



Trafficking of Migrant Domestic Workers in Lebanon A Legal Analysis

by

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Kafa (enough) Violence & Exploitation

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The establishment of a Multimedia Virtual Space for Human Rights is the key objective of a two-year project (2009-2010) that aims at strengthening mutual cooperation among civil society organizations for a better integration of human rights, democratization and good governance in national development plans.

An open coalition of NGOs has been drawn up for the management of the virtual space and the project includes, among other activities, researches on various human rights topics in Lebanon ranging from freedom of association to trafficking and racism. For more information on the project, please consult <http://www.humanrights-lb.org>

Apart from the 4 project partners, the NGOs taking part in the Human Rights in Lebanon Coalition to date are: Amel Association, Amnesty International Lebanon, Association Libanaise pour l'Education et la Formation (ALEF), Association Najdeh, INSAN Association, Lebanese Association for Civil Rights (LACR), Lebanese Association for Democratic Elections (LADE), Lebanese Center for Civic Education (LCCE), and Support of Lebanese in Detention and Exile (SOLIDE).

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About KAFA (enough) Violence & Exploitation

Established in 2005 by a group of multi-disciplinary professionals and human rights activists, KAFA (enough) Violence & Exploitation is a Lebanese non-profit, non-political, non-confessional civil society organization committed to the achievement of gender-equality and non-discrimination, and the advancement of the human rights of women and children.

KAFA envisions a society where all its citizens live free of violence and exploitation and where they have equal access to opportunities and results and their human rights are respected, protected and enjoyed. KAFA believes that women's and children's rights are integral to this achievement and to building a free and fair society.

KAFA's mission is to work towards eradicating all forms of gender-based violence and exploitation of women and children through advocating for legal reform and change of policies and practices, influencing public opinion, and empowering women and children. Our focus areas are those of 1) Violence against Women 2) Child Sexual Abuse 3) Exploitation and Trafficking in Women 4) Socio-Legal Counseling.

KAFA combines in its work the various methods of lobbying, action-research, publication, training and awareness raising, and supporting the victims. Our work's guiding principles are those of the universality of human rights and the participation and inclusion of all target groups and marginalized people in our endeavors.

Author biography

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Hamill has worked as an independent researcher, advocate, and consultant in the Americas, Asia, Africa, Europe, and the Middle East. This includes academic fellowships and work in Angola (Conflict Management Group), in Brazil (Human Rights Watch), in Jordan (WILpower - regional association of women lawyers), in Lebanon (United Nations Development Program). Hamill co-authored an amicus curiae brief in the U.S. Supreme Court case, Nike v. Kasky, and she authored a petition to the Inter-American Human Rights Commission in the case of Nogueira v. Brazil. Her paper, International Law, Cluster Munitions, and Perceptions of Justice, was presented in 2008 at the American University of Beirut conference, America and the Middle East: Liberty and Justice.

In Geneva, she participated in a civil society delegation for Lebanon's 2010 Universal Periodic Review before the United Nations Human Rights Council, and she was the lead author of KAFA's stakeholder submission for that purpose. Also in 2010, she was a resident faculty member in Bogota, Colombia for the Fletcher School's Mexico Judiciary Reform Program. As a Fletcher professor, Hamill has served the Armenian Diplomat Training Program and the Fletcher Institute for the Advanced Study of Nonviolent Conflict. Her recent courses at Fletcher include International Human Rights Law as well as Human Rights and Business.

1. Executive Summary

Human trafficking and its link to migrant domestic labor in Lebanon 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 – including both sexual exploitation and labor exploitation.

The present study 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 context of Lebanon. In doing so, this study aims to encourage further research and analysis.

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 study, 100 migrant domestic workers were surveyed, and 65% 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.

This study does not suggest that all migrant domestic workers in Lebanon have suffered abuse at the hands of their employers. Nor does the study 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.

As well, migrant domestic workers frequently report excessive working hours and delayed or non-payment of wages. When domestic workers are subject to such working conditions, they may be classified as victims of labor exploitation and possibly trafficking, depending on the specific circumstances. The present study explores and explains this situation of vulnerability.

The vulnerability of all migrant domestic workers to human trafficking in Lebanon can be attributed to various structural factors. The structural factors detailed in this study include 1) the sponsorship or "kafala" system; 2) the recruitment process; 3) 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 occurs.

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 for years, 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.

Second, 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, limited 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.

Third, 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.¹

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 2011 Lebanon's Labor Minister proposed a draft law on domestic workers, but 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 day off. This situation is compounded by the fact that few credible mechanisms exist for responding to instances of abuse.²

Further initiatives in Lebanon must tackle root causes in order to decrease the vulnerability of migrant domestic workers to labor exploitation and human trafficking. The Lebanese government must take concrete steps in order to fully ensure the rights of migrant domestic workers by criminalizing human trafficking in Lebanon while bringing national legislation on human trafficking in line with international standards; ensuring that adequate legal protections for migrant domestic workers exist; addressing the inherent structural problems with the sponsorship system and developing viable alternatives; prohibiting employers from confining domestic workers to the house and workplace; prosecuting abusive employers and private employment agencies for deprivation of freedom, forced labor, physical and sexual abuse; and creating enforcement mechanisms that include monitoring and workplace site visits by government officials.

1 See Labor Code, Act of 23 September 1946, Art. 7(1) excludes domestic workers and agricultural workers leaving them without standard labor protections that apply to other classes of laborers in Lebanon.

2 See Human Rights Watch, *Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers* (2010).

2. Introduction

In recent years, numerous international news reports have emerged recounting the grim experiences of human trafficking victims in the Middle East and across the globe.³ These accounts do not always involve trafficking for purposes of sexual exploitation; a good number also involve trafficking for purposes of labor exploitation.⁴ In several cases, these stories have detailed the criminal charges, prosecutions, and convictions of abusive agents, employers, and even government officials.⁵

Some judges, meanwhile, have noted the particular vulnerability of migrant domestic workers to maltreatment. For example, in December 2009, a Lebanese court ruled in favor of a Filipina woman, Jonalin Malibagu, who sued her employer after she was beaten in broad daylight at the Philippine embassy in Beirut. Similarly, in January 2011 a court in Saudi Arabia sentenced an abusive Saudi employer to three years in jail for violating the country's anti-trafficking decree when she battered and burned her Indonesian housemaid.⁶ Meanwhile, legal analysis and criminal proceedings related to human trafficking for purposes of labor exploitation invariably utilize international legal standards and concepts such as forced labor, servitude, and slavery.

The objective here is to analyze the link between human trafficking and migrant domestic labor in the context of Lebanon.⁷ This study seeks to explain how and why migrant domestic workers may be vulnerable to trafficking.⁸ Recent studies about migrant domestic labor in Lebanon generally have not considered this link.⁹ Rather the bulk of published research on the situation of migrant domestic workers in Lebanon tends to focus on labor exploitation independently. Very few research studies and investigations conducted in Lebanon have scrutinized this topic and drawn conclusions about the relationship between migrant domestic labor and human trafficking per se.¹⁰ As discussed below, trafficking is an important link to explore. Various legal and policy measures may serve to protect migrant domestic workers against exploitation and trafficking, especially since Lebanon has ratified relevant international treaties.¹¹

3 See *Human Trafficking Plagues UAE: Al Jazeera Speaks to One Victim Forced to Work in the Sex Trade in Dubai and Abu Dhabi*, Al Jazeera, 31 July 2009; Awad Mustafa, *First Forced Servitude Charges in Trafficking Case*, The National, January 2011; *Doctors Charged Over Organ Trafficking*, ABC News, AFP, 16 Sept. 2010; *The Traffic Police; the Sex Industry in Cambodia*, The Economist Magazine, 13 June 2009; Nicholas Kristof, *The 21st-Century Slave Trade*, NY Times, 22 April 2007.

4 See *Top Lebanese Envoy Charged, Filipino Reporter*, 25 Feb. 2011; *BI Prevents 9 Women From Illegally Flying to Lebanon*, Philippine Daily Inquirer, 06 Feb 2011.

5 See *Women "Enslaved" by Arab Royals*, The Telegraph, 08 July 2008; A. France, *Victim 'Trafficked in First Modern Case'*, The Sun, 10 September 2010; *33 Women Rescued From Human Trafficking Den*, The Philippine Daily Inquirer, 28 August 2010; Zoi Constantine and Salam Hafez, *Eleven Arrested Over Alleged Dubai Human Trafficking Ring*, The National, 09 June 2009.

6 See *Saudi Abuser of Indonesian Maid Jailed*, AFP, 10 January 2011.

7 In Lebanon, domestic workers play an important part in the country's social fabric. They provide critical care in many areas where the state largely falls short especially in the areas of geriatrics, nursing, and childcare.

8 See Methodology section for information on the methodology of the research.

9 See N. Moukarbel, *Sri Lankan Housemaids in Lebanon: A Case of 'Symbolic Violence' and 'Everyday Forms of Resistance'*, Amsterdam: Amsterdam University Press (2009); See Human Rights Watch, *Exported and Exposed: Abuses Against Sri Lankan Maids in Saudi Arabia, Kuwait, Lebanon, and the United Arab Emirates* (2007).

10 See K.A. Beydoun, *The Trafficking of Ethiopian Domestic Workers into Lebanon: Navigating Through a Novel Passage of the International Maid Trade*, 24(3) Berkley Journal of International Law (2006); R. Jureidini, *Trafficking and Contract Migrant Workers in the Middle East*, 48 (4) International Migration (2010); Republic of Lebanon, Ministry of Justice, *Measures to Prevent and Combat Trafficking in Human Beings: Lebanon Country Assessment* (2008).

11 In 2005 Lebanon ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially

Once appropriate legal standards are acknowledged, then corresponding protection and assistance measures can be applied.

Although critical mass is still lacking, some reports and organizations have already recognized links between human trafficking and migrant domestic labor in Lebanon. In 2010, Human Rights Watch, for example, recognized that migrant domestic workers in Lebanon may be victims of trafficking.¹² Also in 2010, the Pastoral Committee on Pastoral Care of Afro-Asian Migrant Workers (PCAAM) reported that private employment agencies were trafficking in domestic workers.¹³ In 2008, the UN Committee on the Elimination of Discrimination Against Women (the CEDAW Committee) 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.¹⁴ 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 recruited as domestic workers.¹⁵ In 2004, Caritas Migrant Center in Lebanon established a special unit dedicated to trafficking in its legal department that primarily serves migrant domestic workers; this counter-trafficking unit has handled cases involving sexual and physical abuse as well as other forms of maltreatment of migrant domestic workers that could be deemed human trafficking.¹⁶

The analysis behind the trafficking classification of exploited migrant domestic workers tends to involve the legal concept of forced labor, and it may rely on a series of indicators demonstrating coercion during different phases of recruitment, transit, and employment.¹⁷ But international legal experts and government officials also utilize the legal concepts of servitude, slavery and practices similar to slavery when analyzing the possibility of trafficking among migrant domestic workers.¹⁸ Origin country diplomats who are based in Lebanon also demonstrate knowledge of trafficking and have recognized the existence of forced labor, servitude, and slavery-like practices in private Lebanese households.¹⁹

Women and Children. This Protocol is an important – though underutilized – legal tool in the arsenal that must be used to combat exploitation of migrant domestic workers. It proscribes important measures that may serve to protect victims of human trafficking. In particular it compels the state to recognize migrant domestic workers as victims and not as criminals – particularly in relation to their immigration status. Rather Art. 6 of the Trafficking Protocol entitles victims to physical, psychological, and social support and assistance.

12 See Human Rights Watch, *Without Protection: How the Lebanese Justice System Fails Migrant Domestic Workers* (2010), p. 7. Recommendations to Lebanon's Ministry of Justice and Judiciary included the suggestion to "develop a national action plan to increase the percentage of cases concluding in convictions when crimes are committed against MDWs – including physical and sexual abuse, forced confinement, forced labor, and trafficking."

13 See Pastoral Care of Afro-Asian Migrant Workers, *Afro-Asian Migrants in Lebanon* (2010), p. 6; See correspondence with PCAAM head, Martin McDermott, regarding trafficking of migrant domestic workers in Lebanon; on file with author (25-26 January 2011).

14 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.

15 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.

16 Interview with attorney, Adeeb Zakhour, Beirut, Lebanon. (22 December 2010).

17 See ILO, Human Trafficking and Forced Labor (Guidelines, Toolkits, and Case Studies, 2008); See also Human Rights Watch, *As if I'm Not Human: Abuses Against Asian Domestic Workers in Saudi Arabia*, (2008); International Labour Organization, *Moving Toward Decent Work for Domestic Workers. An Overview of the ILO's Work*, (Working Paper 2/2010 by Asha D'Souza), (2010).

18 See United Nations. (2010). Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, Gulnara Shahinan. OSCE intergovernmental/interagency conference in June 2010: Trafficking for the Purpose of Domestic Servitude. Interview with senior diplomatic official from origin country in Beirut, Lebanon. (5 Dec. 2011).

19 Interviews with origin country diplomats and representatives in Beirut, Lebanon (05 Dec. 2010; 12 Dec. 2010; 11 Jan. 2011).

In contrast to the approach described above, some experts cautioned against using the trafficking lens when addressing the overall labor exploitation and abuse of migrant domestic workers. The main reason is that not all cases of labor exploitation and abuse of migrant domestic workers fall under the definition of trafficking.²⁰ The trafficking designation does not encompass the whole range of abuses suffered by migrant domestic workers.²¹ In addition, some experts contend that trafficking places undue emphasis on the recruitment process as opposed to the exploitation suffered on the receiving end.²² Yet another reason is that trafficking has not been codified in Lebanon's penal law, so there is no practical reason to contemplate prosecutions on such basis from a legal perspective. Upon the release of a 2008 report on human trafficking in Lebanon commissioned by Lebanon's Ministry of Justice,²³ the UN Office on Drugs and Crime (UNODC) stated, "A major quandary in the identification of victims is the absence of any law in the Lebanese penal code concerning human trafficking."²⁴

Several interviewees for this study explained that a labor rights framework situates migrant domestic workers primarily as employees and not as victims. Bringing domestic workers under the mantle of labor protection, contend some, is the best route for addressing their overall vulnerability to exploitation. Even with improved labor protections, however, migrant domestic workers will still remain vulnerable to trafficking throughout the course of the work and migration cycle in Lebanon. This will be the case until structural problems and legal deficiencies in the system are fully rectified and relevant protections are adequately enforced.

20 Phone interview with Simel Esim, ILO Senior Regional Gender Specialist, Regional Office for Arab States (19 Jan. 2011).

21 Phone interview with Nisha Varia, Researcher with Human Rights Watch (12 Dec 2010).

22 Phone interview with Beate Andrees, Anti-trafficking officer at ILO Special Action Programme to Combat Forced Labor (17 Jan. 2011).

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

24 See UN Office on Drugs and Crime press release, 08 Oct. 2008, accessed on 14 January 2011 (<http://www.unodc.org/unodc/en/frontpage/lebanon-unodc-launches-report-on-trafficking.html>).

3. Definitions and overview of international standards

The international legal framework relevant to migrant domestic workers consists mainly of labor law and human rights law.²⁵ These standards are self-referencing, and they generally reinforce each other. For the most part, they use complementary concepts and definitions that are relevant when analyzing the link between human trafficking and migrant domestic workers. The main challenge, however, concerning the application of these standards comes with interpreting the specificities of legal definitions and their constituent parts in practice.

International labor law is comprised primarily of relevant International Labour Organization (ILO) conventions. Yet none of the ILO's 188 conventions specifically address migrant domestic workers or human trafficking per se. In June 2010, the ILO proposed new international standards concerning decent work for domestic workers.²⁶ These standards are being incorporated into an ILO convention supplemented by a recommendation and due to be finalized in 2011. The draft text addresses such issues as confiscation of travel and identity documents, confinement to the workplace, and time-off.²⁷

Meanwhile, relevant human rights law relating to migrant domestic workers and human trafficking can be derived from United Nations human rights treaties and their corresponding supervisory committees known as "treaty bodies." Similar to international labor law, human rights law does not include one specific treaty that is geared exclusively towards protecting migrant domestic workers. In 2003 a new UN human rights treaty did enter into force for the protection of migrant workers in general (the International Convention on the Protection of the Rights of all Migrant Workers and Their Families). In addition, relevant human rights standards applicable to migrant domestic workers may be found in several overlapping human rights treaties which extend protections to individuals simply because they are human beings.²⁸

The primary treaty bodies in the UN human rights system are comprised of independent experts, whose task it is to monitor state compliance with respective treaties.²⁹ Several treaty bodies have

25 For purposes of this study, the term domestic worker refers to a person – typically a woman - engaged in domestic work whether documented or undocumented. She may, or may not, be in a formal employment relationship, but usually serves as a housekeeper and/or nanny in a private household. Migrant domestic workers come to Lebanon to work, yet they are not always engaged in an employment relationship because sometimes they may be subjected to forced labor – by means of coercion due to forced confinement and sometimes without receiving any payment for extended periods of time. The definition of the term domestic worker used here in this study, then, is broader than the one used under the emerging ILO Convention which specifies any person engaged in domestic work and in an employment relationship.

26 See International Labour Organization. (2011). *Decent Work for Domestic Workers*. (Report IV(1) "Brown Report").

27 Ibid. Article 9. Other key terms in the draft convention make reference to payment of salaries, access to dispute resolution procedures, regulation of agencies, freedom of association, information about terms and conditions of contracts and employment.

28 In addition to the Universal Declaration of Human Rights, relevant norms can be found in the Covenant on Civil and Political Rights (art. 8), the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (art. 11), the Convention on the Rights of Persons with Disabilities (art. 27), the International Covenant on Economic, Social and Cultural Rights (art. 7 on just and favourable conditions of work) and the Convention on the Rights of the Child (arts. 19 and 32), and the Convention on the Elimination of All Forms of Discrimination against Women (art. 11 on women's right not to be discriminated in the field of employment).

29 Treaty bodies do this by reviewing state reports, issuing concluding observations, and publishing General

referred to migrant domestic workers in their concluding observations as well as General Comments or General Recommendations.³⁰ In addition, UN Special Procedures contribute to the international legal protections applicable to migrant domestic workers and victims of human trafficking.³¹ Regional and international bodies, such as the European Court of Human Rights and the Council of Europe, provide further reference regarding relevant international legal standards. As well, the statutes and decisions of international criminal tribunals including the International Criminal Court, International Criminal Tribunal for the Former Yugoslavia, and International Criminal Tribunal for Rwanda speak to some of the emerging international legal standards related to enslavement and human trafficking.

The standards found in these various sources of international law contribute to the international legal framework relevant to migrant domestic workers in Lebanon.³² But the primary source of international law on human trafficking is the United Nations Protocol to Prevent, Suppress, and Punish Trafficking in Persons, especially Women and Children (2000).³³ This Trafficking Protocol (or “Protocol”) is the principle legally binding global instrument to combat trafficking in persons. The relevant legal standards derived from this treaty will be explained below as they relate to the link between human trafficking and migrant domestic labor in Lebanon.

3.1 What is trafficking?

As indicated above, the authoritative international legal definition of human trafficking is found in the United Nations Trafficking Protocol.³⁴ This is a multilateral treaty, and it is one of the three so-called

Comments or General Recommendations.

³⁰ General Comments or Recommendations are thematic statements issued by treaty bodies to provide states with guidance on the interpretation of procedural and substantive requirements of the treaty (sometimes referred to as “jurisprudence”). The Committee on the Elimination of Racial Discrimination and the Committee on the Elimination of Discrimination Against Women refer to these statements as “General Recommendations”. The Committee on Economic, Social and Cultural Rights, the Human Rights Committee, the Committee Against Torture, and the Committee on the Rights of the Child, refer to these statements as “General Comments”.

See specific examples including General Recommendation #28 (on women migrant workers) of The Committee on the Elimination of Discrimination Against Women (Dec. 2008). See also General Comment #28 (on gender equality; note references to slavery disguised as domestic service) of the Human Rights Committee (2000). See also General Comment #1 (on migrant domestic workers) of the Committee on the Protection of the Rights of All Migrant Workers (Nov. 2010).

³¹ Relevant UN Special Procedures include the UN Special Rapporteur on violence against women, the UN Special Rapporteur on trafficking in persons, and the UN Special Rapporteur on contemporary forms of slavery. They each derive their legal mandate from the UN Human Rights Council and the UN General Assembly.

³² Lebanon has yet to sign the UN International Convention on the Protection of Migrant Workers, but General Comment #1 (2010) of the Committee on Migrant Workers provides considerable guidance on prevailing international legal and human rights standards related to migrant domestic workers.

³³ United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Nov. 15, 2000, S. TREATY DOC. NO. 108-16 (2004), 2237 U.N.T.S. 319 [hereinafter Trafficking Protocol or Protocol].

³⁴ Article 3 of the Trafficking Protocol defines human trafficking; it states that “trafficking in persons”

a) Shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

“Palermo Protocols” supplementing the United Nations Convention against Transnational Organized Crime (“CTOC”).³⁵ The Trafficking Protocol addresses trafficking in human beings from the perspective of transnational organized crime. During the late 1990s the treaty emerged outside of the formal human rights system, and it is the first international legal instrument to include forced labor in the definition of human trafficking.³⁶ The Trafficking Protocol represents a significant reconceptualization in the discourse and application of standards related to human trafficking.³⁷

According to its terms, the Protocol obliges all States Parties - including Lebanon which ratified the treaty in 2005 - to prevent and combat human trafficking within their respective jurisdictions and to provide victim assistance as well. As a result, over 100 of the 158 parties to the treaty have enacted their own national anti-trafficking statutes – or modified relevant existing laws – by building off of the Protocol’s framework. The UNODC has proposed a model anti-trafficking law³⁸ as well as a legislative guide³⁹ for this purpose. These two documents provide complementary interpretations of the treaty and guidance regarding the implementation of the Protocol’s terms.⁴⁰

In some countries, national statutes weaken – and in other cases they strengthen – the Trafficking Protocol’s internationally accepted definition of human trafficking. National legislative bodies may do this by either bolstering or diminishing the constituent definitional components of the term human trafficking.

The Protocol essentially identifies three constituent elements of human trafficking:

- (1) **an action** (recruitment, transportation, transfer, harboring, or receipt of persons)
- (2) **a means** (force, coercion, deception, fraud, abuse of power or of a position of vulnerability, etc.)
- (3) **a purpose** (exploitation).

The Protocol itself does not explain all of the terms that it utilizes. Significantly, the meaning of the word “exploitation” is not spelled out precisely in the text, and there is no widely accepted, international legal definition of the term. Yet the meaning of exploitation is critical because it is arguably the core determinant in the international legal definition of trafficking.

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph

(a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

35 The other two Palermo Protocols are (1) the Protocol against the Smuggling of Migrants by Land, Sea and Air (2) the Protocol Against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components and Ammunition, supplementing the United Nations Convention against Transnational Organized Crime.

36 For an overview of the drafting process of the Trafficking Protocol, see A. Gallagher. *Human Rights and Human Trafficking: Quagmire or Firm Ground? A Response to James Hathaway*, 49(4), *Virginia Journal of International Law*, 789-848, (2009).

37 See ILO. (2009). *Forced Labour and Human Trafficking: Casebook of Court Decisions*.

38 See United Nations Office on Drugs and Crime. (2009). *Model Law Against Trafficking in Persons* [hereinafter the UNODC Model Law].

39 See United Nations Office on Drugs and Crime. (2003). *Legislative Guide for the Implementation of the Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children Supplementing the United Nations Convention Against Organized Crime* [hereinafter the UNODC Legislative Guide].

40 Unlike the core UN human rights treaties, the Trafficking Protocol does not have a supervisory treaty body or a committee of independent experts to monitor state compliance.

In reference to labor exploitation, the UNODC Model Law Against Trafficking specifies that the term is generally associated with particularly harsh and abusive “conditions of work inconsistent with human dignity.” Article 3 of the Trafficking Protocol lists several examples of exploitation, and they include the following: forced labor or services, servitude, slavery or practices similar to slavery. The legal definitions of these terms are not specified in the Trafficking Protocol, and exploitation alone does not constitute human trafficking. Yet these definitions effectively determine whether or not trafficking is at issue in specific circumstances and situations – such as those of migrant domestic workers in Lebanon, which are considered in the present study.

3.2 What is the meaning of “forced labor, servitude, slavery and practices similar to slavery”?

As indicated in the previous section, exploitation is the key term to define when analyzing human trafficking with reference to migrant domestic workers in Lebanon. The meaning of the term exploitation is important to understand in order to identify which circumstances may be deemed human trafficking. For this reason it is necessary to clarify the definitions of forced labor, servitude, slavery and practices similar to slavery.

While the terms - forced labor, servitude, slavery and practices similar to slavery -are each legally distinct, they do share commonalities and are often conflated with each other. Each involves some type of exploitation, control, or coercion related to the extraction of labor or personal service by one individual from another. Such compelled labor is generally derived from a person whose free will has been compromised in the process. While slavery and servitude have connotations that relate more directly to outright ownership or bondage, forced labor may arise from a more temporary position, status, or situation.

For purposes of clarifying these three concepts, the Working Group on Trafficking, established by the Conference of the Parties to the United Nations Convention Against Transnational Organized Crime, has pointed to the significance of relevant international legal instruments.

The concepts of forced labor, slavery, or practices similar to slavery and servitude are elaborated in a number of international conventions and should, where applicable to States concerned, guide the interpretation and application of the Protocol.⁴¹

With respect to the present legal analysis then, the meaning of these key terms as used in the Trafficking Protocol may be derived from authoritative international conventions.

Forced Labor

With reference to forced labor, the ILO Convention concerning Forced or Compulsory Labour (1930) provides the authoritative international legal definition of the term.⁴² Among the three terms mentioned above, forced labor may be defined with the most precision and legal clarity. This comes as a result of consistent and self-reinforcing interpretations of the term “forced labor” by numerous international

41 See United Nations Convention Against Transnational Organized Crime: Working Group Conference of the Parties. (2009). *Analysis of Key Concepts of the Trafficking in Persons Protocol (CTOC/COP/WG.4/2010)*.

42 The ILO Forced Labour Convention defines forced compulsory labor as “all work or service which is exacted from any person under the menace of any penalty, and for which the said person has not offered himself voluntarily.” International Labour Organization. (2009). *Forced labour and human trafficking: Casebook of court decisions*, p. 10.

legal instruments and institutions. In particular, the ILO has consistently identified several elements that point to situations of forced labor; these include the following:

- restrictions on movement and/or confinement to the workplace or to a limited area
- retention of passport and identity papers so that the worker cannot leave or prove her identity and status
- withholding of wages or refusal of payment
- debt bondage/bonded labor
- threat of physical or sexual violence
- threat of denunciation to the authorities.⁴³

The ILO's identification of forced labor, as such, clarifies the Trafficking Protocol's use of the term exploitation. It provides one way to understand how the Protocol may apply to victims of abuse among migrant domestic workers in Lebanon. This possibility will be explored further in the following section of this study.

Servitude

Unlike forced labor, the term "servitude" is not defined as explicitly in international treaty law. This creates challenges for purposes of its legal application in practice. However, the UNODC Model Law offers the following guidance for interpretation:

'Servitude' shall mean the labour conditions or the obligations to work or to render services from which the person in question cannot escape and which he or she cannot change.

The UNODC Model Law derives the meaning of servitude from an interpretation of the term as it is used in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights (in Articles 4 and 8 respectively).⁴⁴ But neither one of these two instruments provides an exact definition of the term.⁴⁵

Although there is no precise and authoritative definition of the term "servitude" in international law, the word has given rise to derivative terms such as "domestic servitude" and "involuntary servitude."⁴⁶ The term "servitude" is also understood to relate to the concepts of "servile status" or "serfdom" which

43 See International Labour Organization – Special Action Programme to Combat Forced Labour. *Human Trafficking and Forced Labour Exploitation: Guidelines for Legislation and Law Enforcement* (2005) p. 20.

44 The Universal Declaration of Human Rights (Article 4) "No one shall be held in slavery or servitude." The International Covenant on Civil and Political Rights (Article 8.2) "No one shall be held in servitude."

45 The UNODC Model Law also refers to the definition of servitude articulated by the European Court of Human Rights in its 2005 decision in the case of *Siliadin v. France*, 73316/01. (2005): "An obligation to provide one's services that is imposed by the use of coercion, and is to be linked to the concept of slavery." The same definition of servitude was utilized by the CTOC Working Group ("Analysis of Concepts" infra note 47) with reference to the same UDHR and ICCPR articles (4 and 8 respectively) as well as the same 2005 European Court of Human Rights decision (*Siliadin v. France*).

46 Experts contend that the term "involuntary servitude" is a redundant misnomer because servitude is involuntary by definition. The drafters of the 1956 Supplementary Convention on the Abolition of Slavery and the International Covenant on Civil and Political Rights considered proposals to add the qualification "involuntary" to the term "servitude." In both instances, the proposals were rejected because they concluded that "it should not be possible for anyone to contract himself into bondage."

appear in the 1956 Supplementary Convention on the Abolition of Slavery.⁴⁷ These terms, in turn, are often considered to be practices similar to slavery characterized by forms of constraint less coercive than outright ownership.

Legal experts such as Manfred Nowak consider the term servitude to include “practices similar to slavery that involve economic exploitation such as debt bondage.....and all forms of trafficking.”⁴⁸ This individual expert legal opinion demonstrates how trafficking can be difficult to isolate conceptually from its constituent parts. This definitional challenge is also compounded by the fact that trafficking is frequently referred to as modern day slavery in common parlance.

Meanwhile, government officials and representatives of international organizations have defined what they call trafficking for the purposes of domestic servitude. This term has had significant traction with reference to migrant domestic workers, and it has gained increasing legal momentum at the international level. For example, in a 2010 report, the UN Special Rapporteur on Contemporary Forms of Slavery, Gulnara Shahinan, wrote:

International human rights law unequivocally outlaws all forms of domestic servitude and domestic slavery. However international instruments do not address the specificities of domestic servitude which undermines the implementation of this comprehensive prohibition. After decades of stagnation, progress in international labour law is finally in sight to ensure decent standards for domestic work and thereby prevent domestic servitude.⁴⁹

In June 2010, a conference was convened by the Organization for Security Cooperation in Europe, called “Trafficking for the Purpose of Domestic Servitude.” Participants included legal experts and government officials. Conference panelists discussed the prevalence of domestic servitude among migrant domestic workers in private households.⁵⁰ Yet despite these recent developments, the definition of domestic servitude is still emerging under international law.

47 The 1956 Supplementary Convention on the Abolition of Slavery identifies debt bondage and serfdom as practices similar to slavery.

48 See Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary 199-201* (2d ed. 2005) citing the relevant ICCPR *travaux préparatoires*.

49 See United Nations, *Report of the Special Rapporteur on Contemporary Forms of Slavery, Including its Causes and Consequences*, Gulnara Shahinan (2010). http://www2.ohchr.org/english/issues/slavery/rapporteur/docs/A.HRC.15.20_EN.pdf

50 “OSCE deepens debate on domestic servitude” (<http://tdh-childprotection.org/news/osce-deepens-debate-on-domestic-servitude>). See also final conference agenda (<http://www.osce.org/cthb/69012>). Phone interview with conference participant, James Felte, Human Trafficking Prosecution Unit, Civil Rights Division, U.S. Dept. of Justice, 20 Jan. 2011.

Slavery and practices similar to slavery

Slavery is the third possible type of labor exploitation identified in the Trafficking Protocol. Here, the primary legal reference points are the 1926 Slavery Convention and the 1956 Supplementary Convention on the Abolition of Slavery. They both define slavery as

the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.⁵¹

The UNODC Model Law offers interpretive guidance on the legal definition of slavery, but it does not clarify precisely what it means to exercise powers attaching to the right of ownership. Further definitional clarification regarding slavery may be derived from various sources including: the statutes and decisions of international criminal courts as well as the reports of the UN Working Group on Contemporary Forms of Slavery and its successor, the UN Special Rapporteur on Modern Forms of Slavery.⁵²

Yet of the three types of exploitation identified in the Trafficking Protocol, slavery is arguably the one with the least definitional clarity and the one that has the most potential to generate controversy and objection.⁵³

The Trafficking Protocol's reference to the term "practices similar to slavery," however, leaves open a wider margin for interpretation. The 1956 Supplementary Convention on the Abolition of Slavery identifies four practices similar to slavery: 1) debt bondage 2) serfdom 3) servile marriage 4) child servitude. As some legal experts suggest, the term "practices similar to slavery" may also encompass various forms of "modern day slavery" as well. From a strict legal perspective, however, it is not exactly clear what this entails or where the boundaries lie. Careful analysis is required to pursue this further.

As discussed in the above section, there are varying degrees of consensus and clarity around the source of legal definitions for the Trafficking Protocol's key terms – especially forced labor, servitude, slavery and practices similar to slavery. Generally, the classification of specific cases as human trafficking will depend on the legal authority of the definitions – both domestic and international – used to interpret these terms. Controversy surrounds the exact meaning and application of each. There is no clear-cut formula describing how they should be used in order to understand the Trafficking Protocol and the definition of the term human trafficking.

51 See 1926 Slavery Convention (Article 1.1) and 1956 Supplementary Convention on the Abolition of Slavery (Article 7.a).

52 See International Labour Organization, *Forced Labour and Human Trafficking: Casebook of Court Decisions* (2009). For example, in the *Kunarac et al.* (IT-96-23 & 23/1) "Foča" decision, the International Criminal Tribunal Yugoslavia defined slavery as, circumstances "so coercive as to negate any possibility of consent." On appeal, the court found slavery and ruled that the "detainees' general situation negated any possibility of free consent...The climate of fear made the expression of free consent impossible."

53 Among other reasons, this is because of the fact that slavery violates *jus cogens* norms invoking the obligations of all states to condemn it. The term slavery has evoked sensational reactions when used in reference to migrant domestic workers. In Lebanon, this was demonstrated by public defiance in response to a 2007 television documentary entitled "Liban, Pays des Esclaves" (Lebanon, Country of Slaves) by journalist, Dominique Thorres.

3.3 Conspiracy, Intent, and Lack of Consent

As discussed above, the international definition of trafficking includes three critical components¹⁾ an act of recruitment, transit, or receipt 2) by coercive or deceptive means 3) for purposes of exploitation. Yet there is considerable ambiguity as to the precise contours of this definition in practice. This ambiguity stems partially from the fact that the Trafficking Protocol was not written in the form of a criminal statute. It also arises from the conceptual challenges related to the core legal standards at the heart of the definition.

Yet there is even more ambiguity about concepts which are not essential components of the international definition. Despite indicators to the contrary, for example, it is not always necessary to demonstrate conspiracy, intent, and lack of consent in order to establish trafficking. These are not core elements of the international definition of human trafficking, nor are they critical preconditions necessary to establish that human trafficking exists.

Consent is irrelevant according to Article 3 of the Trafficking Protocol. When considering the possibility of trafficking, consent is at issue because of the typical migration patterns of domestic workers coming to Lebanon. As discussed in section six of this study, most migrant domestic workers migrate to Lebanon willingly as part of a consensual employment arrangement. Yet this does not negate the possibility that they have been trafficked in the migration process or that they may become victims of trafficking once they reach Lebanon.

In reference to conspiracy, the UNODC Legislative Guide specifies that transnational conspiracy is not necessarily required for trafficking to be a punishable domestic offence.⁵⁴ Instead, according to the CTOC,⁵⁵ the countries that are parties to the Trafficking Protocol are obligated to have a domestic anti-trafficking law that criminalizes trafficking regardless of whether or not a transnational criminal group or conspiracy is involved.⁵⁶ Here it is also significant that “internal” trafficking may occur within national borders and might not necessarily cross them.

With respect to intent, the Trafficking Protocol is not written in a criminal law fashion. As such, it does not specify a “*mens rea*” or a state of mind to commit the crime. This raises challenges for purposes of interpreting and applying the meaning of the treaty’s terms in practice. While domestic anti-trafficking statutes generally do specify the “intent requirement”, the Trafficking Protocol does not speak to this issue directly. It does not specify the requisite thoughts and intentions behind the wrongful act of human trafficking.

Further, the Trafficking Protocol does not specify a “reasonable” person standard for purposes of criminal liability. In other words, it does not indicate that a trafficker can be a person with reasonable knowledge that their actions might contribute to another person becoming a victim of trafficking. Similarly, the Protocol does not specify a standard for aiding and abetting. Likewise, there is no specific intent requirement written into the Protocol, and the words “for purposes of” are not the equivalent of “specific

⁵⁴ The UNODC Trafficking Legislative Guide (p. 276.) states, “As with transnationality, the involvement of an organized criminal group must not be required as a proof in a domestic prosecution. Thus, offences established in accordance with the Protocol should apply equally, regardless of whether they were committed by individuals or by individuals associated with an organized criminal group and regardless of whether this can be proved or not.”

⁵⁵ See United Nations. (2001). United Nations General Assembly: Convention Against Transnational Organized Crime; Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children; and Protocol Against the Smuggling of Migrants by Land, Sea and Air.

⁵⁶ Article 34(2) of the CTOC Convention states, “The offences established in accordance with articles 5, 6, 8 and 23 of this Convention shall be established in the domestic law of each State Party independently of the transnational nature or the involvement of an organized criminal group as described in article 3, paragraph 1, of this Convention, except to the extent that article 5 of this Convention would require the involvement of an organized criminal group.” p. 35-36.

intent” with reference to the Protocol’s exploitation criteria in Article 3. As a result, when a migrant domestic worker is exploited, the objective factual circumstances will generally speak for themselves. This is true regardless of the specific intent of the agent, broker, recruiter or any other participant in the trafficking chain who brings or receives the domestic worker into the situation of exploitation. Cases of human trafficking do not necessarily require conspiracy, intent, and lack of consent. This is significant. The definitional relevance of these three concepts can mean that problems related to human trafficking are inadequately acknowledged and addressed.

4. The Lebanese context

In terms of human trafficking, can Lebanon be considered a destination country? With a population of roughly four million inhabitants, can victims of human trafficking be counted among those who make their way to Lebanon to work? In 2010, there were 500 recruitment agencies officially licensed by the Ministry of Labor.⁵⁷ Meanwhile, the Ministry of Labor also issued approximately 118,000 work permits to migrant domestic workers through mid-December.⁵⁸ This number does not account for thousands of undocumented migrant domestic workers also living in the country without official residence or employment authorization.⁵⁹

Undocumented migrant domestic workers in Lebanon are caught in legal limbo and face significant obstacles which 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 simply refuse to respond or may demand payment in return.

As indicated, Lebanon signed and ratified the UN Trafficking Protocol in 2005, and it has ratified relevant international labor and human rights treaties.⁶⁰ According to Lebanese law and the principle of rules graduation, these international treaties and legal standards supersede domestic law in case of conflict. In turn, relevant international legal obligations are supposed to 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 preventing abuses by non-state actors. The development of rights-based government 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 trafficking victims in Lebanon. In what might be a reflection of the report's

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

58 Interview with Ali Fayad, Chef de Cabinet, Ministry of Labor, in Beirut, Lebanon (20 December 2010). See Tables 1, 2 and 3 herein.

59 No verifiable figures exist for the number of undocumented migrant domestic workers living in Lebanon today. But NGOs regularly put the total number of migrant domestic workers in Lebanon at 200,000. This number suggests that there are approximately 90,000 undocumented migrant domestic workers in the country. During a 2009 amnesty period by the General Security, over 2000 undocumented workers reportedly came forward to regularize their immigration status.

60 As of 1 March 2011, Lebanon has signed and ratified the core UN human rights treaties in the following order: the International Convention on the Elimination of All Forms of Racial Discrimination or "CERD" (Dec 21, 1968); the International Covenant on Civil and Political Rights or "ICCPR" (Nov 3, 1972); the International Covenant on Economic, Social and Cultural Rights or "ICESCR" (Nov 3, 1972); Convention on the Rights of the Child or "CRC" (May 14, 1991); the International Convention on the Elimination of All Forms of Discrimination Against Women or "CEDAW" (April 16, 1997); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment or "CAT" (Oct 5, 2000). Lebanon has signed but not ratified the Convention on the Rights of Persons with Disabilities or "CRPD" (June 14, 2001) and the International Convention for the Protection of All Persons from Enforced Disappearance or "CPED" (Feb 6, 2007). Lebanon has neither signed nor ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families or "CRMW".

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.”⁶¹ 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 victims of trafficking on a broader scale.

4.1 Analysis of forced labor, servitude, slavery and practices similar to slavery in Lebanon

In Lebanon, structural exploitation characterizes the situation of migrant domestic workers in the country. But exploitative working conditions alone do not amount to trafficking. Circumstances of trafficking arise only when all three components of the definition are met: 1) an action 2) means, and 3) a purpose (exploitation). In turn, migrant domestic workers in Lebanon who do find themselves in situations of forced labor, servitude, slavery or practices similar to slavery have likely been trafficked into them. How does this happen?

By the time that labor exploitation happens at the destination in Lebanon the prerequisites of action and means have already occurred in transit. It is also possible to meet all three criteria solely within Lebanon. This is the case because international border crossings are not necessary for human trafficking to exist.

In reference to the first criteria of the trafficking definition, migrant domestic workers have already been recruited, transported, and transited from their home country during the course of their migration to work in Lebanon. They have also been “received” by an agent or an employer at the end of the migration path to Lebanon. So the first definitional requirement is almost always met.

With reference to the second criteria, or the “means”, migrant domestic workers are often recruited by means of 1) deception or 2) abuse of a position of vulnerability. This is particularly true when domestic workers migrate from countries with deployment bans against Lebanon. First, deception may occur when migrant domestic workers are recruited in their home countries on the basis of inaccurate or misleading contract terms. This may also include a lack of information about working conditions and employment regulations, as well as false assurances about help and how forthcoming it will be from agents upon arrival in Lebanon. Second, abuse of a position of vulnerability may arise when migrant domestic workers are in dire financial straits, dependent on the recruiter, local broker and employer for safe passage, or isolated because of language barriers and separation from their peers and family members. While the “means” may not be outright use of force, deceptive and abusive practices can still amount to coercive means under the Trafficking Protocol.

The first two components of the trafficking definition are generally met with respect to most migrant domestic workers in Lebanon. But regardless of these variables, exploitation is the key component of the definition. Then the critical question becomes whether or not exploitation rises to the level of forced labor, servitude, or slavery. How this is determined is important to consider.

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

Slavery/Servitude

“I cannot leave my employer’s house and I cannot even call my family.” - Filipina worker, 12 January 2011 (phone interview).

“When I asked my sponsor if I would be able to go back to my country at the end of my contract, he beat me. I have no idea why he beat me.” - Nepalese worker, Beirut, 22 December 2010.

“My employer made me clean houses for her other family members without pay. She lent me out like I was her property.” - Ethiopian worker, 12 December 2010.

“It is not hyperbole to call this slavery. These women are confined to the house, and their employers take their passports away from them. The only way that they can escape from abuse is if they run away. That’s modern day slavery.” – Sean Lee, Instructor, American University of Beirut, 22 February 2011.

Migrant domestic workers can be classified as victims of trafficking if they are recruited by means of force or deception for purposes of slavery or servitude. But does the Trafficking Protocol’s reference to slavery and practices similar to slavery encompass popular notions of modern-day slavery? Or is the Protocol’s definition of trafficking properly understood to cover only the traditional legal definition articulated in the 1926 and 1956 Slavery Conventions?⁶²

The answer is ambiguous. Analysis of the definition of slavery demonstrates a significant lack of clarity. It is unclear as to what the properties of ownership actually entail. This makes it difficult to apply the term slavery to the situation of migrant domestic workers exploited in Lebanon without further qualification and careful analysis.

Although slavery and slavery-like conditions may be one way to characterize the situation of some migrant domestic workers in Lebanon, broad interpretations can confuse matters. Overly expansionist approaches may confound the legal meaning of the term slavery. This may also complicate its direct application in practice.

Meanwhile, because there is not a concrete and firmly established legal definition of servitude, this study does not focus on the term with respect to migrant domestic workers in Lebanon. But the term “domestic servitude” does provide a precise classification and a useful point of legal reference. In Lebanon, domestic servitude may accurately reflect the widespread practices, attitudes, and social norms that determine the servile treatment and status of migrant domestic workers in the country. The concept of domestic servitude is emerging, but the term still lacks legal precision and clarity under international law. In the future it must be taken into careful consideration when looking at the situation of migrant domestic workers in Lebanon and their vulnerability to trafficking.

Forced Labor

“My employers were always shouting at me. They returned me back to the agency, and I told the agent I wanted to go back home to my own country. But then the agent beat me, and he told me that all the houses are the same in Lebanon anyway. So I ran away from the agency.” - Nepalese worker, Beirut, 13 January 2011

“I was beaten by my first sponsor and sexually harassed by the next one. I worked long hours and did not get proper food.” - Ethiopian worker, 20 December 2011.

62 See 1926 Slavery Convention (Article 1.1) and 1956 Supplementary Convention on the Abolition of Slavery (Article 7.a); both define slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised.”

"I have been working for one year for my employer, but he has paid me only \$500 so far. When I asked for my salary, once my sponsor hit me. I want to change my employer. But I don't know how. I don't know how to get help." - Ethiopian worker, Beirut, 05 December 2010.

As discussed previously, forced labor is defined in the ILO Convention on Forced or Compulsory Labour (1930) as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." The definition of forced labor encompasses two key components: "menace of penalty" and "involuntariness." As explained below, when the first definitional component is present, the second component is generally present as well.

Forced labor means that there must be some type of coercion to work backed by a threat or "menace of penalty." This occurs when someone is compelled to work and has no viable alternatives to withdraw her labor.⁶³ But this coercion does not have to be physical punishment or constraint; instead it may be a loss of rights or privileges.⁶⁴

The ILO has identified various forms of coercion that typically exist under circumstances of forced labor including retention of identity documents and confinement to the workplace.⁶⁵ In Lebanon, these are standard practices.⁶⁶ They are not necessarily used by all employers of migrant domestic workers in Lebanon, but they are an option for all employers to use if they so choose. Indicators of forced labor may also include physical abuse as well as threat of denunciation to the authorities or agencies. While the number of employers in Lebanon who actually use such tactics is unknown, this type of mistreatment is always within the realm of possibility.

As indicated above, the ILO has identified various factors that contribute to situations of forced labor, and all of these are present to varying degrees in Lebanon. In 2010, an ILO working paper stated that domestic work may become forced labor when the following indicators are present:

- Deception and false promises concerning conditions of work;
- Lack of freedom to change employers;
- Physical or sexual abuse;
- Debt bondage;
- Confiscation of identity papers;
- Non-payment of wages to worker;
- Physical confinement;
- Threat of denunciation or deportation.⁶⁷

63 Escape is generally not considered a viable alternative to entrapment through forced labour - especially if this entails risk of harm or loss to the victim. When a forced labor victim's immigration status is at stake, then the possibility of escape is not a viable alternative that would defeat the "menace of penalty."

64 See International Labour Organization. (2008). *Combating Forced Labour: A Handbook for Employers and Business*.

65 See ILO Handbook; International Labour Organization- Special Action Programme to Combat Forced Labour. (2005). *Human Trafficking and Forced Labour Exploitation: Guidelines for Legislation and Law Enforcement*.

66 See Caritas. (2005). A Summary of the Caritas Survey, "Female Migrant Domestic Workers in Lebanon - Beirut, June 2005. *Report of the Awareness Raising Workshop on the Situation of Women Migrant Domestic Worker in Lebanon*.

67 See Asha D'Souza, International Labour Organization – Working Paper Series, *Moving Toward Decent Work for Domestic Workers. An Overview of the ILO's Work*, p. 29 (2010). http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_142905.pdf

As another ILO report has noted, “Many victims enter forced labor situations initially out of their own choice, albeit through fraud and deception, only to discover later that they are not free to withdraw their labor, owing to legal, physical or psychological coercion.”⁶⁸

Smuggling Distinction

Migrant domestic workers coming to Lebanon with valid entry visas are not being smuggled into the country. When they depart from their home country with the intention to work in Lebanon, it is possible that they may be in violation of the laws of their own countries. If so, then this is generally because of deployment bans. As discussed in section six of this study, the bans implemented in some countries prohibit agents, brokers, and workers from coordinating employment logistics. Lawmakers in these countries have made it illegal for anyone to facilitate the transit of domestic workers entering into Lebanon. But “smuggling” is not an accurate term to describe the lawful entry of migrant domestic workers into Lebanon.

As addressed in the UN Smuggling Protocol, the term “smuggling” refers to the illegal entry of a person into a State Party of which the person is not a national or a permanent resident.⁶⁹ In such instances, the person being smuggled usually pays for her own transport in order to reach the end destination. Although there is some fluidity between smuggling and trafficking in practice, smuggled migrants are generally left to their own devices upon arrival in the destination country. By contrast, trafficking victims are generally recruited for purposes of the exploitation that awaits them at their end destination. Unlike smuggled migrants, human trafficking victims en route to Lebanon, for example, are not simply released after their journey ends.

Because the Lebanese government does not prohibit migrant domestic workers from coming, and, in fact, welcomes them into the country, smuggling is not the correct term. As the UN Special Rapporteur on Trafficking wrote in reference to Lebanon, “Law enforcement officials and civil servants lack a clear understanding of the concept of human trafficking, failing to distinguish it from the cross-border smuggling of migrants. They are unaware that persons can be trafficked despite having valid visas.”⁷⁰

68 See International Labour Organization, *The Cost of Coercion*, p. 6 (2009).

69 UN Protocol against the Smuggling of Migrants by Land, Sea, and Air is a legally binding treaty through which States Parties agree to criminalize and combat the smuggling of migrants. Like the Trafficking Protocol, it is one of the protocols to the Convention against Organized Crime. Article 3 of the treaty provides the following:

(a) “Smuggling of migrants” shall mean the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident;

(b) “Illegal entry” shall mean crossing borders without complying with the necessary requirements for legal entry into the receiving State;

(c) “Fraudulent travel or identity document” shall mean any travel or identity document: (i) That has been falsely made or altered in some material way by anyone other than a person or agency lawfully authorized to make or issue the travel or identity document on behalf of a State; or (ii) That has been improperly issued or obtained through misrepresentation, corruption or duress or in any other unlawful manner; or (iii) That is being used by a person other than the rightful holder.

70 Sigma Huda, *Human Trafficking in Lebanon*, Forced Migration Review (2006). <http://www.fmreview.org/FMRpdfs/FMR25/FMR2520.pdf>

Table 1- Breakdown by nationality of migrant domestic worker permit renewals in 2010⁷¹

Nationality	Number	Percentage
Ethiopia	25,019	31.2%
Philippines	17,744	22.1%
Bangladesh	12,977	16.2%
Sri Lanka	9,588	12%
Nepal	8,080	10%
Madagascar	3,188	4%
Other Nationalities	3,613	4.5%
Total of all work permit renewals	80,209	100%

Source: Lebanese Ministry of Labor.

Table 2- Breakdown by nationality of migrant domestic worker permits issued in Lebanon for the first time in 2010

Nationality	Number	Percentage
Ethiopia	6,537	17.3%
Philippines	11,305	30%
Bangladesh	11,104	29.4%
Sri Lanka	2,939	7.8%
Nepal	3,895	10.3%
Madagascar	282	0.8%
Other Nationalities	1,670	4.4%
Total of all new work permits	37,732	100%

Source: Lebanese Ministry of Labor.

Table 3- Breakdown by nationality of all migrant domestic worker permits issued in 2010

Nationality	Number	Percentage
Ethiopia	31,556	26.8%
Philippines	29,049	24.6%
Bangladesh	24,081	20.4%
Sri Lanka	12,527	10.6%
Nepal	11,975	10.2%
Madagascar	3,470	2.9%
Other Nationalities	5,283	4.5%
Total of all work permit approvals	117,941	100%

Source: Lebanese Ministry of Labor.

⁷¹ Statistics reflect number of migrants domestic workers (from specified origin countries) entering Lebanon for the first time (Table 2) or renewing their Lebanese work permits (Table 1) and combined (Table 3) between 01 January-15 December 2010.

5. The sponsorship system

This section will explore the vulnerability to trafficking created by the sponsorship system. 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.

5.1 Immigration regulations

In Lebanon, the sponsorship system is comprised of administrative rules and legal regulations. They tie a foreign worker to one individual sponsor who must also serve as the worker's guarantor and as her sole employer. In essence, a migrant domestic worker's valid immigration status depends on one specific employer. Sponsorship rules dictate the terms of a worker's legal entry and ongoing legal status in the country.

Several Lebanese legal experts interviewed for this study reiterated the fact that the sponsorship system is not a legal system rooted in one specific law.⁷² They concurred that there is no central, comprehensive repository for all of the relevant regulations that comprise the sponsorship system itself. Some of these legal provisions may be found in the 1962 Foreigner's Law,⁷³ the 1949 Labor Law,⁷⁴ the 1932 General Contractual Obligations Law, and the Lebanese Penal Code. But generally speaking the sponsorship system consists of General Security regulations complemented by Ministry of Labor requirements.⁷⁵

The sponsorship system is one of the major factors contributing to the vulnerability of migrant domestic workers in Lebanon. The system restricts migrant domestic workers' freedom of movement, their channels of communication, their independence and freedoms. As discussed below, the system permits sponsors/employers to confine domestic workers to the workplace which is almost always their place of residence. Within such confines, the system may leave domestic workers to become victims of abuse and exploitation without providing access to viable recourse or redress. In addition, the sponsorship system restricts the employment mobility of domestic workers. It impinges on their ability to withdraw from employment agreements unilaterally.⁷⁶ 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

72 Interviews with attorney Mohanna Ishak (05 Dec. 2010), attorney Roland Tawk (08 Dec. 2010), and attorney Adeeb Zakhour (15 Jan. 2011) all in Beirut, Lebanon.

73 Article 36 of the Foreigner's Law prohibits anyone from living in Lebanon with an expired residence visa unless there is an acceptable excuse.

74 Article 7 of the Labor Law excludes domestic workers and agricultural workers, and it leaves them without standard labor protections that apply to the other classes of employees.

75 General Security is a Lebanese government department which falls nominally under the Ministry of the Interior with responsibility for issuing visas, maintaining internal security in the country, and securing border protection.

76 Although the Sri Lankan government's "Contract of Employment for Domestic Helpers from Sri Lanka in the Middle East Countries" stipulates that workers may break the employment agreement at will for just cause or for justifiable personal reasons (Articles 10.b and 10.c.), this clause is not exercised in practice. In any case, while the clause may be effective for the first few months of a Sri Lankan workers' stay in Lebanon, the Sri Lankan government contract is quickly replaced by the Lebanese standard work contract for migrant domestic workers, which contains no such provision.

an 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).⁷⁷

Yet any one of these three criteria would be difficult to prove 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.

Under the sponsorship system, domestic workers may not offer their services to another employer without their first sponsor's notarized "release" and consent. This process is known as a "tenazul" or transfer. The process requires the first employer/sponsor to pass legal guardianship on to the second employer/sponsor. This new sponsor then makes a notarized pledge (or "ta-ahood") to assume all responsibilities and obligations for the domestic worker.⁷⁸ The transfer process does allow for a limited degree of employment mobility among migrant domestic workers in Lebanon⁷⁹. Yet current General Security regulations stipulate that each domestic worker may change their legal sponsor/ employer only three times during the life of their employment tenure in Lebanon. In addition, this type of "release" may often come at a high price, even with the first employer's requisite consent⁸⁰. As lawyer, Roland Tawk, explained:

I have worked on at least 2,000 cases representing migrant domestic workers in need of legal help to reclaim their passports and other identity documents from former – often abusive – employers. These domestic workers had often experienced beating and other abuses as well, but many employers would only return identity documents and passports to the workers in exchange for a hefty sum of money.⁸¹

If domestic workers leave (or "escape" from) their employer – even under abusive conditions – then they automatically jeopardize their immigration status in the country because of the sponsorship system which 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/ employer may 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 home country.⁸²

77 See discussion about Lebanon's standard work contract for migrant domestic workers in the UN Office of the High Commissioner for Human Rights' catalogue of Universal Periodic Review stakeholder submissions for Lebanon (reviewed 10 November 2010) available at http://lib.ohchr.org/HRBodies/UPR/Documents/session9/LB/KAFA-UPR_LBN_S09_2010-eng.pdf.

78 Among others, these responsibilities include paying for a migrant domestic worker's airplane ticket back home at the end of her contract as well as paying for required government residence and work permits.

79 The precise reason for this regulation is unclear. No such "strike-out" rule applies to employers restricting the number of migrant domestic workers they may hire throughout the duration of their hiring lifetime.

80 Interview with E.R., Ethiopian worker, in Beirut, Lebanon (12 December 2010). Sponsor asked for \$3000 in exchange for returning her passport.

81 Interview with attorney Roland Tawk in Beirut, Lebanon (08 Dec. 2010).

82 Interview with K.A., employer, in Beirut, Lebanon. (31 January 2011). Interviews with migrant community leaders also recounted incidences of domestic workers being were taken to the airport in their pajamas without allowance to gather their belongings or even get dressed.

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 its territory.⁸³ In effect, the sponsor becomes the mediator between the migrant domestic worker and the state. In other words, instead of the state regulating immigration matters, the employer is the one who monitors the foreign worker on national soil.

Without the mobility to leave their employers, domestic workers are subject to a myriad of vulnerabilities. Meanwhile, the sponsorship system also prevents them from engaging in a competitive marketplace where they may offer their services to the highest paying or most desirable employer. The sponsorship system is in need of reform. It puts migrant domestic workers at the mercy of their employers unless they choose to forfeit the legality of their immigration status in the country.

5.2 Visa and permit mechanics

The mechanics of obtaining entry visas and residence permits for domestic workers are determined by Lebanon's Directorate of General Security. This is one reason why problems relating to migrant domestic workers are often viewed by authorities through a security or "law and order" framework. Instead of recognizing domestic workers as victims of human trafficking, human rights or labor rights abuses, in many cases they are more likely to be treated as aliens posing security threats.

Be that as it may, when a foreign worker first applies for employment in Lebanon, she must take several steps in conjunction with her employer or with an agency representing her in Lebanon. Initially, she needs to secure official preliminary authorization for both her employment and residence before arriving in Lebanon. After receiving this preliminary approval from the Lebanese Ministry of Labor for her work permit, each domestic worker must then use this approval to apply to General Security for an entry visa. Depending on her country of origin, this preliminary process may also include various steps taken through a workers' embassy or consulate as well. In the case of women migrating to Lebanon from Sri Lanka, for example, there is a \$65 embassy registration and processing fee and a "Contract of Employment for Domestic Helpers from Sri Lanka in the Middle East Countries" to be signed by all parties including the worker, agent, employer, and embassy. This is included as part of the required paperwork that domestic workers must complete.

Restrictions on Freedom of Movement

One domestic worker interviewed for this report had just arrived by herself in Lebanon from Kuwait. She had been in Kuwait working with her Lebanese sponsor's family and renewing her Kuwaiti work and residence permits. Her situation illustrates one particular facet of the sponsorship system in Lebanon. It also indicates the scope of General Security's restrictions on the freedom of movement of migrant domestic workers. This particular woman had valid Lebanese work and residence permits as well as a valid Sri Lankan passport. She had been living in Lebanon for the previous seven years with the same employer who held dual Lebanese-Kuwaiti citizenship. Her employer had instructed her to take a cab back to the house by herself since her plane had arrived at the Beirut airport very early in the morning. General Security officials, however, did not allow this Sri Lankan woman to leave the airport "pick-up area" without her sponsor. Instead the Lebanese sponsor was contacted by phone and instructed to retrieve the worker in person. Despite the sponsor's efforts on the phone to convince General Security officials to allow the Sri Lankan worker to return to the sponsor's home in Beirut alone, this was not negotiable. When pressed about the legal basis for this measure, the official in charge simply said that it was forbidden; he remained seated directly next to the woman in the airport waiting area until her sponsor arrived an hour and a half later.

- Interview with Sri Lankan worker and her employer, Beirut Airport, Lebanon, 20 Dec. 2010.

⁸³ See Lee, H.Y., *Maid, Mother, or Whore: The Power of the Filipina Women in Lebanese Homes*. Unpublished master's thesis, American University of Beirut, p. 19 (2009); Anh Nga Longva, *Walls Built on Sand* (1997) on migration politics in Kuwait and a similar system of sponsorship.

Following these steps, an entry visa may be issued to the foreign domestic worker who may then migrate for domestic work purposes to Lebanon. After the entry visa is issued in the worker's name, then the Lebanese employment agency (or the employer) will typically pick up the visa from General Security. The entry visa is then sent to the worker (often via fax) in her home country. This visa can be presented loose leaf with her passport when necessary en route to Lebanon. For countries with deployment bans against Lebanon, the visa is not utilized until the worker has reached a transit country. Upon the arrival of each domestic worker at the Beirut International Airport, General Security regulations require each sponsor to come to the airport to pick-up migrant domestic workers in person. Although it is not legally written into readily accessible regulations, General Security officers take migrant domestic workers' passports and hold them in their possession upon entry into the country.

The passports are not returned to the incoming domestic workers but rather handed directly to the sponsor at the airport pick-up gate designated specifically for migrant domestic workers. General Security officers have rebuffed requests from individual sponsors to hand passports directly to domestic workers themselves.⁸⁴ In such situations, General Security officials have instructed sponsors that they must take the passports directly into their own hands. Like General Security, Lebanese employment agents actively advise sponsors/employers to retain workers' identity documents throughout the duration of the employment relationship.⁸⁵

After entering into Lebanon, migrant domestic workers are legally bound to one initial sponsor. This initial sponsor may choose not to become the workers' eventual employer, but within her first three months in the country each worker's entry visa must be replaced by a one-year residence permit ("iqamah"). As indicated above, the initial entry visa is issued to the worker on the basis of a preliminary work visa. Within a domestic worker's first three months in the country, her preliminary work visa must be replaced by a one-year work permit. Since 2009, Lebanon's Ministry of Labor has only issued work permits if both parties have signed the standard work contract for migrant domestic workers before a notary public.⁸⁶ The mechanics of obtaining work and residence permits are interdependent and revolve around the employment relationship between the sponsor and the domestic worker.

Although General Security maintains a website with information about the visa application process, precise regulations and restrictions guiding the sponsorship relationship between workers and their sponsors is challenging to ascertain.⁸⁷ Several informal attempts to gather information at the General Security Headquarters led to conflicting responses. Researchers for this study asked representatives of General Security if a written list of regulations exists which governs the sponsorship system as it relates to migrant domestic workers. The researchers were told on multiple occasions, however, that no such information exists in writing. As a result, the following questions were asked in person to determine if General Security had any specific regulations on each point:

1) Do General Security regulations oblige migrant domestic workers to live in the same dwelling as their employer?

84 Interview with attorney Joseph Aoun, Beirut, Lebanon (23 April 2009).

85 As noted in a 2010 report on prison conditions in Lebanon by the Lebanese Center for Human Rights (p. 71), the legality of this type of routine passport confiscation may be challenged under various articles of the Lebanese Criminal Code including articles 651 (fraudulent use of property of another individual), 569 (deprivation of liberty), or 670 (abuse of trust). Yet in practice, such legal challenges do not happen.

86 Interview with Ali Fayad, Chef de Cabinet, Ministry of Labor in Beirut, Lebanon. (15 December 2010).

87 General Security specifies that the required documents include: a photocopy of the housemaid's passport; prior approval certificate from the Ministry of Labor; sponsor attestation by the employer signed at a notary public office; a 1,000 LL duty stamp. In addition to these requirements, General Security officials interviewed for this study also stated that a residence permit application on behalf of a migrant domestic worker requires the sponsor to present a stamp proof of a \$1000 deposit with the Housing Bank. These guarantees may be met and assumed by recruitment agencies instead of employers.

- 2) Do General Security regulations prevent or permit migrant domestic workers from living in a separate apartment outside of their sponsor's immediate place of dwelling? If so, then are there any restrictions on the migrant domestic worker's actual place of residence? Is it legally permissible, for example, for a worker to live in a separate apartment rented by the sponsor for specific purposes of the migrant domestic worker's habitation?
- 3) Where should sponsors report "runaway" workers to immigration authorities?
- 4) Do migrant domestic workers need the consent of their current sponsor in order to quit their work, transfer to a new employer, or leave Lebanon? If so, then what type of consent is legally required? Written, notarized consent? Verbal consent? What restrictions apply?
- 5) Does the domestic worker automatically become an illegal resident upon leaving - or "running away from" - her sponsor? Or is there a 48 hour grace period during which her status remains legal? Or does her status only become illegal once her sponsor reports her absence to the authorities?
- 6) How can migrant workers regularize their status in Lebanon after their residence and work permits have expired? What fines must be paid and to whom? On what legal/immigration basis may undocumented migrant domestic workers be detained and held in detention center? For how long? Can migrant domestic workers pay a fine to reduce the duration of their sentence? Can undocumented workers take specific steps to prevent detention by General Security? How?
- 7) Are sponsors legally required to physically pick up (and drop off) migrant domestic workers in person at the airport upon arrival (and departure)? Or can they send a proxy to represent them?
- 8) How many times can migrant domestic workers change sponsors via the transfer or "tenazul" process? Does this process require the authorization of the General Security? If so, then how?
- 9) When does General Security provide amnesty periods for migrant domestic workers to regularize their status in Lebanon if they manage to find a new sponsor? If so, then when is the next amnesty period?

As noted above, one open question is whether or not domestic workers are legally bound to live under the same roof as their sponsor/employer. This question prompted conflicting responses from officials at the Ministry of Labor and General Security. Some Ministry of Labor representatives responded "yes", while some General Security representatives answered "no." As a result, it is difficult to understand the exact legal requirement pertaining to migrant domestic workers' place of residence.⁸⁸

As a matter of practice, General Security sends inspectors to each sponsor's home within the first three months of employment in order to ensure that each migrant domestic worker is employed by her designated sponsor/employer. These General Security visits usually occur during working hours, however, and focus on whether the domestic worker is actually employed by the duly authorized sponsor and not whether or not she actually lives and sleeps in the same house.⁸⁹

One Ministry of Labor official interviewed for this study said that domestic workers may live outside of the sponsor's home provided she has her sponsor's permission and as long as the employer/sponsor pays the rent. Another Ministry of Labor official gave a conflicting response and said that each migrant domestic worker must live in the same house as her sponsor/employer or in a dwelling contiguous to the sponsor's house.

88 The standard contract (article 8) requires the sponsor/employer to provide "accommodations with which his/her dignity and right to privacy are respected."

89 Interview with Roland Tawk, lawyer, in Beirut, Lebanon (08 Dec. 2010).

When asked the same questions about whether migrant domestic workers are obliged to live under the same roof as the sponsor, different General Security officials gave different answers.

One General Security official said that migrant domestic workers must live under the same roof and within the same four walls as the sponsor; another said she could live in a basement room in the same apartment building; another said that a room above the building's elevator shaft would be acceptable. One official commented, "If you don't have enough rooms in your apartment, then she can sleep on the balcony or terrace once you fix it up for her."⁹⁰

When asked about this, one migrant community leader responded that domestic workers under contract could never afford to live outside of their sponsor's house anyway. Arguably, this would be too expensive on account of prevailing salaries and rental rates. Yet it seems to be an open question as to whether or not a sponsor would be in compliance with his/her legal obligations under the current system if she were to lodge the domestic worker in another dwelling apart from the sponsor's own household. One alternative might be to provide government subsidized housing where migrant domestic workers could live in dormitory-type facilities similar to the living quarters of "Sukleen" municipal sanitation workers.⁹¹

Meanwhile a 2005 General Security communiqué, "Housemaids: Rights and Obligations" specifies the following obligations of the housemaid:⁹²

1. Respect Lebanese laws and regulations
2. Respect the members of the family whom she is working for
3. Be committed to the nature of her work as a housemaid and protect the contents of the house she is working in and not expose family secrets
4. Adapt to the family and its way of living
5. Not leaving her employer's house and without their prior approval or in accordance with the "work contract"
6. Signing the wage slip after the collection of her salary as receipt
7. Not to work outside of the employer's house or in another domain other than that of a maid
8. Not to get married (to a Lebanese or a foreigner) during her stay in Lebanon (she has the right to get married after leaving Lebanon and return again according to the applicable laws of such case).

These administrative regulations appear to reflect customary practices in Lebanon, yet they are not squarely grounded in law. For example, obligation #5 above prohibits a domestic worker from leaving the employer's house without prior approval (or in accordance with the work contract). As discussed, this effectively gives employers the discretion to confine the worker to the house and to restrict her freedom of movement in contravention of international legal standards.

If workers were allowed to come to Lebanon and then terminate their contracts without the prospect of arrest, detention, or immediate repatriation, it is conceivable that the sponsorship system might not

⁹⁰ Informal discussion with official in General Security headquarters, Beirut, Lebanon (21 Dec. 2010).

⁹¹ Sukleen employees are migrant workers – largely men from India and Bangladesh – hired by a private contractor commissioned by the Lebanese government to collect garbage and clean public streets. These workers are protected by Lebanese labor law, and the Ministry of Labor classifies them within "Tier 3". They live together in dormitory-style housing. While it is not clear whether their housing conditions are in compliance with relevant standards, this might be an example to explore.

⁹² See General Security Communiqué – Housemaids (p. 5) issued in English, French, and Arabic.

raise as many concerns. If Lebanese law allowed domestic workers to remain in the country legally for a short period after the termination of their employment relationship, then that would also alleviate some of the constraints imposed by the sponsorship system.

In Lebanon, migrant domestic workers must not be subject to detention and deportation for immigration offenses when “escaping” from abusive employers. In Hong Kong, for example, the Immigration Act allows workers a two-week continuation of residence permits after the end - or early termination - of their employment contracts.⁹³ Although workers in Hong Kong are also bound by a similar system of sponsorship, they are covered under the Hong Kong labor law and they enjoy statutory legal protections.

93 Phone Interview with Holly Allan, Founding Director of Helpers for Domestic Helpers – Hong Kong, (18 January 2011).

6. The recruitment process

This section will explore the vulnerability of migrant domestic workers to trafficking created by the recruitment process.

The recruitment process is critical to the migration of migrant 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 “escort services” or local brokers to 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. As described in the following section of the present study, at least four governments (the Philippines, Ethiopia, Madagascar, and Nepal) have each imposed bans preventing their nationals from coming for employment as domestic workers in Lebanon. The primary reason stems from a recognition of the vulnerability and lack of protection faced by migrant domestic workers 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. 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 Filipina girls or their friends and families begging for work.”⁹⁴

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 considerable amount of “monkey business” in the middle.⁹⁵ 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 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.⁹⁶ In fact, the six disguised women were heading 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 sending countries sometimes charge migrant domestic workers exorbitant 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 additional salary deductions by the recruiting agency in Lebanon.⁹⁷ Such recruitment fees amount to several months of an average Nepalese migrant

94 Interview with agent H in Beirut, Lebanon (09 Dec. 2010).

95 This is how several Lebanese recruitment agents interviewed for this study referred to the practices of local employment brokers and middlemen.

96 See *Philippines Catches Fake Nuns Going to Lebanon*, Naharnet.com (29 Jan. 2011). Retrieved from: <http://www.naharnet.com/domino/tn/NewsDesk.nsf/getstory?openform&4863DCE7107A02B7C225782700321012>

97 Lebanon’s Ministry of Labor website (www.labor.gov.lb) specifies that the only fees that may be charged for recruitment include those for official residence and work permits (“The Directorate General of General Security would like to inform all citizens and/or residents as well as owners of recruitment offices that supply foreign housemaids and workers not to pay any fees, whether directly or through intermediaries, other than the ones listed.”). Yet salary deductions from domestic workers are a widespread practice with no apparent sanctions.

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.

During the pre-departure phase, local recruiters risk running afoul of the law with local police and immigration authorities for their illegal conduct. As a result, employment agencies and local brokers may not be able or willing to provide domestic migrant workers en route to Lebanon with reliable information, meaningful preparation, or accurate employment contracts (if any at all).⁹⁸ For example, recruitment interviews and pre-departure screenings with migrant domestic workers must be conducted clandestinely if at all. This necessarily limits the integrity and oversight of the recruitment process by the partner placement agencies in Lebanon. As one agent explained:

I used to travel to sending countries in order to supervise the recruiting process myself. I used to make sure that new recruits knew what kind of work they were signing up for in Lebanon. I used to ask them questions myself to make sure that they were prepared to leave their families and friends. But now there are several countries where I cannot do that legally anymore. Everything is more difficult now because of the bans.⁹⁹

With reference to human trafficking in Lebanon, the question here is whether the recruitment process utilizes coercive means. Several means of coercion are enumerated in the 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 as domestic workers.¹⁰⁰ But nevertheless they are not always prepared for the conditions and the constraints that await them at their destination.

6.1 Deception and Due Diligence

“What happens is that these women are promised heaven and they come to hell. That’s the work of human traffickers.” - Senior diplomat from origin country, 05 Dec. 2010, Beirut.

Deception occurs at various points during the recruitment process. Local brokers in origin countries, for example, do not typically warn new recruits about the fact that their employers will have the right to keep them – indeed lock them - inside of the workplace for three consecutive years in a row if they wish. In addition, recruiters do not inform migrant workers about common employment practices in Lebanon such as the confiscation of their passports and identity documents, the restriction on their communications, and the lack of credible and accessible redress in case of maltreatment or abuse. Similarly, local recruiters do not tell migrant domestic workers about the concrete consequences of having their immigration status tied to one individual employer in Lebanon. During the recruitment phase of the migration cycle, domestic workers are seldom informed about the extent of the vulnerabilities that the sponsorship system can create for them in practice.

Another misrepresentation during the recruitment stage may concern the duration of the term of service. At present, employment contracts regularly stipulate two years as the duration of the employment term. Yet, in fact, three years is the term of service specified in the mandatory standard

98 Interview with Agent A in Beirut, Lebanon (20 Dec. 2010).

99 Interview with Agent B in Beirut, Lebanon (17 Feb. 2011).

100 There are some reports of women who were told that they would be employed in Lebanon as a chambermaid in a hotel or as a nurse in a hospital. Upon arriving in Lebanon, however, they soon learned the true nature of their job a domestic worker. But by and large, most women recruited as migrant domestic workers realize that Lebanon is their destination country and that domestic work is the nature of their job.

contract. This is the only legally recognized contract for migrant domestic workers in Lebanon. When migrant domestic workers anticipate working for two consecutive years based on prior agreements, then it is problematic when they are subsequently bound to three.¹⁰¹

The findings in this study suggest that local recruiters in origin countries routinely lead migrant domestic workers to believe that they will find acceptable working conditions in Lebanon. Yet recruiters' employment contracts and accompanying verbal assurances often misrepresent the actual circumstances that await domestic workers. Domestic migrant workers, in turn, do not always find their employers' behavior to be what they had expected – especially in cases of maltreatment involving physical abuse, verbal harassment, excessive working hours, non-payment of wages, and forced confinement. In addition, it is not clear to what extent Lebanese employment agencies and their counterparts in origin countries conduct adequate pre-departure interviews, screenings, and trainings.

Similarly employment agents typically guarantee migrant domestic workers that they will respond to concerns, facilitate communications, and alleviate problems and conflicts with employers that may arise on the job in Lebanon. One migrant community leader, however, lamented that in reality:

Agents may project the image that they are neutral. But in case of disputes between workers and employers, the agents will side with the employers 99% of the time.¹⁰²

In fact, very few employment agencies in Lebanon are known to conduct due diligence on the background, employment track record, and integrity of the employers who are their clients. Often agencies place migrant domestic workers in private households with full knowledge that employers regularly withhold identity documents, confine them to the workplace, and do not give them a day off or out.¹⁰³

In Lebanon, the recruitment process puts migrant domestic workers at risk of human trafficking. As discussed here, the recruitment that occurs in origin countries often involves deception, misrepresentation, and abuse of a position of vulnerability. This may happen through inadequate preparation and withholding of information about working conditions. It may also come about due to a lack of disclosure about the sponsorship system in Lebanon as well as lack of disclosure about serially abusive employers with questionable backgrounds. Furthermore, verbal assurances and written employment agreements – or lack thereof - often create a false sense of security among migrant domestic workers recruited to Lebanon. In addition, the Lebanese government's failure to enforce deployment bans is another aspect of the recruitment process that increases the vulnerability of migrant workers to being trafficked

6.2 Country bans and indirect routes to Lebanon

At the present time at least four countries forbid their nationals from coming to work in Lebanon as domestic workers. These include Philippines, Nepal, Madagascar, and Ethiopia. Although the official reasons differ slightly by country, the bans appear to reflect common concerns about the vulnerability of migrant domestic workers to mistreatment and exploitation in Lebanon. Often this concern about vulnerability is attributed to a lack of adequate labor protection and legal redress in Lebanon.

Among employment agents and employers in Lebanon, however, chronic political instability in Lebanon is also cited as an explanation for the bans. The July 2006 war is a common reference point in this regard. At that time, thousands of foreign workers were evacuated from Lebanon at the expense of their governments. But a significant number of domestic workers – including one woman interviewed for this study - were also locked in their places of work/residence (from the outside) by their employers

101 Interview with migrant community leader D, in Beirut, Lebanon (11 Jan. 2011).

102 Interview with migrant community leader C, in Beirut, Lebanon (09 Jan. 2011).

103 Interview with Agent H in Beirut, Lebanon (09 Dec. 2010).

during the war. These employers then left the country or fled from their homes in order to escape the bombing at the time. Meanwhile, the domestic workers were left behind.

As mentioned above, migrant domestic workers come to Lebanon through indirect and often circuitous routes. Interviews conducted for this study show that Lebanese officials and recruitment agents feel no obligation to respect current deployment bans.¹⁰⁴ In fact, employment agents in Lebanon actively work to circumvent the bans. They collaborate with local brokers in origin countries to do so. Simultaneously, syndicate leaders (of employment agencies for migrant domestic workers) have made considerable efforts to meet the demands required in order to get the bans lifted.

Deployment bans have generated significant debate among agents, foreign diplomats, Lebanese government officials, employers, and domestic workers.¹⁰⁵ This is because the bans increase the overall risks and expenses involved in the labor recruitment and migration process of migrant domestic workers to Lebanon. Agents in Lebanon report that their per-capita recruitment costs have nearly tripled for some countries as a result of the bans. Others argue that the bans create a significant risk for workers:

Because of the bans it becomes more difficult to help and trace domestic workers who are not registered with their embassies here in Lebanon. If there are problems and the worker runs away, then there is no way to determine which agency brought her here.

If embassies are part of the process, then they can hold us (private employment agencies) accountable. They can refuse to allow us to bring any more domestic workers from their country unless we resolve the problems (unpaid wages, etc.) that may arise with individual cases.

– Agency A, Beirut, 20 Dec. 2010

In the meantime, vulnerability to trafficking also increases because of the transit process. New recruits are at increased risk of exploitation due to the bans. As discussed, this is because they do not have full information about what awaits them in Lebanon, and they are more likely to be deceived or abused by unscrupulous labor brokers and their auxiliaries. Migrant domestic workers already in Lebanon, meanwhile, are also impacted by the bans. In many cases, they cannot go back and forth from Lebanon to their home countries unless they want to risk detection by their government's immigration authorities.

The section that follows brings together recent information on country bans, alternative routes to Lebanon, and how the Lebanese government exacerbates the vulnerability of migrant domestic workers to trafficking by refusing to respect deployment bans.

The Philippines Ban

The Philippines' ambassador to Lebanon, Gilberto Asuque, points squarely to Philippine Law, Republic Act 10022, as the reason for his government's deployment ban.¹⁰⁶ As he noted in an interview for this study, Republic Act 10022 prohibits anyone in the Philippine government from authorizing the deployment of migrant domestic workers to any country unless its government has signed either a

¹⁰⁴ Employment agents interviewed for this study opined that the bans amounted to a blatant violation of domestic workers' human rights. While this is an area for further exploration and research, it was certainly not the overriding human rights concern articulated by migrant domestic workers interviewed for this study.

¹⁰⁵ See Nash, M. *Ban Angers Well-treated Migrants*, NOW Lebanon (13 Feb. 2011) (<http://www.nowlebanon.com/NewsArticleDetails.aspx?ID=240183>).

¹⁰⁶ See GMA NEWS.TV, *Lebanon Talks May Lead to Lifting of Deployment Ban* (8 Jan. 2011) Retrieved from <<http://www.pinoy-ofw.com/news/5208-phllebanon-talks-lead-lifting-deployment-ban-embassy.html>>

memorandum of understanding (“MOU”) or a bilateral agreement with the Philippines or it has a labor law that provides adequate legal protection for migrant domestic workers.¹⁰⁷ In addition to Lebanon, at least four other countries have been designated as “no-go” areas migrant domestic workers from the Philippines. These are Iraq, Afghanistan, Jordan, and Nigeria.

Notably the Philippines total deployment ban covers all migrant domestic workers, and it does not allow for those currently residing in Lebanon to return back and forth to their country legally. On Sunday 12 December 2010, a demonstration was held outside of the Philippines embassy in Beirut with nearly 300 participants. The protesters were mainly Filipina domestic workers eager for their government to exempt them from the deployment ban so they could visit their family and friends back home in the Philippines.

During this protest, workers chanted, “Lift the ban! Lift the ban!” They expressed their homesickness and also desire to work in Lebanon. Several workers interviewed during the demonstration for this study considered themselves fortunate to have benevolent sponsors. One in particular noted, “My madam is very good to me - not like the other employers in my building. For the first year Madam didn’t let me out of the house. But now she lets me out on Sundays, and I appreciate that.”¹⁰⁸

Several Lebanese agents interviewed for this study pointed to popular demonstrations, such as the one held on 05 December 2010, as evidence that migrant domestic workers are well-treated in Lebanon.¹⁰⁹ “The Filipinas love it here, and they earn a good living in Lebanon. They want to work here.”¹¹⁰

The primary demand expressed during the 12 December 2010 demonstration, however, was to allow Filipina workers currently employed in Lebanon to go back and forth to their country. This call was made by those workers legally documented to work in Lebanon already. By most accounts, the demonstration was not intended to demonstrate a ringing endorsement of Lebanese labor practices across the board or to applaud the stellar treatment of migrant domestic workers on a country-wide basis.¹¹¹

Martin McDermott, a veteran advocate for migrant workers’ rights in Lebanon, offered his perspective on the controversy over the ban against Filipina migrant domestic workers deploying to Lebanon. He said, “I do hope there is an agreement so that the housemaids who have already good jobs in Lebanon can visit home secure in the knowledge that they will be allowed back.”¹¹²

The Nepal Ban

Nepal implemented a deployment ban in January 2010; it is not the first time Lebanon has been banned as a destination for Nepalese workers. According to a representative of Nepal’s honorary consulate in Beirut, the current ban was implemented by Parliamentary decree with backing from Nepal’s Ministry of Foreign Affairs.¹¹³ One Nepalese community leader in Beirut reflected on the ban:

¹⁰⁷ According to Philippine law, a country is only eligible to receive migrant domestic workers from the Philippines if it meets the following criteria: “It has existing labor and social laws protecting the rights of migrant workers; it is a signatory to multilateral conventions, declarations or resolutions relating to the protection of migrant workers; it has concluded a bilateral agreement or arrangement with the government protecting the rights of overseas Filipino workers; and it is taking positive, concrete measures to protect the rights of migrant workers”. Government of the Philippines. (1995). REPUBLIC ACT NO. 8042 Migrant Workers and Overseas Filipinos Act of 1995. Retrieved from <www.poea.gov.ph/rules/ra8042.html>

¹⁰⁸ Interview with Filipina worker, in Beirut, Lebanon (12 Dec. 2010).

¹⁰⁹ Similar demonstrations have been held in Manila, The Philippines recently as well.

¹¹⁰ Interview with Agent H, in Beirut, Lebanon. (09 Dec. 2010).

¹¹¹ Interviews with Filipina domestic workers at the demonstration in Beirut, Lebanon (12 Dec. 2010).

¹¹² Written correspondence with Martin McDermott, in Beirut, Lebanon. (04 Feb. 2011).

¹¹³ Suicides in Lebanon. (27 Aug. 2010). Nepali Times. Retrieved from: <<http://www.nepalitimes.com/issue/2010/08/27/FromtheNepaliPress/17409>>.

Why do we have a ban? There has been a surge of migrant domestic workers from Nepal coming to work in Lebanon during recent years. Unfortunately there have been several deaths – suicides and murders – of Nepali citizens here in Lebanon also. We don't see the Lebanese police investigating these deaths properly or asking for translation help - even though we in the Nepalese community here in Lebanon are ready to provide it. In addition, it is problematic that our people are not let out of the house. Of the 12,000 Nepalese housemaids currently working in Lebanon, only about 300 of them that we know of are allowed out of the house on their day off of work. This is a violation of their rights.

The deployment ban won't be lifted until the Lebanese government guarantees that systems are in place to ensure the safety and dignity of the Nepalese nationals working here already.

I have received threats for my role in the ban. Lebanese recruitment agents think I am giving them a bad name and then send me text messages telling me to stop my work, but this will not intimidate me. It will only increase my determination to do the right thing by helping to represent my people.¹¹⁴

The Ethiopia Ban

Unlike the other three countries with bans against Lebanon, Ethiopia has implemented only a partial ban. Established in 2008, it prohibits new recruits from deploying to Lebanon. Yet the ban does not prevent domestic workers with valid employment authorization in Lebanon from going back and forth to Ethiopia. This type of employment migration to Lebanon is apparently legal under Ethiopian law as long as the migrant domestic worker already has a sponsor in Lebanon as well as proper work and resident permits.

The Madagascar Ban

Madagascar imposed a deployment ban to Lebanon in 2009. But until November of 2010, this was only a partial ban. It allowed Malagasy workers with proper work authorization in Lebanon to go back and forth if they had already been working in the country previously. But according to a representative of Madagascar's honorary consulate, a full deployment ban has been in place since late 2010. Although some new recruits still manage to defy the ban, it is technically supposed to prevent all Malagasy migrant domestic workers from going to Lebanon for employment purposes. A representative of the consulate of Madagascar in Lebanon confirmed that the reason for the full deployment ban stemmed from recurring maltreatment by employers and from lack of adequate protection for migrant domestic workers in the country.¹¹⁵

Routes from countries with bans

National deployment bans make it illegal for local brokers in sending countries to recruit nationals of Ethiopia, Philippines, Madagascar, and Nepal to work in Lebanon as housemaids. The bans hold out the prospect of blanket protection for those migrant domestic workers who adhere to the restrictions. They also serve to generate collective bargaining power for origin country representatives and government officials on behalf of their nationals. Yet the bans – and more importantly the Lebanese government's refusal to adhere to the bans -may also increase the vulnerability of individual migrant domestic workers to exploitation during the recruitment, transport, and employment process in Lebanon.

114 Interview with Nepalese migrant community leader in Beirut, Lebanon (14 Jan. 2011).

115 Phone inquiry with representative of Madagascar Consulate in Beirut, Lebanon. (21 Feb. 2011).

Due to jurisdictional limitations, these bans are not legally enforceable within Lebanon itself, and the Lebanese government has demonstrated no legal recognition in this regard. As a result, the recruitment process still occurs illegally from several countries. In effect, Lebanese employment agents work with their local counterparts in sending countries to facilitate human trafficking. Domestic workers may be recruited and transported along illicit, circuitous, and sometimes treacherous routes in order to reach their destination in Lebanon.

The Philippines: Routes

As a result of the deployment ban, domestic workers come to Lebanon from the Philippines through various routes. Some workers and their local brokers manage to bribe officials in the Philippines in order to depart to Lebanon without detection. Fake immigration departure stamps on workers' passports may be an indication of such bribes.¹¹⁶ Others domestic workers and brokers engage in schemes that typically involve a brief tourist stop in nearby Asian cities such as Kuala Lumpur, Hong Kong, Singapore, or Bangkok where visas are not an obstacle. Then they typically proceed on to Bahrain, Abu Dhabi, or Dubai where they might also spend a few days before flying on to Beirut.

For migrant domestic workers, the first leg of the journey to Lebanon, generally involves either bribing or duping immigration authorities at the Ninoy Aquino International Airport in Manila. Many local labor brokers in the Philippines make travel arrangements for migrating domestic workers. This may include purchasing round-trip plane tickets back to Manila that do not get used. Brokers following such schemes will give migrating domestic workers \$800 in cash as well as print-outs of hotel reservations in transit countries in order to evade scrutinizing airport officials in the Philippines.¹¹⁷ As recent news reports indicate, these reservations are generally not used by Filipina domestic workers for their stipulated purposes. They serve only as a ruse to obfuscate the actual itinerary and the purpose of departure from Manila.

Ethiopia: Routes

Ethiopian women arrive in Beirut to work as domestic helpers on a daily basis.¹¹⁸ Their routes from Ethiopia to Lebanon vary. According to Ethiopian community leaders, the partial deployment ban became effective in 2008, and it applied only to new recruits.

In any case, new recruits still manage to circumvent Ethiopia's ban. One way that new recruits reportedly dodge Ethiopia's ban is by bribing airport officials in order to depart from Addis Ababa to Lebanon on Ethiopian Airways. Indirect flights also leave from Addis Ababa to Beirut with stopovers in Cairo or the Gulf. Leaving Ethiopia en route to Lebanon, other transit countries include Sudan, Kenya, Djibouti, and Yemen.

Many domestic workers en route to Beirut from Addis Ababa use Khartoum as their point of departure. This usually requires a 10+ hour overland trek of 1000 miles/1500 km from Addis Ababa. Some migrant domestic workers fly to Khartoum instead, but this is more costly. Entry into Sudan from Ethiopia is said to require a visa generally obtained at the border crossing. Then proceeding from Khartoum to Lebanon typically involves flying through Dubai or another Gulf country. According to reports from migrant domestic workers, the Sudanese airport and immigration officials, have not concerned themselves with enforcing Ethiopia's ban.

¹¹⁶ *BI prevents 9 women from illegally flying to Lebanon*, Philippine Daily Inquirer, 06 Feb 2011.

¹¹⁷ Interview with Agent E, at Beirut International Airport, Lebanon (20 Dec 2011).

¹¹⁸ Interview General Security official at Beirut International Airport, Lebanon (23 Dec. 2010).

Nepal: Routes

The routes followed by Nepalese seeking employment in Lebanon as domestic workers generally involve overland border crossings by bus or car. Nepalese migrants commonly travel to India in order to embark on their journey to Lebanon from there. No visas are required between Nepal and India, so this facilitates the recruitment and migration process.

In order to circumvent the ban from Nepal, entry visas to Lebanon are arranged in advance. Then migrant domestic workers usually drive to India and proceed to fly out of New Delhi en route to Lebanon. These flights typically make layovers in Dubai, Abu Dhabi, Bahrain, or Kuwait. By the time migrant domestic workers reach their Gulf stopover point, they have already circumvented the Nepalese ban; the workers generally proceed unimpeded from there.

While it takes only about one and a half hours to fly in an airplane from Kathmandu to New Delhi, most local brokers arrange for migrant workers to take the twenty-hour bus ride from Nepal to India. Once in India, they generally coordinate with the agent's colleagues at a branch office in the capital city.

Local news reports in Nepal also suggest that corrupt airport officials accept bribes allowing women to migrate for domestic work in Lebanon. But while some domestic workers depart Nepal directly through Tribhuvan International Airport in Kathmandu, the majority commutes overland for the first leg of their journey to Lebanon.¹¹⁹

¹¹⁹ Karki, H. *Suicides in Lebanon*. Nepali Times (27 August 2010). <http://www.nepalitimes.com/issue/2010/08/27/FromtheNepaliPress/17409>

6.3 Commissions, recruitment fees, and profits

While commissions vary by country, local recruiters can earn up to \$700, if not more, for facilitating the migration of a new domestic worker into Lebanon. This provides compensation for the risk that these local brokers run while attempting to break the law, bribe officials, and profit from what many Lebanese agents themselves refer to as human trafficking.

Table 4- Estimated costs related to the recruitment of migrant domestic workers to Lebanon¹²⁰

	Sri Lanka	Philippines	Ethiopia
Total Paid to Lebanese Agent	\$1300-\$1600	\$2400-\$3500	\$1700-\$2100
Commission Paid to Lebanese Agent	\$300-\$500+	\$400-\$600+	\$300-\$500+
Total Paid to Local Broker	\$700-\$1000	\$2200-2800	\$1300-1400
Commission Retained by Local Broker	\$300+	\$600+	\$500+
Transportation Airfare (one way to Beirut with transit stopovers)*	\$300-\$400	\$400-\$600	\$500+/-
Medical testing and related travel	\$50+/-	\$50+/-	\$50+/-
Transit Visas, Overland Transport, and Overnight Accommodations	N/A	\$100 +	\$100+
Bribes	N/A	Unknown	Unknown
Embassy Processing Fee	\$65	\$0	\$0
Contribution by Worker	1-3 months salary	3 months salary	N/A
Average Monthly Salary	\$180	\$200-\$250	\$150-\$200

* Often it is the case that two separate plane tickets must be purchased for domestic workers migrating from the Philippines in order to circumvent the deployment ban to Lebanon.

Source: Interview with private employment agents and employers.

The owner of one employment agency in Lebanon, commented on local labor brokers in sending countries and their commissions; she said

These labor brokers in the Philippines, for example, get more money in commissions than we do. That's because they are breaking the law and risking their own lives in the process. I can understand why they would want to get more money for that. What we (agencies) are doing here in Lebanon is legal.

¹²⁰ Lebanese private employment agents reported that their profit margins remained roughly the same before and after the bans in these countries. But they also said that their overall expenses nearly tripled in many cases.

When we make arrangements for the girls to come over from Ethiopia or the Philippines, we are not breaking any laws. But what they are doing is illegal in their own country, and these local labor brokers want to get compensated for the risk they are taking by helping the girls get over here to Lebanon. These brokers in the Philippines and Ethiopia are making profits in the recruitment process – especially as a result of the bans. Now that’s what you would call human trafficking.¹²¹

The business of recruiting and transporting migrant domestic workers to Lebanon for work can be lucrative. Profits may also increase for employment agents when they contract migrant domestic workers out on a short-term basis – either by the day, week, or month. In such cases, placement agents charge their clients, the employers, up to \$450 a month for the services of a short-term domestic worker. In such cases, employers enjoy the convenience of hiring migrant domestic workers immediately and without additional expenses related to residence permits, work visas, or return airplane tickets.

In Lebanon, private placement agents charge a premium to employers for providing clients with new workers “on demand” and without any wait period. Sometimes this added premium can be as much as \$1,500 dollars per worker.¹²² It can happen when a domestic worker returns to the agency because of complaints by her disgruntled employer or because the worker herself complains of abuse and hardship. Either way, the agent who encourages (or forces) the domestic worker to accept a new sponsor stands to make a substantial profit on the premium charged to this new employer/client.

Agent ‘C’ also commented on the recruitment fees and profits in the business. He said:

Lebanese agents typically make \$300-500 for each migrant domestic worker that they bring to work for the first time in Lebanon. But the bans make things more expensive for everyone. The middlemen are the traffickers. These “monkeys in the middle” increase the broker fees we have to pay for recruitment and transit.¹²³

The issue of fees and commissions is important to highlight when exploring the vulnerability of migrant domestic workers to exploitation. Particularly for countries with bans, there is a chain of organized criminal activity that undergirds the migration of many domestic workers to Lebanon.

121 Interview with Agent G in Beirut, Lebanon (23 Dec. 2010).

122 Phone interviews with D, F, & E agents in Beirut, Lebanon (19, 21 and 23 Feb. 2010 respectively).

123 Interview with Agent B, in Beirut, Lebanon (17 Feb. 2010).

7. The lack of labor protection and legal redress

In addition to the other contributing factors discussed in this study, 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 they may suffer. As a result, unbridled exploitation has the potential to become the norm in many households.

In Lebanon, labor laws, legal redress and enforcement mechanisms do not adequately protect migrant domestic workers' rights. The Ministry of Labor, Ministry of Interior, and General Security have yet to establish viable mechanisms for regulating private employment practices in individual households. In addition, the Lebanese government has not yet created expedited grievance procedures readily accessible to migrant domestic workers.

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 limited pro-bono legal services offered in Lebanon. In most cases, migrant domestic workers would risk jeopardizing their immigration status by initiating any sort of legal complaint against their sponsor.

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 of 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 and quite limited capacity.¹²⁴

Honorary missions in Lebanon are not equipped to handle complaints or cases of abuse effectively. Like other diplomatic representatives they cannot legally enter into private households when problems arise. One consular official who tried to do so was reportedly rebuked by Lebanese officials and relocated to another country as a result. This came at the official request of the Lebanese government for having entered into a household without proper authorization.

Meanwhile, Ministry of Labor officials reported withdrawing the operating licenses of two employment agents in 2009. These agents' licenses were revoked, however, not for their mistreatment of migrant domestic workers. But rather their licenses were revoked for taking payment from clients without guaranteeing arrival of the domestic worker. The head of the Ministry of Labor inspection unit said that most complaints to the Ministry concerning migrant domestic workers are made by disgruntled employers who complain because agencies recruit workers who are sick or because they take too long to arrive in Lebanon.¹²⁵

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

124 Phone interview with Ethiopian official, 17 Jan. 2011.

125 Interview with Joumana Haimour, Ministry of Labor official, in Beirut, Lebanon. (17 Dec 2010).

about only one such employer on the list. In this “blacklisted case” the employer battered the worker in front of the chief of the inspections unit at the Ministry of Labor. In this case, the Labor Minister personally blacklisted this 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.

7.1 Labor Law Reforms

As of March 2011, current reform efforts at the Ministry of Labor have concentrated on migrant domestic workers’ rights articulated in a new draft law on domestic workers. Although these efforts do not seek to combat human trafficking directly, they do address the vulnerability of domestic workers to maltreatment general. As explained throughout this study, abuse and exploitation contribute to situations of human trafficking. Efforts at Lebanon’s Ministry of Labor demonstrate awareness of the issues at stake here and an interest in moving reform efforts beyond the current status quo. But this is not particularly evident when it comes to key indicators of routine coercion by employers: confinement to the workplace and confiscation of passports and identity documents. According to the Labor Minister’s chief advisor, Dr. Ziad El Sayegh, several reform items were on the Ministry of Labor’s agenda in 2010; these included the following:¹²⁶

- completing the draft law applicable to migrant domestic workers
- regulating (“organizing”) the work of private employment agencies
- negotiating and finalizing bilateral agreements with several origin countries
- operationalizing a bureau of complaints (with capacity in English, Arabic, and French)
- distributing the standard work contract in the languages of migrant domestic workers
- finalizing and distributing the Ministry of Labor’s “helpful information guide” for workers
- coordinating Ministry of Labor’s relationship with General Security
- launching an awareness and communications campaign with Lebanese citizens, migrant domestic workers, diplomatic missions, and members of civil society at the national and international level
- considering modifications to the standard work contract for migrant domestic workers.

In 2009, the Ministry of Labor’s National Steering Committee drafted the standard contract for the government’s approval.¹²⁷ The contract entered into effect by Ministerial Decree in March 2009. Since then, it has served as the mandatory contractual basis for all migrant domestic workers and their employers. Both parties (employer and worker) are obliged to sign it before obtaining or renewing work and residence permits. During 2010, the National Steering Committee had two subcommittees - one for the standard contract and the other for the Project of Law.

The Subcommittee for the standard contract proposed an amendment to its terms.¹²⁸ This is because

126 Interview 20 December 2010

127 Members of the committee include representatives of Internal Security Forces, General Security, Ministry of Labor, Ministry of Social Affairs, Caritas, PCAAM, Human Rights Institute of the Beirut Bar Association, ILO, OHCHR.

128 As noted by Dr. Ziad El-Sayegh, “This is the primary concern of civil society with respect to migrant domestic workers. The Minister is not opposed in principle to letting these women out.” Interview, Ministry of Labor, Beirut, Lebanon. (20 Dec. 2010).

civil society insisted that the contract violates basic human rights standards. By remaining silent on the issue of freedom of movement, argued the Subcommittee, the contract allows for the possibility of forced confinement to the house/workplace. Under the current terms of the contract, migrant domestic workers may effectively be isolated in the house for years on end or prevented from ever having any time away from their employer for the duration of their contract. This may contribute to conditions of compelled service or forced labor especially in cases of abuse or maltreatment where migrant domestic workers do not have access to legal recourse. During the National Steering Committee's meeting on 12 January 2011, this proposal to amend the standard contract was not taken up in the meeting agenda.

In contrast, the Subcommittee on the Project of Law appears to have been the focal point of the National Steering Committee's recent activities. The Minister of Labor, Boutros Harb, signed the draft law and pledged that it would soon be sent to Parliament. Some members of the National Steering Committee expect the draft law to be passed in less than a year, but others are more skeptical forecasting that the draft law will get buried in bureaucracy and stymied by government stand-offs. Dr. Ziad El Sayegh highlighted some key provisions of the law, which include:

- Minimum age will be required that migrant domestic workers be at least 18 years of age
- Regulations will be specified regarding working hours including a rest period of at least 9 consecutive hours each night as well as 24 consecutive hours each week
- Unified minimum wages will be identified for each category of migrant domestic workers related to the bilateral agreements for each country
- Complaints from migrant domestic workers will be received and legal aid will be provided to migrant domestic workers by the Ministry of Labor

The draft law also includes provisions concerning monitoring and investigations. This protocol remains to be developed, but social workers from the Ministry of Labor are slated to serve as interlocutors between embassies and agencies in specific cases – especially concerning complaints and reports of abuse. Ministry of Labor officials also indicated the government's interest in signing the UN Convention on the Protection of Migrant Workers and Their Families within the upcoming year.¹²⁹

Meanwhile as part of the newly established bureau of complaints, the Ministry of Labor has established a telephone hotline for all workers – including migrant domestic workers - in need of help.¹³⁰ The hotline seems to offer live assistance in Arabic, French, or English during the Labor Ministry's regular hours of operation between 8 am to 2 pm from Monday to Friday. Outside of regular working hours, complaints or calls for help from migrant domestic workers are recorded by an answering machine.

The hotline is a welcome tool for migrant domestic workers who find themselves in abusive situations. Yet civil society advocates are skeptical primarily because of insufficient follow-up to distress calls and lack of information about who answers the hotline. Improvements to the hotline could include live assistance at all times – both during and outside of Ministry of Labor operation hours and in language options including those of migrant domestic workers. The Ministry of Labor might also increase the effectiveness of the hotline by asking leaders from various migrant domestic worker communities for their feedback and suggestions for improvement. Additionally, the Ministry could conduct outreach to publicize the hotline phone number and how it functions among those domestic workers who cannot leave the house.

The Ministry of Labor has also taken steps to increase the accountability of private employment agencies in Lebanon. A decree (#1/23) issued by the Ministry of Labor in March of 2010, for example, requires private employment agents to bear "responsibility" for migrant domestic workers during the

129 Interview with Dr. Ziad El-Sayegh, Ministry of Labor, in Beirut, Lebanon. (20 Dec. 2010).

130 The number for the hotline service is (961) 01 540 114.

first six months of their employment in Lebanon.¹³¹ Prior to this decree, agents were responsible only for the first three months of migrant domestic workers' employment in the country.

This responsibility means that agents must handle the logistics and related expenses if the employment relationship deteriorates during the first 6 months. This may be the case if the worker becomes sick or pregnant or if she refuses to work under the conditions in her employer's household. It also serves to guarantee that agents will facilitate communications and mediate disputes between domestic workers and employers. In addition, it requires placement agencies to cover related costs in the event that a domestic worker leaves or "runs away" from the sponsor during the initial six-month period. Some agents predict that this six-month period will soon revert back to three months because it is unfair, they say, to expect agents to assume all of the risk for six full months. Meanwhile, advocates for migrant domestic workers argue that employment agents must maintain responsibility for the full term of a domestic workers' service in Lebanon.

Given recent political developments in Lebanon as of March 2011, the way this agenda moves forward will remain to be seen. In the meantime, the lack of redress will continue to increase the vulnerability of migrant domestic workers to abuse and trafficking. This is because migrant domestic workers may be held in situations of compelled service and forced labor. Prevailing conditions in Lebanon are ripe for such situations to arise.

One Filipina migrant domestic worker interviewed for this study recounted her experience in Lebanon. She arrived in Beirut in 2003 and planned to return to the Philippines at the end of her three year contract. But in November of 2006, her employer forced her to sign a renewal contract in front of a notary public. Although she did not understand what it said in Arabic, she knew that it would oblige her to stay with her employer.

"I was crying and crying and crying because I told him I did not want to renew my contract. But my mister told me I had to sign it."

Just a few months prior to this incident, this woman had been locked inside her employer's Beirut apartment when the family fled the country during the July 2006 war. When interviewed for this report, she explained that the family's chauffeur - who lived with his own family in another part of town - brought her food once a week for her (rice and oil), but he would not allow her to leave the apartment and kept her locked in from the outside.

"I was not happy that they locked me up during the war. When the war was over they came back, and then I said the only way I will stay with you is if you give me one day off a week. I had already worked for three years in a row without a day off or even a day to rest by myself outside the apartment. All that time they wouldn't even let me go on the balcony or talk to any other Filipinas in the building: 'Mamnouah [It's not allowed]' they said. But I wanted to go outside of the house and to be able to go to church. When mister said I could not go outside, then I cried and said I will not stay with you. I told him I didn't want to renew my contract. But he forced me to sign it. They made me stay with them in that house, and they locked me in my bedroom every night."

After this domestic worker eventually managed to "escape" from her employer later in 2006, her residence and work permits expired. She has been working illegally ever since then, and now she is effectively trapped in Lebanon as a result. She cannot leave the country because General Security would stop her at the airport on account of her expired immigration status. This would inevitably lead to detention, fines, and a range of other challenges preventing swift and safe passage back to the Philippines. It is this type of entrapment that characterizes the perils of the sponsorship system in Lebanon and the vulnerability to human trafficking that many migrant domestic workers face.

– Filipina worker 2 Feb. 2011 (Beirut)

¹³¹ Ministry of Labor decree. Same decree sets a new ceiling on total number of workers (150) each agency can recruit each year – regardless of the number of branches or offices each agency may have.

8. Conclusion

This study set out to explore the link between human trafficking and migrant domestic labor in Lebanon. By investigating the concept of “trafficking” and using the results to analyze key structural problems in the Lebanese context, the study demonstrates the vulnerability of migrant domestic workers to human trafficking. Human trafficking is defined under international law as an act by means of coercion or deception for purposes of exploitation including forced labor, servitude, slavery or practices similar to slavery.

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 domestic workers have arrived in Lebanon. More specifically, domestic workers employed in Lebanon are vulnerable to exploitation in the form of forced labor, servitude, and 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.

Yet the most significant structural factor placing migrant domestic workers at the risk of human trafficking and exploitation is the sponsorship system, which creates an environment where all workers have the potential to become entrapped. As noted throughout this study, the sponsorship system links a migrant domestic worker’s valid immigration status to one single employer. Meanwhile, Lebanon’s current legal and administrative framework unjustly leaves a domestic migrant worker’s individual freedom – and freedom of movement in particular - to the discretion of the employer. The imbalance is extreme.

Not all employers and agencies in Lebanon take full “advantage” of the latitude permitted by the country’s lax legal framework and deficient enforcement mechanisms. Nevertheless, the immigration and employment regulations described in this study put migrant domestic workers almost entirely at the mercy of their employers. In essence, the structural framework that defines the relationship between the employer and the domestic worker gives the latter so little leverage that it can degenerate at any moment into a situation of forced labor, servitude, practices similar to slavery or even slavery itself.

Therefore, according to the concepts and findings identified in this study, it may be concluded that all domestic workers in Lebanon are vulnerable to human trafficking. Whether or not specific situations may be deemed human trafficking depends individual circumstances. Nevertheless, this study argues that the presence of human trafficking may be determined not only by measuring degrees of coercion, deception, or exploitation that arise, but also by identifying and acknowledging the structure of the system itself.

Individual migrant domestic workers may suffer relatively routine, low-grade physical maltreatment at the hands of their employers. This might include pinching, pushing, shoving, or shaking by the collar. But such maltreatment would reflect the same inherent vulnerability experienced by migrant domestic workers in Lebanon when scorched on the skin, for example, with a hot iron by an abusive employer.

Similarly, employers in Lebanon may withhold wages from domestic workers for years on end with virtual impunity. So too, employers may withhold wages from migrant domestic workers for only a few months at a time. But in both cases, whether extreme or routine and whether brief or extended, migrant domestic workers are exposed to the risk of human trafficking because of the inherent structure of the system.

The factors detailed in the present study have included 1) the recruitment process 2) the sponsorship system and 3) the lack of labor protection and legal redress. In addition, this study has examined how the Lebanese government's lack of respect for the current deployment bans from origin countries may exacerbate the vulnerability of migrant domestic workers to trafficking. As discussed, these various structural problems foster the conditions where abuse of domestic workers may occur without recourse to justice.

This study is the first of its kind to explore the direct links between human trafficking and the situation of migrant domestic workers in Lebanon. The situation is complex, on-going, 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 international 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.

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.

Recommendations

- 1.** Criminalize human trafficking in Lebanon, while bringing national legislation on human trafficking in line with international standards. Take measures to ensure that Lebanon's draft anti-trafficking law reflects the internationally recognized definition of human trafficking, as well as its obligations concerning prevention, protection, and assistance to trafficking victims including migrant domestic workers.
- 2.** Ensure that adequate legal protections for migrant domestic workers exist. This may include:
a) extending coverage of Lebanese labor law to migrant domestic workers **b)** establishing an expedited, accessible, and affordable labor tribunal for resolving routine disputes over wages and other common labor complaints from domestic workers **c)** ensuring the availability of free legal services and advice to migrant domestic workers in their own languages through the Ministry of Labor **d)** increasing the enforcement of legal protections and accountability for physical and sexual abuse as well as forced labor.
- 3.** Address the inherent structural problems with the sponsorship system and develop viable alternatives. Allow migrant domestic workers to work in Lebanon without being tied to a single employer. Allow migrant domestic workers to change employers or to withdraw their labor if and when necessary. Do not require a notarized release for migrant domestic workers to change employers. Do not criminalize freelance work by migrant domestic workers.
- 4.** Prohibit employers from confining domestic workers to the house and workplace. Allow migrant domestic workers to go out of the house on their rest days and time off. Also modify Article # 12 of the unified employment contract, which would guarantee all migrant domestic workers the right to leave the workplace.
- 5.** Prosecute abusive employers and private employment agencies in cases of slavery, forced labor, and confiscation of domestic migrant workers' identity documents. Develop ways to ensure that serially abusive employers and agencies do not have access to an unlimited "replacement supply" of migrant domestic workers; this may include imposing a ceiling on how many migrant domestic workers can be hired by each household in Lebanon in a row during the course of one year. Ensure that recruitment agencies and employers are well monitored by the government in order to prohibit abusive and exploitative practices.

Appendices

APPENDIX A

Study Methodology

This study relied on qualitative methods including document analysis, interviews, observations, and action-oriented research to address the link between trafficking and migrant domestic workers in Lebanon.

During the interviews and surveys conducted for this study, most of the questions asked were open-ended, allowing respondents to paint a fuller picture of the situation of domestic workers in Lebanon. In order to validate the findings, a variety of strategies were used; these strategies included use of multiple data sources, verification of credibility during and after the interview process, member checking, and the use of different types of interview techniques throughout the study.

Data Collection

This study collected data through observations, surveys, semi-structured interviews, and a review of relevant laws, legal documents, contracts, conventions, and indicators as well as reports, articles, bibliographies, internet websites, newspaper articles and blogs. The document analysis included both national and international sources.

Interviews and observations took place in various locales including: Beirut International Airport, courtrooms, detention centers, consular offices, agent offices, private homes, public demonstrations, public spaces, sidewalks, supermarkets, schools, birthday parties, churches, restaurants, beauty salons, police cars, taxi cabs, and buses. Conducted by a human rights advocate and an active participant in various communities in Lebanon, these observations concerned the working and living conditions of migrant domestic workers in Lebanon as well as their legal situation and their vulnerability to trafficking.

The data collection included two sets of interviews. One set of semi-structured interviews was conducted with a broad range of stakeholders. Another set of survey-based interviews was conducted with migrant domestic workers and migrant community leaders.

In the first set, semi-structured interviews were conducted with over sixty members of the Lebanese and international community involved with issues surrounding migrant domestic workers in Lebanon. Participants in the interviews included: Lebanese Ministry of Labor officials, diplomats and foreign consular officials, NGO representatives, academics, private placement agents, local brokers, United Nations representatives, employers, non-employers, civil society advocates, religious leaders, and lawyers. Direct information was also solicited on site from General Security and other government officials at detention facilities, airport immigration counters, and General Security's central offices at Museum Place and "Adlieh."

These semi-structured interviews were conducted formally and informally at government offices, public gatherings, private meetings, or the office of the person being interviewed. Where noted, some interviews were also conducted by phone particularly with representatives of international organizations.

Participants were recruited for the semi-structured interviews through personal contacts as well as organizational and professional affiliations.

For purposes of the second set of interviews, 100 migrant domestic workers were surveyed based on the questionnaire in Appendix B. Respondents answered questions about their living and working conditions as well as their migration to Lebanon. They also reflected on whether or not they had ever experienced forced labor, servitude, or slavery in Lebanon.

These interviewees were selected in various ways – but primarily through random sampling and personal contacts, with the balance identified through pro-bono legal services. Migrant community leaders were vital to this process. With a few exceptions, all respondents had lived and worked in Lebanon for at least seven months. They represented the following nationalities: Bangladesh, Eritrea, Ethiopia, India, Madagascar, Nepal, Nigeria, the Philippines, and Sri Lanka.

These women had various types of work and residence status in Lebanon. But they fall into two basic legal categories: documented and undocumented.¹³² This distinction differentiates between those with valid work and residence permits and those without. While “live-in” workers in Lebanon are typically documented, “runaway” workers are typically undocumented. “Freelance” workers may fall into either category.¹³³

For purposes of this study, 54 respondents were documented workers whose employment and residence permits were valid when they were interviewed. Of these 54 respondents, 46 of them lived with their employer and worked exclusively for their sponsors. Meanwhile, eight of these women had nominal sponsors only. These eight women reported working on a freelance basis. They said that they paid nominal sponsors or “fixers” to arrange their paperwork each year, and they lived and worked independently.

Meanwhile, 46 of the respondents surveyed for this study were undocumented workers without valid work and residence permits. All of these women lived on their own and apart from their previous sponsors. Sometimes they rented rooms independently or together with one or more companions – including compatriots, husbands or boyfriends. Some of these respondents were interviewed in transit back to their home countries after they had completed or terminated their contracts in Lebanon. Technically they were no longer under contract, but their legal status was not in jeopardy.

In Appendix B there is a copy of the expanded version of the survey questionnaire used. The survey was conducted in the native language of the women being interviewed (including Malagasy, Nepalese, Amharic, Tagalog among others) with translation assistance when necessary and was occasionally interspersed with English, French, and Arabic. The data was collected verbally and recorded in writing during face-to-face interviews.

¹³² In one of his many articles concerning migrant domestic workers, Dr. Ray Jureidini specified that there are three primary categories of migrant domestic workers in Lebanon: live-ins, freelancers, and runaways. Jureidini, R. (2002). Women migrant domestic workers in Lebanon. *International Migration Papers*, 48, p. 5.

¹³³ If they work on a freelance basis, then documented migrant domestic workers usually have sponsors who are nominal employers only. These nominal sponsors do not ask domestic workers to work for them under contract on an exclusive or full-time basis—although, this is what the law requires. Technically documented freelancers enjoy valid legal status in the country, but at the same time they are not captive to the full range of constraints inherent in the sponsorship system.

APPENDIX B

Research Questions

1. Is it possible to link human trafficking and the situation of migrant domestic workers in Lebanon? If so, then how can this link be explained?
2. Which factors increase the vulnerability of migrant domestic workers to human trafficking?
3. How does the “kafala” (or sponsorship) system contribute to the exploitation of domestic workers in Lebanon?
4. At what point does otherwise legal migration for temporary, domestic work become forced labor, servitude, slavery or practices similar to slavery?
5. Who are the traffickers? In Lebanon, to what extent can labor brokers, auxiliaries, recruiters, government officials and employers of migrant domestic be considered traffickers?
6. What are the routes, commissions, fees, and control mechanisms traffickers use? What is the significance of current deployment bans from origin countries and why do they matter?
7. Who are the victims of human trafficking in Lebanon?

Interview Guide

1. What year did you first come to Lebanon? Why? How? And via what route?
2. At the time you arrived was there a travel ban from your country to Lebanon?
 - (a) Yes
 1. Pay advance fees? To whom?
 2. Salary deducted for ? months?
 3. Explain
 - (b) No
 - (c) I don't know
3. Who recruited you to come to Lebanon? Describe your advance communication with them about coming to Lebanon? Did you sign a contract in advance specifying your wages, working hours, and work obligations (# of people in household and their special needs, etc.) before coming to Lebanon? Were you deceived or coerced about what to expect when you arrived in Lebanon? Why or why not?
 - (a) Friend
 1. Promised wages?
 2. Received wages (then and now)?
 3. Working hours
 4. Time off/out
 5. Work duties
 - (b) Relative
 - (c) Local broker
 - (d) Lebanese employer or agency
 - (e) Other
4. Who holds your passport, work permit, resident permit, and identity documents?
 - (a) I hold them
 1. Why?
 2. Where are they kept?
 3. Have you requested them back?
 4. Have police requested papers?
 - (b) My sponsor holds them
 - (c) A friend holds them
 - (d) Other
5. Do you live with your sponsor?
 - (a) Yes
 1. When is your time off?
 2. Daily? Weekly? Yearly?
 3. Can you go out? Explain?
 - (b) No
 - (c) Part-time only

6. Do you feel like you are in a situation of forced labor, servitude, or slavery? Why or why not?
- (a) Yes
 - (b) No
- 1. Have you changed sponsors?
 - 2. Why? Explain the process?
7. Have you experienced any of the following? If so, then by whom?
- (a) Physical abuse?
 - (b) Sexual abuse?
 - (c) Yelling and threatening?
 - (d) Threats of prison, deportation, etc.?
 - (e) Non/delayed-payment of wages? How much? For how long?
 - (f) Detained by Lebanese police or held in Lebanese jail?
 - (g) No time off/day off?
 - (h) Excessive working hours? 10, 11, 12+ hours a day?

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