



Regional Tripartite Conference on Convention No. 189: Raising awareness and sharing knowledge

Background Note No. 1

National legal frameworks for domestic workers in the Arab States

This note compiles available information on national legal frameworks relating to the protection of domestic workers. It focuses on the three areas: working conditions, regulation of private employment agencies and anti-trafficking laws. Conference participants are invited to contribute additional information and to indicate any legal developments applicable to domestic workers in the three areas examined below.

1. Working conditions

Most Arab States exclude domestic workers from the scope of their labour laws. However, Jordan amended its Labour Law in 2008 to repeal the provision excluding domestic workers and mandating the Ministry of Labour to issue regulations regarding domestic workers.¹ In 2009, new regulations² set out the obligations of employers and workers in relation to working hours, paid leave and working conditions.

In 2012, Bahrain extended the coverage of certain provisions of its new Labour Law to domestic workers, including those relating to labour contracts, wage calculation, annual leave and dispute settlement.³

Other countries have opted to develop separate legal provisions specific to domestic workers, either through laws or regulations. Saudi Arabia, Lebanon, Qatar, Kuwait and the United Arab Emirates are among those countries that have drafted legal provisions on domestic workers, although none of these provisions have been enacted to date. For instance, while Saudi Arabia's 2006 labour law specifically excludes domestic workers, it provides that the Ministry of Labour shall draft regulations for domestic workers "to govern their relations with their employers and specify the rights and duties of each party".⁴ Draft regulations have been completed but not yet adopted.

At least two countries in the region have already adopted separate labour regulations governing domestic workers. Kuwait's Labour Law, which excludes domestic workers, provides that rules and regulations governing the relationship between such workers

¹ Law No. 48 of 2008 amending the Labour Law. Domestic workers are also covered by minimum wage decisions issued under the Labour Code, including a 2011 Minimum Wage Decision applicable to Jordanian domestic workers and a 2006 Minimum Wage Decision applicable to non-Jordanian domestic workers.

² Regulation No. 90/2009 of Domestic Workers, Cooks, Gardeners and Similar Categories.

³ Act No. 36 of 2012 Promulgating the Labour Law in the Private Sector.

⁴ Labour Law, Royal Decree No. M/51, art. 7 (2006).

and their employers shall be established by Ministerial decision.⁵ A resolution issued in 2010 provides for certain guarantees for domestic workers related to the minimum wage, working hours and annual paid leave.⁶ At the same time, draft legislation on domestic work is reportedly under review by the National Assembly.

In addition to the laws and regulations described above, several States have introduced standard employment contracts. In some cases, these contracts constitute the only form of legal protection for migrant domestic workers. In Lebanon, the standard contract sets forth employer and worker obligations and contains provisions regarding food and housing, working hours, contract termination and other conditions of work.⁷ Oman's model contract for recruiting foreign domestic workers contains provisions regarding working and living conditions, payment of wages and settlement of disputes.⁸ Other States that have developed standard employment contracts include the United Arab Emirates, Kuwait, Jordan and Bahrain.

2. Private employment agencies

Most States in the region have adopted laws or policies that regulate the activities of employment agencies to various degrees, including through provisions related to licensing or registration requirements, the prohibition of placement fees and other measures. Bahrain, for instance, requires the managers of private employment agencies to be Bahraini nationals and abide by various record-keeping requirements.⁹ Kuwait,¹⁰ Lebanon¹¹ and the United Arab Emirates¹² all prohibit employment agencies from collecting fees from workers.

Available enforcement measures for these and other provisions can include the revocation of licenses and shutting down of enterprises. In Lebanon, owners of placement offices who receive any direct or indirect fees from foreign female workers could have their licenses revoked.¹³ Similarly, Jordan's regulation governing private employment agencies provides that establishments can be shut down or have their licenses revoked for certain serious violations.¹⁴

3. Trafficking and forced labour

Migrant domestic workers are particularly vulnerable to exploitation and abuse, including trafficking and forced labour. Almost all States in the region have laws prohibiting all forms of trafficking in persons, with the exception of Kuwait and Yemen. The penalties prescribed for violations vary, but all provide for terms of imprisonment and in some cases, fines.

⁵ Law No. 6 of 2010 concerning Labour in the Private Sector.

⁶ Minister of Interior Resolution No. 1182/2010.

⁷ Unified Contract Decree No. 19/1 dated 31/12/2009.

⁸ Annex to Ministerial Order No. 1 of 2011.

⁹ Order No. 15 of 1994 of the Minister of Labour and Social Affairs to specify conditions for the licensing of private employment agencies.

¹⁰ Minister of Interior Resolution No. 1182/2010, amending Ministerial Decision No. 617 of 1992.

¹¹ Ministerial Decree No. 1/1 of 2011.

¹² Ordinance Regulating Private Employment Agencies, January 2011.

¹³ Ministerial Decree No. 1/1 of 2011.

¹⁴ Regulation No. 89 of 2009.

Annex : Relevant laws and regulations

Country	Working Conditions	Private Employment Agencies	Trafficking
Bahrain	Act No. 36 of 2012 Promulgating the Labour Law in the Private Sector <i>(extending coverage of certain provisions, including labour contract and wage payment requirements, to domestic workers)</i> Order No. 79 of 16 April 2009 <i>(concerning procedures governing the transfer of a foreign worker from one employer to another)</i> Act No. 19 of 2006 <i>(regulating the labour market for foreign workers; art. 25 grants foreign workers the right to change employers)</i> Decision No. 8 of 2005 <i>(concerning model employment contracts for domestic workers)</i>	Order No. 15 of 1994 <i>(specifying conditions for the licensing of private employment agencies)</i> Decision No. 21 of 1994 <i>(concerning the conditions and procedures for contracts between an employer and a contractor who recruits foreign workers)</i>	Law No. 1 of 9 Jan. 2008 with respect to Trafficking in Persons <i>(prohibiting all forms of trafficking in persons and prescribes penalties ranging from 3 to 15 years' imprisonment)</i>
Iraq	The Labour Code (Act No. 71 of 1987) <i>(excluding domestic workers employed by private households)</i> Draft Labour Code has been developed <i>(defines "worker" to include domestic workers; excludes domestic workers from provisions stipulating normal daily working hours)</i>		Anti-trafficking law adopted April 2012
Jordan	Law No. 48 of 2008 amending the Labour Law <i>(eliminating exclusion of domestic workers and providing for separate legal provisions addressing conditions of employment)</i> 2011 Minimum Wage Decision <i>(setting minimum wage at 190 dinars per month for Jordanian domestic workers; 2006 Minimum Wage Decision (setting minimum wage of 110 dinars for foreign domestic workers)</i> Regulation No. 90/2009 of Domestic Workers, Cooks, Gardeners and Similar Categories 2003 Special Working Contract for Non-Jordanian Domestic Workers <i>(setting forth the terms and conditions of employment)</i>	Interim Act No. 26 of 2010 amending the Labour Code <i>(authorizing the establishment of private employment offices to organise the employment and recruitment of non-Jordan workers in certain sectors, including domestic workers)</i> Regulation No. 89 of 2009 <i>(governing the recruitment and employment of foreign domestic workers through private employment agencies)</i> Regulation No. 90/2009 <i>(requiring agencies to maintain copies of employment contracts in Arabic and a language understood by the worker)</i>	Anti-Human Trafficking Law No. 9 (2009) <i>(prohibiting all forms of trafficking in persons and prescribes penalties of a minimum of six months' imprisonment and a maximum fine of 7,000 US\$ for labour trafficking)</i>

Kuwait	Law No. 6 of 2010 concerning Labour in the Private Sector (<i>excluding domestic workers</i>) Minister of Interior Resolution No. 1182/2010 (<i>providing certain guarantees for domestic workers, such as the minimum wage, the maximum number of working hours, the right to weekly holidays and annual paid leave, as well as compensation for occupational injuries</i>) 2006 Standard Contract issued by Ministry of Interior (<i>setting forth obligations upon recruitment agency and employer</i>)	Minister of Interior Resolution No. 1182/2010, amending Ministerial Decision No. 617 of 1992 (<i>concerning rules and procedures for obtaining licenses for agencies supplying domestic workers and prohibiting agencies from obtaining remuneration from the worker</i>) Legislative Decree No. 40 of 1992 (<i>regulating employment agencies for domestic workers</i>) 2006 Standard Contract issued by Ministry of Interior	Draft anti-trafficking legislation proposed by the Ministry of Justice in 2007
Lebanon	Labour Code of 1946 (<i>excluding "domestic servants employed in private houses"</i>) Decree No. 19/1 of 31 December 2009 (<i>issuing unified contract for migrant domestic workers</i>) Memorandum No. 8/1 of 20 January 2008 (<i>establishing a working party to monitor agencies and investigate complaints by domestic workers</i>) Decree No. 52/1 of 28 April 2009 (<i>providing for the extension of health insurance to all migrant workers</i>)	Ministerial Decree No. 1/1 of 2011 (<i>prohibiting owners of placement offices from receiving direct or indirect fees from domestic workers</i>) Decree No. 13/1 of 22 January 2009 (<i>regulating the activities of employment agencies specialized in the recruitment of migrant domestic workers</i>) Memorandum No. 8/1 of 20 January 2008	Law No. 164 on the Punishment for the Crime of Trafficking in Persons (2011) (<i>prohibiting all forms of trafficking in persons and prescribes penalties of up to 15 years' imprisonment and six hundred times the official minimum wage in fines on perpetrators and their partners, accomplices or other instigators</i>)
Oman	Labour Code (Royal Decree No. 35/2003) (<i>excluding domestic workers</i>) Annex to Ministerial Order No. 1 of 2011 (<i>including model contract for recruiting foreign domestic workers with provisions regarding working and living conditions, payment of wages and settlement of disputes</i>) Ministerial Decree No.189/2004 (<i>concerning employment terms and conditions of domestic workers</i>)	Ministerial Order No. 1 of 2011 (<i>relating to the recruitment of non-Omani workers by private employment agencies</i>)	Act on the Suppression of Human Trafficking (promulgated by Royal Decree No. 126/2008 of 23 Nov. 2008) (<i>prohibiting all forms of trafficking and prescribes punishments of 3 to 15 years' imprisonment plus financial penalties</i>) Basic Statute of the State (Sultani Decree No. 101/96) (<i>prohibiting forced labour other than work authorized by law to be performed in the public interest and for remuneration</i>)
Qatar	Labour Law No. 14/2004 (<i>excluding domestic workers</i>) Law No. 4 of 2009 (<i>regulating the entry and exit of expatriates in Qatar and their residence and sponsorship and permitting the Minister of Interior to transfer migrant workers without the employer's consent in certain circumstances</i>) Draft legal provisions on	Act No. 14, 1992 (<i>regulating labour-importing agencies and prohibiting placement fees</i>)	Anti-human Trafficking Law No. 15 of 2011 (<i>prohibiting all forms of trafficking and prescribes penalties of up to 7 years' imprisonment and 82,000 \$US in fines, which may be increased under aggravating circumstances</i>)

	domestic workers were approved by the Advisory Council in 2008		
Saudi Arabia	Labour Law, 2005 (Royal Decree No. M/51) <i>(excluding domestic workers)</i> Draft legal provisions on domestic workers have been prepared by Ministry of Labour but has not been approved	Minister of Labour Decree No. 693 of 29/2/2007 regarding Executive Regulations of Labour System <i>(setting forth rules and procedures for the functioning of recruitment agencies)</i>	2009 Suppression of the Trafficking in Persons Act <i>(prohibiting all forms of trafficking and prescribes penalties of up to 15 years' imprisonment and fines up to one million Rials)</i>
United Arab Emirates	Labour Code, Federal Law No. 8 of 1980 <i>(excluding domestic workers)</i> Unified standard employment contract (April 2007) Federal Law No. 6/1973 concerning the Entry and Residence of Expatriates <i>(requiring a non-national to be sponsored by his or her employer in order to obtain an employment visa and work permit)</i> Ministerial Order No. 721 of 2006 <i>(providing that workers absent for more than seven consecutive days will be listed as "absconders" with the Ministry of Labour, unless they file a labour complaint or lawsuit within that period)</i> Draft legal provisions on domestic workers has been approved by Cabinet and must be considered by Federal National Council and signed by the President	Ministerial Resolution No. 233, for 1998, on Rules of Licensing Employment and Expatriate Manpower Supply Agencies <i>(imposing licensing requirements on employment agencies, requiring written contracts)</i> Ordinance Regulating Private Employment Agencies, January 2011 <i>(imposing new rules for the granting of licenses for recruitment and employment agencies and prohibiting the collection of fees from recruited workers)</i>	Federal Law No. 51 of 9 Nov. 2006 on Combating Human Trafficking Crimes <i>(prohibiting all forms of trafficking and prescribes penalties ranging from one year to life imprisonment and fines of 100,000 AED to one million AEA)</i>
Yemen	Labour Code, Act No. 5 of 1995 <i>(excluding domestic workers)</i>	Law No. 11 of 2001 <i>(amending art. 16 of Labour Code to provide for the possibility of establishing private employment agencies)</i>	