

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 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 counseling
 - 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