratified by all member states of the **OAU**. It derives from, and is to a great extent, based upon, the principles of human rights articulated in the **Universal Declaration of Human Rights** and the **International Covenants on Human Rights**, but constitutes an adaptation to the African context.

However, as its title emphasises, it is not only concerned with the rights of the individual. In the preamble, the parties to the **Charter** state that co-operation and efforts will be intensified in order to achieve a better life for the *peoples* of Africa. The parties also commit themselves to take into consideration the virtues of their historical tradition and the values of African civilisation, which should inspire and characterise their reflection on the concept of human and people's rights.

One of the functions of the **African Commission on Human and People's Rights** is, according to **Article 45(3)** of the **Charter**, to interpret all the

provisions of the **Charter** at the request of a State party, an institution of the **OAU** or an African organisation recognised by the **OAU**.

Matters contrary to the **Charter** can be drawn to the attention of the **Commission** through communications. These can be of two types: “Communications from States” (**Articles 47 – 54**) or “Other Communications” (**Articles 55 – 59**).

Article 47 of the **Charter** states that if a State party has reason to believe that another State party has violated the provisions of the **Charter**, it may draw the attention of that State to the matter. This shall be done by a written communication, which also should be addressed to the **Secretary General of the OAU** and the **Chairman of the Commission**. Within three months of the receipt of the communication, the State to which the communication is addressed shall give the enquiring State a written explanation or statement elucidating the matter.⁶⁹ If the issue is not settled to the satisfaction of the parties within the three months, either State shall have the right to submit the matter to the **Commission** through the **Chairman**. The **Commission** then has to prepare a report stating the facts of the case and its findings, and it may make such recommendations as it deems useful to the **Assembly of Heads of States and Governments**.⁷⁰

Other communications – that is, other than those of the State Parties, for example, individual communications - shall, according to **Article 56**, be considered if they indicate their authors (even if the latter request anonymity). Also, they have to be compatible with the **Charter of OAU** and with the **Charter** itself, as well as they must not be written in insulting language directed against the State concerned and its institutions or to the **OAU**. Furthermore, they must not be based exclusively on news disseminated through the mass media, and all local remedies must have been exhausted. Finally, they must be submitted within a reasonable time and not deal with cases which have already been settled by these States, in accordance with the **Charter**.

Prior to any consideration, all communications shall be brought to the knowledge of the State concerned by the Chairman of the Commission.⁷¹

Article 62 of the **Charter** stipulates that each State Party shall undertake to submit a report every two years, from the date the **Charter** comes into force, on the legislative or other measures taken. This should be done with a view to giving effect to the rights and freedoms recognised and guaranteed by the **Charter**.

⁶⁹ **ACHPR**, Art. 45.

⁷⁰ *Ibid.*, Art. 52 – 53.

⁷¹ **ACHPR**, Art. 57.

4.1.2 The African Charter on the Rights and Welfare of the Child (1990)

The only regional treaty on children's human rights in the world is the **African Charter on the Rights and Welfare of the Child**. It was adopted by the OAU in 1990, and entered into force in November 1999. **The Charter** is rooted in other human rights treaties, such as the **Universal Declaration of Human Rights** and the **Convention on the Rights of the Child**, but it emerges out of the social and cultural values of Africa, including those relating to family, community and society.

In some respects the **Charter** strengthens the protections afforded by the **Convention on the Rights of the Child**. It stipulates that everyone below the age of 18 is a child, without exception⁷²; it enjoins States Parties not to recruit children into military service; and internally displaced children are accorded the same rights as refugees. In addition, the **Charter** looks to eliminate harmful social and cultural practices, in particular those that discriminate or that put the health of the child at risk.⁷³

In the preamble, the parties to the **Charter** note "with concern" that the situation of most African children remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger. Furthermore, the Parties recognise that the child occupies a unique and privileged position in the African society. Like in the **African Charter on Human and People's Rights**, the parties pledge to take into consideration the virtue of their cultural heritage, historical background and the values of African civilisation. This should inspire and characterise their reflection on the concept of the rights and welfare of the child.

Article 1(3), concerning **Obligations of States Parties**, does however state that any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the **Charter** shall be discouraged. **Article 3** provides that every child, without any kind of discrimination, shall be entitled to the enjoyment of the rights and freedoms set out in the **Charter**.

Just like the **Convention on the Rights of the Child**, the **Charter** does not contain any article that specifically proscribes child domestic labour. Following the international **Convention**, the regional **Charter** does, however, also state six categories of rights that child domestic workers do not, or might not, enjoy:

1. Independent identity, selfhood and freedom (**Articles 6, 7, 8**)

⁷² See note 29. No reference is made to "under the law applicable to the child, maturity is attained earlier".

⁷³ Amnesty International, *Humankind owes the child "the best it has to give"*; ACT 76/14/99, p 4.

2. Parental nurture and guidance (**Articles 9, 10, 19, 20**)
3. Physical and psychological well-being (**Articles 14, 16**)
4. Educational development (**Articles 11, 17**)
5. Psycho-social, emotional and spiritual development (**Articles 12, 15, 21**)
6. Protection from exploitation, including sexual exploitation, sale and trafficking (**Articles 15, 27, 29**)

The **African Committee on the Rights of the Child** shall, according to **Article 32** of the **Charter**, promote and protect the rights and welfare of the child. This shall be done through the formulation and laying down of rules.⁷⁴ Every State Party to the **Charter** shall undertake to submit reports to the **Committee** on the measures it has adopted to give effect to the provisions of the **Charter**. The report has to reach the **Committee** within two years of the entry into force of the **Charter** for the State Party concerned and thereafter every three years. Furthermore, the **Committee** may receive communications from any person, group or non-governmental organisation recognised by the **OAU**, by a member state, or the **United Nations** relating to any matter covered by the **Charter**.⁷⁵ The **Committee** shall in its turn conduct investigations and submit a report every two years on its activities and findings on submitted communications. The State Parties shall make this report widely available to the public in their own country.⁷⁶

4.2 The regional legal framework for regulating child labour

Article 18 of the **African Charter on Human and Peoples' Rights** holds that the family shall be the natural unit and basis of the society. The State shall have the duty to ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

Article 15 titled, "Child Labour", reads as follows:

1. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral or social development.
2. States Parties to the present Charter shall take all appropriate legislative and administrative measures to ensure the full implementation of this Article which covers both the formal and the informal sectors of employment and having regard to the relevant provisions of the International Labour Organisation's instruments relating to children, States Parties shall in particular:

⁷⁴ **ACRWC**, Art. 42 a (ii).

⁷⁵ **ACRWC**, Art. 44(1).

⁷⁶ **ACRWC**, Art. 45.

- a) Provide through legislation, minimum ages for admission to every employment;
- b) Provide for appropriate regulation of hours and conditions of employment;
- c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of this Article;
- d) Promote the dissemination of information on the hazards of child labour to all sectors of the community.

The **Article** does, in many aspects, look like **Article 32** of the **Convention on the Rights of the Child**. A difference is however, that part 2 of the Article specifically spells out that all legislative and administrative measures that the States Parties take to ensure the full implementation of the Article should cover "both the formal and informal sectors of employment". The **Charter** therefor provides, in principle, for the protection of children in domestic work. Furthermore, the State Parties should have "regard to the relevant provisions of the International Labour Organisation's instruments relating to children". This means that the provisions of the **ILO Conventions No. 138** and **No. 182** should guide the State Party when taking its legislative and administrative measures.

Moreover, paragraph "d" of **Article 15** states that the States Parties in particular should "promote the dissemination of information on the hazards of child labour to all sectors of the community". In contradiction with **Article 32** of the **Convention on the Rights of the Child** there is, however, no reference to education in **Article 15** of the **Charter**.

Article 16 (2) titled "Protection against child abuse" provides for protection against child abuse through "identification, reporting, referral investigations, treatment and follow-up of instances of child abuse and neglect" – also by private actors.

Article 21 outlines the States Parties' obligation to take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child. Particular attention should, according to **paragraph 1b**, be paid to "those customs and practices discriminatory to the child on the grounds of sex or other status".

Article 21 might be specifically interesting with regard to child domestic workers, who overwhelmingly consist of girls. A social and cultural practice is to let the little girl participate in domestic work. When this practice borders on exploitation, as well as in the situation when the girl is sent away to work while her brothers go to school, it can be argued to be "discriminatory to the child on the grounds of sex"⁷⁷.

Article 31 reflects the African culture and tradition in the way it emphasises the responsibility of the child. The child shall have responsibilities towards his family and society, the State and other legally recognised communities and the international community. According to this Article, the child shall

⁷⁷ **ACRWC**, Art. 21 (1b).

have the duty, subject to his age and ability, "to work for the cohesion of the family, to respect his parents, superiors and elders at all times and to assist them in case of need"⁷⁸.

The "d" paragraph added to **Article 15**, as well as **Article 31** of the **Charter**, reflects awareness of the deeply rooted African tradition to let the child work at an early stage of life. The **Charter** does, however, stress the importance of adapting the kind of work done by the child to fit its age and ability, in order to avoid exploitation in hazardous working conditions.

4.3 Summary

There are two main regional treaties applicable to child domestic workers in Africa; the **African Charter on Human and People's Rights** and the **African Charter on the Rights and Welfare of the Child**.

Article 18 of the **African Charter on Human and People's Rights** provides that the State shall have the duty to ensure the elimination of all forms of discrimination against women. It also has to ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.

The **African Charter on the Rights and Welfare of the Child** is in many aspects a reflection of the **Convention on the Rights of the Child**, but rooted in the African culture and tradition. It does in some matters strengthen the protections afforded in the **Convention**, by for example stating the duty to "eliminate harmful social and cultural practices, in particular those that are discriminatory or that put the health of the child at risk".⁷⁹ **Article 15** titled, "child labour" covers both formal and informal sectors of employment, and provides for the protection of children in domestic work. **Article 31** stipulates the responsibility of the child, but stresses the importance of adapting the work to the child's age and ability.

The monitoring mechanism in these regional **Charters** lies – just like in the international **Conventions** discussed in **Chapter 3** – on a reporting system, where a ratifying State has to report back to a **Committee** on legislative and other measures taken to comply with the **Charters**. Furthermore, and in addition, both **Committees** can also receive communications from any person, group, NGO, another Member State or the UN on matters being in contradiction with the **Charter**.⁸⁰

Ratification of these regional law documents implies an obligation for the ratifying State to respect the rights and duties therein in its national

⁷⁸ ACRWC, Art. 31 (a).

⁷⁹ ACRWC, Art. 21.

⁸⁰ ACHPR, Art. 47, Art. 56, ACRWC, Art. 44 (1).

legislation. The Ivorian legislation applicable to child domestic workers, with relevant regional and international law implications, will be studied in the next chapter.

5 Applicable national law

The Ivory Coast has not ratified all international and regional documents applicable to child domestic workers. The main document, the **Convention on the Rights of the Child**, has, however, been ratified. In this chapter an examination of the national legislation will be carried out, taking into account the three minimum measures that **Article 32** in the **Convention** obliges a ratifying state to take.

After a short survey of ratified and not yet ratified documents, the most relevant applicable national standards will be presented. Thereafter, the national legal framework for regulating child labour will be considered.

5.1 International and regional standards ratified by the Ivory Coast

International and regional documents are ratified in accordance with **Regulation No. 61 – 157** (1961). At the time of ratification, these documents must be examined thoroughly in order to ascertain what modifications of the national law will be needed. Thereafter, the ratification and its implication on the national legal system have to be widely disseminated to the public.⁸¹

In the hierarchy of international standards, the various human rights instruments take precedence over domestic law as soon as they are published.⁸² These instruments may be invoked before the courts or administrative authorities.

The Ivory Coast ratified the **Convention on the Rights of the Child** (1989) in February 1991.⁸³ The **International Covenants of Human Rights** (1966) were ratified in March 1992 while the **First Optional Protocol to the International Covenant on Civil and Political Rights** (1966) was ratified in March 1997.⁸⁴ The **Convention on the Elimination of All forms of Discrimination Against Women** (1979) was ratified in December 1995⁸⁵ but its **Optional Protocol** has, as to this date⁸⁶, not been ratified; nor

⁸¹ **Regulation No 61 - 157** (1961), Art. 3.

⁸² *Ibid.*, Art. 1.

⁸³ **Law No. 90-1161** and **Regulation No. 90-1162** (1990), The Ivory Coast's ratification of the **Convention on the Rights of the Child**.

⁸⁴ **Law No. 91 – 883** (1991) authorising the Ivory Coast to accede to the International Covenants and **Regulation 91 – 884** and **91 – 885** (1991) concerning the accession of the Ivory Coast to these Covenants.

⁸⁵ **Law No. 95 – 923** (1995), the Ivory Coast's ratification of the **Convention on the Elimination of all forms of Discrimination Against Women**.

⁸⁶ This applies as of October 2001.

have either of the **ILO Conventions** concerning child labour, **No. 138** (1973) and **No. 182** (1999) been ratified. The new government⁸⁷ has, however, put the elimination of all forms of child slavery on its agenda. On May 20th, 2001, the ratification of **ILO Convention 138** and **Convention 182** were presented as main objectives for the government to strive for.⁸⁸

The **African Charter on Human and People's Rights** (1981) was ratified in September 1991⁸⁹, while the **African Charter on the Rights and Welfare of the Child** (1990) is still un-ratified.⁹⁰

By ratifying the above mentioned documents, the Ivory Coast is obliged to send in reports on measures taken to implement these standards. As the **Convention on the Rights of the Child** was ratified in 1991, an initial report was due in 1993 and a second one in 1998.⁹¹ However, the first state report was submitted in January 1999. As far as the other instruments are concerned, no reports have been submitted.

After the Ivory Coast's submission of its initial report⁹², the **Committee on the Rights of the Child** concluded a "first consideration" of the report sent in.⁹³ A "list of issues to be taken up in connection with the final considerations of the initial report of the Ivory Coast" was concluded.⁹⁴ The **Committee** submitted its "Concluding observations of the Committee on the Rights of the Child, the Ivory Coast" in July 2001.⁹⁵ The following is to some extent based upon the report submitted by the Ivory Coast and on the considerations of the **Committee**. Most material has, however, been gained from an examination of existing relevant national law.

5.2 Applicable national standards

The ratification of the **Convention on the Rights of the Child** has imposed a number of obligations on the government of the Ivory Coast. **Article 4** of the **Convention** requires States to do all they can to implement the rights

⁸⁷ The new government of the Ivory Coast came to power in 2000.

⁸⁸ **Fraternité Matin**, *La Côte d'Ivoire n'est pas un pays esclavagiste*, May 22nd, 2001, p 4.

⁸⁹ **Law No. 91 - 886** (1991), authorising the Ivory Coast adherence to the **African Charter on Human and People's Rights**, and the adherence **Regulation No. 91 - 887** (1991).

⁹⁰ This applies as of October 2001.

⁹¹ See Chapter 3.1.1

⁹² "The Initial Report of the Ivory Coast", **CRC/C/8/Add. 41**.

⁹³ Committee on the Rights of the Child, *Consideration of reports submitted under Article 44 of the Convention on the Rights of the Child; The Ivory Coast*, **CRC/C/8/Add. 44**, April 2000.

⁹⁴ Committee on the Rights of the Child, *Implementation on the Convention on the Rights of the Child: List of issues to be taken up in connection with the final considerations of the initial report submitted by the Ivory Coast*, **CRC/C/Q/COT/1**, February 2001.

⁹⁵ Committee on the Rights of the Child, *Concluding observations of the Committee on the Rights of the Child; The Ivory Coast*, **CRC/C/15/Add. 155**, July 2001.

recognised in the **Convention** and to ensure the realisation of the "economic, social and cultural" rights of children "to the maximum extent of their available resources". Furthermore, it must make the **Convention** and its provisions widely known.⁹⁶

As a ratifying State, the Ivory Coast is obliged to:

- 1 Ensure the conformity of its national legislation with that of the **Convention**, by bringing the national laws in line with the provisions of the treaty. The government is bound to the provisions of the **Convention** and is answerable to the international community if it fails to comply with them.
- 2 Take measures in all domains concerning children to protect, defend and fulfil their rights.
- 3 To submit a report to the **Committee**. An Initial Report is due within two years after ratification, and thereafter at intervals of five years.

The new **Constitution** of the Ivory Coast⁹⁷, the **Labour Code**⁹⁸, the **Penal Code**⁹⁹ and the **Minority Act**¹⁰⁰ are all applicable to child domestic workers in the country.

The Education Act¹⁰¹ as well as the **Code of Social Welfare**¹⁰² and relevant regulations to these are obviously also applicable to this group of children. An examination of these does, however, fall outside the scope of this thesis, where the regulations concerning the working situation in itself are to be studied.

5.3 The national legal framework for regulating child labour

By ratifying the **Convention on the Rights of the Child**, the Ivory Coast is obliged to recognise the right of the child to be protected from economic exploitation.¹⁰³ It must make sure that the child is not performing any work that is likely to be hazardous. Furthermore, the work must not interfere with the child's education, nor must it be harmful to the child's health or physical, mental, spiritual, moral or social development.

⁹⁶ CRC, Art. 42.

⁹⁷ Law No. 2000 - 513 (2000).

⁹⁸ Law No. 95 - 15 (1995) modified by Law No. 97-400 (1997).

⁹⁹ Law No. 81 - 31 (1981).

¹⁰⁰ Law No. 70 - 483 (1970).

¹⁰¹ Law No. 95 - 696 (1995).

¹⁰² Law No. 68 - 595 (1968), modified by Laws No. 71 - 332 (1971), No. 88 - 1115 (1988) and No. 94 - 436 (1994).

¹⁰³ CRC, Art. 32.

The State is asked to adopt every legislative, administrative, social and educational measure to ensure the implementation of the **Convention** on this point.

Three minimum measures have to be taken: the fixing of a minimum age for admission to employment; regulation of the hours and conditions of employment; and penalties or sanctions to ensure the effective enforcement of the obligations.¹⁰⁴

5.3.1 Fixing of a minimum age for admission to employment

According to **Section 1** of the **Minority Act**, the age of maturity is set at 21 years. The minimum age for admission to employment is fixed in the **Labour Code** of 1995, at the age of 14.¹⁰⁵ A child under the age of 14 is neither allowed to be an employee nor an apprentice. Only if a legal regulation imposes a deviation from this set minimum age can a child less than 14 be allowed to work.

5.3.2 Working conditions

The **Constitution**¹⁰⁶ prohibits forced labour, inhuman and cruel treatment and mental torture and all forms of physical violence.¹⁰⁷ In **Article 6** it assures the protection of the child. **Article 7** states that all human beings have the right to development in the physical, material, intellectual and spiritual dimension.

Furthermore, the State assures equal access to education, professional formation and to employment. The State has the obligation to promote national values as well as cultural traditions, but not in contradiction to the law and to good customs.¹⁰⁸ **Article 8** of the **Constitution** states the obligation of the State to ensure the development of the young persons, to create favourable conditions of their education and to assure protection against exploitation.

In the **Labour Code** forced labour is expressly prohibited. Any kind of work that is exercised by an individual under the threat of a punishment is regarded as forced labour.¹⁰⁹

5.3.2.1 Employment

According to **Article 13** of the **Labour Code** the working contract shall be agreed freely by the parties and, notwithstanding the provisions of the Code,

¹⁰⁴ See Chapter 3.2.

¹⁰⁵ **Labour Code**, Sections 23-8.

¹⁰⁶ See **Supplement A**.

¹⁰⁷ **The Constitution**, Art. 3.

¹⁰⁸ *Ibid.*, Art. 7.

¹⁰⁹ **Labour Code**, Sect. 3.

in forms freely chosen by the parties. A minor is, however, according to the **Minority Act**, incapable of concluding any type of contracts, and must necessarily have an adult representative for all acts of its civil life.¹¹⁰

According to **Article 29** of the **Minority Act**, the consent of the child is required for any act affecting his or her status or person. The involvement of the child's parents or legal representative in concluding an employment contract is required. This person shall sign it on the child's behalf up to the age of 16 years or attend as a witness between the ages of 16 and 18 years. After 18, the child is completely free to conclude an employment contract alone.¹¹¹

The **Labour Code** states a minimum claim concerning the salary. All employees are entitled to (at the least) the national base salary.¹¹² The amount of this salary is set at 36 000 CFA per month.¹¹³

5.3.2.2 Working hours and rest

The **Labour Code** limits the duration of work performed by a child to eight hours per day, and does expressly prohibit work during the night.¹¹⁴ The hours during which the work is considered as night work are fixed by **Regulation No. 96 – 204** (1996). **Article 1** of this **Regulation** defines night work as all kind of work performed from 21.00 in the evening until 05.00 in the morning.

According to **Section 24.1** of the **Labour Code**, rest once a week is obligatory. It should last for at least 24 hours, and take place preferably on Sundays. **Section 23.9 (1)** of the **Labour Code** protects the health and development of the child. Through health controls it shall be verified that the work performed is not too demanding. **Section 23.9 (2)** of the **Labour Code** provides that the child must not be subjected to working conditions that are likely to be too demanding. The conditions have to be adjusted to fit the child's ability. If it is not possible to adjust the working conditions, the working contract has to be declared void.

5.3.2.3 Placing agencies

In the commercialised recruitment system of today, **Regulation No. 96 - 193** (1996)¹¹⁵ is of specific interest concerning child domestic workers. It lays down the rules for physical persons wanting to establish a placing agency.

Regulation 11 states that the agency has no right to conclude a working contract. The contract has to be concluded by the employer and the

¹¹⁰ **Minority Act**, Art. 27-28.

¹¹¹ *Ibid.*, Art. 31.

¹¹² **Labour Code**, Sect. 31.1.

¹¹³ This applies as of May 2001.

¹¹⁴ **Labour Code**, Sect. 22.2.

¹¹⁵ See **Supplement B**.

employee, and neither of them can be replaced by the agency. **Regulation 13** prohibits an agency from charging the employee for its services. The placing agency is furthermore obliged to keep registers of the employees and employers, where name, address, nationality, working description of both are registered.¹¹⁶

5.3.2.4 Justice

A minor becomes responsible for criminal acts on reaching 10 years of age.¹¹⁷ In all cases a child appearing before the criminal courts enjoys protection. He or she must always be assisted by a counsel or a legal representative.¹¹⁸ A child who commits an offence is tried by specific juvenile courts separate from those of adults. The measures applied to the child should be predominantly educational, penalties being exceptional and justified by the child's personality and seriousness of the offences.¹¹⁹ Any child who has to be deprived of liberty receives special treatment, which gives prominence to education. Furthermore, children who are deprived of liberty must be kept separate from adults and should receive a healthy diet suited to their condition.

5.3.3 Penalties, sanctions and other application measures

Section 110.5 of the **Labour Code** states that all dispositions in contradiction to the **Code** have to be abolished. An employer that does not follow the prescriptions of the **Code** is obliged to pay a penalty and, in more grave cases, will be imprisoned.

Section 110.1 of the **Code** states that all clauses in a working contract that are not in conformity with the **Code** have to be abolished.

According to **Section 100.1** of the **Code**, a person running placement services without authorisation may be punished with imprisonment of between two months and two years, or, be obliged to pay a penalty fee. If a person has used falsified papers in order to get authorisation for a placement agency, he will be punished with the same sanctions as in the first case.

Concerning violence and maltreatment of children, the **Penal Code** prohibits all forms of violence against a minor. The punishment can go as far as lifetime imprisonment if the child dies due to the maltreatment.¹²⁰

Section 370 of the **Code** provides that a person who, through violence or threat of violence, takes a child from his or her home, shall be punished with imprisonment. If this is done as part of a commercialised system, the imprisonment will be for lifetime.

¹¹⁶ **Regulation No. 96 - 193**, Regulations 17 and 18.

¹¹⁷ **Penal Code**, Sect. 116.

¹¹⁸ **Code of Criminal Procedure**, Sect. 767.

¹¹⁹ *Ibid.*, Sect. 757.

¹²⁰ **Penal Code**, Sect. 362.

There is no specific legal provision covering the sexual exploitation of children for commercial purposes. Under **Sections 334 and 341** of the **Penal Code**, pornography is punishable by two years' imprisonment and a fine. The normal penalty is doubled if the victim is under 21 years of age. **Section 337** of the **Penal Code** punishes immoral incitement of minors.

5.4 Summary

The Ivory Coast has ratified the main international instrument on rights of children, the **Convention on the Rights of the Child**. The **International Covenants on Human Rights** and the **First Optional Protocol to the Covenant on Civil and Political Rights**, the **Convention on the Elimination of all forms of Discrimination Against Women** and the **African Charter on Human and People's Rights** have also been ratified. Hence, the Ivory Coast is obliged to follow what is stated in these documents. The **Optional Protocol to the Convention on the Elimination of all forms of Discrimination Against Women** and the **African Charter on the Rights and Welfare of the Child** are still, however, not ratified.¹²¹

The **ILO Conventions No. 138** and **No. 182** have not, as of October 2001, yet been ratified. In May 2001, however, the new government put the ratification of these documents on its agenda, and it is likely that they will be ratified in the coming year.

Regulations corresponding to **Article 32** of the **Convention** can be found in the national legislation. The practice – that is to say, how these national rules are applied on the group of child domestic workers in reality – will be studied in the next chapter.

¹²¹ This applies as of October 2001.

6 Practice

The practice concerning child domestic workers will be studied in this chapter. The chapter is mainly based on data collected from talks and interviews with persons working within the **Bureau International Catholique de l'Enfance**¹²² and **Save the Children Sweden** in Abidjan, as well as from visits at different placing agencies in and around the city. Statistics are, to a large extent, taken from a study carried out by the BICE in 1999¹²³. When nothing else is mentioned, the figures apply as to the situation in Abidjan that year, when the study took place.

In an attempt to achieve consistency, the different aspects of a child domestic's working situation will be examined in accordance with the three minimum measures stated in **Article 32** of the **Convention on the Rights of the Child**. The chapter consists of three main sub-titles: "admission to employment"; "working conditions"; and "penalties, sanctions and other measures".

6.1 Admission to employment

The circumstances of the placement and the age of the child do, to a great extent, determine the amount – if any – of the remuneration and to whom it will be given.

6.1.1 Placement arrangements

The conditions under which child domestics are placed affect the gravity of their situation. There are mainly three different types of placement arrangements. The child can be:

- 1 placed by her parents in the home of a relative living in the same village as the parents;¹²⁴
- 2 given to a recruiter, related or not, who takes the child away from its village of origin and places her in a household in another village;¹²⁵
- 3 recruited through a placing agency. The girl might travel alone from her village of origin to the city and once there go to an agency in order to find employment.¹²⁶

¹²² Hereinafter: BICE.

¹²³ BICE, supra note 9.

¹²⁴ BICE, supra note 9, 43,5% of girls participating in the study.

¹²⁵ BICE, supra note 9, 52% of girls participating in the study.

¹²⁶ BICE, supra note 9, 4,5% of girls participating in the study.

When being placed according to the first alternative, the family of origin still stays in contact with the girl, and might even be a part of her daily life. This is the traditional type of placement, where the placement has an educational aspect, being seen as “work as up-bringing”. In this placement, the girl performs tasks in return for shelter, care, nurture, and education or useful instruction.

“Work as up-bringing” in the child’s own home or in the household of a relative or a friend has, however, in recent times been giving way to more commercialised, and, therefore, more potentially exploitative, arrangements, like the second and third type of arrangements mentioned above. Children are nowadays working in households in no way related to their own, and also often at a considerable distance. In this position, they are under the control of adults who have their own household as their first concern - not the well-being of the child.¹²⁷

6.1.1.1 Recruiters and placing agencies

The phenomenon of professional recruiters and placement agencies appeared at the beginning of the 1980’s. Ten years later, in 1990, it had had an enormous expansion with a fast growing number of girls out on the open labour market as a result. The last two decades of economic difficulties in the Ivory Coast have resulted in the emergence of numerous recruiters and agencies in Abidjan.

The main difference between recruiters and placing agencies (type 2 and 3 of placing arrangements) is that the first category goes to search for the girl, while in the latter it is the girl who goes to the agency. The way of finding clients/employers is similar for recruiters and agencies.

There are mainly two types of agencies in Abidjan. Recruiters are to be found in the first category.¹²⁸

- 1 The first category of agencies is an informal open-air establishment, often consisting of a couple of benches under a mango tree near a market. The little girls come to sit here. (If a recruiter, he brings the girls to market himself.) In Abidjan, *le Marché Noir de Marcory* and *le Marché Kunta Kinté* in *Adjamé* have become real centres for placing and transaction of domestic girls. Several different intermediaries are operating here, always ready to serve all clients coming. The client talks to the intermediary and picks a girl from the bench. In most cases, the girl is not informed or asked before the agreement is made between the intermediary and the employer. When the girl starts working, the agency/intermediary has the right to part of her salary, or, the girl is obliged to give her first, and perhaps also second, salary to the agency.

¹²⁷ UNICEF: “*Etude sous-regionale sur le trafic des enfants des fins d’exploitation économique en Afrique de l’Ouest et du Centre*”, Abidjan 2000.

¹²⁸ The following is based upon a description made by **Josianne Coulibaly**, BICE, March 2001, and own experiences.

In some cases the salary of the girl is given directly to the agency. This type of agency does not keep any registers and does very seldom write any contracts.

- 2 The second category of agencies is installed in private houses. In comparison with the first category, these agencies try to give an administrative framework to their services. They keep registers of the girls employed as well as of the employers. They also prepare written contracts. These are, however, in most cases made between the agency and the employer, while, in some cases, another contract is signed between the girl and the agency. In some of these agencies, the employer has to pay a fee for getting an employee. At others, the girl has to pay to get a placement.

6.1.1.2 Visits at some agencies in Abidjan

During this Minor Field Study, I visited a couple of agencies in and around Abidjan. The intermediaries were asked about their services. One agency of the first category (described above) was visited. The intermediary is well known in the neighbourhood and each morning 5-10 girls come to a meeting point to sit down and wait. Prospective employers/clients drop by during the day, discuss with the intermediary and agree to take one of the girls. No contracts are signed. The girl is not asked. The employer pays a small fee to the intermediary and goes away with the girl. The girl does not pay anything.

A number of agencies of the second type were visited. These keep registers and most of them prepare written contracts. The most common is that a contract is made between the agency and the girl, who has to pay a small fee to subscribe to the agency in order to get employment. Only one of this second type of agencies visited has attended a course on how to run a placing agency in accordance with the Ivorian legislation. This agency assists in the writing of a contract between the employer and the employee, without any interference from the agency.

None of the others had any formal legal education.

6.1.1.2.1 Agency charging the girl

“*Agence de prestations*” is only one of numerous agencies charging the girl for getting her employment. The girl signs in for a fee of (minimum) 3000 CFA. If she aspires to a salary of 15000 – 20000 CFA the fee for inscription is 3000 CFA and for a remuneration of 25000 – 20000CFA she has to pay 5000 CFA. For a salary of 25000 – 45000 CFA it costs her 10000 CFA to subscribe.¹²⁹

During the first two months of working she is obliged to pay one third of her salary to the agency. She has three opportunities to find a suitable employer.

¹²⁹ See **Supplement C 1**.

That means, if things do not work out at the first employer, the girl has the right to change to another one, and then to a third one.

A contract is signed between the agency and the employer. He/she pays 5000CFA to get an employee and has the possibility of changing the employee twice during six months.¹³⁰

6.1.1.2.2 Agency run in accordance with the Ivorian legislation

“*Service Menage*” is one of the few agencies that has attended a course organised by the Government on how to run placement agencies. In order to meet the national legal obligations¹³¹, the contract was recently changed. In the current contract, it is clearly stated that the employee is entitled to the whole of her salary, starting from the first month of employment.¹³² The old contract indicated that the employer had to pay one third of her salary to the agency during the first three months of employment.¹³³

A working contract is signed between the employer and the employee without any interference from the agency. The employer has to pay a fee of 5000 CFA to the agency to get an employee while the latter is not charged at all. The current contract is in accordance with the national legislation, and the agency is operating in accordance with the national legislation. However, this agency reported difficulties in attracting prospective employers.¹³⁴

6.1.2 Age

The average age for working as a domestic in Abidjan is 16 years,¹³⁵ but many girls start at a much earlier age. The youngest girl found during visits at agencies in Abidjan was 8 years old.

The implementation of the **Labour Code** on minimum age for admission to employment has encountered difficulties in practice. A shortage of labour inspectors and conditions of poverty inducing parents to resort to income earned by children has proved to be the main obstacles.¹³⁶

It is, however, often difficult to determine the age of a girl. Many of them do not possess any identification papers and are not even themselves aware of their exact age. Some look mature and “old” but declare themselves being much younger. Life and working conditions make the girl pre-maturely “adult”.

¹³⁰ See **Supplement C 2**.

¹³¹ See Chapter **5.3.2.3**.

¹³² See **Supplement C 3**.

¹³³ See **Supplement C 4**.

¹³⁴ Interview with **Mou Abel**, Service Menage, Abidjan, March 2001.

¹³⁵ BICE, supra note 9, at 27.

¹³⁶ Interview with **Judy Akot Oder**, African Institute, May 2001.

Many employers prefer to employ a younger girl, as she is cheaper to hire, is more malleable and will cost less than an adult, or an older girl, to support.¹³⁷

There is a link between age and level of remuneration for girl domestics. The younger the girl is, the less she is paid. The possibility of having free time for other activities is also influenced by age. It has been proved that younger girls work longer hours in a day than older ones.¹³⁸ This is explained by the type of chores that younger domestics perform. As they - in most cases - take care of the children of the employer, they have to wake up early, go to bed late, and wake up during the night.

6.1.3 Level of education

In the research made in Abidjan, 52,5 % of the girls were unable to read and write.¹³⁹ In general, most child domestics are illiterate or were taken out from school at a very young age.

Girl domestics are normally of poor rural origin, most commonly from families with very limited economic opportunities. Many become domestics as they consider their level of education too low to be able to perform any other kind of work. A common perception is that "if you can read and write you do not need to do this kind of work" and, on the reverse, that if you can not, a life of servility is all you are capable of.¹⁴⁰

The level of education has a definite effect on the working relationship as well as of the level of remuneration. Children who have attended school are, in general, less likely to end up as domestics. And if they are, it is less likely that they will become exploited.¹⁴¹

6.2 Working conditions

When employed, the girl is often not informed about the working and living conditions that are waiting for her. Informal contracts – written or oral - make it difficult to ascertain what will be expected from the girl.

When a child is placed in the traditional manner, she naturally goes to live with the employer, who is also the guardian. Also in other types of placement it is most common that the girl lives in the house of the employer.¹⁴²

¹³⁷ BICE, supra note 9, at 28.

¹³⁸ UNICEF, *The Issue of Child domestic labour and trafficking in West and Central Africa*, 1989.

¹³⁹ BICE, supra note 9, at 29.

¹⁴⁰ UNICEF, supra note 5, at 7.

¹⁴¹ BICE, supra note 9, at 29.

¹⁴² See Chapter 6.1.1.

Where the domestic sleeps at the employer's place, her hygienic condition does not differ much from that of the employer. On the other hand, where she lives on her own, or together with other domestics, she is in most cases forced to live in precarious environments, where also the hygienic and health conditions suffer as a result of there being no water and electricity.¹⁴³

6.2.1 Duties assigned

The activities of the child domestic do, to a great extent, depend on the occupation and activities that her guardian engages in. Work performed by the child tends to back up or complement the guardian's work.

However, the most common tasks performed by a domestic are cooking, cleaning and gardening. Most child domestic workers have several household chores at hand, as well as income-generating activities such as selling of fruits and vegetables. Most of these child workers do as well mind children and accompany the older ones to school.

6.2.2 Working hours and rest

Child domestics in Abidjan normally work between 12 and 14 hours per day.¹⁴⁴ They spend almost all of their time inside the employer's household and, even if they have time off during the day, are commonly not allowed to leave the house. Typically, there are no specified hours or tasks allocated to child domestic workers. They simply do what the employer asks them to, at any time of the day or the night.¹⁴⁵

The research showed that only 32,5 % of the domestics had a rest during the day. The rest declared that they had no break at all during their working day. The majority of the domestics spend their nights at the employers' house. A small number, 9%, stay until Saturday and return on Monday while 18,5% never stay the night at their employers' house.¹⁴⁶

6.2.3 Remuneration

Girl domestic workers who do receive wages earn CFA 10000 – 15000 per month on average.¹⁴⁷

Children, who work as domestics in the homes of relatives, risk being exploited under the pretext of being given protection and an education. Some of these children receive neither remuneration nor acknowledgement

¹⁴³ UNICEF, supra note 138, at 40.

¹⁴⁴ BICE, supra note 9, at 46.

¹⁴⁵ Talk with **Josianne Coulibaly**, BICE, March 2001.

¹⁴⁶ BICE, supra note 9, at 46.

¹⁴⁷ Supra note 145.

for their work. As long as the employer is "auntie", or "uncle", and there is no direct remuneration for the services rendered, the situation is in general not considered as one of employment.

Several different studies have revealed that child domestic workers are subjected to harsher exploitation than other categories of working children.¹⁴⁸ Not only are many of them not paid but they are also the worst paid of all categories. One reason for this is that poor families hardly discuss remuneration at the time of placement of a child, as they consider it beneficial not to have the economic responsibility for the child any longer.

Girls of less than 10 years very seldom earn more than 10000 CFA per month while the majority of girls (75%) have a salary of between 10 – 15 000 CFA. For those working with expatriates, the salary often reaches the minimum salary¹⁴⁹ set for the country; i.e 36000CFA.

6.2.4 Responsibility for criminal acts

A child becomes responsible for criminal acts on reaching 10 years of age.¹⁵⁰ The measures applied to a child that has committed an offence are not always different from those applied to adults. Although imprisonment should be the exception, it is becoming the rule since there are not enough reception centres and personnel to supervise minors in an open setting. Trials of juveniles are often delayed and there is no assistance extended to juveniles to facilitate their rehabilitation and reintegration following judicial proceedings.¹⁵¹

6.2.5 Risk factors

Based on a number of factors, child domestics are more likely to become exploited than other groups of child workers. The working and living conditions of the child domestic affect its psychological and physical health, and normal development is likely to be threatened.

6.2.5.1 Psychological health risks

Many child domestics present symptoms of psychological stress, such as regression, premature ageing, depression and low self-esteem.

Low status and a sense of powerlessness cause the child loss of self-esteem. A sense of being enslaved is reinforced where the child is not allowed to leave the house. The isolation felt by child domestics in the employer's household, in addition to the daily experience of being discriminated

¹⁴⁸ Supra note 6.

¹⁴⁹ SMIG: Salaire Minimum Inter Professionnel Garanti , see Chapter 5.3.2.1.

¹⁵⁰ See Chapter 5.3.2.4.

¹⁵¹ Committee on the Rights of the Child, supra note 93, paragraph 97.

against, has been reported as the most difficult part of their burden. Loss of freedom is the ultimate abuse of human rights.

As mentioned above, most child domestics do not go to school. Lack of schooling does not only reduce skills and knowledge, but limits personal development. Knowledge and experience of social interchange imparted by going to school is not available for the child, whose sense of identity is likely to be imprisoned in her servant persona.

When the child is taken away from its village and family of origin, she is – especially if borders are crossed - in danger of being cut off from her roots. Even if only transported from her rural village into Abidjan, she risks being cut off from her family. The separation of the child from her parents at a tender age can cause emotional disorders brought about by the loss of familiar landmarks.

Most girls interviewed in Abidjan said they keep in touch with their parents, but very rarely see them. Children who have been given away or are victims of trafficking are at great risk of suffering from loneliness as they rarely are taken up in the new family as members.

6.2.5.2 Physical health risks

There is a link between age and maltreatment. The percentages of girls that are abused (insulted, beaten, deprived of food) decrease with age.¹⁵² The younger the child, the more it is subject to violence.

The kind of tasks assigned to domestics gives rise to several risky situations, which are potentially dangerous. When the child is tired, accidents are more likely to happen. The duties assigned present many potentially dangerous aspects, such as boiling water, using chemical cleaning fluids and carrying heavy items. Burns have been found to be relatively common among child domestics compared with other child workers.¹⁵³

Domestics often eat leftover portions of food. Malnutrition is however not commonly reported as a problem. In fact, the employer's home may provide more food and a nutritionally better diet than a poverty-stricken parental home.

Mental and psychological distress may sometimes trigger physical problems. Upset stomach and headache from emotional stress are very common among child domestics. Maltreatment - such as insult and harassment, beatings and injuries, corporal punishment and rape - of child domestics is common. Accusations of laziness or bad work are often behind violent incidents against domestic workers.¹⁵⁴

¹⁵² UNICEF, *supra* note 138, at 42.

¹⁵³ Bwibo, N.O. and P. Onyango, *Final report of the child labour and health research*, University of Nairobi, Nairobi, 1987.

¹⁵⁴ UNICEF, *supra* note 5, at 7.

Sexual exploitation poses great risks to girl domestic workers within the households where they work. The possibility of sexual abuse or exploitation does furthermore present risks of sexually transmitted diseases and early pregnancy. The latter often leads to dismissal and a natural consequence of leaving the home of employment is often prostitution.¹⁵⁵

6.3 Penalties, Sanctions and other application measures

Although the procedure of recruitment, placement and use of domestic workers is often in clear violation of the law, few cases actually get sanctioned. This is mainly due to the small number of juvenile courts, judges and social workers in the country.¹⁵⁶ Another reason is that the work performed by a child domestic takes place within private houses where a satisfying insight is difficult. Malpractice in the recruitment system prevails as the labour inspection facilities are too poor to be able to keep satisfactory control.

6.4 Summary

A child can be placed as a domestic worker by her parents, through a recruiter taking it to a bigger village, or through a placing agency. The two latter arrangements are fairly new phenomenon and form part of a more commercialised system, where the main concern is to satisfy the employers' need of assistance in his/her household.

The average age for working as a domestic in Abidjan is 16 years old, but many girls start at a much earlier age. Some agencies have been found to recruit girls as young as 8 years old.

Most domestics are unable to read and write. Studies have shown that the more educated, the less probable it is that a girl will take on domestic chores in another household as her full-time occupation.

Working conditions in general for a child domestic are hard. The duties assigned are plenty and often too demanding in relation to the child's capacity. The working days are in general long, starting early in the morning and ending late at night.

Not all domestics are remunerated. This is especially common when the child is placed in the home of a relative, where the educational aspect of the

¹⁵⁵ UNICEF, *supra* note 138, at 46.

¹⁵⁶ Committee on the Rights of the Child, *supra* note 95, paragraph 61.

placement is being stressed, although often used as pretext to get a housekeeper for free.

The majority of girls being remunerated have a salary that is less than half of the minimum salary set in the Ivorian legislation.¹⁵⁷

The working and living conditions of a child domestic are likely to be potentially exploitative. Both psychological and physical health risks occur, threatening normal development of the child. Regression, premature ageing, depression and low self-esteem have been reported to be common psychological disorders among child domestics.

The carrying of heavy items and working situations with fire and boiling water present risks of physical injuries. Maltreatment in general, and sexual exploitation in particular, poses severe risks to young minds and bodies.

When studying the situation of a child domestic, violations of the law are sometimes striking. Only a very small percentage of cases have, however, been sanctioned. This is due to the fact that this particular group of child workers for long has been a hidden phenomenon. Only recently has it gained some attention from the society. Actions taken at national, regional and international level will be examined in the following chapter.

¹⁵⁷ See Chapters 5.3.2.1 and 6.2.3.

7 Approaches to regulating child labour

The phenomenon of exploitative child labour has only recently gained the world's attention. This chapter examines the different approaches that have been – and will be – taken at different levels of the society for regulating child labour. In the case of the Ivory Coast, the government and NGOs are active on the national level, while the **OAU** is active at the regional level. At international level the two main actors are **UNICEF** and **ILO**, whereas the media also has an important role to play.

7.1 At the national level

The government¹⁵⁸ and different NGOs are the strongest actors in the field of child domestic workers at the national level in the Ivory Coast.

7.1.1 Government response

For its initial report to the **Committee on the Rights of the Child**, the Ivory Coast set up a national committee to co-ordinate and monitor the plan of action for drafting the report.¹⁵⁹ The **Committee** is chaired by the **Ministry for Family Affairs and the Advancement of Women** and comprises all the ministries concerned with child issues, representatives of international organisations and NGOs concerned with the survival, development and protection of the child.

In accordance with **Article 42** of the **Convention on the Rights of the Child**, specific action has been taken to make the **Convention** widely known. Seminars and workshops, conferences, meetings and a variety of cultural and leisure activities have been organised to raise the awareness of the public and children themselves concerning the problems of childhood and to make the **Convention** widely known.

The **Ministry of Family Affairs and the Advancement of Women** has held several meetings with various partners in order to seek their involvement in the strategy for combating the problem of street children and exploitative child labour. The celebration of the **Day of the African Child** gave the **Ministry for Family Affairs and the Advancement of Women** an opportunity to promote “the registration of births immediately after

¹⁵⁸ Chapter 7.1.1 on **Government response** is mainly based on talk with **Abdullah Gujeng**, UNICEF Abidjan, March 2001.

¹⁵⁹ **Regulation No. 97 – 197**, 1997.

birth”, a topic suggested by **Article 7 of the Convention on the Rights of the Child**.¹⁶⁰

As mentioned in Chapter 5, the elimination of all forms of child slavery has been put as a high priority on the government’s agenda.¹⁶¹ The ratification of the **ILO Convention No. 182** on the worst forms of child labour and of **Convention No. 138** on minimum age are cited as two important steps in the direction to reach this goal. Also ratification of the **African Charter on the Rights and Welfare of the Child** is at issue.¹⁶²

The problems of child *domestic* workers are considered a special matter of concern. Government interventions consist of social actions aimed at rehabilitating children who have been exploited or maltreated, and at protecting children who are particularly vulnerable to exploitation. Most of the measures are carried out in close co-operation with NGOs operating in the same field.

Protecting children from domestic exploitation through government action lies mainly in implementing national plans of action, which favour the education of the girl child, and educational programmes focusing on bridging the gender gap.¹⁶³ A current project is to make education free and compulsory for all up to the age of 16.¹⁶⁴

From a legal point of view, violence and mal-treatment of a minor are offences, which are traditionally punishable by law. Beating and injuring children aged below 15 years, depriving them of food or care to the point of jeopardising their health, constitute offences punishable by prison sentences.¹⁶⁵

The structure and institutions for implementing the legislative measures adopted are, however, inadequate. For example, the only reception centres for the provision of educational assistance measures as part of the treatment and prevention of juvenile delinquency are those in Abidjan, Dabou and Bouake. Because of lack of adequate material and human resources, existing institutions are not properly operational.

7.1.1.1 Considerations of the Committee on the Rights of the Child

The **Committee on the Rights of the Child** considered the initial report of the Ivory Coast in May 2001 and adopted concluding observations.¹⁶⁶ Those

¹⁶⁰ www.oau-oua.org/pressrelease2.htm, September 2001.

¹⁶¹ See Chapter **5.1**.

¹⁶² *Fraternité Matin: La Côte d’Ivoire n’est pas un pays esclavagiste*, May 22nd 2001, p 4-5.

¹⁶³ Talk with **Judy Akot Oder**, African Institute, March 2001.

¹⁶⁴ National Programme for the development of education, 2000.

¹⁶⁵ See Chapter **5.4.3**.

¹⁶⁶ Committee on the Rights of the Child, *supra* note 95.

relevant for the situation of a child domestic worker will be summarized below.

While recognising that economic conditions in the country are difficult, the **Committee** recommends that the State party make every effort to increase the proportion of the budget allocated to children's rights.¹⁶⁷ Attention has, according to the Committee, to be paid to **Article 4** of the **Convention** regarding the implementation to the "maximum extent of...available resources" of the economic, social and cultural rights of children.¹⁶⁸

Moreover, the **Committee** expresses concern over the lack of systematic and comprehensive collection of disaggregated data for all areas covered by the **Convention** and in relation to all groups of children in order to monitor and evaluate progress achieved and assess the impact of policies adopted with respect to children.¹⁶⁹

The **Committee** urges the State to take all necessary measures to improve the conditions of detention of children in prisons and to ensure that each case of violence and abuse is duly investigated.¹⁷⁰

While noting the adoption of a national programme for the development of education (2000), as well as the current project to make education free and compulsory for all up to the age of 16, the **Committee** remains concerned that primary education is not compulsory and free for all.¹⁷¹ The Ivory Coast is urged to seek international assistance to increase the number of schools, providing for more teachers and school inspectors, increasing the rate of enrolment and providing assistance with school fees, uniforms and other equipment for poor families.

The **Committee** recommends that the State make every effort to ratify and implement **ILO Convention No. 138** and **No. 182** and that it seeks assistance from **ILO/IPEC** in this regard.¹⁷²

Furthermore, the **Committee** points out that the number of juvenile courts, judges and social workers is far too small.¹⁷³ The poor conditions of detention, due notably to overcrowding, the overuse of pre-trial detention, the low minimum age of criminal responsibility (10 years), the lengthy periods before juvenile cases can be heard and, the absence of assistance towards the rehabilitation and reintegration of juveniles following judicial proceedings, are all matters for concern, according to the **Committee**.

¹⁶⁷ Committee on the Rights of the Child, supra note 95, paragraph 14.

¹⁶⁸ See Chapter 5.2.

¹⁶⁹ Committee on the Rights of the Child, supra note 95, paragraph 16.

¹⁷⁰ Committee on the Rights of the Child, supra note 95, paragraph 31.

¹⁷¹ Committee on the Rights of the Child, supra note 95, paragraph 50.

¹⁷² Committee on the Rights of the Child, supra note 95, paragraph 54, See Chapter 7.3.2.

¹⁷³ Committee on the Rights of the Child, supra note 95, paragraphs 61 – 62.

7.1.2 NGOs' actions

The regulation and, eventually, elimination of child labour, is a long-term struggle. The main aim for NGOs active in the field is, therefore, to protect children who are already working. NGOs are offering these children the opportunity to improve their daily lives and increase their chances of a better life, rather than trying to put an end to child labour in the short term.¹⁷⁴ Literacy and vocational training are offered, as well as free access to health services, legal assistance in resolving conflicts, and instruction on the child domestic's rights – all in order to improve the current situation of the children working as domestics today.

When it comes to raising awareness and mobilising various sections of the society on the plight of child domestic workers, NGOs have played an important role.

Courses to train staff of recruitment agencies are offered in co-operation between the government and a number of national NGOs. The intermediaries at these agencies get training in order to learn how to negotiate work contracts with prospective employers in accordance with existing legislation.

A number of bodies specialised in the development and protection of the child are working to improve the situation of child domestic workers. These include:

- Bureau International Catholique de l'Enfance
- Association of Catholic Scouts of the Ivory Coast
- Ivorian Committee for the Decade of the African Child (CIDEA)
- Children's Parliament
- Medecins du Monde
- Pan-African Ki-Yi Training Centre
- Youth and Childhood Association of the Ivory Coast (AJECI)
- National Federation of Associations and Movements for Continuous Education in the Ivory Coast (FENAMEPCI)

7.1.2.1 An example of an NGO's action

The **Bureau International Catholique de l'Enfance** in Abidjan has developed a programme to combat sexual exploitation of children, with special focus on girl domestic workers.¹⁷⁵ One of the objectives of the programme is to defend the most fundamental rights related to the working situation of a domestic worker. A second objective is to create public awareness of the problem. A third objective is to identify, inform and educate the placing agencies about their duties regarding the national

¹⁷⁴ Interview with **Josianne Coulibaly**, BICE, April 2001.

¹⁷⁵ The original title in french: *Programme exploitation sexuelle des enfants – Projet appui aux jeunes filles domestiques.*

legislation when recruiting new employees. Finally, the objective is to improve the working conditions for the domestic worker in general.

The programme involves a teacher, a psychologist, a lawyer, a doctor and five social workers. It has several co-operating partners, such as the EU, BECI Germany and the national ministries of labour, sport and gender.¹⁷⁶

7.2 At the regional level - OAU

The Organisation of African Unity (OAU) has, in recent years, been deeply involved in the fight against exploitative child labour on the continent.

Its contribution is the search for an African perception of child labour and better knowledge of the African specifics of the phenomenon. With this, a political platform will be laid down, from which a common strategy and policy to fight against child labour can be built.¹⁷⁷

In preparation for the discussions on the new ILO Convention (on the worst forms of child labour), a Common African Position on Child Labour was ratified by the Heads of State and Government of the OAU at a summit held in June 1998 in Ouagadougou.¹⁷⁸

The adoption of a common African position on child labour constitutes an important political breakthrough, which is essential for the mobilisation of other actors at the national level. The common African position calls for ratification of the **African Charter on the Rights and Welfare of the Child** among all its member countries. National ratifications of the **Charter** are necessary to enable its enforcement on the regional level. Different **ILO Conventions** on child labour, especially **ILO Convention No. 138** on minimum age should also be ratified.¹⁷⁹

The African position calls for enforcement of the **Convention on the Rights of the Child** at the national level, and encourages the states to draw up programmes of action with time-bound objectives. Implementation of economic and social development policies, with special emphasis on education, and poverty alleviation policies, is encouraged, as well as is the implementation of a broad social alliance.

An **African Committee on the Rights of the Child** was elected at the meeting of the OAU Heads of State and Government held in Lusaka, Zambia in July 2001. The **Committee** is established under the **African**

¹⁷⁶ Information mainly taken from fact sheet; *Projet: Appui aux jeunées filles domestiques*. Abidjan 2000.

¹⁷⁷ www.africaninstitute.org/html/institute.html (May 31st 2001).

¹⁷⁸ UNICEF, supra note 138, at 51.

¹⁷⁹ UNICEF, supra note 138, at 51.

Charter on the Rights and Welfare of the Child,¹⁸⁰ and its role is to promote and protect the rights and welfare of the child.¹⁸¹ The **Committee** has 11 members from different African countries,¹⁸² and its first meeting is scheduled for early 2002 at its secretariat in Addis Ababa.¹⁸³

7.3 At the international level

The UNICEF and the ILO are the two main organs committed to the fight against child labour. A *Letter of Intent* was signed in 1996, where the two organs stated their collaborative efforts and intentions.¹⁸⁴ Both UNICEF and ILO have strongly promoted the extension and improvement of schooling as “the single most effective way to stem the flow of school-age children into abusive forms of employment or work”¹⁸⁵.

7.3.1 UNICEF

The **Convention on the Rights of the Child** is UNICEF’s framework for policy and action in combating exploitative child labour.

UNICEF’s actions are guided by its fundamental principles; that is the best interest of the child, non-discrimination, the right of the child to life, and the right to expression of his or her views.¹⁸⁶

Only a few of UNICEF-supported projects are specifically aimed at child domestic workers, but many of its programmes are likely to have a positive influence on the plight of child domestics. Education has had more impact when it is particularly aimed at protecting and/or encouraging girls to be enrolled at school. To improve the percentages of girls’ enrolment in school different approaches have been developed. Basic formal and informal educational projects with special emphasis on girls’ school enrolment and lowering gender disparities have been established in the Ivory Coast. Many of these projects operate in areas where girls are known to emigrate in search of domestic work.¹⁸⁷

¹⁸⁰ **ACRWC**, Art. 32.

¹⁸¹ See Chapter 4.1.2.

¹⁸² **ACRWC**, Art. 33 (1): “The Committee shall consist of eleven members of high moral standing, integrity, impartiality and competence in matters of the rights and welfare of the child”.

¹⁸³ Information obtained from e-mail message from **Judy Akot Oder**, African Institute, November 29th, 2001.

¹⁸⁴ UNICEF, *supra* note 138, at 52.

¹⁸⁵ UNICEF, *The State of the World’s Children 1997*, UNICEF and Oxford University Press, New York, 1997.

¹⁸⁶ UNICEF, *The Convention on the Rights of the Child – Human rights begin with children’s rights*, a fact sheet, 1999.

¹⁸⁷ UNICEF, *supra* note 138, at 53.

An important role of UNICEF is to assist governments in developing monitoring mechanisms for the implementation of the **Convention on the Rights of the Child**.¹⁸⁸ This will make it possible to measure the scope of child labour and its consequences in a specific country.

Field offices are currently carrying out many case studies on the problem of child labour and trafficking in child domestic workers. The field office based in Abidjan is working on future co-operation with national NGOs as well as with the government.

As mentioned in **Chapter 3**, the **Committee on the Rights of the Child** is the monitoring body which oversees the progress made by states parties in fulfilling their obligations.¹⁸⁹

7.3.2 ILO

The ILO's fight against child labour is to be found through the following areas of intervention:

- international conventions that set standards commonly accepted by the international community, and monitor enforcement;
- seeking and obtaining good quality information; and
- provisions of technical assistance to countries, through **the International Programme on the Elimination of Child Labour (IPEC)**.

IPEC's priority target groups are bonded child labourers, children in hazardous working conditions and occupations and children who are particularly vulnerable, i.e. very young working children (below 12 years of age), and working girls. **IPEC's** aim is to work towards the progressive elimination of child labour. This shall be done through the strengthening of national capacities to address child labour problems, and by creating a world-wide movement to combat it.¹⁹⁰

The work of **IPEC** consists of motivating a broad alliance of partners to acknowledge and act against child labour. **IPEC** also aims at assisting with developing and implementing national policies on child labour problems. Important as well is the need to create awareness of the problem nationwide, in communities and workplaces. The development and application of protective legislation is as well strongly promoted by the **IPEC**.¹⁹¹

Support is given to partner organisations to develop and implement measures that aim at *preventing* child labour, *withdrawing* children from hazardous work and providing *alternatives*, and *improving the working*

¹⁸⁸ UNICEF, supra note 186.

¹⁸⁹ See Chapters **3.1.1** and **7.1.1.1**.

¹⁹⁰ See www.ilo.org/pu.../ipec/stats.html, August 28th 2001.

¹⁹¹ ILO, *Strategies and actions against child domestic work*, draft report, ILO/IPEC, 1998.

conditions as a transitional measure towards the elimination of child labour.¹⁹²

7.3.3 The media

The media has in recent years elicited strong reactions from the society through exposing stories of gross exploitation and abuse of children. At the same time it has created awareness, and by that contributed to the debate on child labour.¹⁹³

There is a considerable ambivalence about the role of the media. On the one hand, it is certain that media attention has helped to raise the profile of the issue. Revelations made by the media have led to interventions on behalf of exploited children in the work place. Some of the information produced, although it is anecdotal, has been valuable, especially in the light of the general absence of scientific data.¹⁹⁴

On the other hand, the sensationalism of many media stories tends to give an over simplistic picture of the issue as a whole. The phenomenon can be described from a very narrow “Western world” point of view with little or no awareness of, for example, African traditions. Furthermore, the language used to predict the situation of working children is often incorporated with catastrophic diagnoses, distant from reality. Distribution of this kind of simplified information can at worst lead to strong – but very wrongly directed – reactions from the public.

7.4 Summary

The government of the Ivory Coast has declared a national plan of action for combating exploitative child labour. Ratification of the **ILO Conventions No. 182** and **No. 138** is an important initial part of this national plan. NGOs in the country work mainly on improving the situation of children currently working. This is being done through the offering of literacy and vocational training, free access to health services, legal assistance in resolving conflicts as well as in giving instructions on the rights of the child. The government supports much of the NGOs’ work.

At the regional level the **OAU** is the active organ. A common African position on child labour was recently adopted, and constitutes an important base from which policies applicable to African societies can be developed.

¹⁹² Supra note 190.

¹⁹³ www.child-abuse.com/childho...hildwatch/cwi/projects/labour.html, March 15th 2001, p 22 of 26.

¹⁹⁴ *Ibid.*, p 23.

UNICEF, ILO and the media are the most important actors at the international level. The **Convention on the Rights of the Child** is the framework from which **UNICEF** is planning its actions, led by its fundamental principles of the best interest of the child, non-discrimination, the right of the child to life, and the right to expression of his or her views.

ILO has focused its work concerning child labour in the **International Programme on the Elimination of Child Labour (IPEC)**. The programme calls for worldwide ratification of the new **ILO Convention No. 182** on the elimination of the worst forms of child labour.

The media has an ambivalent role concerning the situation of child workers. One is as an important distributor of information and in drawing the world's attention to the problem. Another one is as a sensational seeking organ with little or no interest in understanding the whole, and often very complex, picture of the phenomenon.

An analysis of the issue of child domestic labour will follow in the next chapter.

8 Analysis

Long working hours and the many chores to be done characterise child domestic labour. Typical tasks include cooking, washing and ironing of clothes for the family, cleaning, shopping, as well as different kinds of income-generating activities.

Cultural practices and values justify and encourage domestic labour in many regions of the world. It is seen as an important part of the education and upbringing of the child. African countries have a strong tradition of placing the children in the households of friends or relatives as a means of up-grading their education.

Placement agencies are, however, a rapidly developing phenomenon. This is a cause for concern as poverty increases in rural areas and demand for cheap child labour is growing in the bigger cities. A more commercialised system has been developed, where the child faces the risk of being taken far away from her family of origin and all familiar landmarks. The child is likely to get under the total control of the employer, and is thereby vulnerable to both economic and sexual exploitation. This is due to the fact that the employer, in these situations, has his own household as his first concern not the well-being and education of the child. The tradition of placement might be a useful tool available for obtaining cheap domestic labour.

8.1 Law

Article 32 of the **Convention on the Rights of the Child** recognises the right of the child to be protected from work that threatens his or her health, education or development. A State that has ratified the **Convention** is obliged to provide for a *minimum age* for admission to employment. It should also provide for appropriate *regulations of hours and conditions of employment* and for *penalties or other sanctions* to ensure the effective enforcement of the Article.

The **Convention on the Elimination of all forms of Discrimination Against Women** states that the girl child shall be given the same opportunities as her brothers, and that all practices that harm women, or girls, in a discriminatory way should be eradicated.¹⁹⁵ Traditional forms of discrimination against girls, particularly with regard to access to education, make them particularly available for work in domestic service.

¹⁹⁵ See Chapter 3.1.4.

The **ILO Convention No. 138** regulates minimum ages for admission to employment, and **Convention No. 182** invites ratifying States to take measures to reach out to children at special risk and to take account of the special situation of girls.¹⁹⁶ The minimum age in **Convention No. 138** is set at 15 years, but for states whose economy and educational facilities are not sufficiently developed, 14 years may be the initial minimum age.¹⁹⁷

For work that is likely to jeopardise the health, safety or morals of young persons, a minimum age of 18 years is set,¹⁹⁸ whereas the limit for carrying out “light work” is set at – the lowest age – 13 years.¹⁹⁹ “Light work” is defined as work that is not harmful to the health or development of the child, nor such as to prejudice its attendance at school or its capacity to benefit from instructions received. Whether domestic work can be classified as “light work” it is not possible to judge in one general statement, as each type of employment is different. What has been shown in several studies is, however, that the working and living conditions of a child domestic are likely to be potentially exploitative. Both psychological and physical health risks occur, threatening the normal development of the child. Therefore, the international set minimum age for admission to domestic work is, in the majority of cases, 14 years.

It is, initially, possible to limit the scope of application of the **Convention**.²⁰⁰ At the time of ratification a State may specify the branches to which the **Convention** will apply. Seven sectors must not be left out. Since child domestic labour does not seem to fall within any of these sectors, it should, theoretically, be possible for a ratifying State to initially leave it outside the application of the **Convention**.

The monitoring of these international treaties is based upon a reporting procedure where a ratifying state has to report back to a committee on its progress in the implementation of the treaty. The **First Optional Protocol to the Covenant on Civil and Political Rights** and the **Optional Protocol to the Convention on the Elimination of all forms of Discrimination Against Women** provides for individual petitions.²⁰¹

As regards regional law, the **African Charter on the Rights and Welfare of the Child**, although in many aspects a reflection of the **Convention on the Rights of the Child**, is rooted in the African culture and tradition. It does, just like the **Convention**, recognise the right of the child to be protected against all kinds of exploitative work. By applying the provisions to the *informal* sector, the **Charter**, however, goes beyond the

¹⁹⁶ **ILO Convention No. 182**, Art. 7 (2e).

¹⁹⁷ **ILO Convention No. 138**, Art. 2.

¹⁹⁸ *Ibid.*, Art. 3.

¹⁹⁹ **ILO Convention No. 138**, Art. 7.

²⁰⁰ *Ibid.*, Art. 5.

²⁰¹ See Chapters **3.1.3** and **3.1.4**.

Convention.²⁰² As it applies to the informal sector and to all children under 18 years of age - regardless of whether they are older than the legally recognised age of maturity under any national legislation – children in domestic labour seem to have a satisfactory framework for protection in the **Charter**.

In addition to a reporting system, both the **African Charter on Human and People’s Rights** and the **African Charter on the Rights and Welfare of the Child** provide for petitions from any person, group of persons, NGOs, another member state or the United Nations on matters being in contradiction with the Charters.²⁰³

The Ivory Coast has ratified the main international document on the rights of children, the **Convention on the Rights of the Child**. Hence, it is obliged to follow what is stated in this document. The **ILO Conventions No. 138** and **No. 182** have, as of October 2001, however not yet been ratified. As the United Nations Conventions establish general principles, while the practical application measures are stated in the ILO Conventions, ratification of both is a necessity for any effective use of the law. The new government has put the ratification of these ILO documents, as well as of the **African Charter on the Rights and Welfare of the Child**, on its agenda, and it is likely that they will be ratified in the coming year.

The Ivory Coast has ratified the **International Covenant on Economic, Social and Cultural Rights** as well as the **Covenant on Civil and Political Rights**. The first **Covenant** oblige all ratifying states to, among other obligations, protect children and young people from economic and social exploitation.²⁰⁴ The second one states that every child shall have the right to such measures of protection as are required by his status as a minor.²⁰⁵ The **Optional Protocol to the Covenant on Civil and Political Rights** was ratified in 1997, which means that individual petitions can be made from a person claiming to be a victim of a violation by the State of any rights set forth in this **Covenant**. The **Convention on the Elimination of all forms of Discrimination Against Women** was ratified in 1995, while its **Optional Protocol** is still not ratified.

No clear contradiction between the national law applicable to the working situation of child domestics and the corresponding international and regional ones have been found.

The national law sets the minimum age for admission to work at 14 years,²⁰⁶ which could be well in accordance with **ILO Convention No. 138**. It has to be pointed out, however, that the problem in the Ivory Coast, as in many

²⁰² **ACRWC**, Art. 15.

²⁰³ **ACHPR**, Art. 47, Art. 56, **ACRWC**, Art. 44 (1).

²⁰⁴ **ICESCR**, Art. 10 (3).

²⁰⁵ **ICCPR**, Art. 24 (1).

²⁰⁶ **Labour Code**, Sect. 23 – 8.

other developing countries, is the lack of an effective system for recording births. Several millions of children every year go unregistered in the world. When the age of a child is debatable, laws setting minimum ages for employment and school enrolment can obviously not be applied.

Concerning working conditions, **Article 32** of the **Convention on the Rights of the Child** requires provisions to be made for appropriate regulations of the hours and conditions of employment. The national **Labour Code** limits the duration of the work performed by a child to eight hours per day, and prohibits work during the night.²⁰⁷ The new **Constitution** prohibits forced labour and assures the protection of the child.²⁰⁸ The **Labour Code** states that a child must not work in conditions that are likely to be too demanding. A minimum salary is set.²⁰⁹ Furthermore, penalties and sanctions, such as imprisonment are prescribed for practitioners that do not follow what is prescribed in the law.²¹⁰ Interesting to see is **Regulation No. 96– 193** (1996) applicable to placing agencies, providing a legal framework for the setting up and activities of these agencies.²¹¹

8.2 Practice

Although national legislation seems to be in accordance with international law, there is a wide gap between legal theory and the reality. The employment of children below the legally accepted minimum working age is common. Gross abuse, neglect, torture, violence or sexual abuse against child domestics are common, as children work in conditions akin to slavery. Unlimited working hours, lack of remuneration, isolation from family, lack of opportunities of schooling and for play and recreation are all violations of children's rights. Placing agencies visited in Abidjan during this Minor Field Study showed little or no awareness of their legal responsibilities and obligations. Many concluded contracts with the employees and asked them to pay for getting a placement, which is in clear violation of **Regulation No. 96 – 193**.

According to **Article 4** of the **Convention on the Rights of the Child**, the ratifying State has to do all it can to implement the rights recognised in the **Convention** and ensure the realisation of the rights of children to “the maximum extent of their available resources”. Furthermore, it is obliged to make the **Convention** and the rights set forth therein widely known.²¹²

²⁰⁷ **Labour Code**, Sect. 22.2.

²⁰⁸ **The Constitution**, Art. 3.

²⁰⁹ **Labour Code**, Sect. 31.1.

²¹⁰ See Chapter 5.3.3.

²¹¹ See Chapter 5.3.2.3.

²¹² **CRC**, Art. 42.

Apart from occasional brief events covered by the media (seminars, workshops etc) the **Convention** is not the subject of a genuine campaign aimed at making everyone aware of the need to pay more attention to the situation of children. Better efforts should and could be made by various national bodies responsible for information, education and communication to promote the **Convention**.

A national campaign could be the tool to fulfil this obligation. Initially, this should be directed at the younger population where such topics as family values, the importance of school, prostitution, drugs, dangers in streets, etc, are the issues. When targeting the adults, the dangers that threaten the child have to be high-lightened as well as the duties of the parents, education, health, care, moral and physical integrity of the child have to be stressed. Awareness creation campaigns should be permanent and not occasional as is presently the case, since the modification of attitudes and behaviours requires the implementation of long-term strategies.

The economic, political and social difficulties facing the Ivory Coast have had a negative impact on the situation of children and have impeded the full implementation of the **Convention**. Limited availability of skilled human resources also affects the full implementation of the **Convention**. The recent unrest in the State has as well had negative effect on the implementation.

The major factors responsible for the growth in child labour seem to be rapid population growth, deterioration in living standards and the incapacity of education systems to provide schooling to all children of school age. The research for this thesis has led me to the conclusion that poverty is the main reason why children are driven into working situations of an exploitative nature. The reality facing many children today is far from cultural placement traditions, where the education of the child was the first, or at least an important, concern. These traditions have, however, been a tool for making profit out of the parent's poverty.

An adequate number of schools, together with assistance to under-privileged parents and regions is required. Furthermore, the **Inspector of Labour and Social Laws** needs to be provided with the material and human resources to enable it to carry out effective monitoring of child labour and placing agencies. Through this, offenders could be reported and punished. The next step could be the introduction of more severe penalties to strengthen the suppression of the economic exploitation of children. The regulations concerning full-time employment must be better respected and employment in hazardous jobs strictly prohibited.

Children in conflict with the law need to be better protected with the observance of a maximum 48-hours detention in police custody for minors and the presence of lawyers at preliminary investigations. Deprivation of liberty should be considered only as a measure of last resort and for the shortest possible time. Training programmes should be introduced on

relevant international standards for all professionals involved with the system of juvenile justice. The establishment of programmes of rehabilitation and reintegration of juveniles following criminal proceedings are of importance as well.

Intensified co-operation between the government and national NGOs would help the country to reach out to the group of child domestic workers. The government has shown political will to improve the situation of children in the country and NGOs have an important role to play in contributing with facts and data, as well as in being the link between the State and its children.

8.3 Is regulation possible?

As any type of informal labour, legal regulation of child domestic workers seems difficult. A compounding factor is that the place of employment is a private home. The use of law as a means of regulation and protection might be even more problematic in countries where child domestic workers are not seen as paid workers but as helpers around the house.

Therefore, it seems very important for the acceptance of standards that employers recognise domestic work as a form of *employment*. The child domestic has to be recognised as a worker and not as a poor child that is helped out. Many employers today are of the opinion that they are doing the children – even very young ones – and their families, a favour. This is used as an explanation for the non-existence of written contracts, remuneration and regulated working hours. By recognising the status of child domestics as *workers*, certain conditions can be introduced, such as limitation of working hours, regular time off, family contact, adequate remuneration, health care and access to education. Furthermore, through this it is easier to establish a clear prohibition on the employment of children under a certain age.

Having been a hidden phenomenon for long, there is more awareness today compared with a few years ago, both in relevant countries and regions as well as internationally, of the situation of child domestic workers. The media has had an important role as a distributor of information and in drawing the world's attention to the problem. The media can have a great impact in changing people's perception of the problem and in lobbying politicians and decision-makers and with this approach a good climate for co-operation with NGOs will be possible.

UNICEF, among others, has suggested that child labour laws in themselves will not stop the use of children as domestic workers. The promotion by law of primary education has been seen as a more useful preventative method to reduce all forms of child labour, including child domestic work.²¹³ Studies

²¹³ See Chapter 7.3.1.

have shown that children with a basic education are less likely to end up in working situations of exploitative nature. This does not mean that the child (or its parents) has to choose between school *or* work, as for many families the second option would be the only possible one. A combination, where the employer is obliged to give the child time off for school attendance, can be the optimal solution for many families.

The total elimination of child labour is a long time struggle. Therefore, the debate around child labour in general, and child domestic work in particular, has moved away from the issue of “in favour of” or “against” a direct elimination. Instead, there seems to be a widespread willingness to accept that children do work. The focus should now be put upon a common will to grant these children respect as *child workers* and the right to carry out their working obligations in conditions of human dignity. Working children of today, and tomorrow, should be provided support and protection to their childhood development, taking into account the best interests of the child.

Supplement A

CONSTITUTION

Loi n° 2000-513 du 1^{er} août 2000 portant Constitution de la République de Côte d'Ivoire.

Le Président de la République,
Conformément aux dispositions de l'article 15 de l'ordonnance n° 01/99 PR. du 27 décembre 1999 portant suspension de la Constitution et organisation provisoire des pouvoirs publics, a soumis au référendum,
le peuple ivoirien a adopté,
le Président de la République promulgue la loi constitutionnelle dont la teneur suit :

PRÉAMBULE

LE PEUPLE DE COTE D'IVOIRE,
Conscient de sa liberté et de son identité nationale, de sa responsabilité devant l'histoire et l'humanité ;
Conscient de sa diversité ethnique, culturelle et religieuse, et désireux de bâtir une nation unie, solidaire et prospère ;
Convaincu que l'union dans le respect de cette diversité assure le progrès économique et le bien-être social ;
Profondément attaché à la légalité constitutionnelle et aux Institutions démocratiques, à la dignité de la personne humaine, aux valeurs culturelles et spirituelles ;
Proclame son adhésion aux droits et libertés tels que définis dans la Déclaration universelle des Droits de l'Homme de 1948 et dans la Charte africaine des Droits de l'Homme et des Peuples de 1981 ;
Exprime son attachement aux valeurs démocratiques reconnues à tous les peuples libres, notamment :
— Le respect et la protection des libertés fondamentales tant individuelles que collectives,
— La séparation et l'équilibre des pouvoirs,
— La transparence dans la conduite des affaires publiques,
S'engage à promouvoir l'intégration régionale et sous régionale, en vue de la construction de l'Unité Africaine,
Se donne librement et solennellement comme loi fondamentale la présente Constitution adoptée par Référendum.

TITRE PREMIER DES LIBERTÉS, DES DROITS ET DES DEVOIRS

CHAPITRE PREMIER DES LIBERTÉS ET DES DROITS

Article premier. — L'Etat de Côte d'Ivoire reconnaît les libertés, les droits et devoirs fondamentaux énoncés dans la présente Constitution et s'engage à prendre des mesures législatives ou réglementaires pour en assurer l'application effective.

Art. 2. — La personne humaine est sacrée.

Tous les êtres humains naissent libres et égaux devant la loi. Ils jouissent des droits inaliénables que sont le droit à la vie, à la liberté, à l'épanouissement de leur personnalité et au respect de leur dignité.

Les droits de la personne humaine sont inviolables. Les autorités publiques ont l'obligation d'en assurer le respect, la protection et la promotion.

Toute sanction tendant à la privation de la vie humaine est interdite.

Art. 3. — Sont interdits et punis par la loi, l'esclavage, le travail forcé, les traitements inhumains et cruels, dégradants et humiliants, la torture physique ou morale, les violences physiques et les mutilations et toutes les formes d'avilissement de l'être humain.

Art. 4. — Le domicile est inviolable. Les atteintes ou restrictions ne peuvent y être apportées que par la loi.

Art. 5. — La famille constitue la cellule de base de la société. L'Etat assure sa protection.

Art. 6. — L'Etat assure la protection des enfants, des personnes âgées et des personnes handicapées.

Art. 7. — Tout être humain a droit au développement et au plein épanouissement de sa personnalité dans ses dimensions matérielle, intellectuelle et spirituelle.

L'Etat assure à tous les citoyens l'égal accès à la santé, à l'éducation, à la culture, à l'information, à la formation professionnelle et à l'emploi.

L'Etat a le devoir de sauvegarder et de promouvoir les valeurs nationales de civilisation ainsi que les traditions culturelles non contraires à la loi et aux bonnes mœurs.

Art. 8. — L'Etat et les Collectivités publiques ont le devoir de veiller au développement de la jeunesse. Ils créent les conditions favorables à son éducation civique et morale et lui assurent la protection contre l'exploitation et l'abandon moral.

Art. 9. — La liberté de pensée et d'expression, notamment la liberté de conscience, d'opinion religieuse ou philosophique sont garanties à tous, sous la réserve du respect de la loi, des droits d'autrui, de la sécurité nationale et de l'ordre public.

Art. 10. — Chacun a le droit d'exprimer et de diffuser librement ses idées.

Toute propagande ayant pour but ou pour effet de faire prévaloir un groupe social sur un autre, ou d'encourager la haine raciale ou religieuse est interdite.

Art. 11. — Les libertés de réunion et de manifestation sont garanties par la loi.

Art. 12. — Aucun ivoirien ne peut être contraint à l'exil.

Toute personne persécutée en raison de ses convictions politiques, religieuses, philosophiques, ou de son appartenance ethnique peut bénéficier du droit d'asile sur le territoire de la République de Côte d'Ivoire, sous la condition de se conformer aux lois de la République.

Art. 13. — Les Partis et Groupements politiques se forment et exercent leurs activités librement sous la condition de respecter les lois de la République, les principes de la souveraineté nationale et de la démocratie. Ils sont égaux en droits et soumis aux mêmes obligations.

Sont interdits les Partis ou Groupements politiques créés sur des bases régionales, confessionnelles, tribales, ethniques ou raciales.

Art. 14. — Les Partis et Groupements politiques concourent à la formation de la volonté du peuple et à l'expression du suffrage.

Art. 15. — Le droit de propriété est garanti à tous.

Nul ne doit être privé de sa propriété si ce n'est pour cause d'utilité publique et sous la condition d'une juste et préalable indemnisation.

Art. 16. — Le droit de tout citoyen à la libre entreprise est garanti dans les limites prévues par la loi.

Art. 17. — Toute personne a le droit de choisir librement sa profession ou son emploi.

L'accès aux emplois publics ou privés est égal pour tous.

Est prohibée toute discrimination dans l'accès ou l'exercice des emplois, fondée sur le sexe, les opinions politiques, religieuses ou philosophiques.

Art. 18. — Le droit syndical et le droit de grève sont reconnus aux travailleurs des secteurs public et privé qui les exercent dans les limites déterminées par la loi.

Art. 19. — Le droit à un environnement sain est reconnu à tous.

Art. 20. — Toute personne a droit à un libre et égal accès à la Justice.

Art. 21. — Nul ne peut être poursuivi, arrêté, gardé à vue ou inculpé, qu'en vertu d'une loi promulguée antérieurement aux faits qui lui sont reprochés.

Art. 22. — Nul ne peut être arbitrairement détenu.

Tout prévenu est présumé innocent jusqu'à ce que sa culpabilité ait été établie à la suite d'une procédure lui offrant les garanties indispensables à sa défense.

CHAPITRE II **DES DEVOIRS**

Art. 23. — Toute personne vivant sur le territoire national est tenue de respecter la Constitution, les lois et les règlements de la République.

Art. 24. — La défense de la Nation et de l'intégrité du territoire est un devoir pour tout Ivoirien.

Elle est assurée exclusivement par des forces de défense et de sécurité nationales dans les conditions déterminées par la loi.

Art. 25. — Les biens publics sont inviolables. Toute personne est tenue de les respecter et de les protéger.

Art. 26. — Tout citoyen, investi d'un mandat public ou chargé d'un emploi public ou d'une mission de service public, a le devoir de l'accomplir avec conscience, loyauté et probité.

Art. 27. — Le devoir de s'acquitter de ses obligations fiscales, conformément à la loi, s'impose à tous.

Art. 28. — La protection de l'environnement et la promotion de la qualité de la vie sont un devoir pour la communauté et pour chaque personne physique ou morale.

Supplement B

BUREAUX DE PLACEMENT PAYANT

Décret n°96-193 du 7 mars 1996 relatif aux bureaux de placement payant

Article premier. — Est dénommé «Bureau de placement payant» toute personne, physique ou morale, inscrite au registre du commerce, après autorisation du Ministre chargé du Travail, qui effectue en qualité de simple intermédiaire et moyennant rémunération, des opérations de placement de travailleurs auprès des employeurs.

Art. 2. — Sont exclus du champ d'application du présent décret :

- les entreprises de travail temporaire ;
- le recrutement ou le placement des marins.

Art. 3. — Sont interdites les opérations de placement effectuées par les tenanciers de débit de boisson ou d'hôtels, fripiers, prêteurs sur gages et changeurs.

Sont également interdites les opérations de placement effectuées dans les locaux, dépendances ou annexes occupés pour les activités des personnes visées au précédent alinéa.

Art. 4. — Toute personne physique, qui souhaite procéder à l'ouverture d'un bureau de placement payant doit remplir les conditions suivantes :

- être majeur et jouir de ses droits civils ;
- être de nationalité ivoirienne ou représentant d'une personne morale de droit ivoirien ;
- n'avoir pas été condamné à une peine d'emprisonnement ferme pour délit, ou pour tentative ou complicité d'un délit contre l'honneur ou la probité ;
- ne pas exercer de fonction rémunérée dans une administration ou un établissement public.

Elle doit adresser au Ministre chargé du Travail :

- une demande d'autorisation d'ouverture d'un bureau de placement ;
- un extrait d'état civil ;
- un extrait de casier judiciaire datant de moins de trois mois ;
- une attestation de l'administration fiscale.

Art. 5. — Toute personne morale qui souhaite procéder à l'ouverture d'un bureau de placement doit adresser au Ministre chargé du Travail, une demande à laquelle seront joints :

- les statuts de la société
- un certificat de position fiscale.

Outre son casier judiciaire datant de moins de trois mois, le représentant légal de la société doit remplir toutes les conditions prévues à l'article 4 alinéa 1 ci-dessus.

Art. 6. — Toute personne physique ou morale appartenant à un Etat accordant la réciprocité à la République de Côte d'Ivoire peut, si elle remplit les autres conditions prévues aux articles 4 ou 5 ci-dessus, être autorisée à ouvrir un bureau de placement payant.

Art. 7. — Le Ministre dispose d'un délai de 15 jours à compter de la date de dépôt du dossier pour notifier sa décision au requérant. Passé ce délai sans réponse du Ministre, l'autorisation est acquise.

Art. 8. — Après obtention de l'autorisation, toute personne physique ou morale concernée doit s'inscrire au registre de commerce préalablement à l'ouverture et à l'exercice de l'activité du bureau.

Art. 9. — Dans le délai maximum de trois mois suivant la date d'obtention de l'autorisation, une déclaration d'existence et d'ouverture du bureau de placement doit être faite au Ministre chargé du Travail, avec indication de l'adresse complète du bureau.

La déclaration d'existence est renouvelable tous les trois ans avant la fin du dernier trimestre de validité sous peine de suspension du fonctionnement du bureau pendant une durée qui ne peut excéder un mois. Passé ce délai ou en cas d'omissions répétées du renouvellement, il sera procédé à la fermeture du bureau sans préavis et sans paiement d'aucune indemnité.

Art. 10. — Lorsque la cessation d'activité du bureau de placement est envisagée, notification doit en être faite au Ministre chargé du Travail au moins 15 jours ou 3 mois avant, selon que la cessation sera provisoire ou définitive.

La reprise de l'activité du bureau doit être déclarée à l'autorité compétente suivant les conditions prévues aux articles 4 et 5 du présent décret.

Art. 11. — Le bureau de placement payant n'est pas autorisé à conclure le contrat de travail, en lieu et place de l'employeur et du travailleur.

Art. 12. — Le recrutement à l'étranger d'un travailleur non ivoirien par l'intermédiaire d'un bureau de placement payant, ne peut s'effectuer qu'après le visa du contrat de travail dûment établi entre le futur employeur et le travailleur concerné, préalablement à son admission sur le territoire national.

Le placement à l'étranger d'un travailleur ivoirien, sans le visa préalable de son contrat de travail entraîne la rupture dudit contrat, à la charge de son employeur.

L'employeur et le travailleur peuvent invoquer la responsabilité du bureau de placement intermédiaire devant la juridiction compétente.

Art. 13. — La rémunération du bureau de placement payant pour ses prestations est due par l'employeur.

Art. 14. — Les tarifs de placement approuvés par le Ministre chargé du Travail et le Ministre chargé du Commerce, doivent être affichés de façon visible à un endroit accessible, dans les locaux du bureau de placement et tenus régulièrement en bon état de lisibilité.

Art. 15. — Tout bureau de placement payant doit tenir à jour un registre des offres d'emploi, un registre des demandes d'emploi et un registre des placements effectifs.

Art. 16. — Tout bureau de placement payant est tenu de communiquer à la fin de chaque trimestre au Ministre chargé du Travail ou à tout organisme ou service désigné à cet effet, les statistiques des offres et des demandes d'emploi reçues et des placements effectués.

Art. 17. — Sur l'état des offres d'emploi, il est fait mention des éléments ci-après :

- les nom, prénoms ou la raison sociale, l'adresse et le numéro d'affiliation de l'employeur, à la Caisse Nationale de Prévoyance Sociale ;
- la référence et la date de réception de l'offre ;
- les caractéristiques du poste de travail ;
- la qualification et les connaissances professionnelles requises.

Art. 18. — L'état des demandes d'emploi devra indiquer pour chaque demandeur les renseignements ci-dessous :

- la date et le numéro d'enregistrement de la demande ;
- les nom, prénoms et date de naissance du demandeur ;
- la nationalité ;
- la situation de famille et l'adresse ;
- la profession, la qualification et la catégorie professionnelle ;
- le certificat de travail du dernier employeur, le cas échéant ;
- le numéro d'immatriculation du demandeur à la Caisse Nationale de Prévoyance Sociale, le cas échéant.

Art. 19. — Les Inspecteurs du Travail et des Lois Sociales peuvent requérir la production de tout registre ou document dont la tenue est prescrite par le présent décret.

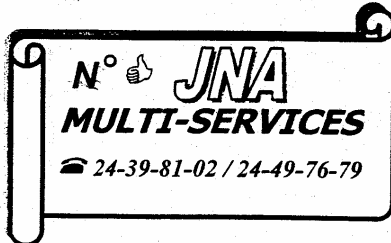
Art. 20. — Constitue une contravention de la 3e classe et punie comme telle l'infraction aux dispositions prévues à l'article 16 du présent décret relatives à la fourniture des statistiques trimestrielles sur les activités du bureau de placement payant.

Art. 21. — Quiconque exerce l'activité de placement payant de travailleurs sans autorisation, ou qui donne des indications fausses pour obtenir ou tenter d'obtenir cette autorisation, sera puni des peines prévues à l'article 308 du Code Pénal.

Art. 22. — Le placement de travailleurs sans autorisation, l'obtention et la tentative d'obtention d'ouverture d'un bureau de placement à l'aide de fausses indications ou de faux documents constitue une contravention de 3e classe et punie comme telle.

Art. 23. — Le présent décret abroge toutes dispositions antérieures contraires.

Supplement C



AGENCE DE PRESTATIONS
Placement Employés de Maison
Entretien des Locaux et Bureaux
Tous Travaux de Bâtiment
- et Autres -



FICHES DE RENSEIGNEMENT

LES CONDITIONS

1- DOSSIERS A FOURNIR

- 1 photo d'identité / ou ordinaire
- 1 photocopie C.NI / jugement
- 1 photocopie - CNI (parents)

2 - DROITS D'INSCRIPTION Non remboursable

le droit d'inscription varie en fonction du salaire.

Salaire 15 000 à 20 000 F	* 3 000 F inscription
Salaire 25 000 à 45 000 F	* 5 000 F inscription
Salaire 50 000 F à 100 000 F	* 10 000 F inscription

3 - LE PRELEVEMENT

1/3 du salaire à prélever par l'agence sur (2) mois

Soit = 15 000 F =	5 000 / 2
20 000 F =	7 000 / 2
30 000 F =	10 000 / 2
40 000 F =	13 000 / 2
50 000 F =	15 000 / 2
100 000 F =	30 000 / 2

N.B = Vous avez 3 possibilités d'affectation au cas ou le précédent poste ne fait pas votre affaire. (La durée 6 mois) . Après l'épuisement des trois postes, vous renouvelez l'inscription pour obtenir 3 autres postes.

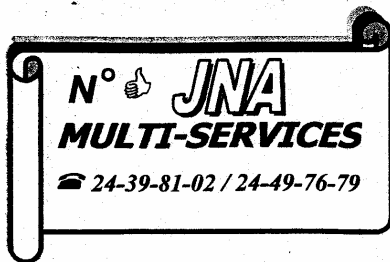
Le cabinet ne prend pas de la responsabilité en cas de vols.

Le Directeur

Joseph N'GOUH Ahaney

RC N°133 333 - CC N°8900340 W 14 B.P. 913 Abidjan 14

Supplement C 1: Inscription fees and the agency's right to part of the salary.



AGENCE DE PRESTATIONS
 Placement Employés de Maison
 Entretien des Locaux et Bureaux
 Tous Travaux de Bâtiment
 - et Autres -



FICHE D'ENGAGEMENT

Nom et prénoms de l'Employeur
 Adresse Téléphone
 Fonction
 Domicile

CLAUSES DU CONTRAT

A – Les frais de prestations de service s'élevont à **(5.000 Frs)** payable avant toute orientation
NON REMBOURSABLE

B – Je sollicite l'obtention d'un employé
 Mr/ Mlle en qualité de
 pour servir avec sérieux et efficacité. Je lui verse un salaire Mensuel de :
 francs payable au 30 du mois en cours au 5 du mois suivant.

C – En cas de non - satisfaction concernant le travail ou la conduite de l'employé(e), nous
 vous prions de bien vouloir nous contacter le plutôt possible.

D – Vous avez deux (2) possibilités de changement au cas ou le précédent employé ne fait
 pas votre affaire (**la durée 6 mois**). Après l'épuisement des trois (3) personnes, vous
 renouvez le contrat pour obtenir trois (3) autres personnes.

E – **N.B : Le prélèvement** : le cabinet perçoit un mois de salaire à prélever par l'employeur
 sur (2) mois Exple : * 10.000 —> 3.000/2 * 12.000 —> 4.000/2
 * 15.000 —> 5.000/2 * 18.000 —> 6.000/2 * 20.000 —> 7.000/2
 * 35.000 —> 10.000/2 * 45.000 —> 15.000/2 * 100.000 —> 40.000/2
 En fin de pouvoir payer son personnel, le téléphone, l'électricité, les impôts, le loyer etc...

F – Tout délit commis par l'employé(e) doit être signalé pour les décisions qui s'imposent.
 Le présent contrat prend effet à partir du
 La signature du présent contrat suppose l'acceptation de clauses.

L'employeur

L'employé(e)

Le Directeur

Joseph N'GOUH Ahaney

RC N°133 333 – CC N°8900340 W 14 B.P. 913 Abidjan 14

SERVICE MENAGE

(Agence de Placement du Personnel Emploi)
13 B.P 2508 Abidjan 13
RC N° 169113 CC N° 9325906 D
Tél. : 24-39-46-52/Cel. : 05-8710-71
(Appelez Mr N'CHO)

Bureau sis à Abidjan ABOBO-GARE
Route d'Anyama, face Vigilance
Auto-Ecole
* Transparence
* Dynamisme
* Rapidité
"C'est ça" Le service Ménage

FICHE DE DEMANDEUR D'EMPLOYE AU SERVICE MENAGE

Valable du au
Nom et prénoms de l'Employeur.....
N° CNi établie le à
Fonction..... Lieu de travail.....
Domicile Quartier.....
Tél. de maison..... Tél. de bureau.....

CLAUSES DU CONTRAT

Article 1 : Je paie ce jour à l'Agence de courtage (Service ménage) la somme de Cinq mille francs (5 000 F) représentant les frais d'ouverture de Dossiers (Mise en relation, transport, frais de publicité etc...) pour l'obtention d'une et une seule personne en qualité (d'employé de Maison) quelque soit le temps ou le (s) jour (s) que l'Employé doit faire chez moi (l'Employeur) est non remboursable. Toute somme versée à l'Agence pour l'obtention d'un Employé est non remboursable.

Article 2 : Après l'obtention de l'Employé, l'employeur doit payer un mois de salaire à l'Agence représentant les frais de prestations de service avant engagement de l'Employé chez vous. Cette somme permettra à l'Agence de pouvoir payer son personnel, le téléphone l'impôt, l'électricité etc....

Article 3 : Aucun prélèvement sur le salaire des Employés n'est admissible. L'Employé doit recevoir chaque fin du Mois, la totalité de son salaire. Les prestations de service ne sont remboursables.

Article 4 : L'Agence de courtage Service Ménage n'est pas une maison d'Assurance, son rôle est de vous mettre en relation avec l'employé que vous cherchez. Vous devez, donc connaître chez votre Employé quelque soit l'endroit où il se trouve. L'Agence de courtage Service Ménage n'est pas responsable en cas de (vols, absence, bagarre au lieu de travail) etc...

Article 5 : Je sollicite l'obtention d'un Employé de Maison..... que l'Agence s'engage à accompagner chez moi pour servir avec sérieux et efficacité pour un montant de francs CFA par mois payable plus tard à la fin du mois ou chaque 05 du mois suivant.

Article 6 : Pour votre entière satisfaction, nous vous offrons trois (3) possibilités de changements au cas où le précédent employé ne fait pas votre affaire durant une année. Après épuisement des trois (3) personnes, vous renouvelez la prestation pour obtenir une autre personne, sauf les vendeurs (euses) qu'il n'y a pas de changement à faire après le départ de l'Employé.

Article 7 : Tout employeur qui désire libérer son employé doit avertir d'avance l'Agence de courtage SERVICE MENAGE., doit vérifier ses bagages s'il ne veut plus travailler.

Article 8 : L'Agence signale à tous les demandeurs d'employés (Employeurs) que tous les actes répréhensibles que commettra l'employé orienté chez eux, n'engagent pas sa responsabilité si ce n'est celle de l'employé puisque l'Agence de courtage Service Ménage ne connaît pas la mentalité de ces employés. (Prendre sa photo, faire prendre ses empreintes dans un Commissariat etc...).
Fait pour servir et valoir ce que de droit.

Signature de l'Employeur

Fait à Abidjan, le

Signature du Responsable
S.E.C.S.M.A
SERVICES A DOMICILE ET
ABIDJAN
LA DIRECTION

Supplement C 3: The new contract. The employee is entitled to the whole of her salary, starting from the first month of employment. Article 3.

SERVICE MENAGE

(Agence de Placement du Personnel Emploi)
13 BP 2508 Abidjan 13
RC N° 169113 CC N° 9325906 D
Tél. : 39-46-52 (Appelez Mr N'CHO)

Bureau sis à Abidjan ABOBO-GARE
Route d'Anyama, face Vigilance
Auto Ecole.
* Transparence
* Dynamisme
* Rapidité
"C'est ça " Le service Ménage

FICHE DE DEMANDEUR D'EMPLOYE AU SERVICE MENAGE

Valable du au
Nom et prénoms de l'Employeur :
N° CNI : établie le : à :
Fonction : Lieu de travail :
Domicile Quartier
Tél. : de maison : Tél. de bureau :

CLAUSES DU CONTRAT

Article I

Je paie ce jour à l'Agence (service ménage) la somme de cinq mille francs (5 000) représentant les frais de prestations de service pour l'obtention d'une et une seule personne (un employé) quel que soit le temps ou le jour que l'employé doit faire chez moi (l'employeur) est non remboursable pour tout le monde payable avant toute orientation de l'employé chez moi. Je dois aussi me patienter pour l'obtention de mon employé s'il n'est pas en place. Toute prestation de service versée à l'Agence pour l'obtention d'un employé est non remboursable.

Article II

Pour votre entière satisfaction, nous vous offrons trois (3) possibilités de changement au cas où le précédent employé ne fait pas votre affaire durant une année. Après épuisement des trois (3) personnes, vous renouvelez la prestation pour obtenir une autre personne, sauf les vendeurs(euses) qu'il n'y a pas de changement à faire après le départ de l'Employé.

Article III

Je sollicite l'obtention d'un Employé : que la société s'engage à accompagner chez moi pour servir avec sérieux et efficacité pour un montant de francs CFA par mois payable plus tard à la fin du mois ou chaque 05 du mois suivant.

Article IV

L'Agence, pour pouvoir payer son personnel, le téléphone, le loyer, l'électricité, l'impôt etc. prélève un mois de salaire à l'employé qu'elle vous présente, voilà pourquoi elle vous prie de bien vouloir garder les 1/3 du salaire de l'employé pendant les trois (03) premiers mois puisque le salaire est prélevé en trois (03) mensualités. Après quoi, il perçoit l'intégralité de son salaire à partir du quatrième mois.

Article V

Tout employeur qui désire libérer son employé doit avertir d'avance l'agence SERVICE MENAGE. Tout employeur qui abandonne ou ne veut plus de l'Employé que lui propose l'Agence, compte tenu des contraintes ou de la vie que lui cause l'employé, sans avertir l'Agence après quelques jours d'activité doit payer obligatoirement les jours avant de prendre une autre personne provenant de l'Agence.

Article VI

Tout employeur qui désire libérer son employé doit avertir l'agence service ménage et conserver les bagages de celui-ci jusqu'à ce que l'agence n'intervienne. Ne remettez pas à l'employé l'argent de ses quelques jours de travail. Attendez l'agence. Mais vous lui payer le transport pour qu'il se présente à l'agence.

Article VII

L'Agence signale à tous les demandeurs d'employés (Employeurs) que tous les actes répréhensibles que commettra l'employé orienté chez eux, n'engagent pas sa responsabilité si ce n'est celle de l'employé. puisque l'Agence Service Ménage ne connaît pas la mentalité de ces employés. Son rôle c'est de vous mettre en relation avec l'employé que vous cherchez. Vous devez aller connaître chez vos employés, prendre sa photo, faire prendre ces empreintes dans un commissariat ou dans une Gendarmerie en cas de (vols, bagarres, absence au poste de travail sans vous avertir etc..).

Fail pour servir et valoir ce que de droit

fait à Abidjan, le

Signature de L'Employeur

Signature du Responsable

Supplement C 4: The old contract. According to Article IV, one third of the salary has to be paid to the agency during the first three months of employment.

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