**WINROCK INTERNATIONAL**

**REACH-T: Rwanda Education Alternatives for Children in Tea-Growing areas**

**LABOR LAW ENFORCEMENT ASSESSMENT BY RWANDA EDUCATION ALTERNATIVES FOR CHILDREN IN TEA-GROWING AREAS (REACH-T)**

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# LIST OF ABBREVIATIONS

|  |  |
| --- | --- |
| art.  | Article |
| CEACR  | Committee of Experts on the Application of Conventions and Recommendations |
| ILO  | International Labor Organization |
| MIFOTRA  | Ministry of Public Service and Labor |
| MIGEPROF | Ministry of Gender and Family Promotion |
| NCHR  | National Commission for Human Rights National Commission for Human Rights |
| NPECP  | National Policy on the Elimination of Child Labor |
| NISR  | National Institute of Statistics of Rwanda |
| OVCs  | Orphans and Vulnerable Children |
| p.  | Page |
| pp.  | Pages |
| RNCLS  | Rwanda National Child Labor Survey |
| RwF  | Rwandan Francs |
| TVET  | National and Vocational Education and Training |
| UNICEF  | United Nations Children’s Fund |

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# SUMMARY

The Government of Rwanda commits itself to combating child labor especially in its worst forms. The pertinent international conventions have been ratified as the Convention on the Rights of the Child, 1989, the International Labor Organization (ILO) Convention) N° 138 concerning the minimum age for admission to employment, 1973, and the ILO Convention N° 182 on the worst forms of child labor, 1999.

Policies have been adopted as the National Policy for orphans and other vulnerable children, 2003, the National Integrated Child Rights Policy, and the National child labor Policy (NCPL).

The provisions of international conventions and policies have been transposed into laws, for example, the Ministerial Order Nº 06 of 13/07/2010 determines the list of worst forms of child labor, their nature, categories of institutions that are not allowed to employ them, and their prevention mechanisms[[1]](#footnote-1), pursuant to the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda in its article 73.

Despite all these efforts, child labor is still persistent in agriculture especially in the small holder tea plantations - as plantation sector emerges as the main workplace for child laborers aged 5-17 years as shown by the National Child Labor Survey (2008) conducted Ministry of Public Service and Labor and National Institute of Statistics Rwanda in collaboration with the United Nations Children’s Fund (UNICEF).

There could be many causes to this situation to be assessed in the future but in term of laws, we found that there is a problem of law enforcement and the unclearness of their provisions.

For example, the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda does not cover the informal sector which is the main employer of child laborers aged 16-17 in Rwanda in the small-holder tea sector.

The labor regulation does not provide for punishments for the offence of employing children in work harmful to their safety, health, morals, and education. Indeed, as long as the law does not clearly stipulate the wrongdoing and the correspondent punishment, it will be impossible to bring the case to jurisdiction.

Many child laborers are employed in what is called “family labor” and there are no proper mechanisms to investigate and to punish the cases arising in the family within the provisions of the Rwanda labor code as they are not classic employers.

Above all, the Labor Inspector as the enforcer agent of the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda does not have the authority of judicial police officers. This duty has been devoted to the National Commission for Human Rights which does not have any mechanisms of control of work places.

# I. INTRODUCTION

The introduction comprises the background of the study, the assessment methodology, and the definition of terms.

# 1.1. Background of the assessment

The data from the 2008 Rwanda National Child Labor Survey (RNCLS) reveal that in Rwanda, agriculture is the main sector of activity involving child labor. In this regard, at the national level, this branch of activity combines around three quarters (70.9%) of children concerned in child labor; mainly children aged 10-15 years. It is followed by the sectors of domestic service which engage more than twenty thousand children, mainly those aged 16-17 years. Plantations emerge as the main workplace for child laborers aged 5-17 years. In this regard, they employ 61.5% of child laborers, in particular those between 10 and 15 years (National Institute of Statistics of Rwanda (NISR), (Rwanda National Child Labor Survey,2008 (RNCLS-2008, pp 37-43).

The Worst Forms of Child Labor Convention, 1999 ( Nº 182) includes as one of the worst forms of child labor prohibited for persons under 18, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children. According to the Committee of Experts on the Application of Conventions and Recommendations of the International Labor Organization (ILO/CEACR), agriculture is one of the three most dangerous sectors in which to work at any age[[2]](#footnote-2).

The CEACR has noted that the incidence of serious health problems in children is linked to agricultural work in numerous countries, often caused by prolonged exposure to dangerous pesticides and dehydration. The CEACR has also noted that in some countries, children in agriculture have higher rates of work related injuries than their counterparts in other sectors.

It is in this context that Winrock International has conducted a detailed analysis of labor law enforcement activities related to child labor in Rwanda. The assessment focuses on enforcement in the tea-growing sector and identifies obstacles that hinder the protection of children below working age, as well as hazardous work for children of legally working age (16-17) years old.

Indeed, despite a wide range of legal instruments, child labor is still persistent in Rwanda, especially in the tea-growing sector.

The labor enforcement Assessment is set to provide critical information that will inform both the project and enforcement entities within Rwanda. It is the first phase of the analysis of labor enforcement with focus on identification of legal instruments and policies and their gaps.

# 1.2. Objectives

The objectives of the assessment are to conduct a desk review of existing legal instruments (laws, policies, conventions and recommendations, ministerial orders and other legal texts, manuals, and reports). We will identify gaps that hinder the protection of children below working age, as well as hazardous work for children of working age (16-17) years old and make recommendations for strengthening the legal and enforcement instruments to protect children and adhere to conventions and international standards.

# 1.3. Assessment methodology

The present assessment consisted of a desk review of national and international instruments concerned with the protection of child laborers and the enforcement measures of combating it.

First, we have assessed policies as they set the orientation of handling a social situation like child labor. Second, we looked into the International conventions whose provisions are due to be translated into national laws and national practices. Third, we considered the provisions of the laws and the enforcer organs: the main duty was to assess disharmony and gaps in consideration of policies and international instruments. This exercise intends to achieve a synthesis which could reply to the research questions of the assessment as determined in the terms of reference (see Annex 1).

Each section of the point discussed has a short conclusion followed by the conclusion of the chapter, and finally the general conclusion.

# 1.4. Definition of the terms

**Informal sector:**

The informal sector may be broadly characterized as consisting of units engaged in the production of goods or services with the primary objective of generating employment and incomes to the persons concerned. These units typically operate at a low level of organization, with little or no division between labor and capital as factors of production and on a small scale. Labor relations – where they exist – are based mostly on casual employment, kinship or personal and social relations rather than contractual arrangements with formal guarantees[[3]](#footnote-3).

**Informal sector worker:**

A worker who performs informal activities and who works for a company or an individual that is not registered as employer in the commercial register or with authorities (Law Regulating Labor in Rwanda (art. 1(38)).

**Family labor:**

Every work carried out by the husband or wife, ascendants, descendants and wards engaged in agricultural, breeding, commercial and industrial activities for the benefit of the family (Law Regulating Labor in Rwanda: art. 1(40)).

**Child labor:**

Child labor refers to any type of work that is mentally, physically, spiritually, socially and/or morally harmful to children, and interferes with children’s education by denying them an opportunity to attend school, forcing them to leave school prematurely, or limiting their capacity to benefit from instruction.

The Global Report[[4]](#footnote-4) under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, 2002, identifies three categories of child labor as follows:

(1) Labor performed by a child who is under a minimum age specified in national legislation for the kind of work (as defined by national legislation, in accordance with accepted international standards and that is likely to impede the child’s education and full development;

(2) Labor that jeopardize the physical, mental or moral well-being of a child, known as hazardous work;

(3) The unconditional worst forms of child labor which are international defined as slavery, forced recruitment for use in armed conflict, prostitution and pornography and illicit activities.

**Worst forms of child labor:**

# According to article 3 of the Worst Forms of Child Labor Convention, 1999 (Nº 182), the worst forms of child labor comprise:

1. all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;
2. the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
3. the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
4. the work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The form in (d) is also called “Hazardous work”. The [United Nations Resources for Speakers on Global Issues](http://www.un.org/en/globalissues/briefingpapers/childlabour/intlconvs.shtml) of child labor which stipulates that ‘worst forms of child labor’ encompasses both hazardous work and other worst forms. The difference is that while hazardous work, through changes in the work environment and the work itself, can sometimes be modified to remove the hazardous aspects, the other worst forms can under no circumstance be considered acceptable”[[5]](#footnote-5).

**Law enforcement:**

The detection and punishment of violations of the law. It refers also to police officers and other members of the executive branch of government charged with carrying out and enforcing the criminal law[[6]](#footnote-6).

**Light Work:**

Work such as helping out, after school is over and school work has been done, with light household or garden chores, childcare or other light work[[7]](#footnote-7).

# II.GENERAL PRESENTATION OF THE ASSESSMENT

# 2.1. Assessment of pertinent policies

The Government of Rwanda had numerous policies concurring to the fight of poverty, ignorance and illiteracy and the promotion of education, the empowerment of families and the protection of vulnerable people especially the children in so far as the reduction of the causes of child labor.

Among others are the Vision 2020, Economic Development and Poverty Reduction Strategy (EDPRS), the National Integrated Child Rights Policy (2011), the National and Vocational Education and Training (TVET) Policy (2008), the National Policy on Orphans and other Vulnerable Children (2003), the Education Sector Policy (2003), the National Policy for Family Promotion (2005), the Community Development Policy 2008, the National Social Protection Policy (2004), the Decentralization Policy (2000), the Rwanda National Employment Policy (2006), the National Gender Policy (2010).

However, the present assessment focuses only on some of them below mentioned with provisions more related to the enforcement of laws combating child labor.

# 2.1.1. National Policy for orphans and other vulnerable children, 2003

The main objectives of the National Policy on Orphans and other Vulnerable Children are to protect the rights of the child and to ensure the physical and psychosocial long term development of orphans and other vulnerable children (p.11).

Working children are among the 15 categories of vulnerable children (p.5). The Policy requires the implementation enforcement of the existing policy and legislative framework and the development of new policy and legislation keen to ensure protection from abuse, violence and exploitation and the delivery of a holistic package of care, protection and support for all Orphans and Vulnerable Children (OVCs) (p.9). One of its specific objectives is the enhancement of legislative environment protective of the OVCs (p.26).

# 2.1.2. Integrated Child Rights Policy

 The National Integrated Child Rights Policy[[8]](#footnote-8)provides that all forms of child labor are prohibited for children under the age of 16, unless they are performed by children after school hours and involve light work as prescribed by law. In this policy, one of the guiding principles is child protection from abuse, exploitation and violence. In addition, it is prohibited to employ any person under the age of 18 years in the worst forms of child labor. The Government will enforce the implementation of ministerial decree on the worst forms of labor for children. Specific time bound programs will be rolled out for rehabilitating children engaged in the worst forms of child labor as priority and extend to other forms of labor.

First, the problem is that Rwanda law does not define what “Light work” is which the Policy refers to. Secondly, we note despite the fact that child work in tea plantations is comprised of work in the agriculture sector, this sector has not been included in the categories and institutions that are not allowed to employ children provided by the Ministerial Order Nº 06 of 13/07/2010 determining the list of worst forms of child labor, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms[[9]](#footnote-9). Finally, this policy does not refer any way to hazardous work

# 2.1.3. National Employment Policy

In 2007, the Government of Rwanda adopted the national employment policy[[10]](#footnote-10). The main purpose for this Policy is to realize as much as possible fully productive and freely chosen employment through economic growth in accordance with the dignity and respect of fundamental human rights (p.16).

One of its programs for youth employment promotion is the programs to fight against all forms of Child Labor (p.22). Unfortunately the Policy does not include in its programs labor law enforcement programs.

# 2.1.4. National Policy on the Elimination of Child Labor (NPECL)

The National Child Labor policy[[11]](#footnote-11) sets that the strategies for the elimination of child labor will cover not only the educational rehabilitation of these children to prevent them from entering and reentering child labor but also various socioeconomic causal factors such as poverty, OVC consequences, illiteracy, lack of awareness on child labor, and others. .

It provides for action of ensuring effective implementation of laws and issuance of ordinances to protect children from exploitative labor especially in the informal sector, the enactment of pragmatic laws and strengthening institutional capacity for their enforcement. All the measures aimed at combating child labor have to be backed by dissuasive penalties against offenders and *stronger enforcement of laws* (p.12)[[12]](#footnote-12)

Finally, it provides for refresher trainings to labor inspectors on child labor laws, regulations and mechanisms, to ensure labor inspection on child labor is effectively done in the informal sector (p.15).

It is noteworthy that the NPECL makes a distinction between Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children and hazardous work in the definition as children of any age may be engaged in hazardous child labor, if they are working any number of hours, including the appropriate number of hours, but in work that may affect their health, security or morality.

According to the National child labor Policy, It is likely hazardous work is not within the worst forms of child labor ignoring that hazardous work is prejudicial to the health and safety of the children (NCLP, p.10).

# 2.1.5. Economic Development and Poverty Reduction Strategy (EDPRS)

On 8th May 2013 the Cabinet approved the Second Economic Development and Poverty Reduction Strategy (EDPRS2)[[13]](#footnote-13).

The EDPRS establishes the basic foundation for accelerating reduction of extreme poverty in Rwanda. It also prioritizes investments in human capital development through skill based education and increased social protection for vulnerable children.

In the sector of employment and decent work, it strengthens the role of labor inspectors to monitor and report on compliance with Labor Laws in public and private Workplaces (p.20).

The above said Policies stress the importance of protection of children from harmful work, i.e. work which is detrimental to their health, safety and morals. The combating of child labor is to be extended to the informal sector.

In brief, despite some gaps of one of the above said chosen policies in providing for law enforcement, they provide that all measures aimed at combating child labor have to be backed by dissuasive penalties against offenders and stronger enforcement of laws and they stressed that the labor inspector is seen as the labor law enforcer agent.

# 2.2. Assessment of international conventions ratified

The Government of Rwanda has ratified a wide range of international conventions related to the protection of the child. However, the most concerned by our study on child labor are the Convention on the Rights of the Child, 1989, the Convention Nº138 and the Recommendation Nº 146 concerning the Minimum Age for Admission to Employment, 1973, the Convention (ILO) N° 182 and the Recommendation No 190 on the worst forms of children work, 1999 and the African Charter on the Rights and Welfare of the Child, 1979.

Let us note that the Constitution of the Republic of Rwanda of 04 June 2003 as amended to date (*O.G.* special number of 4 June 2003) in its article 190, provides that upon their publication in the official gazette, international treaties and agreements which have been conclusively adopted in accordance with the provisions of law shall be more binding than organic laws and ordinary laws …

# 2.2.1. Convention on the Rights of the Child, 1989

The Convention on the Rights of the Child, 1989 provides that 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.

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 provide for a minimum age or minimum age for admission to employment, regulation of the hours and conditions of employment and appropriate penalties or other sanctions to ensure the effective enforcement of the present (art.32 (1) (2)).

# 2.2.2. Convention Nº 138 concerning Minimum Age for Admission to Employment, 1973

The minimum age for work or employment shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years or in special circumstances 14 (art 2(3)). The minimum age for admission to any type of employment is 18 or by exception at the age of 16 years on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity (art.5(3)).

These minima are applicable, among others, in plantations and other agricultural undertakings mainly producing for commercial purpose but excluding family and small-scale holdings producing for local consumption and not regularly employing hired workers (art.5 (3)).

The minimum age for work in Rwanda labor legislation is set at 16. It is above 15 years provided for in the ILO convention Nº 138. The age for hazardous work is as well as in the Convention set at 18 but this rule does not suffer any exception regarding the lowering of this age.

# 2.2.3. Convention (ILO) N° 182 on the worst forms of children work, 1999

The International Labor Organization adopted the Convention (ILO) N° 182 on the worst forms of children work in 1999 provides that each Member which ratifies this Convention shall take immediate and effective measures to secure the prohibition and elimination of the worst forms of child labor as a matter of urgency (art.1).

The term the worst forms of child labor as it is defined by this convention, comprises among others work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (art. 3(d)).

. In determining the types of work referred to under Article 3(d) of the Convention, the Recommendation n° 190 defines hazardous work as.

1. Work which exposes children to physical, psychological or sexual abuse;
2. Work underground, under water, at dangerous heights or in confined spaces;
3. Work with dangerous machinery, equipment and tools, or which involves the manual handling or transport of heavy loads;
4. work in an unhealthy environment which may, for example, expose children to hazardous substances, agents or processes, or to temperatures, noise levels, or vibrations damaging to their health;
5. Work under particularly difficult conditions such as work for long hours or during the night or work where the child is unreasonably confined to the premises of the employer

is the Convention requires to each Member to take all necessary measures to ensure the effective implementation and enforcement of the provisions giving effect to this Convention including the provision and application of penal sanctions or, as appropriate, other sanctions (art.7 (1)) and to designate the competent authority responsible for the implementation of the provisions giving effect to the Convention (art.7.3)).

# 2.2.4. African Charter on the Rights and Welfare of the Child, 1979

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 (art.5(1)).

State Parties to the present Charter take all appropriate legislative and administrative measures to ensure the full implementation of this article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labor Organization’s instruments relating to children.

State Parties shall in particular provide through legislation, minimum wages for admission to every employment, appropriate regulation of hours and conditions of employment and appropriate penalties or other sanctions to ensure the effective enforcement.

In brief, the international legal instruments discussed above provide for the combating of work that is likely to be hazardous or to interfere with the child’s physical, mental, spiritual, moral, or social development.

They stress the duty of the Parties of the implementation in both formal and informal sectors and provide for appropriate penalties or other sanctions to ensure their effective enforcement. One of the mechanisms of implementation of international conventions is to translate them into national laws.

We note the minimum age for light work and hazardous work is under those set in the law of Rwanda.

# 2.3. Assessment of the Constitution, national laws and regulations

The hierarchy of laws within Rwanda is as follows: the Constitution, constitutional law, Organic Law, Presidential decree, Prime Minister Decree, Ministerial Decree, other regulations taken other authorities (Constitution, art. 93). The laws which are to be discussed below are relating to labor and protection of children and within various implementing institutions.

# 2.3.1 The Constitution of Republic of Rwanda of June 2003, as amended to date

The Constitution of Republic of Rwanda of June 2003, as amended to date provides that “Every child is entitled to special measures of protection by his or her family, society and the State that are necessary, depending on the status of the child, under national and international law (Art. 28).

# 2.3.2 Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda

According to the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda[[14]](#footnote-14), t is prohibited to employ a child in any company, even as apprentice, before the age of sixteen (art. 4). A child aged between sixteen (16) and eighteen (18) may be employed under the provisions that he rest between two working periods for a child shall be of a minimum duration of twelve (12) consecutive hours (art. 4&5).

The child shall be subject to the work which is proportionate to his capacity. The child cannot be employed in the nocturnal, laborious, unsanitary or dangerous services for his health as well as his education and morality (art.6).

It is an offence to subject children aged under eighteen (18) years to “worst forms of child labor” such as work which is likely to harm the health, safety or morals of a child (art.72 (8)).

The Ministerial Order Nº06 of 13/07/2010 determining the list of worst forms of child labor, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms[[15]](#footnote-15), pursuant to the Law n° 13/2009 of 27/05/2009 regulating labor in Rwanda, provides that the list of worst forms of child labor which are divided in three (3) categories:

* worst forms of child labor like slavery, trafficking, debt bondage, forced labor and use in conflicts and war, prostitution and drugs (art. 3);
* works that may affect the health, security or morality of the child like work in mining (art. 4);
* works that may be dangerous to the health of the child using machines, construction, etc. (art. 5);
* Institutions prohibited for work child as mining and quarries, slaughtering of animals, manufacturing and bricks (art. 6).

It is worth to note that work in agriculture is neither within the worst forms of child labor, works that may affect the health, security or morality of the child, works that may be dangerous to the health of the child nor in the categories of institutions that are not allowed to employ children.

In terms of applicability, the provisions of the Labor Code do not cover the informal sector. The informal sector worker is not subjected to its provisions, except for issues relating to social security, the trade union organizations and those relating to health and safety at workplace (art. 3, al. 2).

In terms of punishment, the Labor code provides that subject to the provisions of the Penal Code of Rwanda any person acting contrary to the provisions of the Labor Code is liable to a term of imprisonment not exceeding two (2) months and a fine ranging from fifty thousand Rwandan Francs (Rwf 50,000) to three hundred thousand (RwF 300,000), or to one of these penalties (art.169).

According to the Ministerial Order Nº07 of 13/07/2010 determining Modalities of the Functioning of the Labor Inspector, the Labor Inspector is entitled among others to secure the enforcement of the legal provisions relating to the control of child labor and to bring to the competent authority defects or abuses contrary to existing legal provisions (art.3)[[16]](#footnote-16).

In terms of the enforcement of the Labor Code, the task of the Labor Inspector is to monitor compliance with the labor code and the provisions of collective conventions as well as social security laws. The Labor Inspector shall draft a report on all such activities that are contrary to the provisions of the labor code and the social security (art.157). Labor inspector carries out regular inspection to see whether there are children below 16 years employed in institutions (art.8).

The Labor Inspector can request for the examination of the children by a recognized doctor, in order to verify if the work with which they are entrusted is neither beyond their strengths and or harmful to their health. Also this examination may be requested for by all those parties interested in the matter. If the law is not complied with, the child’s employment contract shall be terminated and notice allowance be paid to the child (art.7).

When circumstances require that immediate measures be taken to make the appliance of premises and tools conform to regulations and laws provisions in force, the Labor Inspector may take necessary measures that may include giving a warning of not less than seven (7) days except in case of urgency to the Head of the Institution. If the institution fails to respect a written warning, he can ask the competent authority to temporarily close it (art.7).

Unfortunately, we do not see in this law where the Labor Inspector is vested with the authority of Judicial Police Officer enforcing the provisions of the Law regulating labor in Rwanda and its implementing decrees. Such provisions existed in the Rwandan Labor Code of 2001[[17]](#footnote-17) but have been repelled by the Labor code of 2009 but the same provision is in force in the Labor Code of the Republic of Cameroun[[18]](#footnote-18)

We note that child work in tea plantations is comprised in work in the agriculture sector. However, this sector has not been included in the categories and institutions that are not allowed to employ children provided by the Ministerial Order Nº 06 of 13/07/2010 determining the list of worst forms of child labor, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms.

We can conclude that Labor inspection system in Rwanda is generally pedagogic rather than punitive oriented. The labor legislation does not focus on fines and other coercive measures to be taken by these agents.

# 2.3.3 Law Nº 54/2000 of 14/12/2011 relating to the Rights and the Protection of the Child

The provisions of the Law Nº 54/2000 of 14/12/2011 relating to the Rights and the Protection of the Child includes in the Worst forms of child labor which is likely to harm the health, safety or morals of a child such as all forms of economic exploitation of a child by requiring him to accomplish a work that is likely to put him at risk or to compromise his education or to harm his or her health or his physical, mental, spiritual, moral or social development. These forms of exploitation and incitation are prohibited and punishable by the law (art.3 (5)).

Any person, who commits what is forbidden by this law, shall be prosecuted and punished in accordance with the penal code (art.35). The National Commission for Children shall be responsible for compliance with and control of child’s rights by following up his education and development (art.66).

When any provisions of this Law are concurred with those of another law of the same level, provisions of this law shall be regarded as special, derogating from any other provisions of general nature. However, no provision of this Law shall affect any other provision of any other Law of general or special nature that ensures more protection to the child than this Law (art.67).

We note that this law is setting its special characteristics in child labor matters while this character is held by the Law regulating Labor in Rwanda and it is like it supersedes the provisions of the Penal Code which is an organic law.

The consequences are the following:

* If a case of a case of the worst forms of child labor occurs, it should be ending without punished because the offender could require to be persecuted in conformity with the law Nº 54/2000 of 14/12/2011 relating to the Rights and the Protection of the Child which is special to other laws.
* The prosecution should be impossible because:
* This law does not provide for punishments, it refers for punishment to other laws while the Organic law No 01/2012/OL of 02//05//2012 instituting the penal code provides that “No punishment without laws” (art.3) and that criminal laws are not interpreted extensively and must construed strictly (art.4).
* This law is unconstitutional because it refers to the penal code thus superseding it despite the provisions of the Constitution of the Republic of Rwanda, as amended to date, in its article 93 which provides that “An organic law may not contradict the Constitution and neither may an ordinary law or decree-law contradict an organic law and a decree may not contradict an ordinary law (Constitution: art.90).

# 2.4. Assessment of coordinating and enforcing institutions

A variety of other ministries and institutions within the Government of Rwanda have a responsibility within their policies to consider the rights of children.

# 2.4.1 Ministry of Public Service and Labor (MIFOTRA)

According to the Prime Minister’s Order No 88/03 Of 25/08/2011 Determining the Mission Functions, Organizational Structure and summary of job positions of the Ministry of Public Service and Labor[[19]](#footnote-19), has in its attributions the elaboration and updating of the Labor, legislation of social security, labor inspection, professional relations, social dialogue, health and security at the workplace, fight against child labor (art. 2 (e)). Its structure shows that there is a professional in charge of child labor and another in charge of National labor inspectorate which are under the Labor Administration Unit.

# ****2.4.2 Ministry Of Gender and Family Promotion in the Prime Minister’s Office (MIGEPROF)****

The Ministry of **Gender and Family Promotion** aims at promoting the family as the natural and cultural basis of Rwandan society and providing a conducive environment for the overall development of the nation’s children according to international standards and principles.

# 2.4.3 National Commission for Children

According to the Law N° 22/2011 of 28/06/2011 establishing the National Commission for Children and determining its mission, organization and functioning[[20]](#footnote-20), the Commission is an independent organ under MIGEPROF. Its responsibility is to promote and protect the rights of children in Rwanda.

Its mission is to identify gaps in different laws and propose amendments thereto with the view to ensure protection and promotion of the children and to prepare and provide suggestions to the reports on the implementation of international instruments related to children ratified by Rwanda.

# 2.4.4 National Commission for Human Rights

According to the Constitution of the Republic of Rwandan of June 2013 as amended to date, in its article 177 (3o), the National Commission for Human Rights has the responsible of carrying out investigations of human rights abuses in Rwanda and filing complaints in respect thereof with the competent courts.

According to the law N° 19/2013 of determining mission, organization and functioning of National Commission for Human Rights (NCHR)[[21]](#footnote-21), this commission have permanent judicial police powers all over the territory of Rwanda when discharging their duties. If necessary, a member of the staff can be given this power by the commission (art.8). The commission has power of filing legal proceedings among others in labor matters (art. 9).

# 2.4.5 Rwanda National police

According to the Prime Minister’s Order N°93/03 of 07/03/2013 determining the organizational Structure and job description of Rwanda National Police, pursuant to Law n° 46/2010 of 14/12/2010 determining the powers, responsibilities, organization and functioning of the Rwanda National Police especially in article 13 (13o), the among others responsibilities of Police is to put in place policies, systems, protocols and procedures for the Rwanda National Police to prevent, detect investigate all cases of child, Domestic, Gender-Based Violence and abuse.

In brief, in consideration with the missions of the above institutions, the missions of MIFOTRA and NCHR are conflicting: both the institutions have the mandate of enforcing labor laws. Moreover, the powers of legal enforcement have been shifted from MIFOTRA/labor inspectors (in charge of inspection in labor undertakings) to the Commissioner and the staff of the NCHR.

# III.SYNTHESIS OF THE FINDINGS

# 3.1. International conventions and Policies

The Rwanda pertinent policies as well as the International conventions provide for the protection of children from harmful work, i.e. work which is detrimental to their health, safety and moral both in formal and in formal sectors and insist on the fact that all the measures aimed at combating child labor have to be backed by dissuasive penalties against offenders and stronger enforcement of laws.

# 3.2. National laws and international conventions and national policies

The more pertinent law to be focused on is Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda because the mandate of enforcement law related to child labor is clearer: punishments are provided for and there is an organ in charge of control of child labor.

In general, the provisions of this instrument are literally transposed in the national laws. However, what these instruments require is that the national laws set practical mechanisms and feasibility but the law regulating labor in Rwanda does contain some gaps: the enforcement mechanisms, the enforcers and the punishments are not clearly provided for in its provisions.

# 3.2.1 Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda and ILO convention No 138

According to the ILO Convention No 138, the minimum age for admission to employment or work in any occupation shall not be less than the age of completion of compulsory schooling and, in any case, shall not be less than 15 years (art.2).

The minimum age for admission to any type of employment or work which by its nature or the circumstances in which it is carried out is likely to jeopardize the health, safety or morals of young persons shall not be less than 18 years (art.3 (1)).

The types of employment or work referred to have to be determined by national laws or regulations (art.3 (2)).

However, the authority can authorize employment or work for children aged 16-17 on condition that the health, safety and morals of the young persons concerned are fully protected and that the young persons have received adequate specific instruction or vocational training in the relevant branch of activity

According to the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda, the minimum age, even as apprentice, is 16. The minimum age for any type of employment is 18 (art.3, (2)). However, children aged between 16 and 18 can work in respect of 12 hours rest between two periods of work and not nocturnal, laborious, unsanitary or dangerous services for his health as well as his education and morality (art.5,6 and &).

The Ministerial Order Nº06 of 13/07/2010 determining the list of worst forms of child labor, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms has determined the types of employment and work prohibited.

In this environment, we can say that Rwandan labor legislation, especially the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda, is in full compliance with the ILO convention No 138 concerning the minimum age for employment: according to the above said convention, the minimum age for employment is 15 while in Rwanda it is fixed at 16 even as apprentice.

# 3.2.2 Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda and ILO convention No 182

According to ILO convention No 182, the worst forms of child labor comprise:

* all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;
* the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances;
* the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties;
* Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

Despite the fact that the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda, in its article 72, (8), includes in the worst forms of child labor, the work which is likely to harm the health, safety or morals of a child , its implementing decrees, he Ministerial Order Nº06 of 13/07/2010 determining the list of worst forms of child labor, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms, does not include in the worst forms of child labor, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The consequence is that work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children is not subject to the punishments provided for by the article 168 of the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda[[22]](#footnote-22)

# 3.2.3 Insufficient coverage of sector of activities

The Labor Code does not cover the informal sector. The informal sector’s workers are not subjected to its provisions, except for issues relating to social security, the trade union organizations and those relating to health and safety at workplace (art. 3) while we know the informal sector including small holder farms and cooperatives in tea-growing area is the main employer of child laborers.

# 3.2.4 Inaccuracy of the control of labor inspector in family sphere

According to the Labor law in it is article 3 relating to its scope of application, the person dealing with family agricultural, breeding, commercial or industrial activities shall not be subjected to the provisions of this law, except for provisions relating to health and safety at workplace as well as to prohibitions for child labor and for pregnant or breastfeeding women.

In the current context, the labor inspector, more concerned with enterprises, will have problems to enter in family sphere to control child labor. So, the law may need to be amended to grant proper mechanisms for to ensure the enforcement of the law.

# .3.2.5 Ambiguity of the provisions enforcing the labor law

The Labor code contains imperative and alternative provisions. The imperative provisions are those the infringements will conduct necessary to the punishment of the offender for breach of public order like provisions related safety and security, worst forms of child labor, forced labor, etc. The alternative provisions are those the breach could result in seek of damages in court like annual leave, indemnities, etc. The imperative provisions must precise the punishments set.

Indeed, in its article 169, the Labor Code provides for general penalty for all the provisions of the Labor Code: “*Subject to the provisions of the Penal Code of Rwanda and to those of Articles 167 and 168 of this Law, any person acting contrary to the provisions of this Law shall be liable to a term of imprisonment not exceeding two (2) months and a fine ranging from fifty thousand (Rwf 50,000) to three hundred thousand (RwF 300,000) Rwandan Francs, or to one of these penalties”*.

According to the Organic Law[[23]](#footnote-23) N° 01/2012/OL of 02/05/2012 instituting the penal code, provides that no punishment without law: a person shall not be punished on account of an act or omission that did not constitute an offence at the time of commission under national or international law (art.3). In the article 4 it forbids the interpretation of criminal laws: criminal laws shall not be interpreted to extensively, they must be construed strictly and courts are not allowed to pronounce sentences by analogy.

It is clear that according to article 169, an enforcer agent in front of a case will first seek if it is an imperative provision or an alternative one. Secondly, he will have to decide himself if he is in front of a felony or misdemeanor or a petty offence[[24]](#footnote-24). In this context, the public prosecution should reject the statement and thus the court will reject it if submit to it due to analogy and extensive interpretation of the case.

# 3.2.6. Ambiguity of the power of the labor inspector as labor enforcer

The Labor Code relies on inspectors to ensure its compliance but nowhere in the Labor Code where it provided that he started the process of the prosecution of an offender. What he can do is to bring to the competent to the authority defects or abuses contrary to existing legal provisions (art.3). In this environment, who is in charge of enforcing the labor code? The mechanisms of the law in this law are not clear.

# 3.3. National laws not in harmony with the national policies

The Labor Code and its implementing decrees omit to define what is “Light work” as requested by the National Integrated Child Rights Policy. Policies as well as the ILO Convention Nº182 concerning the worst forms of child labor request the Government to define in the national laws the worst forms of child labor.

However, the definition of the worst forms of child labor given by the Ministerial Order Nº 06 of 13/07/2010 determining the list of worst forms of child labor, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms is so confusing that one will not consider child labor in agriculture thus in tea sector as the worst forms of child labor.

# 3.4. National laws conflicting each others

# 3.4.1 Conflict between the Law Nº 54/2000 of 14/12/2011 relating to the Rights and the Protection of the Child and the Organic Law N° 01/2012/OL of 02/05/2012 instituting the penal code

In its article 35, the Law Nº 54/2000 of 14/12/2011 relating to the Rights and the Protection provides that any person, who commits what is forbidden by its provisions, shall be prosecuted and punished in accordance with the penal code (art.35). Let us say that a law will not command what will be done by an organic law such as the Organic Law N° 01/2012/OL of 02/05/2012 instituting the penal code. Indeed, the law is under the organic law in term of hierarchy as provided by the Constitution of the Republic of Rwanda.

In the article 66, the Law Nº 54/2000 of 14/12/2011 relating to the Rights and the Protection makes injunction to the National Commission for Children for responsible for the compliance with its provisions. The national commission is not an organ of prosecution and an enforcer of the Penal Code.

# 3.4.2 Conflicts between the Law Nº54/2000 of 14/12/2011 relating to the Rights and the Protection of the Child and Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda

The Law Nº 54/2000 of 14/12/2011 relating to the Rights and the Protection sets its self as a special law towards other laws: “When any provisions of this Law are concurred with those of another law of the same level, provisions of this law shall be regarded as special, derogating from any other provisions of general nature (art.67)” while we know that the labor law (the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda) is commonly know is an especially one in area of child labor towards other laws, thus the conflict between these two laws.

# 3.4.3 Conflicts between the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda and the No 19/2013 of determining mission, organization and functioning of National Commission for human rights

Both MIFOTRA and NCHR have the power of enforcing labor provisions.

Table 1: Synthesis table

|  |  |  |  |
| --- | --- | --- | --- |
| **Area**  | **Gaps/incoherence/conflicts** | **Suggested actions**  | **Institutions**  |
| Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda | Not addressing child labor in informal sector (art.3). | To add the term “child labor” in the scope of application of the labor code in informal sector. So, art.3, al. 3 should be revised as follows: “The informal sector worker is not subjected to provisions of this law, except for issues relating to child labor, social security, the trade union organizations and those relating to health and safety at workplace.  | MIFOTRA |
|  | The Labor Inspector is not invested with the authority of Judicial Police Officer and labor inspection is not punitive oriented. | To revise the article 158 so as to add this provision: “Inspector of labor shall have power to place on record in official reports having the force of prime *facie evidence*, any infringements of the labor laws and regulations. They shall have power to take direct proceedings before the competent judicial authority against any person infringing the provisions of this law or of its regulations”. A prosecution may be initiated when the inspector has reasonable and probable grounds to believe that a workplace party has committed an offence”.  | Idem  |
|  | The person dealing with family agricultural activities are subjected to the provisions of this law, in matters of prohibitions of child labor (art. al.3) but labor inspection do not have mechanisms of investigation and punishment of the offences in the family sphere.  | To revise article 3 of the labor code so as to provide for a ministerial decree which should set due mechanisms of enforcing its provisions. | Idem  |
|  | Article 169 of the Labor Code provides for general penalty for all the provisions. ). Given the fact that the penal in its article 4, forbids the extensive interpretation and to pronounce sentences by analogy, the enforcement of child labor provisions especially in article 4, 5, 6 and 7 should be impossible. | To revise article 169 of the labor code so as to specify which article, offence and correspondent punishment provided for. | Idem  |
| The Ministerial Order Nº06 of 13/07/2010 determining the list of worst forms of child labor, their nature, categories of institutions that are not allowed to employ them and their prevention mechanisms | Child labor in agriculture sector thus in tea growing plantations is not within the institutions prohibited for children thus not punishable by article 168 of the labor code despite this sector is dangerous and prejudicial to the education of the child | Article 6 concerning institutions prohibited for child work should revised Institutions so as to include tea plantations. The revised text should be as follows: Institutions prohibited for work child like tea plantations, mining and quarries, slaughtering of animals, manufacturing and bricks. | Idem  |
| Law Nº54/2000 of 14/12/2011 relating to the Rights and the Protection of the Child | In article 35. This law makes injunction to the penal code which is an organic law what to be done.  | To abrogate the provision of article 35 | MIGEPROF  |
|  | In its article 67, this law provides for its character of “Special” in matters of protection children thus children victims of the worst forms of child labor. This makes it conflicting with the labor legislation and the penal code. It arises the question of which law to apply and what should be the enforcer organ in case of a victim of the worst forms of child labor. | In matter of child victims of the worst forms of child labor, the labor code is paramount. So, the article 167 should be revised in the way of removing from it this expression “When any provisions of this Law are concurred with those of another law of the same level, provisions of this law shall be regarded as special, derogating from any other provisions of general nature”.  |  |
| Law No 19/2013 of determining mission, organization and functioning of National Commission for human rights | The law No 19/2013 of determining mission, organization and functioning of National commission for human rights is conflicting with the Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda: both NCHR and MIFOTRA have the responsibilities of enforcing labor code provisions.It is also in conflict with the Labor Inspection Convention No 81 (ratified) which dedicates labor law enforcement to labor inspectors. | To revise article 9 of the law No 19/2013 of determining mission, organization and functioning of National commission for human rights so as to retrieve the powers of enforcing labor laws. | NCHR |
| National Integrated Child Rights Policy  | The National Integrated Child Rights Policy is contradiction with the law N° 13/2009 of 27/05/2009 Law regulating labor in Rwanda. Indeed, it allows work under the age of 16 on condition that it is performed after school hours and it involves light work while the labor law prohibits to employ a child in any company, even as apprentice, before the age of sixteen (16). According to Rwanda Labor legislation, light work even it is not well defined, could be performed by a child aged between sixteen (16) and eighteen (18) not by a child under 16.According to Rwanda Labor legislation, light work even it is not well defined, could be performed only by a child aged between sixteen (16) and eighteen (18) not by a child under 16. | The change this provision of the Policy | MIGEPROF |
| National Employment policy | One of its programs for youth employment promotion is the fight against all forms of Child Labor (p.22). Unfortunately the Policy does not include in its programs labor law enforcement.  | To revise it | MIFOTRA  |
| National Policy on the Elimination of Child Labor  | The NPECL makes a distinction between the Work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children and the hazardous work and the worst forms of child labor. | To revise it to include hazardous work in the worst forms of child labor. | MIFOTRA  |

# CONCLUSION AND RECOMMENDATIONS

Rwanda has ratified pertinent international conventions related to child labor and copied their provisions into laws and policies. However, much has to be done for the enforcement of labor law and international convention given the fact there is no clear mechanisms of enforcing the law.

In fact, the main problems identified are unclearness and gaps into the laws and the lack of proper implementation of the pertinent laws.

Given what is above said, we could suggest the modification of the law n° 13/2009 of 27/05/2009 regulating labor in Rwanda as to include the informal sector in its scope of application and to clarify the quality of labor inspector as Judicial police officer.

We want to suggest also the harmonization of the Law n° 13/2009 of 27/05/2009 regulating labor in Rwanda and Law Nº54/2000 of 14/12/2011 relating to the Rights and the Protection of the Child, on one hand and the harmonization of the latter with the Organic Law N° 01/2012/OL of 02/05/2012 instituting the penal code, on the other hand.

In relation with child labor infringements, Law Nº54/2000 of 14/12/2011 relating to the Rights and the Protection of the Child pretends to be special towards the labor regulation (Labor Code) and it states what will be done by the Penal code which is an organic law and which is superior to it according the Constitution of the Republic of Rwanda. The provisions related to this stipulation must be revised.

We suggest the training of Labor inspectors in investigating and punishing the cases of child labor arising in the family sphere like work with family members in cooperatives and association.

To that effect, it is advisable for the Government of Rwanda to ratify the ILO Convention No 129 or to translate it in its laws and practices on the sake of combating child labor. According to this convention, the system of labor inspection in agriculture shall apply to agricultural undertakings in which work employees or apprentices, however they may be remunerated and whatever the type, form or duration of their contract (article 4). Any Member ratifying this Convention may, in a declaration accompanying its ratification, undertake also to cover by labor inspection in agriculture one or more of the following categories of persons working in agricultural undertakings:

1. Tenants who do not engage outside help, sharecroppers and similar categories of agricultural workers;
2. Persons participating in a collective economic enterprise, such as members of a co-operative;
3. Members of the family of the operator of the undertaking, as defined by national laws or regulations.

We suggest the setting up of mechanisms of collaboration between labor inspectors, National Commission for Human Rights, National police and the prosecution in enforcing laws related to child labor so as to have the common understanding and to clarify who will do what, how and what shall be the contribution of each organ.

Thus, the next phase of the assessment will seek if there are cases of child labor infringed, where and by who, penal sanctions applied or other measures of enforcement of the law.

It should be better to revise the labor code so as to include in the worst forms of child labor provided for in its article 72, work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children (art. 3(d)) as work of child laborers in tea plantations.

This will be in accordance with the Convention Nº 182 and the penalties provided for by the Labor code in its article 168 which stipulates the following: “*Subject to the provisions of the Penal Code of Rwanda, a person found guilty of the offence referred to in article 72 of this Law (It shall be an offence to subject those children aged under eighteen (18) years to “worst forms of child labor ": the work which is likely to harm the health, safety or morals of a child). Shall be liable to a term of imprisonment ranging from six (6) months to twenty (20) years and a fine of five hundred thousand (Rwf 500,000) to five million (Rwf 5,000,000) Rwandan francs or to one of these penalties”.*

# REFERENCES

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*Convention 138 of the International Labor Organization on Minimum Age of Employment* 1973 Ratified 15/4/1981

*Convention 182 of the International Labor Organization on Worst Forms of Child Labor* ratified 12/10/2000

*Convention of the International Labor Organization Concerning the Prohibition of all Forms of Exploitation of Children Labor and the Immediate Action for their Elimination* ratified by Rwanda on May 25, 2000 by the Presidential Order n° 39 /01 of September 30, 1999 Order n° 95/12 of October 28, 1968

*UN, Convention on the Rights of the Child*, 1989;

*UNDP, Millennium Development Goals: Country Report 2007*

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**Laws**

*Law N°22/2011 of 28/06/2011 establishing the National Commission for children and determining its mission, organization and functioning,* Official Gazette n° Special of 12/07/2011 32

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MINEDUC, Technical and Vocational Education and Training (TVET) Policy in Rwanda, Kigali 200819, 1991 by Presidential Order n°773/16 of September 19, 1991

Organization of Africa Unity, African Chapter on the Rights and Welfare of the Child, 26th Ordinary Session of the Assembly of Heads of State and Government, Ethiopia, July 1990

Republic of Rwanda; National Policy for Orphans and Other Vulnerable Children, 2003

*Rwanda Vision 2020*

# ANNEX

**TERMS OF REFERENCE**

**Labor Law Enforcement Assessment**

Winrock International is hiring a consultant to conduct a detailed analysis of Labor law Enforcement activities related to child labor in Rwanda. This assessment will focus on law enforcement in the tea sector and will identify obstacles that hinder the protection of children below working age, as well as hazardous work for children of working age (16-17 years old). The Labor Law Enforcement Assessment will provide critical information that will inform both the project and enforcement entities within Rwanda.

The assessment starts with a desk review.

The first phase of the research consists in conducting a desk review of existing legal instruments (laws, policies, conventions and recommendations, ministerial orders and other legal texts, manuals and reports) and point out gaps assessed.

**DESK REVIEW**

The consultant will isolate findings on gaps in policy, administration and legal procedures for protecting children in the formal and informal sectors, with particular emphasis on small holder farms and plantations.

The desk review findings should respond to the followings concerns:

* How do Rwandan Laws (Labor law, penal code, etc.) support the National Policy on Elimination of Child Labor (NPECL)?
* To what extent do Labor Laws and policies protect children (all children and children of legal working age) in formal sector (ex: cooperatives and factories)?
* To what extent do Laws, policies protect children (all children and children of legal working age) in the informal sector (ex: small holder farms)?
* In what ways do laws conflict each other and/or with ILO conventions?
* What are the existing obstacles/challenges to implement the punishments for the use of child labor? Hoe can these obstacles/challenges be addressed?

**DELIVRABLES**

* First draft desk review report including a biography and list of legal instruments, laws, policies, conventions, ministerial orders, manual and reports
* Final report and linked annexes.
1. Ministerial Order Nº 06 of 13/07/2010 Determining the List of Worst Forms of Child Labor, their Nature, Categories of Institutions that are not allowed to employ them and their prevention mechanisms, *Official Gazette n*º *30 of 26/07/2010, p.26* [↑](#footnote-ref-1)
2. ILO/CEACR: Gaps in Coverage and Barriers to Ratification and Implementation of International Labor Standards ILO International Labor Standards (NORMES) department: [www.ilo.org/global/standards](http://www.ilo.org/global/standards), in http://www.ilo.org/wcmsp5/groups/public/@ed\_norm/@normes/documents/genericdocument/wcms\_152771.pdf [↑](#footnote-ref-2)
3. #  ILO, Measuring informality: A statistical manual on the informal sector and

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5. [United Nations, Resources for Speakers on Global Issues](http://www.un.org/en/globalissues/briefingpapers/childlabour/intlconvs.shtml) of child labor., See http://www.un.org/en/globalissues/briefingpapers/childlabour/intlconvs.shtml [↑](#footnote-ref-5)
6. BRYAN A.GARNER, Black’s Law Dictionary, Second Pocket Edition, St Paul.,Minn.,2001, p. 401 [↑](#footnote-ref-6)
7. ILO, A Future without child labour, Global Report under the follow-up to the ILO Declaration on Fundamental Principles and Rights at Work, International Conference, 90th Session 2002, See[http://www.ilo.org/wcmsp5/groups/public/@dgreports/@dcomm/@publ/documents/publication/wcms\_publ\_9221124169\_en.pdf](http://www.ilo.org/wcmsp5/groups/public/%40dgreports/%40dcomm/%40publ/documents/publication/wcms_publ_9221124169_en.pdf), p.9 [↑](#footnote-ref-7)
8. MIGEPROF: National Integrated Child Rights Policy, Kigali, 2011, p.18 [↑](#footnote-ref-8)
9. Ministerial Order Nº06 of 13/07/2010 Determining the List of Worst Forms of Child Labor, their Nature, Categories of Institutions that are not allowed to employ them and their prevention mechanisms, *Official Gazette n*º *30 of 26/07/2010, p.26* [↑](#footnote-ref-9)
10. REPUBLIC OF RWANDA, Rwanda Employment policy, December 2007, See <http://www.mifotra.gov.rw/fileadmin/templates/downloads/National%20Employment%20Policy.pdf> [↑](#footnote-ref-10)
11. MIFOTRA, National Child Labor Policy, Kigali, 2005 [↑](#footnote-ref-11)
12. MIFOTRA: National Child labor policy, See <http://www.mifotra.gov.rw/fileadmin/user_upload/Laws/National_Child_Labor_Policy.pdf>, p.12 [↑](#footnote-ref-12)
13. MIFOTRA, EDPRS Monitoring and Evaluation Framework for Capacity Building and Employment Promotion Sector, Kigali, 2007, See<http://www.mifotra.gov.rw/fileadmin/templates/downloads/EDPRS%20MIFOTRA%20.pdf> [↑](#footnote-ref-13)
14. Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda, IN *O.G. n° special of 27/05/2009* [↑](#footnote-ref-14)
15. Ministerial Order Nº06 of 13/07/2010 Determining the List of Worst Forms of Child Labor, their Nature, Categories of Institutions that are not allowed to employ them and their prevention mechanisms, *Official Gazette n*º *30 of 26/07/2010, p.26* [↑](#footnote-ref-15)
16. According to the Ministerial Order Nº07 of 13/07/2010 determining Modalities of the Functioning of the Labor Inspector, in its article 4, there are 2 categories of labor inspector: The Labor Inspector at the national who carries out his/her functions in the whole Country and the Labor Inspector at District level who carries out his/her functions in the District to which he is posted. [↑](#footnote-ref-16)
17. LAW N° 51/2001 OF 30/12/2001 ESTABLISHING THE LABOUR CODE (art. 161& 162): The Labor Inspector is in charge of monitoring compliance with the labor code and its implementation, provisions on collective conventions as well as laws relating to social security.

He/she is also in charge of writing minutes of what he/she notices on infringements to provisions of labor laws and regulations and shall inform directly the competent legal authorities. The content of those minutes are considered true until further alterations. Copy of the minutes is to be notified to the concerned party, within fifteen (15) days following record of the infringement.

A copy of the minutes is to be deposited at the relevant Prosecution concerned jurisdiction office, a second copy sent to the labor department, a third one filed in the charged institution’s file.

The Labor Inspector is informed on these minutes’ conclusions by the Prosecution Office. [↑](#footnote-ref-17)
18. REPUBLIQUE DU CAMEROUN, MINISTERE DU TRAVAIL ET DE LA PREVOYANCE SOCIALE, Law No 74-14 of 27 November 1974 institution the Labor Code, section 116, 1985 [↑](#footnote-ref-18)
19. Prime Minister’s Order No 88/03 Of 25/08/2011 Determining the Mission Functions, Organizational Structure and Summary of job positions of the Ministry of Public Service and Labor, Official Gazette nº37bis of 12/09/2011, p.28 [↑](#footnote-ref-19)
20. Law N°22/2011 of 28/06/2011 Establishing the National Commission for Children and Determining its mission, organization and functioning [Http://Www.Ncc.Gov.Rw/Img/Pdf/Ncc\_Law\_No\_22-2011\_Of\_28\_June\_2011\_\_-\_\_O-G\_No\_Special\_Of\_12\_July\_2011\_.Pdf](http://Www.Ncc.Gov.Rw/Img/Pdf/Ncc_Law_No_22-2011_Of_28_June_2011__-__O-G_No_Special_Of_12_July_2011_.Pdf), page 9 [↑](#footnote-ref-20)
21. NCHR, Law No 19/2013 of determining mission, organization and functioning of National commission for human rights, O.G. No 14 bis of 08/04/2013, p.69 [↑](#footnote-ref-21)
22. Law N° 13/2009 of 27/05/2009 regulating labor in Rwanda, art. 168: “Subject to the provisions of the Penal Code of Rwanda, a person found guilty of the offence referred to in article 72 of this Law, shall be liable to a term of imprisonment ranging from six (6) months to twenty (20) years and a fine of five hundred thousand (Rwf 500,000) to five million (Rwf 5,000,000) Rwandan francs or to one of these penalties”. [↑](#footnote-ref-22)
23. Organic laws govern all matters reserved for them by this Constitution as well as matters the laws in respect of which require related special laws. An organic law may not contradict the Constitution. Neither may an ordinary law or decree-law contradict an organic law nor may a decree not contradict an ordinary law. Organic laws shall be passed by a majority vote of three fifths of the members present in each Chamber (Constitution of the Republic of Rwanda of June 2003, as amended to date, art.93)

Thus, their existence is provisioned by the text of the Constitution itself and they are of constitutional scope and have constitutional force. This means that they overrule ordinary laws. [↑](#footnote-ref-23)
24. A felony is an offence punishable under the law by a main penalty of an imprisonment of more than five (5) years. A misdemeanor is an offence punishable under the law by a main penalty of an imprisonment of six (6) months to five (5) years. A petty offence is an offense punishable under the law by a main penalty of an imprisonment of less than six (6) months or punishable by a fine only. Offences against laws, orders, public service and security regulations in respect of which the law does not provide for specific sentences are also petty offences (Code penal : art. 22,23 & 24). [↑](#footnote-ref-24)