

PROWD FACT SHEET No. II (1)

Code of Conduct for the Syndicate of the Owners of Recruitment Agencies in Lebanon (SORAL)

In the context of the EU and SDC-funded Action Programme for Protecting the Rights of Women Migrant Domestic Workers (PROWD) in Lebanon, the ILO collaborated with OHCHR to assist the Syndicate of the Owners of Recruitment Agencies in Lebanon in the development of a code of conduct for private employment agencies operating in the country. In the absence of a protective regulatory framework for domestic workers, the code of conduct seeks to enhance the transparency of the placement process.

I. The sector's beginnings

Prior to 1975, geographical proximity enabled the direct placement, through relatives, of young Arab women in the households of Lebanese employers. The civil war ushered in the era of private employment agencies (PEAs) to facilitate the placement of women workers, first from Asia, and later from Africa. These agencies were established during war's regulatory vacuum; thereby setting the tone for this sector's sometimes enduring mal practices.

Box 1. What the literature says about PEAs in Lebanon

“Agency staff may punish or threaten workers who return to the agency because they have to bear the cost of providing the employer with a “free” replacement.”ⁱ

“Agencies are often threatening the workers that if they stop working, they will have to pay the ‘debt’ that they have with the agency and/or pay money directly for ‘additional services’ such as the renewal of personal documents.”ⁱⁱ

“Agencies have offices in both the sending and receiving countries...recruitment agencies often charge fees at both ends...women are forced into taking loans from local sources, sometimes at exorbitant interests.”ⁱⁱⁱ

“Very few employment agencies in Lebanon are known to conduct due diligence on the background, employment track record, and integrity of the employers who are their clients.”^{iv}

“Migrant domestic workers come to Lebanon through indirect and often circuitous routes...employment agents in Lebanon actively work to circumvent the bans. They collaborate with local brokers in origin countries to do so...new recruits are at increased risk of exploitation due to the bans.”^v

“Recruitment agencies substitute the employment contracts signed by workers in their home countries with different contracts that have poorer terms.”^{vi}

“The agencies may charge fees to the workers as salary deduction for up to six months, even if the legislation in the country of origin forbids such practices.”^{vii}

II. Initiating the sector's regularization cycle

The absence of a protective regulatory framework for domestic workers caused national and international civil society institutions to hold employment agencies and national authorities accountable for the abuses to which women migrant domestic workers were being subjected. Likewise, countries of origin imposed bans on the deployment of their nationals to Lebanon until protective measures were established. In response to these criticisms, Lebanese authorities and PEAs initiated regulatory initiatives for PEAs to be more accountable.

1. National Authorities issue regulatory decrees

In Lebanon, the **National Employment Office** (NEO) is tasked with facilitating the recruitment of foreign workers, rendering the existence of PEAs redundant. Employment agencies, are however able to justify their surviving business operations by resorting to the label of private **placement** agencies (*istikdam*) rather than that of private **employment** agencies (*istikhdam*).^{viii}

Box 2. Selected responsibilities of national authorities according to ILO Private Employment Agencies Convention, 1997 (No. 181)

“A Member shall...provide adequate protection for and prevent abuses of migrant workers recruited or placed in its territory by private employment agencies. These shall include laws or regulations which provide for penalties, including prohibition of those private employment agencies which engage in fraudulent practices and abuses” (Article 8, section 1).

“Where workers are recruited in one country for work in another, the Members concerned shall consider concluding bilateral agreements to prevent abuses and fraudulent practices in recruitment, placement and employment” (Article 8, section 2).

“A Member shall take measures to ensure that child labour is not used or supplied by private employment agencies” (Article 9).

“The competent authority shall ensure that adequate machinery and procedures... exist for the investigation of complaints, alleged abuses and fraudulent practices concerning the activities of private employment agencies” (Article 10).

“A Member shall...ensure adequate protection for the workers employed by private employment agencies, in relation to: (a) freedom of association; (b) collective bargaining; (c) minimum wages; (d) working time and other working conditions; (e) statutory social security benefits; (f) access to training; (g) occupational safety and health; (h) compensation in case of occupational accidents or diseases; (i) compensation in case of insolvency and protection of workers claims; (j) maternity

protection and benefits, and parental protection and benefits (Article 11).

“A Member shall...formulate, establish and periodically review conditions to promote cooperation between the public employment service and private employment agencies” (Article 13).

Box 3. Selected responsibilities of PEAs according to ILO Private Employment Agencies Convention, 1997 (No. 181)

“Workers recruited by private employment agencies ... should not be denied the right to freedom of association and the right to bargain collectively” (Article 4).

“Private employment agencies treat workers without discrimination on the basis of race, colour, sex, religion, political opinion, national extraction, social origin, or any other form of discrimination covered by national law and practice, such as age or disability” (Article 5).

“The processing of personal data of workers by private employment agencies shall...ensure respect for workers privacy” (Article 6).

“Private employment agencies shall not charge directly or indirectly, in whole or in part, any fees or costs to workers” (Article 7).

The Ministry of Labour has issued two decisions over the last 9 years to increase the accountability of the sector (Decision No. 70, 2003 and Decision No. 89, 2009). These outline the requirements for obtaining a license and defining business relations with employers. Protective measures for domestic workers, as per these decisions, prohibit PEAs from; (a) acquiring direct or indirect material returns from workers, (b) physically abusing workers, and (c) advertising the cost of hiring a worker.

2. PEAs establish a syndicate (SORAL)

In 1997, there were twelve licensed agencies.^{ix} Today, there are over 500 licensed agencies conducting business with more than 10 countries of origin.^x The overwhelming number of PEAs and the inability of more established PEAs to control the behavior of new entrants, who in the absence of an elaborate monitoring and inspection mechanism often operate with fake licenses, have ignited the sector's drive for self-regulation. Accordingly, the Syndicate of the Owners of Recruitment Agencies in Lebanon (SORAL) was established with five founding agencies in 2005.^{xi} Today, the Syndicate counts almost 280 members.^{xii}

Box 4. Benefits of self-regulation among employment agencies

- "Ensuring professional ethics, standards, and best practices in the recruitment, employment and staffing services industry
- Gaining visibility and legitimacy in national and global labour markets
- Raising standards in the industry
- Ensuring that employment agencies are consulted when new legislation affecting their business is being drafted
- Facilitating the exchange of information between their members and government authorities
- ...Collecting information on high-risk agencies through regular screenings of their members, as well as new membership applications."

(Source: International Labour Organization. 2007. Guide to private employment agencies: Regulation, monitoring, and enforcement. ILO: Geneva.)

In November 2005, the International Labour Organisation (ILO), the Ministry of Labour, the Office of the High Commissioner for Human Rights (OHCHR), UNIFEM (now UN Women), and Caritas Lebanon Migrant Center (CLMC) convened a workshop on the situation of women migrant domestic workers (WMDWs) in Lebanon. This workshop was a preliminary step in a larger policy initiative to raise awareness on this regional issue, and provided a national forum for discussion among key

national stakeholders. During the workshop, Mr. Fawzi Al-Hajj Hassan, Head of the Labour Force Unit of the Ministry of Labour, proposed establishing a code of conduct for PEAs.^{xiii} In January 2006, the government of Lebanon established a National Steering Committee (NSC) on WMDWs to follow up on the workshop's recommendations, including furthering NSC's commitment to developing a code of conduct for PEAs.

3. SORAL develops a code of conduct

In light of the National Steering Committee deliberations, and in the context of the EU and SDC-funded Action Programme for Protecting the Rights of Women Migrant Domestic Workers (PROWD) in Lebanon, the ILO collaborated with OHCHR to launch a series of workshops and consultations in order to assist SORAL in the development of a code of conduct for its members.

Box 5. What is a code of conduct?

A code of conduct is:

- put in place by individual companies or by an association
- based on international standards and national law
- a promise and a commitment vis-à-vis clients and the wider public
- a commitment to uphold business ethics and quality in service delivery

A code of conduct is not:

- legally binding
- the by-laws of a federation or private business association

(Source: International Labour Organization. 2007. Guide to private employment agencies: Regulation, monitoring, and enforcement. ILO: Geneva.)

The process of developing a code of conduct for SORAL can be best summarized as a multi-staged consultation process.

Stage 1 – Problem identification & suggestions

ILO organized three focus group discussions. The purpose of the first focus group was to extract the challenges that SORAL members face in their interaction with domestic workers while exploring possible solutions to overcoming these challenges. The purpose of the second (with NGOs servicing WMDWs) and third (with migrant community leaders) focus groups was to identify the challenges and opportunities of engaging with PEAs.

Stage 2 – Preparatory workshop with SORAL

Following this, ILO collaborated with SORAL and OHCHR to convene a two-day workshop for 30 SORAL members, representing PEAs across the country

The purpose of the workshop was four-fold: (a) introducing SORAL members to international human rights and labour standards; (b) introducing SORAL participants to the value of and methods for developing a code of conduct; (c) exposing SORAL members to the findings of the focus group discussions; and finally, (d) setting the larger goals that the code of conduct would reflect.

Stage 3 – Drafting

SORAL nominated a subcommittee of 6 SORAL members. The subcommittee was tasked with drafting the code of conduct and its accompanying implementation mechanism. ILO hired an external collaborator to develop the conceptual framework of the two texts, and to facilitate the drafting process. The role of ILO and OHCHR, two standard-setting institutions, was limited to the provision of technical comments to the drafters who had full discretion in deciding what to include in the code of conduct. / By actively participating in the drafting process, ILO and OHCHR would have to negotiate the standards that they so actively promote at national and international levels.

Stage 4 – Validation

The final drafts of the code of conduct and implementation mechanism were circulated among SORAL members during a roundtable convened by ILO. SORAL visited, in the company of ILO officials, the Ministry of Labour and Ministry of Interior to discuss the two drafts. Separate validation roundtables were held with NGO representatives and WMDWs. All these comments were integrated into the final documents, pending their endorsement by SORAL’s General Assembly.

III. The code of conduct

The following is a selection of the principles upheld under each of the code of conduct’s sections. The full texts of the code of conduct and implementation mechanism are available through SORAL (syndicate@soral-lb.org).

Main Sections of the CoC	Key Principles
Commitment to labour and human rights standards	<ul style="list-style-type: none">- Transparency in business operations;- No discrimination based on race, ethnicity, gender, political orientation, national origin, religion, class...;- No intimidation, exploitation (sexual and financial), and physical abuse of workers
Pre-departure stage	<ul style="list-style-type: none">- Providing full information to the worker about her conditions of employment in Lebanon- Verifying the validity of the workers’ qualifications
Sensitization of workers and employers	<ul style="list-style-type: none">- Communicating in a language that is understood by the worker- Introducing workers and employers to their rights and obligations- Providing workers with contact information for service providers
Contracting	<ul style="list-style-type: none">- No placement of underage workers- No salary deductions
Repatriation	<ul style="list-style-type: none">- PEAs are responsible for the cost

	and logistics of repatriating workers during the trial period (first three months of the worker's employment)
Trial Period	<ul style="list-style-type: none"> - PEAs shall respect the terms of the trial period of a worker's employment - When the trial period elapses, PEAs shall periodically check on the worker by contacting worker and employer - PEAs shall provide appropriate housing to the worker, if she decides or is asked to leave the house of her employer without restricting her freedom of movement or putting her to work
Follow-up after contracting	<ul style="list-style-type: none"> - PEAs should provide medical assistance to distressed workers and access to forensic doctors - PEAs should report employers' violations of workers' right to the relevant authorities - PEAs should refrain from placing workers in the homes of employers known for their abusive practices

and its accompanying implementation mechanism. A media campaign will be launched to raise the awareness of employers to the existence of the code of conduct in order to encourage them to recruit workers from PEAs that are bound by the code of conduct.

V. Implementation Mechanism

This document constitutes a fundamental and integral part of SORAL's code of conduct. The document discusses the establishment of a multilateral follow-up committee, consisting of representatives of the Syndicate and of a number of civil society organizations, to:

- Receive complaints regarding violations of the code of conduct's provisions;
- Verify the validity of complaints and prepare reports
- Blacklist repeat offending agencies

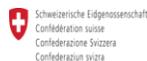
VI. Steps ahead

In collaboration with OHCHR and Caritas Lebanon Migrant Center (CLMC), ILO is planning workshops across Lebanon to raise the awareness of PEAs on the code of conduct

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ⁱ Human Rights Watch. 2010. *Without protection: How the Lebanese justice system fails migrant domestic workers*, p. 26, available at: <http://www.hrw.org/reports/2010/09/16/without-protection-o> [accessed on February 11, 2012].

ⁱⁱ Ibid, p. 32

ⁱⁱⁱ Hope, Kristen et al. 2010. A child protection assessment: Migrant workers and their children in Lebanon. Beirut: Insan Association and Terre des Hommes, p. 15.

^{iv} Hamill, Kathleen. 2011. *Trafficking of migrant domestic workers in Lebanon: A legal analysis*. Beirut: Kafa (enough) Violence & Exploitation, p. 34.

^v Ibid, p. 35.

^{vi} Human Rights Watch. 2010. *Slow reform: Protection of migrant domestic workers in Asia and the Middle East*. New York: Human Rights Watch, p. 9.

^{vii} Kerbage, Carole, and Simel Esim. 2011. The situation of migrant domestic workers in Arab states: A legislative overview. Paper presented at the Interregional Workshop on Strengthening Dialogue to Make Migration Work for Development in the ESCAP and ESCWA regions, 28-30 June 2011, Beirut [unpublished], page 41.

^{viii} Ibid, page 44.

^{ix} Moukarbel, Nayla. 2009. *Sri Lankan housemaids in Lebanon: A case of 'symbolic violence' and 'Everyday forms of resistance.'* Amsterdam: IMISCOE Dissertations, Amsterdam University Press, p. 35.

^x Telephone interview with Mr. Hisham Bourgi, SORAL President, October 2012.

^{xi} SORAL official website, <http://www.sora-lb.com/indexe.html>

^{xii} Telephone interview with Mr. Hisham Bourgi, SORAL President, October 2012.

^{xiii} International Labor Organization. 2005. Awareness Raising Workshop on the Situation of Women Migrant Domestic Workers in Lebanon. Beirut: ILO, p. 10.