

List of issues for Lebanon

Written submission of the Migrant Forum in Asia network to the Committee on the Elimination of Discrimination against Women (CEDAW) for the 62nd session of the Pre-Sessional Working Group (09 Mar 2015 - 13 Mar 2015)

6 February 2015

List of issues for Lebanon

Migrant Forum in Asia (MFA)¹ raises a list of issues concerning the rights of migrant workers and members of their families, specifically women migrant workers and their families in Lebanon. This written submission is in response to the invitation of the Committee to civil society for the list of issues for States parties that are scheduled to be considered at the 62nd session of the CEDAW. The migrants rights network requests the Committee to consider this written submission and make it a priority in the deliberations with and recommendations to the government of Lebanon.

We highlight in this list the situations of migrant domestic workers whose population in Lebanon is estimated to be between 130,000 and 250,000.² They are predominantly women, and come from countries of origin in Asia such as Bangladesh, the Philippines and Sri Lanka, and more recently from the African countries like Ethiopia and Sudan. While we take note of the improvements of policies to protect the rights of migrant domestic workers, we continue to bring to the attention of the State the on-going challenges and violations against their rights, particularly:

1. Confiscation of passports

Eighty-one percent of migrant domestic workers have their passports confiscated by their employers.³ This is a widespread practice, which is a violation of the freedom of movement of workers. In the summer of 2014, however, a ruling, which is a first of its kind as far as legal advocates are concerned, was made at the Summary Affairs Court through Judge Jad Maalouf. A domestic worker from the Philippines sued her former employer for withholding her passport. The Court decided in favor of the worker, and required the employer to return the passport to her former employee. Judge Maalouf argued that the practice of employers withholding passports limits the freedom of movement as stipulated in the Universal Declaration of Human Rights and as transcribed in the Constitution of Lebanon. The practice is also discriminatory because it is restricted to migrant domestic workers.

¹ Migrant Forum in Asia (MFA) is a network of civil society organizations, trade unions, and individuals in Asia working together to advocate for social justice for migrant workers and members of their families. The network is guided by a vision of an alternative world system based on respect for human rights and dignity, social justice, and gender equality for all. To date, MFA is represented in 16 nations by 48 civil society and trade union groups, and 6 key partners in the MENA region. The members and partners are also coalitions and networks, bringing MFA membership in Asia close to 200, and growing each year.

² "Compilation prepared by the Office of the High Commissioner for Human Rights in accordance with paragraph 15 (b) of the annex to Human Rights Council resolution 5/1 (A/HRC/WG.6/9/LBN/2)," Human Rights Council - Working Group on the Universal Periodic Review Ninth session, Geneva, 1-12 November 2010 ; and Insan Association, "Liban: de timides changements en faveur des droits des travailleuses migrantes domestiques," 7 July 2014.

³ Insan Association, "Liban: de timides changements en faveur des droits des travailleuses migrantes domestiques," 7 July 2014.

Following this ruling, we request the Government of Lebanon to provide information on similar cases of migrant domestic workers and what actions the State has taken to address the prevalence of passport retention by employers that infringes on the fundamental rights of migrant domestic workers (UDHR Article 13; CEDAW Articles 2(e) and 15.4; CEDAW General Recommendation No.26 (2008) Article 26.iii.d).

2. Recorded deaths of women migrant domestic workers

The Migrant Domestic Workers Coordination Consortium (MDWCC) and relevant civil society demanded a rigorous investigation on a series of deaths of women migrant domestic workers, several such cases are classified as suicide.⁴

We request the Government of Lebanon to take proactive steps in probing into the deaths of migrant domestic workers, assign an impartial inquiry into the deaths, prosecute those who contributed to the death of the workers, and coordinate with migrant support groups and Missions in the country to ensure that migrant domestic workers have adequate access to justice, health care and psychosocial intervention. (CEDAW General Recommendation No. 26 (2008) Article 26.iii.i)

3. Policies

The Government of Lebanon in its report submitted to the Committee in 2014 enumerated progress achieved in policy to promote the rights of women migrant domestic workers.⁵ Whereas the efforts are notable, women migrant domestic workers are still excluded from the Labor Law and Social Security, and continue to experience human rights and labor rights violations. The special employment contract between the employer and employee that took effect on March 2009 remains to be seen as an effective deterrent to exploitation of labor rights and human rights.

The State also has not ratified international conventions that would help address the systematic violations against the rights of migrant workers and members of their families, including women migrant domestic workers.

We request the Government of Lebanon to communicate and step up its efforts in advancing the ratifications of the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families (ICRMW), Optional Protocol of the CEDAW, ILO Conventions No. 97 on Migration for Employment, No. 143 on Migrant Workers (Supplementary Provisions), and No. 189 Decent Work for Domestic Workers, and align national policies related to domestic work with the provisions of the aforementioned conventions, including the employment contract for migrant domestic workers.

4. Freedom of peaceful assembly and of association

⁴ For more details about the call for investigation, please read here:

<http://www.insanassociation.org/en/images/webiste.pdf>

⁵ “Consideration of reports submitted by States parties under article 18 of the Convention (CEDAW/C/LBN/4-5),” Committee on the Elimination of Discrimination against Women, 15 May 2014.

The rights to freedom of peaceful assembly and of association are enshrined in a number of international and regional human rights instruments, including:

- Universal Declaration of Human Rights: article 20(1)
- International Covenant on Civil and Political Rights: articles 21 and 22
- International Covenant on Economic, Social and Cultural Rights: article 8
- ILO Convention No. 98 on the Right to Organise and Collective Bargaining
- Convention on the Elimination of All Forms of Discrimination against Women: article 7(c)

Lebanon is a State party to the above international human rights and labor rights treaties that allow all workers to organize and establish unions.

A conference was convened on 25 January 2015, which aimed at establishing a trade union for foreign domestic workers in Lebanon. It was well attended by 350 workers of various nationalities, diplomats from Bangladesh, Ethiopia, Nepal, and Sri Lanka in addition to leaders from the National Federation of Trade Union of Workers and Employees in Lebanon (FENASOL) and representatives from the ILO and International Trade Union Confederation (ITUC). The assembly received threats from the government, with the Ministry of Labor citing the whole event and the new syndicate called the “General Union for Cleaning and Social Care Workers,” as illegal. The Ministry of Labor was quoted as saying that migrant domestic workers are excluded from the national labor law and hence are not authorized to set up a trade union.⁶ Union leaders in Lebanon responded firmly against the threats, considering such acts by the government as in violation of trade union rights.

Migrant domestic workers for many years are struggling to obtain their fundamental rights at work. Labor laws are narrowly interpreted to deny them their right to organize, even though there are no specific provisions that prohibit domestic workers’ freedom of peaceful assembly and of association.

We appeal to the State to uphold its commitments to international human rights and labor rights treaties that it has ratified, and recognize the right to organize and freedom of association of migrant domestic workers.⁷ (CEDAW Article 7(c); General Recommendation 26 (2008) Article 26.b)

5. Forced labor

The fraudulent practices of private recruitment agencies and the stringent nature of employer-tied employment contribute to forced labor situations experienced by migrant domestic workers in Lebanon. Women migrant domestic workers are particularly coerced to work through the use of direct violence or intimidation or by more subtle means such as debt bondage, confiscation of travel and identity documents, forcible confinement or threats of detention and deportation.

We request the Government of Lebanon to address the growing prevalence of forced labor of migrant workers in the country, as systematically identified in evidenced-

⁶ “Towards a “Union” for foreign domestic workers amidst threats from the Ministry of Labor,” 26 January 2015, <http://www.weeportal-lb.org/news/towards-%E2%80%9CUnion%E2%80%9D-foreign-domestic-workers-amidst-threats-ministry-labor>

⁷ “FENASOL rebuttal of ministry’s rejection of the newly formed trade union for migrant domestic workers,” 28 January 2015, <http://www.weeportal-lb.org/news/fenasol-rebuttal-ministry%E2%80%99s-rejection-newly-formed-trade-union-migrant-domestic-workers>

based action research of civil society, the ILO and relevant organizations. The State is requested to provide information on its actions to ratify the ILO Protocol on Forced Labor, as well as ratification of the UN Migrant Workers Convention.

We further request the Government of Lebanon to take a course of action that regulates private recruitment agencies, and include in its reporting the status on the formulation by the Syndicate of Owners of Recruitment Agencies of a code of conduct consistent with international rules of employment related to human rights standards.

6. Access to justice

Access to justice of women migrant domestic workers are limited due to a number of factors including the exclusion of migrant domestic workers in the Labor Code; reluctance of workers in filing complaints against their employers as they know the difficulties in changing employers without the latter's consent; fears of being criminalized because of their irregular status once they leave the residence of their employers without their approval;⁸ marginalization of low-skilled migrant workers by the judiciary; and lack of awareness of the law by migrant domestic workers. Such limitations experienced by women migrant domestic workers contrasts with the provisions of General Recommendation 26 (2008), Article 26 c.

We request the State to develop a mechanism where government agencies, civil society, Missions and relevant organizations can coordinate in raising awareness on and delivering recourse to legal redress for migrant domestic workers, ease the burden of proof on migrant domestic workers in the hearing of rights violation cases, and inform employers of the rights of domestic workers.

⁸ Decree No. 2873 of 16 December 1959 on the organization of the GDGS, articles 6, 8, 11.