



## Terms of Reference

for

**Terms of Reference for the review of the Sessional Paper on the Ratification of the International Labour Organisation (ILO) Convention Number 189 on Decent Work for Domestic Workers in Kenya**

### 1. BACKGROUND AND PURPOSE

Women form a majority of the 2 billion informal workers in the global economy and are concentrated in precarious forms of work at the bottom of the informal 'hierarchy' with less choice or agency than men over what work they do. In Kenya, like many developing countries of the global south, informal work is an important source of livelihood. Women make up a majority of underpaid and undervalued informal workers in the world often without any protection of labor laws and social protection. Further, they routinely work for lower wages and in unsafe conditions, including risk of sexual harassment, all of which bear long-term impact on women (Un Women 2015).

Findings from primary research across sectors on valuing women's work undertaken by Oxfam in Kenya, confirm that the informal sector is by far the most important employer for women, accounting for 83% of employees. A common characteristic of this informal work is the lack of paid annual leave or paid sick leave; employer-funded contribution to a pension fund, absence of flexible working hours, contracts or written agreements. Also, there is absence of paid maternity leave and notice on termination of contracts. Ultimately, this has made it difficult for women to plan their economic lives including access to credit services at individual level. Besides, this situation has increased vulnerability to exploitation and abuse, all of which have worsened the conditions of work for women workers.

The constraints and challenges faced by women in the informal sector intersect negatively with their reproductive roles and vulnerability. Women workers in the informal sector, especially those involved in domestic work, tend not only to be isolated and invisible, but also largely

unaware of their rights, and without the ability to organize and negotiate. Women, according to primary research, are more likely to be manipulated, overworked, and underpaid by employers. Women's role in childbearing, child-care, care in general, and domestic work have had a significant effect on their ability to participate as fully in the paid workforce. Other gender specific constraints and challenges revolved around poverty levels that push women to take what is available. This also included Climate change and the Covid-19 pandemic which pushed women to take up jobs that are without negotiations for payments in the informal sector. For instance, Covid-19 restrictions such as closure of markets meant that women had to look for alternative ways of generating income, thereby taking up any other available jobs in the informal sector.

Unpaid Care and Domestic Work (UCDW) and Paid Domestic Work (PDW) form an essential part of societal well-being. However, these activities often carry negative perceptions, attitudes, and beliefs when performed by men and boys. As a result, women and girls typically shoulder the primary responsibility for performing UCDW. Similarly, society often undervalues PDW as by perceiving it as low-skilled work, as demonstrated through low remuneration and unfair employment practices. The narratives and mental models we embrace concerning UCDW and PDW partly explain why these essential activities frequently fall on women and girls, and why society often undervalues PDW. Although these narratives are rooted deeply in social and gender norms, making them challenging to dismantle, several communication approaches have proven effective at shifting societies' knowledge, attitudes and perceptions of UCDW and PDW

## **2. CONSULTANCY OBJECTIVES**

The aim of this consultancy is to develop a Sessional Paper to guide Oxfam and partners to influence the ratification of ILO Convention No. 189 on decent work for domestic workers in Kenya.

## **3. AUDIENCE AND USE**

The paper will be used by Oxfam and partners to influence the government on the ratification of ILO Convention 189. The findings will also be used to engage key stakeholders working within the care sector and the public to shift their retrogressive attitudes, perceptions, beliefs and practices on paid Care work, to more progressive and transformative ones.

## **4. SCOPE OF WORK**

Oxfam in partnership with KUDHEIHA wishes to call for expression of interest to draft a Sessional Paper to be used for influencing ratification of the International Labour organisation (ILO) Convention Number 189 on Decent Work for Domestic Workers in Kenya. The purpose of the

Sessional Paper is to present the institutions with the background and context of the convention, its relevance to Kenya, proposed implementation framework, resource implications of the ratification, supervision and reporting mechanisms and analysis of the social, economic and political implication of the ratification of the convention in Kenya. The paper should also provide an outline of the ratification process and propose the key stakeholders and their respective functions and relevance to the ratification of the ILO Convention on Decent Work Environment for Domestic Workers. The task will also involve presentations to key stakeholders such as the National Labour Board, national stakeholders for validation, and the relevant committee of the National Assembly while capturing their inputs as much as possible into the final report.

## **5. FRAMEWORK AND APPROACH**

This research is commissioned to provide evidence that will be used to engage key stakeholders on the ratification of C189 and to influence a shift in narratives and perception on paid care work. Oxfam and partners need factual information and evidence, to define strategies that will be used to influence both policy and practice on care work in relation to the target group.

## **6. METHODOLOGY**

The main methodological approach will include literature reviews, policy analysis, primary data collection based in qualitative research methods, and participatory research. Qualitative primary data collection will include conducting Key Informant interviews and Focus Groups Discussions. Interviews will include national and local government officials, community and civil society leaders, and private sector actors.

The consultancy will include the review labor policies of the private sector (Paid Care Work). To do so the consultant will review policy documents and review government policies that relate to care and work in the private sector. The review will also focus on literature generated by the respective organizations focusing on their care work advocacy and programs/institutions.

The literature review for the overall paper will also include Oxfam confederation wide care initiatives such as the WE-Care Initiative research, foundational pieces, and instruments that assess Oxfam's framing to care and care infrastructure such as the Care Policy Scorecard, Oxfam affiliates and non-affiliate offices' care work and research; and academic, practitioners, and civil society organizations' initiatives on Care.

## 7. KEY DELIVERABLES

- An inception report covering the agreed methodology with clear time frame and budget.
- Final report with an executive summary stating the key challenges and a strong statement for justification and benefits of ratification of the Convention.
- The final report will consist of no more than 25 pages. Report should be submitted both electronically as well as in six bound copies.
- Presentation of the report to stakeholders
- Report of engagements with stakeholders whose feedback should be captured into the final report.
- Presentation of the Sessional Paper
- The development of the Sessional Paper will be the responsibility of the consultant and will cover all the aspects outlined in this ToR while Oxfam and KUDHEIHA will be responsible for coordinating and supporting the exercise.

## 8. TIMETABLE

|    | ACTIVITIES AND OUTPUTS                                                                                                                                                             | DATE DUE                   |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------|
| 1. | Finalize ToR                                                                                                                                                                       | 12/01/2024                 |
| 2. | Procurement of Consultant                                                                                                                                                          | 15-19/1/2024               |
| 3  | Submission of Inception Report                                                                                                                                                     | 23/01/2024                 |
| 3  | Undertaking of Assignment                                                                                                                                                          | 25/01/2024 –<br>08/02/2024 |
| 6. | First draft of report                                                                                                                                                              | 09/02/2024                 |
| 7. | Final Draft Submitted                                                                                                                                                              | 23/02/2024                 |
| 4. | List of individuals and stakeholder groups consulted.                                                                                                                              | Feb 2024                   |
| 5  | List of supporting documentation reviewed.                                                                                                                                         | Feb 2024                   |
| 6  | <u>All raw data (quantitative data file, transcripts from In-depth Interviews, FGDs etc) should be submitted to Oxfam in Kenya Offices in Nairobi for reference and future use</u> | Feb 2024                   |
| 7  | <u>Summary of Key findings in the form of Data Infographics format or in a format agreed upon by the consulting team to be used as a quick and engaging way of key findings</u>    | Feb 2024                   |

## **9. DOCUMENTATION**

The report shall provide clear documentation and findings, focusing on:

- Executive summary (2-3 pages)
- Introduction
- Purpose and objectives
- Methodology
- Findings
- Conclusion and recommendations

The written report will be:

- Produced in English language and using accessible and concise language.
- The report format and text shall be in A4 paper size and a legible Arial 12 font size.
- The report should not exceed more than 25 pages. (excluding references and annexes)

## **10. ETHICAL CONSIDERATIONS**

The Secondary Data collection of the research should pose no ethical or security risks. The use of key informant interviews, focus group discussions, and household surveys will always carry some risk. To mitigate these risks, researchers and any consultants that are hired will be asked to follow Oxfam's code of conduct guidelines and protocols as well as safeguarding protocols. All interview subjects will be provided with informed consent forms and will have the right to stop the interview at any point. When relevant, research teams will assess and mitigate risks involving interviews with underserved, marginalized, or vulnerable populations.

## **11. CONSULTANCY MANAGEMENT**

The overall supervisors of this assignment will be Oxfam's Gender Justice and Women Rights programme team. KUDHEIHA's programme officer with support from Oxfam's M.E.A.L Advisor

## **12. TAX AND VAT ARRANGEMENTS**

KUDHEIHA will deduct withholding tax from the consultancy fees which will be in conformity with the prevailing government rates and submit the same to the Government of Kenya. The consultant will be entitled to a copy of the tax submission certificate on request.

## **13. INTELLECTUAL PROPERTY AND CONFIDENTIALITY OF INFORMATION**

All documents, data and information accessed will be treated as confidential and used solely to create visibility for the project and should follow the GDPR regulation on data control and storage. All the required documents and deliverables in their draft and final versions shall be

submitted to KUDHEIHA within agreed timelines and shall remain the explicit property of the organisation.

#### **14. BID REQUIREMENTS**

Interested and qualified consultants are invited to submit their expressions of interest, which should include the following:

- A suitability statement, including commitment to availability for the entire assignment.
- Information demonstrating specific experience of the consultant relevant to the assignment including the scope and scale of similar assignments. Please provide details of similar assignment undertaken.
- A detailed financial proposal showing a clear breakdown of the costs including all the chargeable taxes.
- Sample similar works done in the recent past.

#### **15. PROFILE OF THE CONSULTANCY TEAM**

The consultancy can include different team members. Key competencies of the team include:

- The ideal candidate will have experience in labour laws, budgets, labour/economics, developing technical papers.
- Masters in the relevant field.
- Demonstrable experience and skills in doing the similar work.
- Experience in legislative research and drafting.
- Demonstrate experience in engaging policy makers and implementers.
- A person with drive to see change with personal conviction/passion on labour rights
- Ability to facilitate and relate to stakeholders at multiple levels and in diverse contexts.
- Proven ability to engage in qualitative data analysis.
- Strong written and verbal communication and presentation skills in English
- Strong analytical, communication and report writing skills.
- Good spoken and written communication skills in Kiswahili and English.

#### **16. ADHERENCE TO OXFAM PRINCIPLES AND POLICIES**

Once hired, the consultant(s) shall operate under the principles governing Oxfam ways of working including adherence to policies and procedures of Oxfam with regards to such key issues as non-partisan, neutrality, gender sensitivity, impartiality and accountability, mainstreaming of Gender and safeguarding as well as other policies governing Oxfam operations on transport usage, security guidelines and confidentiality of information collected.

## 17. APPLICATION PROCESS

Oxfam Kenya invites individuals who meet the criteria to submit Expression of Interest that clearly articulates the consultant(s) understanding of the terms of reference, methodology for executing the work including key deliverables and tentative budget should and clearly indicate, “**Terms of Reference for the review of the Sessional Paper on the Ratification of the International Labour Organisation (ILO) Convention Number 189 on Decent Work for Domestic Workers in Kenya.** Expression of Interests shall be sent to [ttcinfo@kudheiha.co.ke](mailto:ttcinfo@kudheiha.co.ke)., no later than close of business on **17/01/2024**. Only applicants who qualify will be contacted.