

Introduction

1. The following report is based on information gathered by Anti-Slavery International (UK) and Kafa (Lebanon). Since 2012 Anti-Slavery International, in partnership with Kafa and the General Federation of Nepalese Trade Unions (GEFONT), has run a project examining the situation of migrant domestic workers (MDWs) from Nepal, prior to and after they migrate to Lebanon. Statistics provided are based on field research conducted by Kafa between mid-November 2012 and the end of July 2013. In Lebanon, the field research consisted of 40 semi-structured interviews that were carried out with 20 female workers from Bangladesh and 20 female workers from Nepal and a survey of 100 MDWs, 50 of whom were Nepali and 50 of whom were Bangladeshi. The field team also carried out interviews with Lebanon's Ministry of Labour, the Bangladeshi embassy's Chargé d'Affaires and the Honorary Consul of the Nepalese Government, as well as engaging in written correspondence with Lebanon's General Directorate of General Security. Finally, the study undertook semi-structured interviews with heads of placement agencies in Lebanon, the head of their syndicate and with a small sample of employers. Fieldwork was also undertaken in Nepal and Bangladesh with returnee MDWs, relevant government departments and broker and recruitment agency officials.¹
2. It is estimated that there are currently between 200,000 and 250,000 MDWs in Lebanon. For Nepalese MDWs, factors such as poverty, unemployment, low wages, violence, environmental destruction, natural disasters and domestic violence push women and men to migrate elsewhere in search of employment.² These economic circumstances expose potential MDWs to greater risk of exploitation by creating an environment that recruitment agencies and brokers can easily take advantage of in search of profit. Many MDWs are trafficked and others fall into bonded labour as a result of transportation and recruitment costs, as well as the commission fees charged by the agent and/or broker. They are put in this situation as a result of inadequate policies, discrimination, lack of preparedness, isolation and an absence of coordinated efforts to protect them. Insufficient regulation of recruitment agencies and brokers in Nepal, coupled with a ban on women migrating to Lebanon for domestic work, has served to push the practice underground. As a result, MDWs are less likely to have followed the official procedures put in place by the Nepalese Government and are more likely to fall victim to exploitation. In this regard, Anti-Slavery International, GEFONT, Kafa and the Global Alliance against Traffic in Women (GAATW) have submitted an alternative report for Nepal's UPR – also scheduled for November 2015 - detailing the insufficient policies and

¹ Kafa, *Dreams For Sale: The Exploitation of Domestic Workers from Recruitment in Nepal and Bangladesh to Working in Lebanon*, Beirut, 2014, pp. 15-16.

² *Ibid.*, pp. 6 & 19. According to the General Directorate of General Security's data for residencies issued in 2012, the number of female migrant domestic workers in Lebanon is estimated at 158,287. However, general estimations are higher since many work without official documents.

practices in place within Nepal to prevent potential MDWs from falling victim to trafficking and exploitation.

3. Once in Lebanon, MDWs' basic rights are undermined in a number of ways - as reported by the MDWs interviewed - including denial of rest periods throughout the day and at least one day off a week, the confiscation of personal identification documents, restrictions on freedom of movement, deduction from wages and denial of contact with their families. MDWs' removal from the public eye through their work within the home increases their vulnerability to abuse, sexual assault and forced labour. The inaccessibility of the Lebanese justice system, coupled with the fear of arrest and deportation should they leave their employer, means that MDWs are unlikely to be able to lodge formal complaints against mistreatment and access remedy.
4. During its 2010 UPR a number of States recommended that Lebanon take measures that reflect international legal standards and best practice to combat human trafficking.³ Despite these recommendations, the situation of large numbers of MDWs continues to meet the definition of human trafficking as provided by the 2000 Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children, to which Lebanon is a State party:
*“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.”*⁴
5. After their arrival in Lebanon, MDWs are vulnerable to forced labour, abuse and exploitation as a result of discriminatory and inefficient legal provisions and social attitudes within Lebanon, as well as in their countries of origin. The International Labour Organization (ILO) defines forced or compulsory labour in ILO Convention 29 as:
*“... all work or service which is exacted from any person under the menace of any penalty for which the said person has not offered himself voluntarily.”*⁵

The term “under the menace of any penalty” can include violence at the extreme, but also economic threats, the loss of rights or privileges and subtler

³ Report of the Working Group on the Universal Periodic Review: Lebanon, A/HRC/16/18, 12 January 2011, paras. 80.18 (Nicaragua), 90.19 (Iran), 81.6 (Bahrain) – which enjoyed the support of Lebanon and paras. 81.7 (Jordan) and 81.8 (Sri Lanka) – which Lebanon considered to have already been implemented or in the process of implementation.

⁴ Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, 2000, Article 3 (a).

⁵ ILO Convention No. 29, Article 2(1).

psychological pressure.⁶ Eighty-two per cent of the MDWs surveyed by KAFA reported that they had felt forced to work.⁷

Lebanese Policies with regard to Migrant Domestic Workers

6. Several States recommended to Lebanon during its 2010 UPR that it abolishes the sponsorship (or *Kafala*) system applicable to migrant workers.⁸ There is no official legal mechanism in Lebanon carrying the label *Kafala*, but instead it is a system that is “comprised of various customary practices, administrative regulations and legal requirements that tie a migrant domestic worker’s residence permit to one specific employer or sponsor in the country.”⁹ As such, the *Kafala* system does not allow MDWs to freely withdraw their labour and exposes them to the risk of deportation should they choose to leave their employer. The *Kafala* system introduces an inherent inequality into the relationship between the MDW and the employer by compelling MDWs to remain in situations in which they often face physical and emotional abuse, their wages are withheld or deducted and they are prevented from contacting family members. Moreover, in tying the MDW’s visa status to the employer, the *Kafala* system makes the employer feel responsible for the MDW during her time in Lebanon and as such encourages restrictions on freedom of movement and communication for fear that if the MDW broke the law the employer would be held responsible.

7. Despite recommendations during Lebanon’s 2010 UPR to ensure the existence of legal frameworks that protect MDWs’ conditions of work, namely by including them within the scope of Lebanese Labour Law, the authorities have thus far failed to do so.¹⁰ This has served to further exclude MDWs from labour rights afforded to other sectors in Lebanese society. MDWs are not protected by rights such as minimum wage, annual and sick leave, maximum hours of work, the right to form associations and organise, and the right to resign with proper notification.¹¹ This is in violation of international labour standards, namely Lebanon’s obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR), which require that it fulfils the right to “full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual” without discrimination of any kind, including that based on national origin¹² and Lebanon’s obligations under International Labour Organization Convention

⁶ ILO, *A Global Alliance against Forced Labour: Global Report under the Follow-up to the ILO Declaration on Fundamental Principles and Rights at Work*, Report I (B) of the Director General (2005), p. 5.

⁷ KAFA, *Supra.*, n. 1, p. 63.

⁸ Report of the Working Group, *Supra.*, n. 3, paras 82.23 (Norway), 82.25 (Canada), 82.26 (France) – all of which did not enjoy the support of Lebanon.

⁹ KAFA, *Supra.*, n. 1, p. 42; KAFA, *Policy Paper on Reforming the “Sponsorship System” for Migrant Domestic Workers: Towards an Alternative Governance Scheme in Lebanon*, Beirut, 2012, p. 9.

¹⁰ Report of the Working Group, *Supra.*, n. 3, paras. 80.30 (Iran), 80.31 (Brazil) - all of which enjoyed the support of Lebanon and paras. 82.22 (Norway), 82.24 (Poland) and 82.26 (France) – all of which did not enjoy the support of Lebanon.

¹¹ Anti-Slavery International, *Into the Unknown: Exploitation of Nepalese Migrant Domestic in Lebanon*, 2014, p. 55.

¹² ICESCR, Articles 2(2) and 6(2).

No. 111 to pursue equality of opportunity and treatment in employment without discrimination, including that based on national extraction.¹³

8. Moreover, the introduction of a Standard Unified Contract for MDWs in 2010 has failed in practice to end abuse and exploitation, largely due to the disproportionate power it affords to the employer. For example, while the Standard Unified Contract sets mandatory daily and weekly breaks and annual leave, in practice it allows the employer to refuse time off and to prohibit the MDW from leaving the house during time off. The Standard Unified Contract allows for payment of salary in exchange for a receipt signed by both parties but leaves open the possibility that the MDW is forced to sign the contract without actually being paid.¹⁴ Furthermore, the Standard Unified Contract is currently only available in Arabic and is therefore inaccessible to MDWs who do not speak the language.¹⁵
9. Under the Standard Unified Contract an employer can terminate a contract if the employee makes a mistake, commits negligence or intentional assault, endangers the interests of the employer or their family members or commits an act punishable by Lebanese law. The MDW can terminate the contract if the employer breaches the terms of payment for three consecutive months; if the employer, one of the employer's family members or a resident of the house physically assaults and hurts the MDW or sexually harasses or assaults her/him and it is proven by medical records and judicial or Ministry of Labour investigations; or if the employer makes the worker perform duties beyond what was agreed without the MDW's consent.¹⁶ In incidences in which the MDW ends the contract for the above-listed reasons, the employer must return the MDW to her country of origin and cover the costs, whereas in incidences in which the employer ends the contract for the above-listed reasons, the MDW must leave Lebanon and cover the expenses herself. Importantly, the employer does not need written evidence, official reports or judicial rulings to prove the worker's wrongdoing and terminate the contract, whereas the MDW must file a complaint with the Lebanese authorities in order to prove wrongdoing.¹⁷ This is particularly challenging given the inaccessibility of the Lebanese justice system to MDWs, as detailed below.
10. Under the *Kafala* system, the MDW is only permitted to change employer with the approval of the Lebanese Ministry of Labour. The Ministry of Labour in conjunction with the General Directorate of General Security will only approve such a move with the written and notarised (i.e. done at the public notary) consent of the original employer to pass sponsorship over to the new employer. At present, MDWs are only permitted to change employer twice.¹⁸

¹³ International Labour Organization Convention C111, Articles 1(1)(a) and 2.

¹⁴ KAFA, *Supra.*, n. 1, p. 42.

¹⁵ Anti-Slavery International, *Supra.*, n. 11 p. 56.

¹⁶ KAFA, *Supra.*, n. 1, p. 43.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

Conditioning the MDW's ability to change employer on the consent of their original sponsor amplifies the power held by the employer, who can abuse and exploit the MDW and then refuse to give consent for the MDW to change employer. The level of power granted to the employer under the *Kafala* system significantly increases the likelihood that a MDW will be subjected to forced labour.

Endemic Abuse and Exploitation of Migrant Domestic Workers in Lebanon

11. In Lebanon, MDWs are perceived as unskilled workers and are treated as commodities both by the agencies that place them and the families with whom they reside and work. MDWs in Lebanon experience flagrant racism – a reflection of the clear prejudice against them and the inferior position that they hold within the employer-employee relationship. Despite recommendations during Lebanon's previous UPR that the authorities take measures to increase protection for domestic workers, including by establishing mechanisms to monitor their employment, severe violations of basic rights have continued.¹⁹ Seventy-seven percent of the MDWs surveyed by KAFA reported working 14 hours or more per day, none of the participants said that their working hours, break schedule or bed time had been set by their employer and 77 percent were unable to take time off to rest during the day. Ninety-one percent of MDWs surveyed stated that they had been denied the amount of weekly time off stipulated by the Standard Unified Contract.²⁰ The attitude of employers towards granting MDWs days off is illustrated by the following quote:

*"I never got a day off. I used to know a Nepalese [worker] who worked for a family in the same building. She told me that Sunday was her day off. When I heard that, I asked my employer to give me a day off as I was working hard and I was not getting enough rest... She would tell me that she was paying me, and for that reason she would not give me time off."*²¹

In this case the employer seems to be giving the MDW a choice between her right to get paid and her right to a day off.

12. Fifty percent of MDWs surveyed by KAFA reported receiving their wages every month, while 20 percent said they were paid irregularly and another 20 percent did not receive their full wages. Employers sometimes withhold wages in order to coerce MDWs into renewing their contracts or continue working in the hope that they will eventually receive their wages.

"As I had gone to work for two years only, I told my employers that I intended to return to Nepal after the two years. But they told me that I could only go to Nepal for one month, and in order to guarantee my return to Lebanon they would keep \$1000 of my salary with them. So I

¹⁹ Report of the Working Group, *Supra.*, n. 3, paras. 81.8 (Sri Lanka), 81.24 (Algeria and Norway) - which Lebanon considered to have already been implemented or in the process of implementation

²⁰ KAFA, *Supra.*, n.1, p. 44.

²¹ An interview with a Nepalese returnee MDW conducted by KAFA in Kathmandu on April 22, 2013.

*could not leave unless I returned to Lebanon again... I then said, "I'll finish the three years and then leave after that."*²²

In other cases, the withholding of wages compels MDWs to terminate their contracts of their own volition, risking losing their residency status and being deported in accordance with the *kafala* system.²³

13. Ninety-six percent of those surveyed by KAFA reported having their passport, work permit and residency papers confiscated by their employers from the moment of their arrival at the airport.²⁴ This effectively deems the MDW a hostage to the employer. If the MDW attempts to leave the employer without their permission, they not only face potential arrest and deportation as a result of the *kafala* system but also the loss of their identification documents. In addition, 90 percent of MDWs surveyed were not allowed to leave the house alone and 50 percent were physically locked in their place of work.

*"The employer wouldn't let me go anywhere on my own. She would watch me even when I went to throw out the garbage. Even when I was standing on the balcony, she would scold me, and say, "What are you looking for? Are you looking for men? You shouldn't stand there."*²⁵

These restrictions on freedom of movement, combined with endemic withholding of wages and denial of time off paints a clear picture of enslavement and isolation.²⁶ In addition, MDWs reported tight restrictions on their ability to communicate with their families, despite having been led to believe that they could regularly communicate prior to departing from their home countries.²⁷

14. Many of the MDWs surveyed by KAFA reported inadequate living conditions during their period of employment in Lebanon, including denial of privacy and the right to a private life. Most MDWs reported not having their own private space within the house, forcing them to sleep in the kitchen, the living room, the balcony or in shared rooms with members of the household, including men - often making them nervous about sexual abuse and exploitation. Others reported being forced to cut their hair, having their belongings searched and sometimes thrown away, not being provided with sufficient clothing and being denied hygiene products.²⁸ Thirty-two percent of the MDWs surveyed reported that they did not receive sufficient food from their employers, forcing some to hide their food and eat in secret.²⁹

²² An interview with a Nepalese returnee MDW conducted by KAFA in Kathmandu on April 4, 2013.

²³ KAFA, *Supra.*, n.1, p. 44.

²⁴ *Ibid.*, p. 45.

²⁵ An interview with a Nepalese returnee MDW conducted by KAFA in Kathmandu on May 15, 2013

²⁶ KAFA, *Supra.*, n.1, p. 45.

²⁷ *Ibid.*, p. 46.

²⁸ *Ibid.*, p. 47.

²⁹ *Ibid.*, pp. 47-48.

“They would all eat out and they wouldn’t give me anything to eat. I used to cook in their absence and hide the food under the table. I used to eat when they were out, and I would open all the doors and windows for the smell to get out so the Madame would not find out. I asked her to let me cook and she refused. That’s why I would cook in her absence. One day she asked me where the food was going, and I told her I didn’t know, and asked her to look how small my stomach was. They would eat all the fruit and give me half a loaf of bread. How can I eat and be full? They used to eat a lot and order in, but never order food for me. I would be hungry and look at them and they would never buy me anything. I used to cry a lot, even when they would go out I would cry because I knew they were eating while I was hungry. I would only cook rice and never vegetables because if she smelled the vegetables, she would scream at me, “What’s that smell?!” So I would cook rice and eat it with water.”³⁰

15. In addition, the medical coverage provided by the insurance that the employer has to purchase only covers emergencies, meaning that non-emergency medical care depends on the employer’s willingness to cover the costs. However, in many cases these costs were deducted from the worker’s salary.³¹
16. Many MDWs reported being the victims of threats and emotional abuse at the hands of their Lebanese employers, including being threatened with denunciation to the police in incidences where the employers had not processed the proper residency documents for the workers, deportation to their country of origin, withholding of wages, physical violence and cutting off communication with their families.³² Thirty-six percent of MDWs surveyed reported being subjected to physical violence for a variety of different reasons, including failing to understand orders, breaking kitchenware, failing to calm an infant, forgetting chores, failing to complete tasks to a satisfactory standard, waking up late, talking on the phone and complaining about being sick.³³

“After a year working for them, the Madame saw the winter clothes bags were dusty. She told me to take it outside and clean them all. I told her I was very hungry and that I couldn’t work, and that I would work on it tomorrow. She then screamed at me and started beating me very violently. I asked her to take me back to the placement agency and she refused. I stayed with her in these conditions and after that she would beat me all the time and not give me food. I would spend all my time working despite how hungry I was.”³⁴

³⁰ An interview with a Nepalese MDW conducted by KAFA in Zikrit, Lebanon on April 9 2013.

³¹ KAFA, *Supra.*, n.1, p. 48.

³² *Ibid.*, p. 49.

³³ *Ibid.*, p. 50.

³⁴ An interview with a Nepalese MDW conducted by KAFA in Zikrit, Lebanon on April 9 2013.

17. Eight percent of the MDWs surveyed reported being subjected to sexual violence, either in the form of sexual harassment or rape, although the sensitivity of the topic means that a higher percentage may have experienced sexual violence but may have been unwilling to speak about it.³⁵

“The Madame used to travel a lot, and he used to bring women home. One night he didn’t bring a woman home, and I was alone with him in the house. He came out naked from his room and came to my room and wanted to sleep with me. He said “come sleep with me in my bedroom and after we’re done with sex you go back to your room”. I refused so he ran after me naked, so I escaped to our Ethiopian neighbour’s house and I stayed there until he left the house. I went back home and then the Madame returned. He threatened me, saying that if I told her, he’d kill me. A month later the Madame decided to travel to Syria so I ran away the night she travelled.”³⁶

18. All of the MDWs surveyed by KAFA felt that they were powerless to change their working conditions for a number of reasons, including fear of the violent reaction from their employers should they confront them with a desire to change their working conditions. Others felt unable to leave or confront their employer due to the debt accrued throughout the migration process, which meant that many MDWs had little choice but to continue working, even in an abusive and exploitative environment. Additional reasons that MDWs interviewed felt unable to change their working conditions included: fear of arrest, incarceration and deportation; fear of being unable to communicate with others due to the language barrier; fear of being killed; and as a result of the employer’s confiscation and continued possession of their identity documents.³⁷

Inaccessibility of Lebanese Justice Mechanisms

19. The Lebanese Ministry of Labour regulation number 1/1 limits the role of placement agencies to facilitating the hiring process between the employer and the MDW. If a dispute arises between the MDW and the employer the placement agency should file an administrative complaint with the investigation bureau at the Ministry of Labour or a judicial lawsuit if necessary.³⁸ Despite this, when either the employer or MDW requests interference by the agency, the agency often ends up trying to resolve disputes and usually sides with the employer in order to avoid facing financial burdens should the worker leave the place of employment.³⁹ In some cases placement agencies merely secured “promises” from the employer not to repeat

³⁵ KAFA, *Supra.*, n.1, p. 51.

³⁶ An interview with a Nepalese MDW conducted by KAFA in Burj Hammoud, Lebanon on May 6 2013.

³⁷ KAFA, *Supra.*, n.1, p. 51.

³⁸ *Ibid.*, p. 53.

³⁹ *Ibid.*, p. 53.

aggression despite the fact that the violence committed is punishable by Lebanese law.⁴⁰

20. MDWs rarely make use of official complaint and compensation channels in Lebanon largely due to their lack of knowledge about these available avenues, the high costs associated with lawsuits and the complicated and slow procedures of the Lebanese justice system. MDWs are often isolated, meaning that the opportunity to contact NGOs and lawyers is limited, as is their knowledge of the services offered by their countries' diplomatic missions in Lebanon.⁴¹ It should be noted that there is no Nepalese diplomatic representation in Lebanon. Instead, there is an honorary consul for Nepal that can only offer very little support to MDWs, making it difficult for Nepalese MDWs to access their rights.
21. The Bureau of Investigation and Labour Affairs within the Labour and Professional Relations Authority is in charge of investigating individual disputes that are made up of complaints between employers and workers, along with the Ministry of Labour's regional labour bureaus. The Ministry established a hotline in 2011 to receive complaints regarding violations of migrant workers' rights but reported in April 2013 that it had not received a single complaint from an MDW.⁴² Despite having work inspectors that visit companies and factories to ensure proper implementation of labour standards, there is currently no legal framework in Lebanon that allows for the Ministry of Labour to visit employer's private homes to check MDW's working conditions. There is also no official blacklist of Lebanese employers that are convicted of wrongdoing against MDWs.⁴³
22. The General Director of Security in Lebanon issues entry visas and residence permits to MDWs, as well as renewing residency permits and administering deportations. It has become a major reference point for employers in disputes with workers. However, MDWs rarely turn to the General Security with complaints against their employers for fear of detention and deportation. In cases in which MDWs do lodge complaints against their employers, it is usually concerning failure to pay wages, beating and mistreatment. When complaints are lodged with the General Security, it investigates both the employer and the worker under the supervision of the general prosecutor, while keeping open the possibility of an out-of-court dispute. These investigations tend to lead to settlements that lean in favour of the employer; largely due to the fact that the MDW faces the possibility of deportation which would prevent them from pursuing a lawsuit through proper judicial channels. Instead, MDWs are pressured into accepting the out-of-court settlement they are offered, even if it involves partially or fully surrendering their rights (such

⁴⁰ *Ibid.*, p. 55.

⁴¹ *Ibid.*, pp. 55-56

⁴² An interview with Mrs Marlene Atallah, the head of the foreigners' office at the Lebanese Ministry of Labour, conducted in April 2013.

⁴³ KAFA, *Supra.*, n.1, p. 56.

as the receipt of their full wages) in exchange for expediting their travel back to their home country. This allows the employer to avoid prosecution while the MDW faces deportation.⁴⁴

23. When MDWs file complaints with the police regarding mistreatment at the hands of their employers they often find themselves detained for not having legal residency status or because the employer has filed a complaint against them for stealing.⁴⁵ Following this, MDWs are often returned by the police to the employer that they sought to lodge a complaint against.
24. A major and reoccurring obstacle to MDW's access to justice is the limitations placed on their ability to remain in Lebanon after they have left their employer. As soon as a legal complaint is in process, the employer can terminate his or her sponsorship obligation rendering the MDW an illegal resident; this is the case even if it is the employer that has breached the Standard Unified Contract by failing to pay the MDW or by mistreating her/him. As soon as the sponsorship is terminated, the MDW faces the risk of arrest and deportation. Moreover, the slow procedures of the Lebanese justice system, along with the restrictions puts in place by the *Kafala* system, mean that remaining in the country is often not an option for MDWs, who often have families at home depending on their income. As such, MDWs normally avoid resorting to judicial remedy and are forced to instead leave the country, forfeiting their wages or any other compensation that would arise from the harm inflicted upon them.⁴⁶
25. Although MDWs do not fall under Lebanon's Labour Law, the Labour Arbitration Councils have announced their authority to investigate disputes arising from breach of contract between MDWs and their employers. A 2013 mapping of 22 pending cases before the Labour Arbitration Councils of Beirut and Mount Lebanon revealed that in all cases the MDW was the party filing the dispute and that there were no lawsuits filed by employers against MDWs. In some cases the MDW that had filed the complaint had departed from Lebanon, which highlights the difficult situation of MDWs who lodge complaints against their employer but are subsequently unable to remain in Lebanon due to the *Kafala* system.⁴⁷
26. "Escape" from a place of employment or an employer's house is not criminalised under Lebanese law. However, Lebanese courts have adapted and used laws that punish foreigners for not informing the Lebanese authorities of a change of address in order to punish MDWs who have fled their employer's

⁴⁴ Ibid., pp. 56-57.

⁴⁵ Human Rights Watch, *Without Protection, How the Lebanese Justice System Fails Migrant Domestic Workers*, 2010.

⁴⁶ KAFA, *Supra.*, n.1, pp. 61 and 64.

⁴⁷ *Ibid.*, p. 60; Sara Wansa, "When a Migrant Worker Escapes the Injustice of an Employer: Where's the crime?", Published in the 10th edition of *The Legal Agenda* in June 2013.

house without their approval.⁴⁸ Judges overseeing these “runaway” cases did not examine the reasons that the MDW had sought to escape but instead solely examined the legal link between the MDW and her sponsoring employer. Unlike in Labour Arbitration Councils, the MDWs were always the party being sued in the Lebanese criminal courts. In such cases, MDWs were usually without a lawyer and in most cases were tried in absentia, due to the fact that they were deported during the trial. Moreover, because police tend to reject complaints based solely on an MDW’s “escape”, the MDWs on trial were often also accused of stealing.⁴⁹ This measure is taken by employers as an act of revenge and as a means of gaining the upper hand in negotiations with MDWs in cases in which the MDW has filed a complaint against the employer.

Recommendations to the Lebanese government:

- i. Ratify ILO Convention 189 on Decent Work for Domestic Workers, which in addition to providing all domestic workers with the rights and protection to which they are entitled, provides measures to address the specific vulnerabilities of MDWs;
- ii. Abolish the *Kafala* system, which is the single most important factor contributing to the abuse and exploitation of MDWs in Lebanon. Immediate measures should be introduced to remove the requirement that abused MDWs must obtain a notarised authorisation letter from their employers in order to leave their employer and to grant such workers a grace period during which they are allowed to seek a new employer/sponsor;
- iii. Include domestic workers in labour laws in order to ensure that they receive the same rights and standards of protection as other workers, including minimum wage, maximum working hours, health and safety protection and the possibility of residing within or outside of their employer’s home;
- iv. Develop standardised contracts for migrant domestic workers ensuring their rights at work, including working and living conditions that meet the minimum standards present in ILO Convention 189 on decent work for domestic workers. The contract should grant the migrant worker the right to earn the minimum wage and the absolute right to terminate the contract. It should specify working hours, day off and leave entitlements. The contract must be drafted in both the languages of the employer and the worker, it must contain information about the identity and place of residency of the broker and/or agent if one is present, and it must be signed

⁴⁸ Article 5 of decision 136 issued on 30/09/1969 (Proof of Presence of Foreigners in Lebanon): Foreigners in possession of Annual or Permanent Residence cards from the General Directorate of General Security must inform General Security of any change of address of their residence within a week of the change.

⁴⁹ KAFA, *Supra.*, n.1, p. 61.

both in the country of origin and in Lebanon. The contract should be enforceable in the courts of both countries;

- v. Strengthen and widen control and scrutiny over recruitment and placement agencies in order to curb corruption, bribery and use of unregistered sub-agents. MDWs should not incur any charges or fees for recruitment as this increases the likelihood that they will fall onto a situation of bonded labour. Employers in Lebanon should pay all recruitment and placement costs. Any amount deducted from the salary of MDWs in return for employment in Lebanon should be considered a serious violation punishable by law. Lebanon and MDWs' countries of origin must introduce transparent financial mechanisms for recruitment and placement agencies, control or impose a reasonable ceiling on their profit margins, and require them to issue financial receipts that detail the amounts received for recruitment and placement of workers. Information should be disseminated to employers and workers regarding the fact that deducting amounts from the monthly salary as a return for recruitment fees is a punishable offence;
- vi. Initiate government-to-government agreements with MDWs' countries of origin. Such arrangements would *de facto* limit the contribution of private recruitment and placement agencies in the process of migration to a logistical role, and would therefore limit exploitative practises by agents and brokers, as well as the debts incurred by MDWs. For this to happen, bilateral and multilateral agreements should be introduced, detailing the recruitment and placement process and mechanisms. As a pre-requisite for such agreements, the country in question should have a diplomatic representation in Lebanon. The agreements should clearly specify unlawful practices such as the payment of recruitment and placement fees by MDWs;
- vii. Adopt practical policy measures to limit forced labour and trafficking, including the following:
 - a) Revise the Standard Unified Contract applied by the Ministry of Labour to include better standards, guaranteeing the domestic workers the right to a weekly day off outside the house, and guaranteeing, at a minimum, the MDW's right to terminate the contract in case of abuse; in such cases of termination, the worker should be granted a grace period and the right to seek alternative employment in Lebanon without the prerequisite paper from the (violating) employer;
 - b) Ensure that the Ministry of Labour disseminates the Standard Unified Contract in the language of the domestic worker;

- c) Ensure that the Ministry of Labour establishes a multilingual and properly-staffed complaint unit to quickly process complaints by MDWs;
 - d) Introduce a new wages payment system via a bank account created for the MDW upon their arrival in Lebanon – this measure would allow there to be proof of payment, benefiting both the employer and the worker.
- viii. Seriously and vigilantly pursue the violations of the rights of migrant workers in Lebanon, especially the violations that relate to human trafficking and forced labour, and initiate legal proceedings against offenders, including employers and recruitment agencies. The Lebanese government must guarantee the right of the domestic workers to access means of redress and legal compensation in cases where their rights are violated. The MDW should thus be allowed to remain in the country until the judicial case is settled and seek employment during this period. The Lebanese government should provide alternatives to detention of MDWs who do not hold proper residency papers;
- ix. Support the self-organising of migrant domestic workers with the view of organising them in unions. As a first step, MDWs themselves should be empowered and supported to come together, provide peer support and advocate and defend their own rights;
- x. Grant the Ministry of Labour inspection mechanism the authority to enter private home of employers for regular inspection in order to combat the isolation of MDWs and provide a channel for lodging complaints and accessing remedy.