



MIGRANT WORKERS' RIGHTS ARE WOMEN'S RIGHTS

Women Migrant Domestic Workers in Lebanon: A Gender Perspective

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Introduction

Women make up an estimated 76 per cent of all migrant workers and 99 per cent of migrant domestic workers who come to Lebanon for employment (MoL 2019). Despite coming to the country as workers, they are exempted from labour protections according to article 7 of the labour law (ILO 2020b), and locked into a system that has been likened to ‘modern day slavery’ through a sponsorship modality called kafala.

Issues concerning women migrant workers have never been gender neutral. Although many migrant workers in Lebanon fall victim to exploitation, women migrant domestic workers face specific injustices as women. Within the context of Lebanon’s patriarchal society, where social norms dictate that women are responsible for the caretaking, cooking, and cleaning, households hire migrant domestic workers to support women’s labour in the so-called ‘private’, domestic sphere. Under the oppressive kafala system, many women migrant domestic workers live within the same household as their employer, where they have no labour law or family law protections. They live with their daily movement and communication surveilled, and bodies controlled, in addition to facing heightened risks and exposure to labour violations, such as the denial of rest days, long hours and withholding of payments, as well as harassment and sexual and gender-based violence with impunity towards their perpetrators. As this take place in the home, many in Lebanon see it as a ‘private issue’, beyond the interference of the state and other social structures. It grants employers almost total control over the lives of these women, and ensures a dependency by women migrant domestic workers on their employers (Amnesty International, 2019).

The Lebanese government holds primary responsibility for addressing these abuses and providing effective remedy to victims in accordance with its international obligations. In their calls for justice, women migrant domestic workers have played important roles in labour rights advocacy and have provided community-based support for men and women migrant workers, all while enduring the extreme impacts of racialized gender inequity, discrimination, and labour violations. Women migrant domestic workers have been on the forefront of labour actions, building alliances among each other and with national allies within Lebanon’s women’s rights movement. These women migrant worker-led groups have fought hard to call for accountability and to find solutions amid the gravest of violations against their communities despite limited means and without enough support from national and international stakeholders.

This paper illuminates the gender dimensions of women migrant domestic workers’ lived experiences in Lebanon under the kafala system. It examines the circumstances of women migrant domestic workers who live with their employer (live-in workers) and those who do not (live-

out workers).¹ It is hoped that this deepened gendered understanding will contribute to efforts to dismantle Lebanon’s kafala system. To quote Amnesty International, “the kafala system is incompatible with domestic laws that safeguard freedoms and human dignity, protect workers’ rights and criminalize forced labour and human trafficking. It also directly contradicts Lebanon’s international obligations” (Amnesty International 2019). It is also hoped that this paper will improve the approaches taken to address migrant workers rights in Lebanon and will advance the inclusion of migrant domestic workers in Lebanon’s women’s rights and feminist movement.

The development and publication of this paper is taking place against the backdrop of deep crisis in Lebanon, with employment trends in the care sector shifting and the number of migrant workers decreasing. The economic crisis in the country is manifesting itself through currency depreciation, increasing costs for basic items, wage cuts and job losses, which are equally impacting women migrant domestic workers. During this period, substantial numbers of women migrant domestic workers continue to be subject to risks of exploitation and abuse.

1) Migration Onset: Decision-making and Choice

Women’s ability to choose whether and how to seek work opportunities outside of their home countries depends on many factors; at worse, choice is taken from them entirely

A woman’s choice to migrate for work should be a conscious and informed decision. However in practice it tends to be a decision taken within a set of heavily constrained options, influenced by family members, the economy, violence at home and other factors. This tends to mean that most migrant domestic workers lose their agency in making this decision; that while there is an element of choice in their migration, it was a choice they made for a lack of many other options. Poverty is a central driver in shaping a woman’s decision to migrate, though it is one of many factors (Amnesty International 2019). Some women migrate as a way of fleeing restrictive, and sometimes violent traditional and patriarchal structures in their home countries, whether in their homes or societies more broadly. Other women are encouraged to migrate by their families, to provide a more stable income to those in their home countries. Moreover, while Lebanon may not be a first choice in terms of destination country, women arrive here to follow family members, friends or others in their personal networks who have already settled in Lebanon because these connections often facilitate the migration process. Some migrant women also prefer to

¹ Although the General Security Directorate, which issues residency permits, requires that domestic workers live with their employers, some domestic workers (typically called ‘freelancers’) have regular or irregular status.

come to Lebanon over Gulf countries, as there is a more liberal acceptance of women's freedoms, even though they will likely sacrifice high salaries.

Once a decision has been made to migrate, the journey from recruitment to arrival is often fraught with misinformation and coercion. Recruitment is regularly facilitated in home countries, often by subagents and brokers. Subagents and brokers are often poorly regulated; many lack proper licensing to effectively or legally help the transition, and many exploit women from the start of their migrant journey (Allaw 2014). Due to socioeconomic and gender discrimination in their countries of origin, women are often more likely to be illiterate and less able to independently access accurate information on migration.² Some private recruitment agencies deceive women with contract substitution, or promises of decent working conditions, and into coming to Lebanon with false promises of taking them to other nearby countries (ILO 2015b). Out of the 374 female migrants under vulnerable conditions, who were assisted by the International Organization for Migration (IOM) in 2020-21, 85 did not know that their destination was Lebanon; some were promised that they would ultimately work in Turkey, Europe, one of the Gulf States, the United States of America or Canada (IOM 2021).

At worst, women's choice is almost taken away entirely, by being trafficked or coerced into other types of forced labor. A clear understanding of the scale and scope of human trafficking remains limited. Human trafficking is the recruitment, transportation, transfer, harbouring or receipt of people through force, fraud or deception, with the aim of exploiting them for profit, e.g., for the purpose of forced labour or sexual exploitation (OHCHR 2000).

Between 2020 and 2021 alone, the International Organization for Migration identified 367 female victims of trafficking in Lebanon, though this does not capture the full extent of trafficking into the country (IOM 2021).

A 2011 study found that 65 per cent of women migrant domestic workers reported experiencing a situation of forced labour and servitude (Hamill and KAFA 2011). Forced labour³ can be understood as work that is performed involuntarily and under the menace of any penalty, in which persons are coerced to work through the use of violence or intimidation,

² See, for example data for Ethiopia and Nepal. Ethiopia data available at: <https://countryeconomy.com/demography/literacy-rate/ethiopia#:~:text=Ethiopia%20rises%20the%20literacy%20rate,has%20a%20low%20literacy%20rate>; Nepal data available at: <https://countryeconomy.com/demography/literacy-rate/nepal#:~:text=Nepal%20it%20has%20C%20according%20publishes,big%20gap%20between%20the%20sexes>.

³ Forced Labour indicators include: abuse of vulnerability, deception, restriction of movement, isolation, physical and sexual violence, intimidation and threats, retention of identity documents, withholding of wages, debt bondage, abusive working and living conditions, and excessive overtime.

or by more subtle means such as manipulated debt, retention of identity papers or threats of denunciation to immigration authorities (ILO 2012). These gendered trends in Lebanon follow global trends, where over half of the estimated 16 million persons in situations of forced labour are women and girls, and among cases where the type of work was known, the largest share of adults who were in forced labour were domestic workers - 24 per cent (ILO 2017). In 2020, UN Women and LAW filed a ground-breaking case contending that the treatment of a domestic worker in Lebanon constitutes not only crimes of forced labor, but also slavery, slave trading, trafficking in persons, deprivation of liberty and withholding personal documents, racial discrimination, gender discrimination, and torture (UN Women 2020b)

While not all women migrant workers in Lebanon were originally trafficked into the country, their precarious legal situation and reliance on their employers within the Kafala system can make them susceptible to forced labour practices (Hamill 2011; Amnesty International 2019). The crises Lebanon faced in 2020 – financial, pandemic, and port explosion- have exacerbated the socioeconomic precarity of women migrant domestic workers and their potential to be coerced into forced labor, in particular with regard to excessive working hours, unpaid wages, being pushed into having an irregular legal status (ILO 2020a).

2) Gender Inequality in Economic Rights and Domestic Labour

Gender discrimination and a lack of labour protections undervalues women migrant domestic workers' labour

Regressive social norms that characterize domestic work as women's work, combined with global social protection gaps and cuts, have left 'care gaps' in households, which are increasingly being filled through the underpaid labour of migrant women. domestic workers (ILO 2018).⁴ This dynamic has been referred to as a "global care chain," which, due to global inequalities and poverty, pull the care work of women away from their own communities and families and transfers it to the private households of wealthier families in the Global North (Hochschild 2000). Domestic labour and care work are widely seen as women's 'natural' work and an unquestioned part of daily living, giving the perception that it occurs without cost (UN Women 2016).

In Lebanon specifically, the kafala system, serves to fill many households' domestic work and care needs, as it is based on under payment and exploitation. In addition, the lack of adequate options for state subsidized child- and elder care, the limited and expensive options for long-term, at-home medical care, and gender inequitable social security systems continue to worsen the care gap and raise the demand

⁴ Such gender norms reinforce the idea that work in the domestic sphere occurs naturally within the household or family unit, which removes the burden on the state to subsidize and support the provision of care work.

for women migrant domestic workers (Abed, Baroud and Moussawiet 2020; Abou Habib 2020). Under the kafala system, migrant domestic workers face highly exploitative working conditions, akin to modern-day slavery (Human Rights Watch 2020a; Amnesty International 2019). This is driven at least in part by the fact that the Lebanese Labour Law specifically excludes domestic work from its scope. With significant limitations to pursue any type of legal action or justice for workplace violations they experience, migrants and nationals in this sector have limited fundamental human and employment rights. For example, migrant domestic workers lack the freedom of association and the effective recognition of the right to collective bargaining, the elimination of forced or compulsory labour, the abolition of child labour and the elimination of discrimination in respect to employment and occupation. In addition, migrant domestic workers are unable to change employers without their current employer's consent and work long hours with little or no rest (Human Rights Watch 2020a; Amnesty International 2019).

Women migrant domestic workers' wages have no protection of a minimum wage and their salaries are uniformly low – an average of 180 USD per month (prior to the financial crisis) (ILO 2016b). These wage inequalities are exacerbated by the intersectionality of gender, class, nationality, and race. Women migrant domestic workers' depressed wages are underpinned by the sexist devaluation of domestic labour, and are generally lower, for example, than the salaries paid to building janitors (who are regularly male migrant workers). Women migrant domestic workers from the Philippines typically earn more than their peers, whilst those from Bangladesh tend to earn the least (ILO 2016a). The exploitative wages of migrant workers have been worsened by Lebanon's financial crisis⁵, and in many cases, workers are being denied their full salaries or are not being paid in US dollars, as inflation rates of the Lebanese Lira have risen above 120 per cent and continues to increase as of this writing.⁶ During the onset of the pandemic and economic crisis, of the 374 female migrants supported by IOM, 274 (73%) reported experiencing withholding of their wages (IOM 2021).

In 2020, Lebanese Ministry of Labour took the important step to take concrete measures to protect domestic migrant workers' right through introducing a revised standard unified contract for the employment of domestic workers (ILO 2020e). The revised unified contract included basic labour protections and addressed a number of forced labour indicators. Unfortunately, the Shura Council (Lebanon's top administrative court) suspended its implementation in October 2020 (Human Rights Watch 2020c) and as a result, no new labor protections have been put into effect.

3) Gender Roles and Restrictions

Women migrant domestic workers have less access to public space and freedom of movement as compared to men migrant workers

Migrant domestic workers' access to public spaces and their mobility varies with their gender, nationality, and the cultural norms of their destination country. Given the nature of domestic and household care work, women migrant domestic workers are more likely to be restricted to a live-in condition, where their work and shelter is shared with their employer twenty-four hours per day. While the live-in condition is not explicitly regulated in the contract, it is a customary practice in Lebanon. The confinement of female domestic workers to the home is also influenced by societal gendered divisions of labour, whereby women are traditionally viewed as "natural caretakers" confined to the home, and men are usually perceived as workers best suited to do physical labor outside of the home. As a result, male migrant workers in Lebanon are more likely to take up employment in other sectors and not live with their employers. Although some employers condition employment on living in communal, dormitory-like accommodations or being subject to certain movement restrictions, most male migrant workers enjoy more freedom of movement than female migrant domestic workers do.

One study surveying over 1,200 employees found that more than one in five Lebanese employers (22.5%) always or sometimes lock their domestic worker inside the house (ILO 2016a).

Employer rationalizations for not allowing migrant women to leave the house include protecting women's safety and preventing them from seeking intimate relationships, becoming pregnant, contracting sexually transmitted infections or engaging in prostitution (Ghaddar, Khandagji and Ghattas 2018).

Some employers also expressed that giving a domestic worker too much freedom leads to "problems," including domestic workers being "corrupted" by female friends who are too assertive and demand rights (ibid.). The study estimated that 94 per cent of employers withheld the worker's passport, and 61 per cent of employers did not allow the worker to engage in social or learning activities with NGOs. This restrictions on women's ability to access public space not only infringes on their right to freedom of movement but impairs their ability to develop social networks and restricts their access to protection and support services.

5 <https://www.facebook.com/TheAllianceOfMDWslEb/>

6 <https://tradingeconomics.com/lebanon/inflation-cpi>

4) Sexual and Reproductive Rights

Due to legal and social discrimination, women migrant domestic workers cannot exercise their right to have children and marry

Many migrant domestic workers are excluded from the Lebanese Labour Law's maternity protections and benefits; under kafala, their sexual and reproductive and maternal rights are not protected. While their employment contract does not explicitly forbid them to marry or have children, there are widespread customary practices that prevent them from exercising these rights.

Many women migrant domestic workers are required by recruitment agencies to take a pregnancy test before and after arriving in Lebanon, and if they are pregnant upon arrival, they will not be allowed to stay (ILO 2009). Live-in women migrant domestic workers who get pregnant during their contract period are often forced to terminate their employment and leave Lebanon. If they stay, they are often pushed into irregularity, which can result in living without legal residency or protection. Sometimes they are forced to have illegal abortions, often in unsafe conditions. This applies to pregnancies that result from rape, including when it is perpetrated by their employer. In addition, their standard health insurance scheme does not cover maternal and reproductive healthcare or maternity leave (ILO 2014b), which can lead to unsafe births.

In 2014, public notaries under the Ministry of Justice (upon the request from the General Security Office) attempted to codify a circular on migrant women's right to pregnancy or marriage by issuing circular No. 1778. This mandated that employers sign a pledge affirming that their domestic worker will not have any marital or intimate relationship with non-Lebanese persons in Lebanon, and that they need to inform the General Security Office (GSO) if their domestic worker breaches this; the circular was removed several months later due to advocacy efforts (Legal Agenda 2015).

Lebanese employers' intolerance to hire a domestic worker who is pregnant stems from the patriarchal logic imbedded within the kafala system: to control women's bodies and sexualities so that they can meet the needs and demands of the household.

Further de facto and de jure restrictions are imposed on women migrant domestic workers with children born in or living in Lebanon. These women and their children have been denied residency permits, detained and deported, as certain categories of low-wage migrants, particularly domestic workers do not have the right to obtain a work permit for their children (Human Rights Watch 2017). The number

of children born to women migrant domestic workers in Lebanon is unknown, but some estimates suggest that there are currently over 15,000 such children living in Lebanon (Yasmine and Batoul 2019). Most of these children are, in effect, stateless and thus cannot access education or other essential public services.

Migrant mothers who wish to return to their country of origin with their children are often unable to do so due to the patriarchal legal system. Gender discriminatory citizenship laws in Lebanon dictate that Lebanese fathers must consent to a child's travel. This can occur even when the father is not Lebanese; some countries of origin (e.g. Ethiopia), also require the father's consent, which can leave the child trapped if the father is never reported (Fernandez 2017). In many cases, particularly related to rape, the father will remain unknown for the child's lifetime. There is an added complexity if the child is born outside of marriage; the mother's home country's law may not recognize the child's rights to nationality and citizenship.

5) Sexual and Gender-based Violence

Women experience a continuum of violence and harassment, including sexual and gender-based violence, with limited access to protection

The combination of racialized gender inequality and the absence of adequate legal protections makes violence and harassment, including sexual and gender-based violence, against women migrant workers in Lebanon a too-common occurrence.

Women migrant workers experience harrowing forms of emotional, psychological and physical sexual assault, rape, sexual exploitation, sex trafficking, and verbal abuse, and economic violence such as withholding of wages. As of mid-2021, there is no survey data that estimates the prevalence of violence and harassment, including sexual and gender-based violence experienced by women migrant workers in Lebanon, although individual cases are numerous and well-documented (Amnesty International 2019). A 2014 study analysing 730 complaints at the Caritas Lebanon Migrant Centre found that at least 70 women migrant domestic workers had been subjected to sexual violence (roughly one in ten cases) (ILO 2014a).

Perpetrators of sexual and gender-based violence are present across the migration pathway from recruitment agency managers, employers, service providers and embassy staff; other migrant worker community members have also been offenders (see, e.g., International Domestic Worker's Federation 2020). While men are disproportionality perpetrators of sexual violence, there is evidence that female employers are abusers in the domestic sphere (KAFA 2011).

The risks and severity of sexual and gender-based violence have become harsher during Lebanon's financial crisis and the pandemic. A 2020 report found that close to half (42 per cent) of women seeking mental health care at Médecins Sans Frontières were survivors of physical and/or sexual violence, several of whom were found naked on the street in psychological distress (Médecins Sans Frontières 2020; KAFA 2020).

Women migrant domestic workers have little access to legal recourse in response to sexual or gender-based violence. Firstly, women migrant domestic workers are still not protected by Lebanon's domestic violence law; although attempts were made to expand the definition of family to include foreign domestic workers in the 2020 legal amendments (Legal Agenda 2021).

Secondly, under the kafala system, women migrant domestic workers are fully dependent on their sponsors and attempts to prosecute their employers in the face of violence would likely lead to a loss of their legal status, employment, shelter and basic needs (ILO 2014b). And thirdly, even though women migrant domestic workers have the legal right to terminate their contract if their sponsor subjects them to physical or sexual violence (ILO 2009), this is rarely done in practice. The main reason is that there is still no state-mechanism for a domestic worker to file for her contract termination – neither internal protocol or personnel to investigate, administrate, or conduct the termination process (ILO 2020c). Moreover, many women migrant domestic workers do not even know of their legal rights because employment contracts are written in Arabic; many women migrants cannot read or write the language, and many are illiterate in their own language.

6) Access to Justice

No access to justice for women migrant domestic workers

Women migrant domestic workers have rarely been able to hold their employers to account by filing criminal complaints. A 2010 study examined 114 criminal complaints by migrant workers and was unable to find a single instance in which the employer was prosecuted (Human Rights Watch 2010). A more recent study examined 779 court cases involving women migrant domestic workers between 2013 and 2017, and estimated that 91 per cent of the hearings were conducted in absentia, denying the workers' rights as litigants and a fair trial (ILO 2020c). In such cases, evidence seems to suggest that women are deported before their case is referred to the courts.

Other grave violations against these women's right to access justice include: courts granting compensation to employers

when a domestic worker's residency is not correctly renewed (despite the fact that it is the employer's responsibility to do so), regularly convicting domestic workers of "running away" from their employer even when they are facing severe abuse, overlooking cases of human trafficking or forced labour, and regularly ruling domestic workers to pay damages to their employers whilst rarely ordering employers to pay for workers' withheld wages (ibid).

While these women consistently fall prey to racial, ethnic and social class biases, few judges have worked to redress this imbalance by making breakthrough rulings in the favour of women migrant domestic workers (ILO 2020b). The absence of legal aid and legal expertise specific to women migrant domestic workers constitutes a further barrier that prevents from accessing the criminal justice system.

7) Women's Leadership in Community Organizing and Response

Women migrant domestic workers are on front lines of political and community organizing

Domestic workers are excluded from the labour law and do not have the right to form or join trade unions, which is contrary to Lebanon's human and labour rights' obligations (ILO 2015a). Although the right to self-organize in the form of a migrant domestic workers' union has been politically fraught in Lebanon, women migrant domestic workers managed to make the courageous step for form a union under the National Federation of Employees' and Worker' Unions in Lebanon FENASOL (ILO, FES 2016), and have navigated other entry points to accelerate the migrants' rights movement (Kobaissy 2015).

Long before the current crises, feminist activists across the migrant rights movement built critical coalitions within Lebanon's women's rights landscape, organizing thousands to take part in political actions every year, particularly for International Women's Day and Labour Day (Ritakumpu). For decades, activists have played an important role in supporting survivors of abuse, from coordinating services with NGOs and embassies to sheltering survivors in their own houses.

Existing migrant workers' community-based organizations in Lebanon have largely been founded and led by women, such as the Alliance of Migrant Domestic Workers in Lebanon,⁷ Eгна Legна Besidet⁸ and the Together Forever Group. These groups have been essential to intensifying labour rights advocacy and have played a leading role in responding to migrant community members' needs (particularly amid the recent multiple crises, which have had a devastating impact on migrants' employment and livelihoods) (IOM 2020; IOM 2021; ILO 2020a; UN Women 2020a).

7 <https://www.facebook.com/TheAllianceOfMDWslEb/>

8 <https://egnalegna.org/>

To address the mounting job losses, food insecurity and evictions resulting from the COVID-19 pandemic and the aftermath of the Port of Beirut explosions, migrant women organized emergency distributions, community shelters and repatriations for their communities. These women filled the front-line gaps that were unmet by embassies, the international humanitarian apparatus, the Lebanese state and civil society organizations.

Women have been and will continue to be thought leaders and front-line responders in migrant workers' pursuit of equality and justice in Lebanon. Feminist groups in Lebanon have supported women migrant workers, especially by creating a space where their voice helped to shape advocacy initiatives relevant to their priorities. The National Strategy for Women in Lebanon addresses key aspects of migrant domestic workers' vulnerabilities and rights; it is important that its commitments are translated into concrete actions throughout the women's movement (NCLW 2017).

Without minimizing the challenges that migrant domestic workers face, their personal experiences tell stories of resilience, empowerment and positive contributions to societies. Women migrant domestic worker remittances contribute considerably to socioeconomic development in their countries of origin (El Mufti 2019). Notwithstanding how COVID-19 devastated families around the world, remittances continue to provide a critical lifeline for the poor and vulnerable (World Bank 2021).

Women migrant domestic workers have also made significant contributions in destination countries. They assume, for example, huge burdens of care in Lebanon, where there is an absence of public care structures, giving many Lebanese women the opportunity to thrive economically and socially and often give households (particularly those with elderly or disabled) a better quality of life. Despite the risks they face under the kafala sponsorship system, their migration experience allows them a sense of freedom that is often denied to them in the conservative communities of their home countries. While they face emotional and psychological burden for being away from their families and children, they persist in pursuing their dreams of a better life; they deserve a fair chance to secure it.

Conclusion

Gender equality cannot be achieved in Lebanon without dismantling the kafala system and creating legal protections for domestic workers. The kafala system is grounded in the patriarchal control over women's lives and bodies, and remains the root cause for injustices for these women. It is within this vein that the women's rights movement must accelerate its efforts to call for the dismantling of the kafala system and to support women migrant domestic workers. Diverse feminist and women's rights groups and institutions across Lebanon must increase coalitions with and commitments to migrant domestic workers. In the same light, actors within the migrant workers rights' landscape must better tackle issues of gender inequality as it intersections with race, sexual orientation, age, nationality, and disability. Attention must be increased on sexual and reproductive health rights and access, sexual and gender-violence and abuse, racialized gender economic inequality, maternal rights and child custody issues, and gender discrimination in legislative and administrative procedures governing migrant women's lives. Women migrant domestic workers and the fight for their equality has been and will continue to be central to attaining economic, social, racial and gender justice in Lebanon.



***Migrant workers' rights
are women's rights.***



Photos: ILO

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