

# Cooperating out of Isolation

- Case Studies from Jordan, Kuwait  
and Lebanon

# Background

- Migrant domestic workers in the Middle East are vulnerable to exploitation
  - Most countries employ some version of *kafala* model
  - Domestic workers are specifically excluded from labour codes (except Jordan)
- Working in isolation
  - Working in private homes
  - Compounding factors: legal, social, cultural, gender, race and language

=> Representation of domestic workers is a challenge

# Exploring Cooperation

- Literature review: International Examples
  - Identifies enabling factors for organizing
  - Trade Unions and NGOs can act as *incubators* for domestic worker organizations
- Legal and field research: Jordan, Kuwait, Lebanon
  - Exploring creation of cooperatives/pre-cooperative initiatives for domestic workers
  - Legal picture in Jordan, Kuwait and Jordan
  - Identification of existing organizing initiatives in Kuwait, Jordan, Lebanon

# Balcony Talk



# Domestic Worker Unions



# The Three Case Studies (Introduction)

- IDWF present in all regions of the world, except Middle East
- What are the challenges for DWs organizing in the Middle East?
- What are the opportunities in three countries
  - Legal picture makes it difficult
  - Yet organizing exists
  - Will present concrete recommendations for each country based on findings

# Jordan: Legal Picture

- Domestic workers in labour law
  - Inconsistent application
  - Regressive: if institutionalizing discrimination against domestic workers
- Model contract for domestic workers exists
  - Not mandatory or unified
  - Inconsistencies include:
    - DWs have one day off but cannot leave house without permission
    - DWs can nullify contract in event of non-payment of wages, but due to kafala if they do, they will be deported

# All three countries: Illegal Practices

- Withholding identity documents
- “Escape” as a crime
- Living in the household of the sponsor
- Discrimination
- Abusive accusation of theft
- Prohibition of freedom of movement on days off
- Arbitrary detention

# Jordan: Assessment of Organizing

- A Society
  - Needs approval from the Ministry of Social Development
  - All founding members need to be Jordanian
  - Reporting requirements
- Branch of a foreign society
  - No requirement of nationality
  - No reporting requirements

- Freedom to form unions
  - Jordan has ratified ILO Convention No. 98: Right to Organize and Collective Bargaining
  - Not ratified ILO Convention No. 87: Freedom of Association and Protection of the Right to Organize
  - Need approval from Ministry of Labour
  - Founding members must be Jordanian
  - Foreign workers may join unions
  - Labour law specifies 17 economic sectors where unions can be formed
  - The only union domestic workers can adhere to is the *General Trade Union for Workers in General Services*

- Freedom to form unions continued
  - Movement of independent TUs emerged in 2011
  - Skepticism about TU for domestic workers
    - Migrants
    - Nature of the work
    - Restrictions on movement
  - May be possible for DWs to form a committee within GFJTU
  - Minimum fifty workers required to start a union
  - Labour law ensures protection for members of unions

- Freedom to join or establish a cooperative
  - Requires permit from the Jordan Cooperative Organization (JCO)
  - The JCO only allow Jordanians to be members of cooperatives (current practice, not in law)
  - Cost of creating a cooperative is 175 JD
  - Only ten members required to form a cooperative

# Jordan: Mapping of Organizations

- Civil Society
  - Religious Organizations
  - Human Rights Organizations
  - Livelihood-Centric Organizations
- Activities and Services Provided
  - Free legal advice (Tamkeen Centre for Legal Aid and Adalah Centre for Human Rights)
  - Shelter (Jordanian Women's Union)
  - Psycho-social counceling
  - Repatriation cost for migrant domestic workers
  - Community Centre (Caritas Jordan)

# Jordan: Advocacy Initiatives

- Lack of advocacy initiatives
- Rights-based approach missing from discourse
- **Example I:**
  - United Filipino Organizations Council (UFOC)
    - Seventeen members, each of whom represents an informal association of Filipinos in Jordan
    - In total Philippines embassy is aware of 22 informal associations
    - Religious and social events
    - Comprised of skilled Filipino workers as well as Jordanian-Filipino citizens

- **Example II:** The NGO Friends of Women Workers
  - Established 2003 to promote rights of women migrant workers in Jordan
  - Multi-member association with a democratic structure
  - All members are Jordanian (around 50 members)
  - Still operational, however experienced decline in activity
  - Few connections with migrant workers communities

- **Example III:** Families Development Association
  - NGO providing socio-economic empowerment of poor Jordanian families
  - Provides vocational training on domestic work to 700 Jordanian women
  - The organization works to ensure decent working conditions for its graduates
  - Work to reduce the stigma that domestic work carries
  - Relevant to all domestic workers, but the organization considers migrant domestic workers outside its mission

# Jordan: Government Initiatives

- Ministry of Labour
  - Developing a system to improve Private Employment Agencies practices
  - PEAs will be classified under three compliance categories
  - System has been under development for years, faces significant delays
  - Undertaken awareness-raising initiatives on migrant domestic workers rights

# Jordan: Intergovernmental Org.s

- UNIFEM
  - 2002 – 2009 collaborated with MoL to promote rights of migrant domestic workers
- ILO
  - Protecting Migrant Workers’ Rights in Jordan Project
    - Exploring possibilities of organizing migrant domestic workers
    - Participatory action research with MDWs

# Kuwait: Legal Picture

- Excluded from labour law
- Draft law presented to parliament in 2012
- Domestic work regulated by Ministry of Interior
- Labour tribunals not competent to hear litigation between DWs and employers
- Model employment contract in existence
  - Does not address right to weekly leave, hours on call, maximum hours, penalties for breaches
  - Enforcement remains weak

# Kuwait: Sponsorship System

- Links the validity of residence permit to employer
- Prohibits change of employment
- Migrant workers' justifications for fleeing their workplace not taken into consideration
- “Escape” is a crime
- Fosters total dependence of worker on the employer
  - CEDAW Committee urged Kuwait to review the sponsorship system, and to provide social insurance

# Kuwait: Assessment of Organizing

- Associations
  - Societies required to seek prior permit from Ministry of Social Affairs and Labour
  - All founding members must be Kuwaiti
  - Non-Kuwaiti members may join

# Kuwait: Unions

- Kuwait has ratified both C87 and C98
- Unions are prohibited in engaging in political, religious or sectarian issues
- The right to form a union only granted to Kuwaiti nationals
- Domestic workers are not allowed to form a union
- Possibility for domestic workers to affiliate with the Kuwait Trade Union Federation
- Both KTUF and KSHR expressed an interest to establish mechanisms to support MDWs, e.g. committees affiliated to their organizations

# Kuwait: Cooperatives

- Establishment of a cooperative needs approval from Ministry of Social Affairs and Labour
- A cooperative must have at least fifty founders
- All founders must be Kuwaiti and over the age of 21
- Cooperatives in Kuwait are mostly food cooperatives

# Kuwait: Mapping of Organizations

- Civil society initiatives on domestic worker issues are limited in Kuwait
- Key organizations
  - Social Work Society
  - Kuwait Association of Basic Evaluators for Human Rights
  - Salvation Army
- The discourse is one of humanitarian assistance rather than a labour rights discourse

- Activities of Organizations
  - Social Work Society
    - Took the lead in proposing the draft law to Kuwaiti parliament to regulate domestic employment
    - Involved in case work, providing access to volunteer lawyers
    - A repatriation fund for migrant workers
    - Participated in an awareness campaign in 2010 (targeting employers, in partnership with HRW)
  - Kuwait Society for Human Rights
    - Documenting cases
    - Participation in awareness-raising
    - Explored setting up a legal aid centre (pending funding)

- Activities of Organizations continued
  - Kuwait Association of Basic Evaluators for Human Rights
    - Part of the drafting of the law presented to parliament in 2012
    - Part of awareness-raising campaign
    - Their own awareness-raising booklet on MDWs aimed at employers (referring to MDWs as “servants”)
    - Approaching human rights issues from an Islamic perspective, e.g. gender segregation promoted
  - Salvation Army
    - Raises funds for repatriation
    - Connects MDWs with volunteer lawyers

- Informal migrant worker networks
  - Filipino, Indian and Sri Lankan migrant workers in Kuwait have active community networks
  - Limited participation due to lack of mobility
  - Supported compatriot workers
  - Though Embassy of the Philippines in Kuwait encourage workers in need of assistance to go to the embassy directly

# Kuwait: Government Initiatives

- Ministry of Social Affairs and Labour
  - Considering a GCC proposal for a unified law to organize domestic employment in all GCC countries
  - Parliamentary proposal to replace kafala system with a national employment company
  - Unlikely that these will be passed soon
  - Shelter with capacity up to 700 MDWs
- Ministry of Religious Affairs
  - Initiated Barira Project – awareness-raising initiative targeting MDWs and their employers

# Kuwait: Intergovernmental Org.s

- IOM
  - Working on MDW issues relating to human trafficking
  - Capacity building of Kuwaiti government officials
- ILO
  - This study
  - => Targeting employers in Kuwait

# Lebanon: Legal Picture

- Excluded from labour law
  - A draft law exists
  - Debate: Integrate DWs in labour law, or special law for DWs
  - ILO PROWD Project developed a draft labour law, not so far been discussed
- Model employment contract
  - Developed in 2009 by a national steering committee
  - Positive measures, yet challenges remain
  - Enforcement is weak

# Lebanon: Sponsorship System

- Links the validity of the migrant worker's residence permit to employer
- Prohibits change of employment, except with consent of employer, MoL and General Security Directorate
- Reasons for leaving workplace not taken into consideration during investigation/trial
- Total dependence of the worker on employer

# Lebanon: Assessment of Organizing

- Associations
  - NGOs can be established freely, but are required to notify the Ministry of Interior of their establishment.
  - For migrant domestic workers it is possible that Ministry of Interior may delay registration
  - Restrictions on nationality
  - Possible to establish a foreign association/branch of foreign association

# Lebanon: Unions

- Creation of a Trade Union requires prior license from Ministry of Labour as well as Ministry of Interior and General Security
- Contrary to C87, not yet ratified by Lebanon
- Foreigners may join a union but cannot vote or run in elections
- Domestic worker are not allowed to form a union

# Lebanon: Cooperatives

- Number cooperatives in Lebanon is about 1180 operational
- The General Directorate of Cooperatives has control over cooperatives down to reviewing minutes from meetings
- A permit is reliant upon the Directorate's assessment of the feasibility and legality
- Domestic workers can start a cooperative, e.g. to provide cleaning services
- Though migrant domestic workers have to be cautious not to violate requirements for work/residence permits

# Lebanon: Mapping of Org.s

- Lebanese civil society the most active out of the three countries
- Different categories
  - Religious Organizations
  - Humanitarian Organizations
  - Human Rights Organizations
  - Trade Unions
  - Livelihood-centric Organizations
  - Women's Rights Organizations
  - Community-based Organizations

# Lebanon: FENASOL example

- The Trade Union FENASOL has been cooperating with NGOs to reach migrant domestic workers
- Established a committee for “cleaning workers in homes and offices”: migrant domestic workers alongside janitorial workers
- Committee represents over 400 workers
- The committee is a member of the steering committee for the ILO’s PROWD Project

# Lebanon: More organizing examples

- Kafa
  - Started a project in 2010 to organize Nepalese MDWs
  - Had opportunity to partner with General Federation of Nepalese Trade Unions
  - Leadership elections were held and 15 core members formed a committee called NARI
- MCC/ARM
  - Providing a safe space where MDWs can meet and form networks
  - Works with a group of about ten MDW community leaders

# Lebanon: Informal Organizing

- MDW networks play an important role in Lebanon
- Number of MDW community leaders cooperating through informal networks
- E.g. community leaders held a press conference in 2011
- Savings societies exist in MDW networks
- Capacity building in financial literacy needed in order to manage income-generating enterprises

# Lebanon: Intergovernmental Org.s

- ILO and OHCHR
  - 2005: The formation of the Steering Committee for Migrant Domestic Workers
  - The committee developed a unified contract for domestic workers
- ILO's Action Programme for Protecting the Rights of Women Migrant Domestic Workers (PROWD)
  - Code of conduct for Private Employment Agencies
  - Legal – contract and labour law
  - Support to FENASOL organizing efforts
  - Awareness-raising to general public and migrant domestic workers

# General: Recommendations

- The full inclusion of domestic workers in Labour Law
- Ratification of The Domestic Workers Convention, 2011 (No. 189)
- Ratification of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No. 87)
- Allow non-nationals to form Trade Unions

# Jordan: Recommendations

- Set up an NGO to have as its remit
  - Advocate for legal reform
  - Support non-profit projects by migrant workers
  - Provide training on financial literacy
  - Provide capacity building in benefits of the cooperative movement
  - Support networking between migrant worker community organizations
- Reform Jordanian cooperative legislation in line with ILO Recommendation No. 193 on the Promotion of Cooperatives.
- Potentially establish a cooperative initiative for Jordanian domestic workers benefitting both Jordanian and migrant domestic workers.

# Kuwait: Recommendations

- Opportunities in Kuwait are limited - legislation and policies effectively exclude migrant domestic workers from establishing NGOs, Trade Unions or Cooperatives.
- Some organizing efforts can be suggested on the basis of the study:
  - Societies inside embassies
  - Committee of migrant domestic workers within human rights NGOs
  - Committee within the Kuwaiti Trade Union Federation

# **Lebanon: Recommendations**

- Main recommendation
  - Attempt to establish a cooperative
  - Main recommendation
- Second option:
  - Committee of migrant domestic workers within a Lebanese NGO
  - Work towards the setting up of a Trade Union.
- In cooperation with NGOs and FENASOL
  - Work towards improvement of legal aid
  - Reach out to networks of migrant domestic workers