

Structural Violence and Human Trafficking:

Migrant Domestic Workers in Lebanon

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Introduction

Human trafficking and its link to migrant domestic labor in the Arab region is a complex, sensitive, and challenging issue. It raises numerous questions and demands further exploration. Under international law human trafficking consists of the recruitment, transfer, or receipt of human beings by coercive or deceptive means for purposes of exploitation. This legal definition is relevant to migrant domestic workers, and the present analysis seeks to address human trafficking for labor exploitation in particular. The primary objective is to identify and analyze the key factors that make migrant domestic workers vulnerable to human trafficking within the specific context of Lebanon. These key factors include the sponsorship system, the recruitment process, and the lack of labor protection and legal redress; each one will be addressed in turn. In the process, the present analysis will also highlight structural violence that subjects migrant women to systemic oppression and increases their vulnerability to human trafficking.

The Lebanese Context

In a country of over four million people, Lebanon is home to roughly 200,000 or more domestic workers who migrate to work as live-in maids from across Asia and Africa - primarily from Ethiopia, the Philippines, Bangladesh, Sri Lanka, and Nepal. For this analysis, 100 migrant domestic workers were surveyed, and 65 percent reported that they had experienced a situation of forced labor, servitude, or slavery at some point during their time in Lebanon. When labor exploitation of migrant domestic workers rises to the level of forced labor, servitude, or slavery, then human trafficking may be found to exist. As indicated, human trafficking consists of the recruitment, transfer, or receipt of human beings by coercive or deceptive means for purposes of exploitation - including both sexual exploitation and labor exploitation.

In terms of human trafficking, can Lebanon be considered a destination country? Can victims of human trafficking be counted among those who make their way to Lebanon for work? In 2010, five hundred recruitment agencies had official license to operate from Lebanon's Ministry of Labor. Also in 2010, the Ministry of Labor issued or renewed approximately 111,000 annual work permits to migrant domestic workers.¹

* This paper is a shorter and reworked version of the author's study, *Trafficking of Migrant Domestic Workers in Lebanon: A Legal Analysis*, KAFA (Enough) Violence & Exploitation, 2010.

1. Interview with Ali Fayad, Chef de Cabinet, Ministry of Labor in Beirut, Lebanon, 14 December 2010.

This number does not account for thousands of undocumented migrant domestic workers living in the country without official residence or employment authorization. Undocumented migrant domestic workers in Lebanon are caught in legal limbo and face significant obstacles that prevent them from regularizing their immigration status in the country. If apprehended by police, they face immediate detention and substantial fines for immigration violations. Often their precarious legal situation is compounded by the difficulty they face in retrieving their identity documents from previous employers who may never respond or may demand payment in return.

Lebanon signed and ratified the UN Trafficking Protocol in 2005, passed domestic legislation against trafficking in 2011, and is party to relevant international labor and human rights treaties. Relevant national and international legal obligations guide and determine Lebanon's duties relating to the treatment of migrant domestic workers. Under human rights law, the Lebanese government is obliged to comply with both positive and negative duties. With reference to migrant domestic workers, this includes refraining from actions that violate human rights directly. This also includes protecting, respecting, and fulfilling the human rights of migrant domestic workers as well as taking reasonable steps to prevent abuses by individuals and non-state actors. The government's responsibility to develop rights-based policies concerning migration, employment, social welfare, and law enforcement are also essential in this regard.

In one of the only government-sponsored studies on the problem of trafficking in Lebanon, migrant domestic workers were identified as potential victims of trafficking. But the report did not fully analyze the possibility of trafficking as it relates to labor exploitation, and it found only a handful of migrant domestic workers to be victims of trafficking in Lebanon. In what might be a reflection of the report's underlying assumptions, the author found that in Lebanon "domestic workers can report to the Ministry of Labor any type of abuse made by their owners".² This apparent reference to employers as "owners" reflects a level of confusion about the legal status of migrant domestic workers in Lebanon. It may also explain why the report's analysis fell short of identifying migrant domestic workers as potential victims of trafficking on a broader scale.

Although critical mass is still lacking, some non-governmental organizations have already recognized links between human trafficking and migrant domestic labor in Lebanon. In 2010, the Pastoral Committee on Pastoral Care of Afro-Asian Migrant Workers (PCAAM) reported that private employment agencies in Lebanon were trafficking in domestic workers.³ Also in 2010, KAFA (Enough) Violence & Exploitation formed a counter-trafficking unit to address trafficking of migrant domestic workers and other vulnerable groups in Lebanon.⁴ Prior to this, KAFA addressed the trafficking of migrant domestic workers in its 2008 shadow report to the UN Committee on the Elimination of Discrimination Against Women (the CEDAW Committee).⁵ On this basis, the CEDAW Committee then expressed concern that women have been trafficked for the purpose of forced domestic labor in Lebanon, and also in 2008 the CEDAW Committee encouraged Lebanon's government to prosecute such traffickers.⁶ In 2006, Sigma Huda, the UN Special Rapporteur on Trafficking concluded that Lebanon has a significant problem of trafficking in persons that affects in particular foreign women

2. See Republic of Lebanon, Ministry of Justice, *Measures to Prevent and Combat Trafficking in Human Beings: Lebanon Country Assessment* (2008).

3. See *Pastoral Care of Afro-Asian Migrant Workers*, Afro-Asian Migrants in Lebanon (2010), p. 6. Report on file with author.

4. See KAFA (Enough) Violence and Exploitation, KAFA's Shadow Report to the United Nations Committee on the Elimination of Discrimination Against Women (2008).

5. See KAFA's Shadow Report to CEDAW Committee (2008) available at <http://www2.ohchr.org/english/bodies/cedaw/docs/ngos/KAFA.pdf>.

6. See United Nations (2008). Convention on the Elimination of all Forms of Discrimination against Women: Responses to the list of issues and questions with regard to the consideration of the third periodic report of Lebanon.

recruited as domestic workers.⁷ In 2003, Caritas Lebanon Migrant Center created a multidisciplinary team of accredited social workers and lawyers to serve migrant victims of trafficking.⁸ Since then, the team has handled severe cases of physical and sexual abuse, as well as other forms of maltreatment of migrants deemed to be human trafficking on the basis of international definitions.

The present analysis does not suggest that all migrant domestic workers in Lebanon have suffered abuse at the hands of their employers. Nor does this analysis aim to approximate the number of maltreated domestic workers in the country. Rather, the aim is to identify structural factors that create systemic vulnerabilities for migrant domestic workers during their migration to Lebanon and their work upon arrival in the country. Human trafficking can be one of the worst outcomes of a range of abuses experienced by migrant domestic workers in Lebanon. These may also include violations of labor rights as well as verbal, physical, and even sexual abuse. As found here and in other research studies, domestic workers in Lebanon routinely experience confiscation of their identity documents and restrictions on their freedom of movement and communications.

The vulnerability of all migrant domestic workers to human trafficking in Lebanon can be attributed to various structural factors. As indicated, the structural factors detailed in this analysis include the sponsorship system, the recruitment process, and the lack of labor protection and legal redress. In addition, the Lebanese government's refusal to respect current deployment bans from several sending countries exacerbates the vulnerability of migrant domestic workers to trafficking. These various structural factors foster the conditions where abuse and trafficking of domestic workers often occur.

How does this come about? How does trafficking actually occur in Lebanon? Consider the following situations that involve the trafficking of migrant domestic workers. In one scenario, a local broker, for example, recruits domestic workers by deceptive or coercive means from the Philippines to work as domestic servants in forced labor conditions in Lebanon. To take another example, a private employment agent in Lebanon recruits a domestic worker from Nepal to work with known abusive employers under forced labor conditions in Lebanon. Another scenario might involve a private employment agency in Lebanon forcing an abused Ethiopian domestic worker to "transfer" to another abusive employer under forced labor conditions. Finally, another "trafficking" scenario might occur when an employer in Lebanon deceives a Sri Lankan worker into thinking that her rights will be respected, but instead employs - or receives her into - forced labor conditions (e.g. confiscates identity documents, locks domestic worker inside house, does not give her time off or out for the duration of her service, etc.). The next section of this paper will explore the structural conditions that converge to create this type of vulnerability to human trafficking.

7. See United Nations (2005). Report of the Special Rapporteur on the human rights aspects of the victims of trafficking in persons, especially women and children, Sigma Huda, on her mission to Lebanon.

8. Email correspondence with Najla Chahda, Director of Caritas Lebanon Migrant Center, Beirut, 8 February 2012.

The Sponsorship System

First, the sponsorship system creates an environment where all migrant domestic workers have the potential to become entrapped and exploited. The system links a domestic worker's valid immigration status to one single employer. Under the sponsorship system and under Lebanese law, migrant domestic workers may not leave the house, which is also their place of work, without the permission of their employers.

In effect, employers are legally entitled to confine domestic migrant workers to the house indefinitely, although it is impossible to determine what percentage of employers actually do so.

When domestic workers do find themselves in situations of exploitation, then the sponsorship system typically prevents them from seeking and obtaining help without jeopardizing their legal status in the country. This contributes to human trafficking of migrant domestic workers in Lebanon because it can create conditions of compelled service and forced labor. In essence the sponsorship system puts migrant domestic workers almost entirely at the mercy of their employers unless they are willing to forfeit the legality of their immigration status in the country. As a result, migrant domestic workers may find themselves vulnerable to forced labor and human trafficking as well.

Several Lebanese legal experts interviewed for this analysis reiterated the fact that the sponsorship system is not a legal system rooted in one specific law. They concurred that there is no central, comprehensive repository for all of the relevant regulations and practices related to the sponsorship system itself. Some of these legal provisions may be found in the 1962 Foreigner's Law, the 1949 Labor Law, the Law of Contracts, and the Lebanese Penal Code. But generally speaking the sponsorship system consists of complementary regulations and decrees issued by the General Security and the Ministry of Labor.

The system restricts migrant domestic workers' freedom of movement, their channels of communication, their independence, and their freedoms. According to the 2009 standard work contract for migrant domestic workers enacted by Lebanon's Ministry of Labor, there are only three legally permissible grounds for a domestic worker to terminate her employment contract: (1) physical or sexual abuse demonstrated by medical certification (2) non-payment of wages for a period of three consecutive months or (3) employment in a capacity other than that for which she was recruited and without consent (e.g. being required to do a task that does not fall under the umbrella of domestic work).

Yet any one of these three criteria would be difficult to prove by migrant domestic workers under most circumstances in Lebanon. This is especially difficult without the help of witnesses, forensic medical experts, and qualified lawyers – not to mention communication and literacy skills in Arabic, French, or English which migrant domestic workers often lack. So although the standard work contract provides three escape hatches on paper, they are only nominal at best.

If domestic workers leave (or “run away” from) their employers – even under abusive conditions – then they automatically jeopardize their immigration status in the country because the sponsorship system legally binds them to their sponsor. For domestic workers who want to remain within the boundaries of the law, they are left with very little choice when it comes to leaving abusive employers. As a result, these constraints may trap domestic workers in exploitative situations.

The sponsorship system assigns disproportionate legal power to the sponsor. In turn,

this sponsor may then utilize various control mechanisms to dictate the relationship with the migrant worker. These control mechanisms may include withholding identity documents, confining the worker to the household, or threatening the worker with the possibility of “returning” her to the employment agency, denouncing her to the authorities, or immediately repatriating her back to her country of origin without reasonable notice.

As some commentators have noted, the sponsorship system enables the government to delegate to individual citizens the responsibility for matters related to the presence of foreigners on national territory. In effect, the sponsor becomes the mediator between the migrant domestic worker and the government. In other words, instead of the state regulating immigration matters related to migrant domestic workers, the employer is the one who largely monitors the foreign worker while she is in the country.

The Recruitment Process

Second, in addition to the sponsorship system, the recruitment process is another factor that increases vulnerability of migrant domestic workers to trafficking. Domestic workers may be misled or deceived about the conditions that await them in Lebanon. Frequently they are not properly informed in advance about employment terms and working conditions including working hours, wages, contract duration, restrictions on freedom of movement and communications, and lack of access to legal help or assistance - especially in cases of physical abuse and non-payment of wages. Likewise, the recruitment process increases the vulnerability of domestic workers to trafficking when the Lebanese government issues work and entry visas to domestic workers from countries with deployment bans against Lebanon. As a result, the recruitment process often involves taking illicit routes, bribing corrupt officials, and paying middlemen for escort services. The recruitment process is critical to the migration of domestic workers into Lebanon. During the pre-departure, departure, and transit phases, the recruitment of migrant domestic workers may involve multiple sub-agents, intermediaries, and auxiliaries. Recruiters may sub-contract local brokers to escort, accompany, disguise, or steer migrant workers across international borders. Local sub-agents or brokers generally arrange for requisite travel logistics and transit visas as necessary.

Deployment bans imposed by several countries in recent years have increased the complexity of the recruitment process into Lebanon. At least four governments (the Philippines, Ethiopia, Madagascar, and Nepal) have each imposed bans preventing their nationals from coming to serve as domestic workers in Lebanon. The primary reason stems from recognition of the vulnerability and lack of protection that migrant domestic workers encounter in Lebanon. Several of the Lebanese employment agents and migrant community leaders interviewed for the present study, however, emphasized that deployment bans do not stop domestic workers from migrating to Lebanon - whether legally or not. Lebanese recruitment agent “H”, for example, said: “They will still keep coming despite the bans. You should see all of the messages I get every day from Filipinas or their friends and families begging for work”⁹

In the face of these deployment bans to Lebanon, many migrant domestic workers deal with local brokers engaged in illicit recruitment and transport practices. This process inevitably involves fake itineraries, circuitous travel routes, several bribes, and a

9. Interview with agent “H” in Beirut, Lebanon, 9 December 2010.

considerable amount of “monkey business” in the middle. Local recruiters in sending countries take precautionary measures to dodge authorities in order to evade sanctions for their criminal conduct.

Immigration authorities in the Philippines, for example, recently detained six women at the Manila airport after they were caught trying to circumvent the ban to Lebanon. The women were dressed as nuns, and they were pretending to be on their way to Hong Kong for a religious seminar. In fact, the six disguised women were planning to work as domestic workers in Lebanon where their employers were presumably preparing to meet them at the Beirut airport. Authorities in the Philippines, Ethiopia, Madagascar, and Nepal monitor departures carefully in order to prevent local brokers from “coaching” migrant workers across transnational borders en route to Lebanon.

In addition, local brokers in origin countries sometimes charge migrant domestic workers substantial recruitment fees. Such practices were reported by some of those interviewed for the present study. Workers from Nepal, for example, reported paying local brokers anywhere from \$300 to \$700 in order to secure a job in Lebanon, and this did not include airfare or additional salary deductions by the recruiting agency in Lebanon. Such recruitment fees amount to several months of an average Nepalese migrant domestic workers’ salary of \$125-\$150 per month. When migrant domestic workers pay recruitment fees in advance or when they borrow money to do so, then this leaves them indebted upon arrival – even before they start their work in Lebanon. With reference to human trafficking in Lebanon, the question here is whether agents and brokers utilize coercive means during the recruitment process. Several means of coercion are enumerated in the UN Trafficking Protocol, but two of these are particularly relevant to the situation of migrant domestic workers en route to Lebanon. They include 1) deception and 2) abuse of a position of vulnerability. Both of these are relevant because migrant domestic workers generally seek employment in Lebanon freely and of their own volition. They know in advance that they are migrating to Lebanon for employment as domestic workers. But nevertheless they are not always prepared for the conditions and the constraints that await them at their destination, and often they are misled during the recruitment process.

Lack of Labor Protection and Legal Redress

Third - in addition to the sponsorship system and recruitment practices - lack of labor protection and legal redress can be another factor that increases the vulnerability of migrant domestic workers to trafficking. In Lebanon, domestic workers have experienced long-standing exclusion from protection under the country’s labor law. In addition to the other contributing factors discussed in this analysis, migrant domestic workers are vulnerable to human trafficking due to the lack of labor protection and legal redress in Lebanon. There are few – if any - credible checks on the mistreatment migrant domestic workers may experience. As a result, unbridled exploitation has the potential to become the norm in many households.

In general, migrant domestic workers in Lebanon have very little recourse for dealing with abusive employers. In addition migrant domestic workers are often isolated within the household and confined to it. Many domestic workers are prohibited from communicating with other people in person or on the telephone. They do not have

access to formal legal information about their rights, and they are not necessarily aware of the pro-bono legal service sometimes available to migrant domestic workers in Lebanon. In most cases, these workers would jeopardize their immigration status by initiating any sort of legal complaint against their sponsors.

Even when they do manage to contact or enlist legal services, migrant domestic workers face significant evidentiary challenges. Documenting abuses, collecting evidence, and contacting forensic medical experts all require time, language skills, and resources that migrant domestic workers do not typically possess. They also face the threat of retaliatory charges brought by employers - generally for allegations of stealing money or jewelry.

A government official in the Ministry of Labor asserted that migrant domestic workers do not generally contact the Ministry with complaints or problems. This, she contended, is because they have their embassies to “take care” of them. In reality though, only the Philippines and Sri Lanka have diplomatic presence at the embassy level. Even Ethiopia, with the largest number of domestic workers in the country, has only one labor attaché with quite limited capacity. When asked to comment on the situation, the Ethiopian Consul General said: “I have a small staff and no time for all of the problems we have here”.¹⁰

Meanwhile, Ministry of Labor officials reported withdrawing the operating licenses of two employment agents in 2009. However, these agents’ licenses were not revoked, for their mistreatment of migrant domestic workers, but revoked for taking payment from clients without guaranteeing arrival of the domestic worker. The head of the inspection unit at the Ministry of Labor said that disgruntled employers complain the most concerning migrant domestic workers. Employers typically complain because agencies recruit workers who are sick or because they take too long to arrive in Lebanon.

The Ministry of Labor also maintains a blacklist of abusive agents and employers to whom work permits for migrant domestic workers will no longer be issued. Ministry of Labor officials shared information about only one such employer on the list. In this “blacklisted case” the employer beat the worker in front of the chief of the inspections unit at the Ministry of Labor. In this case, the Labor Minister personally blacklisted the abusive employer. Officials in the Ministry of Labor have pledged to maintain strict scrutiny in order to prevent this particular blacklisted employer from hiring another domestic worker again. But no specific details were forthcoming about the actual implementation of the blacklist or how it works in practice.

The Lebanese government has taken some recent steps to address the vulnerability of migrant domestic workers to abuse. These measures include a draft law on domestic workers, a standard employment contract for domestic workers, and an emergency hotline in the Ministry of Labor. In early 2011 Lebanon’s Labor Minister proposed a draft law on domestic workers, but by late 2011 the draft law appeared to be dormant with the change in government. In any case, the draft law still omits critical legal protections. Significantly, Article 11 of the draft law gives employers the discretion to restrict domestic workers to the house - even on their days off. This situation

10. Phone call with Ethiopian Consul General in Beirut, Lebanon, 17 January 2011.

is compounded by the fact that few credible mechanisms exist for responding to instances of abuse.

Conclusion

Further initiatives in Lebanon will have to tackle root causes in order to decrease the vulnerability of migrant domestic workers to labor exploitation and human trafficking. Meanwhile, the vulnerability of domestic workers to human trafficking arises not only during their recruitment and transit to Lebanon - but also during the employment stage once they have arrived in Lebanon. More specifically, domestic workers employed in Lebanon may be vulnerable to exploitation in the form of forced labor, servitude, slavery or practices similar to slavery. Coercive practices used by employers and agents in Lebanon include physical maltreatment, verbal harassment, threats of deportation, non-payment of wages, excessive working hours, confiscation of identity documents, restrictions on communications, and forced confinement to the workplace. When employers and agents subject domestic workers to such exploitation, then both the employers and agents, as well as the migrant workers, enter into the realm of human trafficking.

Even employers who treat migrant domestic workers humanely take advantage of the inherent vulnerability of this population to human trafficking. Participants in any system reinforce that system unless they are actively working to reform it. As such, even the most benevolent and generous of employers in Lebanon are providing cover for human traffickers to fly below the radar screen while conducting an unscrupulous business with no measure of accountability.

This analysis points to direct links between human trafficking and the situation of migrant domestic workers in Lebanon. The situation is complex, ongoing, and multi-layered. As a result, questions remain. Future work and research is needed in this area. It is urgent that recognition be paid to migrant domestic workers in Lebanon who are vulnerable to human trafficking. Research will serve to diagnose the precarious situation of migrant domestic workers in Lebanon from a human rights angle. Accordingly, such efforts may also enable the use of relevant legal frameworks and instruments that Lebanon has already endorsed - and could develop further - vis-à-vis human trafficking, in defending and protecting migrant domestic workers from this point forward.

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